



Approval Date: 2023-12-07
Effective Date: 2023-12-07
Review Date: 2027-12-07
Authority: Board of Regents

Board of Regents Conflict of Interest Policy

Principle

Memorial University of Newfoundland is an inclusive community dedicated to innovation and excellence in teaching and learning, research and scholarship, creative activity, service, and public engagement. Memorial recognizes a special obligation to the citizens of Newfoundland and Labrador. As such, Memorial encourages open discussion and debate in all matters towards the advancement and dissemination of knowledge.

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 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, perceived or potential conflicts of interest in an open, fair, consistent and practical way.

Purpose

To assist in the identification of conflicts of interest and to provide procedures for disclosure and management of any that are identified. Underlying the policy is the principle of a commitment to self-disclosure.

Scope

All members of the Board of Regents of Memorial University of Newfoundland.

Reference should be made to sections 22, 31, and 32 of the *Act*.

Definitions

Act: the Memorial University Act RSNL 1990 c. M-7, as amended.

Associate: a person related to the Member by blood, adoption, marriage or common law marriage or a person with whom the Member resides or shares an intimate relationship or has a common financial or non-financial interest. It may also include an individual with whom the Member has had such a relationship within a previous five-year period.

Board: the Board of Regents of Memorial University of Newfoundland.

Conflict of Interest: a conflict of interest exists in any situation where there is a potential divergence between a Member's personal interests and their obligations to the Board such that an independent observer would reasonably question whether the Member's

behaviour or decisions are in any way motivated by considerations of personal interest. A conflict of interest may be real, perceived or potential.

Real conflict: At least three prerequisites have to be established before a Member can be said to be in a real conflict of interest. They are:

- the existence of a personal interest;
- that it is known to the Member; and
- that it has a connection with their Board 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 an actual conflict. The potential for conflict exists as soon as the Member can foresee that ~~he~~ they have a personal interest that may be sufficient to influence their public duty or responsibility to the University. 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.

Personal interest: Personal interest refers to any financial or non-financial interest, benefit, or association that could reasonably affect a Board member's decision-making in a way that raises questions about their commitment to the University's best interests.

The Chair: the chairperson of the Board of Regents in accordance with section 22(3) of the *Act*.

Counsel: the General Counsel of Memorial.

Member: a member of the Board of Regents.

Policy: the University's Board of Regents Conflict of Interest Policy.

Secretary: Secretary to the Board of Regents.

Secretariat: the University Governance Secretariat.

University: Memorial University of Newfoundland, its affiliated institutions and separately incorporated entities.

POLICY

Disqualification from Office under the Act

(1) Section 31(1) of the Act precludes a person who is a member of the teaching staff of Memorial from appointment or election as a Member, except a Member appointed under section 22(2)(c) of the *Act*.

(2) Section 31(2) of the Act requires a Member to vacate membership upon acceptance or occupying an office or position as a member of the teaching staff of the University, except a Member appointed under section 22(2)(c) of the Act.

(3) Sections 32(1) and 32(2) of the Act require a Member (other than the President and Vice-President of the University or a Member appointed under section 22(2)(c) who is a member of the teaching staff of the University or an affiliated college) to vacate membership on the Board where the Member performs or undertakes to perform a service for which the Member is entitled to be paid from money of Memorial.

Duties of the Board Members:

(4) Each Member has a duty to assess their own interests, involvement and activities and those of their Associates and to report any real, perceived or potential conflicts of interest in accordance with this policy and the **Procedure for Disclosing and Assessing Conflict of Interest**. In assessing this duty, Members should disclose any activity that a reasonably informed and impartial observer might conclude to be in a conflict with a Member's duties to the University.

Conflict of Interest situations may take a number of forms. Examples include, but are not limited to, the involvement in any of the following by a Member, an Associate of the Member, or a business, company, partnership, firm, trust or professional practice in which the Member or Associate of the Member is an owner, director, trustee, employee, officer or otherwise interested:

SAMPLE CONFLICT OF INTEREST SITUATIONS

- a. A contract, transaction or other financial arrangement with the University;
- b. The sale or lease to the University of equipment, materials or services;
- c. The provision of a gift or a loan to the University on any terms that would not be considered commercially reasonable, where the Member, an Associate of the Member, or a business, company, partnership, firm, trust or professional practice in which the Member or Associate of the Member is an owner, director, trustee, employee or officer, carries on business or contemplates carrying on business with the University;
- d. The solicitation or acceptance of any gift, favour, service, appointment, employment or compensation in exchange for the exercise by the Member of their official powers or discretion in favour of another, or that might reasonably tend to, or be seen by a reasonable person to, influence the Member in the discharge of their official duties or official conduct, or that would reasonably be expected to impair the Member's independent judgment in the performance of their official duties. The acceptance of any gift(s) or benefit valued in excess of \$250.00 from one source in a fiscal year is presumed to impair judgment;
- e. The use for personal/business gain of information that a reasonable person would view as privileged or confidential and that was acquired as a result of the Member's Board activities or the communication of such information to those not authorized to receive it;
- f. The recruitment, appointment, re-appointment, hiring, promotion, evaluation or any other matter relating to the employment of a person at the University, where such person is an Associate of the Member;

g. Academic program decisions respecting any student related to the Member or an Associate of the Member;

h. Other situations that may put the Member in a conflict of interest, in which case the Member should seek advice from Counsel.

(5) When a situation arises that creates, or may be perceived to create, a conflict of interest for the Member, they must disclose this prior to engaging in Board decisions and activities. Such disclosures shall be made in accordance with the Procedure for Disclosing and Assessing Conflict of Interest. If the Member is uncertain whether they are in conflict of interest, a conflict of interest exists, or is likely to exist, they should seek clarification from the Chair.

(6) A Member shall not participate in an activity or decision of the Board that involves a real, perceived or potential conflict of interest unless such activity or decision has been disclosed to, and approved by, the Chair and if such approval has been given, any terms or conditions made by the Chair are fulfilled. In the case of the Chair, disclosures shall be made to and approved by the Board's Executive and Governance Committee.

(7) Any referral for advice and direction will be assessed in a timely and fair manner in accordance with the Procedure for Disclosing and Assessing Conflict of Interest.

(8) A Member who becomes aware of a real, perceived, or potential conflict of interest involving a fellow Member regarding a matter under consideration is to raise this concern with the Chair, or the Vice-Chair should the Chair be the subject.

The Chair, in turn, is to discuss the matter with the Board Member who is in conflict or perceived to be in conflict and, as appropriate, to hold further discussion with the reporting Member.

The Chair, in consultation with General Counsel, shall decide if there is a conflict of interest and whether or not the conflict can be allowed and any terms or conditions for the management of the conflict of interest.

(9) 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 Board and the University, including its ethical, legal and contractual obligations, and will stand the test of reasonable and independent scrutiny.

(10) 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 of Newfoundland and Labrador*. The University will conduct all conflict of interest activities pursuant to this Policy in compliance with this Act.

Records created as a result of actions under this Policy will be managed in the Office of the Board of Regents.

Non-Compliance:

(11) A breach of the Conflict of Interest Policy constitutes a breach of the Code of Conduct. The procedures addressing non-compliance are delineated in the non-compliance provisions within the Board of Regents Code of Conduct.

Procedure for Disclosing and Assessing Conflict of Interest

A. Upon appointment or election to the Board

1. At the time of appointment or election to the Board, each Member shall meet with Counsel to:

- disclose, using the Conflict of Interest Disclosure Form, all personal interests that the Member and the Member's Associates have that could result in a real or perceived conflict of interest under the Policy; and
- discuss any steps that could or should be taken to manage such conflicts of interest.

2. A Member will advise General Counsel in a timely manner of any material changes in these disclosures.

3. With notice to the Member, General Counsel will share the Conflict of Interest Disclosure Form for each Member with the Secretariat. The Secretariat will advise the Chair of the general nature of the personal interests of each Member and that of Member's Associates that could result in a real or perceived conflict of interest under the Policy. In consultation with General Counsel, the Secretariat may recommend to the Chair action, including whether or not the conflict can be allowed and any terms or conditions for the management of the conflict of interest. In the case of the Chair, General Counsel and the Secretariat will report in writing to the Board's Executive and Governance Committee and recommend any action, including whether or not the conflict can be allowed and any terms or conditions for the management of the conflict of interest.

4. The Chair will decide upon the action to be taken and any terms or conditions for management of the conflict of interest and will inform the Member appropriately. In the case of the Chair, the Executive and Governance Committee will decide upon the action to be taken and any terms or conditions for management of the conflict of interest and will inform the Chair appropriately.

B. Board and Board Committee meetings

1. a. If a Member identifies a conflict of interest in an agenda item, the Member will declare to the Board or the Committee, as the case may be, the general nature of the conflict of interest prior to the meeting or when the subject matter on the agenda item arises at the meeting. Pursuant to the nature of the conflict, the Member may recuse themselves from the meeting until the discussion on that item is completed and a decision, if any, has been made. In the case of the Chair, the Vice-Chair will preside over proceedings relating to that agenda item.

b. When a Member raises concerns about a potential conflict of interest involving another Member, pursuant to the nature of the conflict, the Member in question may be required to leave the meeting until the discussion on that item is completed and a decision, if any, has been made. The determination of the appropriate action will be decided on a case-by-case basis by the Chair in consultation with General Counsel. In the case of the Chair, the Vice-Chair will preside over proceedings relating to that agenda item.

2. Any member may move, with the appropriate seconder, a motion that the determination of the appropriate action be made by a simple majority vote of the Board or the Committee, as the case may be. The Member in question shall refrain from voting.
3. The Secretariat shall monitor the subject matter featured on the agendas of the Board or Committee meetings to identify potential Conflicts of Interest concerning individual Members. In cases where the Secretariat has grounds to believe that an agenda item could give rise to a conflict of interest for a Member, the Secretariat, in consultation with General Counsel, shall promptly inform the Member and engage in a meaningful discussion on the matter before disseminating any information to said Member, ensuring that the Member has the opportunity to make the necessary disclosure.
4. If the Member makes a declaration of conflict of interest and leaves the meeting, the Secretary or recording secretary of the Committee will record these facts in the minutes of the meeting.
5. A Member will not make any attempt to unduly influence the discussions or vote on the subject matter of an agenda item in respect of which the Member has a conflict of interest or made a declaration of conflict of interest.

C. Annual Review

1. Annually, each Member shall assess their circumstances, personal interests and those of the Member's Associates and any disclosures on file with respect to changes which have occurred since the last disclosure.
2. Where changes are required to previous disclosures, the Member shall contact General Counsel to:
 - a. update the Conflict of Interest Disclosure Form appropriately.
 - b. discuss any steps that could or should be taken to manage such conflicts of interest or to revise any steps that may have been previously in place.
3. With notice to the Member, General Counsel will share the updated Conflict of Interest Disclosure Form for each Member with the Secretariat, and the Secretariat will recommend to the Chair any new or revised actions necessary for the management of the conflict of interest. In the case of the Chair, General Counsel and the Secretariat will report in writing to the Board's Executive and Governance Committee the updated disclosures and recommend to the Committee any new or revised actions necessary for the management of the conflict of interest.

APPROVAL DATE: 2023-12-07