

Draft Policy for Consultation

Conflict of Interest Policy

Feedback can be sent to Policy@Mun.ca



Memorial University of Newfoundland

Conflict of Interest

Approval Date:

Effective Date:

Review Date:

Authority:

The President

Conflict of Interest Policy

Principle

~~Memorial University of Newfoundland (the University) fosters a climate that encourages its people to be creative and innovative, while seeking to achieve the highest possible quality in delivery of programs, services and the research it conducts, striving for excellence at all times. As a place of learning, the University encourages its faculty, staff and students to be broadly involved in professional interests and activities compatible with the University's mission, values and commitments. Occasionally, the best interests of the University and the personal interests of its Members may conflict, or may be perceived to conflict.~~

The University holds itself to the highest ethical standard and recognizes that accountability and transparency are essential for its operation. It is the ethical responsibility ~~for of~~ everyone who acts on behalf of the University to ensure that decisions and actions that affect the University are taken in the best interests of the University and are not influenced by personal interests. To maintain public and professional trust and confidence, the University must deal with ~~real, actual, potential or perceived or potential~~ conflicts of interest in an open, fair, ~~and~~ consistent ~~and practical~~ way. ~~This Policy applies to all three kinds of conflicts of interest.~~

This Policy has three components:

Recognition: Conflicts of Interest must be defined and identified to permit their appropriate disclosure and management.

Disclosure: Conflicts of Interest must be disclosed in accordance with this Policy. Full and complete disclosure is necessary to protect the integrity and reputation of the University.

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Management: Only Conflicts of Interest that can be managed in a manner that considers, protects and serves the interests, integrity and reputation of the University and that withstands the test of reasonable and independent scrutiny will be permitted.

Purpose

To set out the University's position on real, actual, potential and perceived or potential conflicts Conflicts of interest Interest and to provide processes and mechanisms to address these, so that the University and its external constituencies can be confident decisions and actions are not inappropriately influenced by personal interest interests. The policy is intended to be complementary to other policies and collective agreements governing the conduct of Members.

Scope

All Members of the University.

Definitions

Academic Supervisor — — A person who is or has been, within the last six years, the academic supervisor of an undergraduate honours thesis/project, or, graduate, or postdoctoral or research studies student.

Committee – the Conflict of Interest — A conflict Committee appointed by the President.

Conflict of interest exists in any Commitment – a situation where there is a potential divergence between a Member's in which the Outside Activity or external professional, business or personal interests-activity of a Member is sufficiently demanding, or is organized in such a manner, or is otherwise such that it actually or potentially prevents or impedes, or has the appearance of actually or potentially preventing or impeding, the due discharge of the Member's primary commitment, responsibilities and his or her obligations to the University such that an independent observer would reasonably question whether the Member's behavior.

Conflict of Interest – a situation in which a Member's Personal Interest actually or potentially compromises or has the appearance of actually or potentially compromising that Member's independence and objective judgment in actions or decisions are in any way motivated by considerations of personal interest, financial or otherwise. A conflict of interest may be real, perceived or potential. Real conflict: At least three prerequisites have taken by that Member on behalf of or towards the University, including teaching, research, service, administration and any other professional obligation to be established before a Member can be said to be in a real conflict of interest. They are: the University. Conflict of Interest includes a Conflict of Commitment.

- the existence of a private interest;
- that it is known to the Member; and
- that it has a connection with his/her university duties or responsibilities that is sufficient to influence the exercise of those duties or responsibilities.

Perceived conflict: A perceived conflict of interest exists when there is a reasonable apprehension, which reasonably well-informed persons could have, that a conflict of interest exists. Potential conflict: A potential conflict of interest is one that may develop into a real or perceived conflict. The potential for

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conflict exists as soon as the Member can reasonably foresee that he or she has a private interest that may be sufficient to influence a public duty or responsibility. It may be real or perceived. A conflict of interest does not necessarily imply wrongdoing as a conflict of interest depends upon the circumstances and not on the character of a Member. In addition, the presence of a real, perceived or potential conflict of interest does not necessarily preclude the involvement of the Member, but it does mean that the conflict shall be disclosed by the Member, and allowed and managed or disallowed, and any decision recorded appropriately.

Family Associate — A person who is related to the Member by blood or adoption, or is or has been related to the Member by marriage or common-law marriage.

Financial Interest and Financial Benefit — The receipt or expectation of anything of monetary value, including pay or salary or other payments for services (e.g., consulting fees, bonuses, speaker's fees, advisory board remuneration, finders or recruitment fees, or honoraria); equity interests (stocks, stock options or the like), security or other ownership interests, and intellectual property rights (e.g., patents, copyrights, royalties or carried interests or options related to such rights).

Member — Any person who teaches, conducts research, studies or works at or under the auspices of the University and includes, without limitation:

- tenure-track, tenure or contractual faculty;
- permanent, temporary or contract staff;
- all students;
- clinical faculty (includes stipendiary and non-stipendiary appointments);
- adjunct faculty in their capacity as researchers, instructors or co-supervisors of students;
- per-course instructors, postdoctoral fellows, research assistants and associates; and
- any other persons while they are acting on behalf of or at the request of the University.

Outside Activity — Any activity outside a Member's work with the University that involves the same or similar specialized skill and knowledge that a Member uses in his or her work with the University and includes, but is not limited to, the ownership and operation of a business, and consulting and advisory services.

Personal Associate — A person with whom the Member has or has had in the previous five years, a marital, familial, sexual, intimate, financial, intimate or other close relationship.

Procedure — Any procedure made in relation to this Policy.

Professional Associate — A person with whom the Member has or has had within the previous five years, a close or substantial professional relationship and includes, but is not limited to, a relationship of mentor, co-author, research collaborator or research investigator or employment supervisor of the Member. A student for whom a Member has acted as Academic Supervisor is a Professional Associate of that Member.

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Personal Interest – the personal, private, financial, business, commercial or career interest of a Member. The personal, private, financial, business, commercial or career interest of a Member’s Personal Associate or Professional Associate is deemed to be the interest of that Member.

Unit Head – This term – includes Heads of Departments, Divisions or Schools, Deans, Directors, Executive Directors, the University Librarian, the University Registrar, Associate Vice-Presidents, Vice-Presidents and the President. For the purposes of this policy, the The Unit Head for the President shall be the Chair of the Board of Regents.

University – Memorial University of Newfoundland.

Policy

1. General

All Members (1) Each Member has a duty to assess his/her own interests, involvement and activities and to report any real, perceived, or potential conflicts of interest. In assessing this duty, Members should take care to disclose activity that a reasonably informed observer might conclude to be in conflict with a Member's duties to the University.

(2) Members are referred to the examples of **CONFLICT OF INTEREST SITUATIONS** below for greater certainty. When a situation arises that creates, or may be perceived to create, a conflict of interest for the Member, he/she must disclose this prior to engaging in any activities. Such disclosures shall be made in writing. Time is of the essence in disclosing. If the Member is uncertain whether he/she is in conflict of interest, a conflict of interest exists, or is likely to exist, he/she should seek clarification from his/her Unit Head pursuant to the Procedure for Disclosing and Assessing Conflicts of Interest. It may be necessary that an activity be placed on hold pending an assessment.

(3) A Member shall not participate in an activity or decision that involves a real, perceived or potential conflict of interest unless such activity or decision has been disclosed to, and approved by, the Conflict of Interest Committee and if such approval has been given, any terms or conditions made by the Committee are fulfilled.

(4) Any Member who is aware of, or has reasonable grounds to believe, that an undisclosed conflict of interest exists for another Member shall pursue the matter by one or more of the following ways:

(i) Raise the matter with the Member involved in the alleged conflict of interest and refer him/her to this Policy;

(ii) Raise the matter with the Unit Head of the Member involved in the alleged conflict of interest if it appears that the Policy has not been followed by the Member, or where raising the issue with the Member is inappropriate in the circumstances; and/or

(iii) Report the matter under the provisions of the Protected Disclosure policy.

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~~(5) Any referral for advice and direction will be assessed in a timely and fair manner by the University in accordance with the [Procedure for Disclosing and Assessing Conflicts of Interest](#).~~

~~(6) A conflict of interest may, in certain cases, be permitted when it can be managed in a way that protects and serves the integrity and interests of the University, including its ethical, legal and contractual obligations, and will stand the test of reasonable and independent scrutiny.~~

~~(7) Assessing real, perceived or potential conflict of interest requires the collection, use, possible disclosure and retention of personal information as defined in the [Access to Information and Protection of Privacy Act](#) and the [Privacy Act](#). The University will conduct all conflict of interest activities pursuant to this Policy in compliance with these Acts and with the University's [Privacy policy](#).~~

~~(8) Records created as a result of actions under this Policy will be under the management of the Office of the President.~~

Non-Compliance

1.1 are responsible for:

1.1.1 complying with the requirements of this Policy and any Procedure;

1.1.2 complying with other applicable conflicts of interest policies imposed by third-party organizations, agencies or institutions related to their activities at the University; and

1.1.3 acting promptly to remedy any Conflict of Interest or Conflict of Commitment that exists.

1.2 All Members are responsible for ensuring that their participation in a University-related activity and any Outside Activity is undertaken in compliance with this Policy, including ensuring such activities are conducted in a manner that:

1.2.1 is consistent with the University's mission and mandate to advance and disseminate knowledge;

1.2.2 maintains the general public's trust and confidence that the University and its Members are able to undertake the University's mission, values and commitments devoid of bias and personal interest; and

1.2.3 is undertaken with integrity and in adherence to the highest ethical standards at all times, including recognizing, declaring and appropriately managing any Conflict of Interest or Conflict of Commitment in a timely, open, forthright, constructive and accountable manner.

1.3 Failure to comply with the provisions of this Policy will be pursued under applicable collective agreements, employment contracts, codes or other University policies and may result in disciplinary action. The University reserves the right to recover any profit or financial benefit obtained by a Member as a result of non-compliance.

CONFLICT OF INTEREST SITUATIONS:

Conflict of interest situations may take many forms. A limited set of examples is provided below. This list is far from exhaustive and the list itself is not to be construed as restrictive of the scope of conflict of interest situations or scenarios.

(i) Interest in a Research, Business, Contract or Transaction

Entering into, involvement in, or influencing of an agreement on behalf of the University including a research, business or other contract, a business arrangement, licensing agreement, purchasing agreement, or any other transaction with a company, organization, firm or individual in which the Member, or a Family Associate or Personal Associate of the Member has or has had within the previous five years, a personal interest.

(ii) Influencing Purchase of Equipment/Materials or Services

Influencing the purchase of equipment, materials or services on behalf of the University from a company, organization, firm or individual in which the Member or a Family Associate or a Personal Associate of the Member has a personal interest.

(iii) Acceptance of Gifts, Benefits or Financial Favours

Accepting gifts or gift certificates valued in excess of \$250 from one source in a fiscal year from individuals or firms with which the University does business or with which it is contemplating doing business.

Members may not accept cash or cash equivalents, in kind services, excessive discounts, shares, excessive entertainment, or loans on preferential terms.

(iv) Use of Information

Using for personal or professional gain information which a reasonable person would view as privileged or confidential that is acquired as a result of the Member's University-supported activities, or communicating this information to those not authorized to receive it. Such information might include knowledge of any forthcoming developments requiring the selection of a contractor or bulk purchases. Other examples may include unreasonably delaying publication of research results or the premature announcement of research results.

(v) Use of Students, University Personnel, Resources or Assets

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~~Directing University students or personnel to carry out work for the Member or his/her company, organization, or firm in which the Member or a Family Associate or Personal Associate of the Member has a personal interest. University approved work term/placements are exempt from this provision.~~

~~Using University resources or facilities without appropriate approval to benefit a private concern in which the Member or a Family Associate or Personal Associate of the Member has a personal interest.~~

~~(vi) Involvement in Personnel Decisions~~

~~Participating in the recruitment, appointment, re-appointment, tenure review, hiring, promotion review, performance evaluation, renewal of contracts, discipline matters, compensation or benefits decisions, committee decisions, leave requests, expense claims or other personnel decisions or recommendations involving or regarding a person where the Member:~~

- ~~• is a Family Associate or a Personal Associate of that person; or~~
- ~~• is or has been an Academic Supervisor for that person.~~

~~Participating in the reviewing of grants involving a person where the Member:~~

- ~~• is a Family Associate or a Personal Associate of that person; or~~
- ~~• is a Professional Associate of that person; or~~
- ~~• is or has been an Academic Supervisor for that person.~~

~~(vii) Academic Program Decisions Affecting Students~~

~~Participation by a Member in decisions to admit a student to a program or course; to provide instruction or supervision; to award prizes, scholarships, financial assistance or other benefits; to award teaching or research assistantships, where the Member:~~

- ~~• is a Family Associate or Personal Associate of that student or of a member of the student's family; or~~
- ~~• is a Professional Associate of that student or of a member of the student's family.~~

~~(viii) Evaluation of Student's Academic Work~~

~~Participating in the evaluation of a student's academic work where the Member:~~

- ~~• is a Family Associate or Personal Associate of that student or of a member of the student's family; or~~
- ~~• is a Professional Associate of that student or of a member of the student's family.~~

~~(ix) Involvement in Compliance Decisions Affecting Students~~

~~Participation by a Member in decisions to determine compliance with University policies or codes and/or to determine sanctions for any violation thereof, where the Member:~~

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- is a Family Associate or Personal Associate of that student or of a member of the student's family; or
- is a Professional Associate of that student or a member of the student's family; or
- is or has been an Academic Supervisor for that student.

(x) Advancing of Outside Interests for Personal Gain

Primary examples include: Entering into a research contract with a company in which the Member or a Family Associate or a Personal Associate of the Member has a financial interest; Redirecting the Member's sponsored research program to serve the business, research or development needs of a non-sponsoring company, organization, or private firm in which the Member or a Family Associate or Personal Associate of the Member has a personal interest; Entering into a licensing or business agreement for the development of intellectual property, generated as a result of University research with a company, organization or private firm in which the Member or a Family Associate or Personal Associate of the Member has a personal interest.

(xi) Undertaking of Outside Activity

Undertaking outside activity: (a) that conflicts with the Member's

1.4 The failure of a Member to follow applicable ethical guidelines or requirements pertaining to the identification, disclosure or management of conflicts of interest in the context of research may constitute a violation of this Policy as well as other policies of the University applicable to such research. Such failure may also constitute a breach by the Member of terms or conditions applicable to funding that supports such research.

2 Conflicts of Interest

2.1 Recognizing Conflicts of Interest

2.1.1 Identifying a Conflict of Interest involves two components:

2.1.1.1 identifying the Personal Interest(s) of the Member; and

2.1.1.2 identifying the Member's duties or responsibilities to the University or (b).

2.1.2 A Conflict of Interest includes the following:

2.1.2.1 an actual Conflict of Interest, meaning a Conflict of Interest that will or is likely to actually sufficient to negatively influence or affect the exercise by a Member in carrying out the Member's of his or her duties or responsibilities to the University;

In the case of the Marine Institute: Undertaking an outside activity by employees of the Marine Institute for activities which otherwise would be undertaken by the Marine Institute or by clients of the Marine Institute. 2.1.2.2 a

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~~All Members have the obligation to review the terms of any employment, including any applicable collective agreement or contract of employment, to ascertain any provisions regarding outside activities.~~

~~(xii) Political Activity~~

~~Members have the right to freedom of expression and association and to become involved in political activities. However, there may be limited circumstances in which a Member's involvement in a political activity constitutes a real, perceived or potential conflict of interest.~~

~~(xiii) Conflict of Commitment~~

~~Participation in external activities or commitments that are substantial and that negatively impact or may Conflict of Interest, meaning a situation where the Member's Personal Interest has not yet conflicted but has the potential or might reasonably be seen to negatively impact on a Member's performance of his/her expected to conflict with the Member's duties and/or responsibilities to the University. Conflict of commitment includes being simultaneously employed by the University and by an external employer where the external employment obligations negatively impact on one's ability to fulfill all terms and expectations of employment at the University or where the external employment obligations or responsibilities may conflict with the mandate, priorities or operation of the University; or~~

~~2.1.2.3 a perceived Conflict of Interest, meaning a situation that might be perceived to be a Conflict of Interest from the perspective of a reasonably well-informed, impartial observer.~~

~~2.1.3 The University may set out in its Procedure a non-exhaustive list of situations where a Conflict of Interest is deemed to exist. Regardless, a Member remains obligated to recognize and identify a Conflict of Interest involving their activities even where the situation giving rise to or involving the Conflict of Interest does not fall within such list.~~

~~2.2 Disclosing Conflicts of Interest~~

~~2.2.1 Prior to undertaking any activity that could give rise to a Conflict of Interest, the Member must immediately disclose that activity in accordance with the Procedure. The disclosure must be in writing.~~

~~2.2.2 The obligation of a Member to disclose is a continuing one and must occur as soon as possible.~~

~~2.2.3 The obligation of disclosure applies to a Member as soon as knowledge of the Conflict of Interest arises or should arise and continues until the Conflict of Interest ceases to exist.~~

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2.2.4 If a Member is uncertain as to whether a Conflict of Interest exists or might exist, the Member shall undertake consultation in accordance with the Procedure.

2.2.5 A Member shall not undertake any activity that involves a Conflict of Interest unless it has been disclosed to and approved by the Committee. If the Committee approves an activity on specified terms or conditions, such activity shall be undertaken in accordance with such terms or conditions.

2.2.6 Time is of the essence in making a disclosure.

2.2.7 Where the Committee requires further information to properly assess a Conflict of Interest, a Member that has or may obtain such information shall promptly and fully obtain and provide such information to the Committee in writing.

2.2.8 Where any person is aware of or has reasonable grounds to believe that a Member has not disclosed his or her Conflict of Interest, such person shall raise the Conflict of Interest with the Member's Unit Head.

2.3 Managing Conflicts of Interest

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The (xiv) Other

The above list of examples of conflict of interest situations is not complete and Members should be aware that there are other situations for which conflict of interest may exist. In such situations, Members should seek advice pursuant to the Procedure for Disclosing and Assessing Conflicts of Interest.

Related Documents

Protected Disclosure policy

Telecommunications policy

Purchasing policy

Tangible Asset Administration policy

Ethics in Research Involving Human Participants policy

Integrity in Scholarly Research policy

Gift Acceptance policy

Memorial University of Newfoundland Procedures Governing The Appointment, Review,

Promotion And Tenure of Academic Administrators April 2, 2014

Terms of Reference – University Conflict of Interest Committee

Terms of Reference – Marine Institute Conflict of Interest Subcommittee

Conflict of Interest Disclosure Form

Procedures

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• Procedure for Appeal of Conflict of Interest Decisions

For inquiries related to this policy:

Office of the President (709) 864-8212

2.3.1 ~~Sponsor~~ Committee shall assess matters brought to its attention to determine whether a Conflict of Interest should be allowed and, if so, whether it should be subject to terms or conditions. In addition to such other factors and information as the Committee may deem relevant, the Committee may take into consideration the following:

2.3.1.1 the impact of the Conflict of Interest on a Member’s ability to meet their duties and responsibilities to the University;

2.3.1.2 the degree to which the proposed activity may be detrimental to the interests of the University or a Member;

2.3.1.3 the degree to which the proposed activity may harm the reputation and/or integrity of the University or a Member;

2.3.1.4 the degree to which the proposed activity may compromise or be seen to compromise the professional judgment of any Member involved in research; and

2.3.1.5 the extent to which the proposed activity can be managed through appropriate mitigation.

2.3.2 The Committee shall assess all matters brought to it for consideration in a timely and fair manner.

2.3.3 The Committee may request such further information from any Member or any other person at the University as it deems appropriate to consider a Conflict of Interest.

2.3.4 The University may set out in its Procedure the specific manner in which particular types of Conflicts of Interest are to be assessed or managed.

3 Conflicts of Commitment

3.1 Prior to undertaking any Outside Activity or external professional, business or personal activity, each Member shall determine whether such activity gives rise to an actual or potential Conflict of Commitment, or could have the appearance of giving rise to an actual or potential Conflict of Commitment. Conflicts of Commitment shall be disclosed and managed in accordance with sections 2.2 and 2.3 of this Policy as if they constituted a Conflict of Interest under such sections.

4 Information and Confidentiality

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4.1 The assessment of Conflicts of Interest pursuant to this Policy requires the collection, use, possible disclosure and retention of personal information as defined in the *Access to Information and Protection of Privacy Act, 2015* and the *Privacy Act*. The University will undertake its activities pursuant to this Policy in compliance with those Acts and with other applicable policies of the University.

4.2 Records created as a result of actions taken under this Policy shall be under the management of the Office of the President. Where the Conflict of Interest involves the President, such records shall be under the management of the Board of Regents.

4.3 Disclosures made under this Policy will normally be treated as confidential. However, in order to meet the objectives of the Policy it will sometimes be necessary for the University to permit persons within the University and, in some circumstances, outside the University, access to information about such disclosures. Reasonable efforts shall be made to advise a Member in writing before disclosures are made to persons outside the University. Notwithstanding this, Members should be aware that disclosure of Conflicts of Interest may be required for other processes of the University, including without limitation research ethics, and such disclosure may occur without the prior consent of the Member.

~~General Counsel~~

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~~Category: General~~

~~Previous Versions:~~

~~There is at least one previous version of this policy. Contact the Policy Office to view earlier version(s)~~

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~~Approval Date 2013-12-05 - Effective Date 2015-02-05~~

~~Approval Date 2013-12-05 - Effective Date 2013-12-05~~

~~Approval Date 2009-03-31 - Effective Date 2009-03-31~~

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~~Policy Amendment History~~

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This policy was published as a replacement of a previous version with an ID of 322. Comment provided: Updating link to form

Action: REPLACED

Date: 2023-09-21 13:24:02

This policy was replaced with a new version. Comment provided: Updated links

Action: REPLACED

Date: 2023-11-20 16:03:49

This policy was replaced with a new version. Comment provided: Updating hyperlinks

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Date: 2024-08-21 15:47:58

This policy was replaced with a new version. Comment provided: Updated broken links

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Date: 2024-10-02 14:20:02

This policy was replaced with a new version. Comment provided: repairing broken link to procedure

Procedure for Appeal of Conflict of Interest Decisions

Approval Date: 2013-12-05

Responsible Unit: Office of the General Counsel

Where a Member is not in agreement with a decision made by the University COI Committee or the Marine Institute Sub-Committee, he/she may appeal the Committee's decision in writing normally within 30 calendar days to the appropriate Vice-President. In the written appeal, the appellant shall outline the grounds for his/her appeal, and submit the supporting documentation that was provided to the Committee. If there is new supporting documentation

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~~provided in the appeal, the University COI Committee or the MI Sub-Committee shall be provided with a copy of the new supporting documentation and will be provided with an opportunity for comment.~~

~~The appropriate Vice President may seek advice following a review of the appellant's submission. In addition, the appropriate Vice President may meet with the Member.~~

~~The appropriate Vice President will render a decision, in writing, within 30 calendar days of receipt of the appeal.~~

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