



SENATE POLICY

Policy on Conflict of Interest or Commitment

(Senate-approved: November 1999)

AMENDED: 09 October 2015.

Preface

This document represents the implementation of recommendation of the Senate-approved policy on Openness and Transparency. It presents a policy on conflict of interest and commitment. It sets out definitions, discussion, and examples. It is presented as a series of guidelines for appropriate conduct where self-interest or group interest, and the interests of the university or one of its parts come into conflict. The guidelines suggest that in most instances personal, self-interest should give way to the university's or unit's interest. In many instances a conflict requires that a member of the university community cease the action, not participate in a decision or simply declare the interest and seek guidance on continued action or participation. The contents of this document are subject to the provisions of Senate bylaws and Collective Agreements between the university and its employee groups.

1 THE ROLE OF THE UNIVERSITY AND OUR MISSION

The primary goals of the university include the many ways in which learning can be preserved, protected and promoted. In the late twentieth century the pursuit and achievement of this mission has become more and more challenging.

1.1 The Senate approved the following MISSION STATEMENT on May 4, 1995 (edited):

The University of Windsor strives:

to provide an atmosphere fostering creativity, discovery, application, critical thinking, service, and communication...;

to serve students and community through support of excellent instruction...; to support excellence in research and creative activity in both emerging and established fields;

to develop, through its programs and services, the intellectual, social, physical, moral, and spiritual potentials of the campus and wider community;

to support the local community..., and to provide the international community with access to our educational resources.

A university is a forum for critical and open debate, discussion, and research. It is also responsible for advancing and disseminating knowledge. In order to play such a role it must retain the public's trust and confidence and the trust and confidence of the university community's membership. To foster these goals this university expects and requires that its members act with propriety, honesty, and integrity. It must, however, be recognized that many matters that may be adjudged later as conflicts arise innocently, honestly, and are influential without there ever being any intention that they be acted on in bad faith.

2 CONFLICTS OF COMMITMENT AND INTEREST: DEFINITION

This policy identifies two categories of conflict within the context of our university environment or culture, viz.,

a conflict of commitment, and a conflict of interest. Our operational definition is: A conflict of interest or commitment arises when a member of the university community acts, or where there is a reasonable presumption that such a member has acted, in a manner that seeks to advance or has the effect of advancing her or his own interests or the interests of others in a way that is detrimental or potentially harmful to the interests, integrity, or fundamental mission of the university.

3 CONFLICT OF COMMITMENT

3.1 COMMITTEE WORK

A conflict of commitment arises when a member of a committee permits obligations that are external to committee duties to interfere with duties as a member of the committee. A conflict of commitment also arises where a committee member's university activities systematically interfere with the member's duties as a member of a particular committee. Such duties include preparing for and attending meetings.

It is recognized that teaching, research, and professional and other responsibilities will often require attention that will interfere with a member's ability to fully perform committee duties. In such cases, a member will of course need to judge the priorities. The member should always seek a means or arrangement that will permit her/him to participate in committee responsibilities.

Where a committee member's external or internal activities interfere with the member's ability to serve as a fully participating member, the member should either discontinue the interfering activities or tender a resignation to the committee as a member. An ex officio member who is thus unable to resign must make every effort to ensure that his/her schedule is organized so as to assure regular attendance and participation.

A member will be deemed to have conflicting commitment, suggesting a resignation is in order, if the member misses, without serious reasons, more than three committee meetings in succession.

Full-time appointments involve a year-round (except for the vacation period) commitment to teaching, research, service, support activities, and participation in the life of the university.

3.2 OUTSIDE PROFESSIONAL ACTIVITIES

The essential principle of the university's policy on extra-mural commitments is that members first and adequately satisfy their contractual and assigned responsibilities to their employer.

Outside professional activities are extra-university activities that involve the same kind of specialized skills and knowledge that the faculty or staff member practices in the employ of the university. Examples of such activities are: consulting, private contracts, professional practice, directorships on boards (not at the university's request), being an officer of a company whose business relates to teaching/research interests of faculty, and teaching at other institutions.

Those activities not considered "outside" include: being an external reviewer for a department at another university; editing a journal in one's field of study, teaching in the university's continuing studies programs, participating as a committee member or member of the executive of one's regional, national, or international organization, being an external reviewer for a promotion or tenure case, acting as a peer reviewer for a granting agency or publisher, being a director on a board at the university's request.

The university recognizes that the competence and effectiveness of faculty and staff may be enhanced by their participation in certain kinds of outside professional activities. For example, such activities can contribute to the professional development of the individual through the acquisition of new skills and techniques or provide additional opportunity for the application of knowledge to practical situations, and

thus increase the individual's effectiveness in teaching, research, service and support endeavours. They can also open up academically-relevant opportunities for graduate students. Furthermore, such participation frequently advances the purpose of the university in serving the needs of the larger community of which it is a part through fostering the transfer and application of knowledge.

Yet, extra-university activities may produce consequences that are not to be measured merely in terms of hours expended. The distraction of extra-university occupations, the expenditure of emotional energies, the obligations contingent on accepting external fees and salaries may all interfere in the proper discharge of the primary duties to the university.

3.3 DIRECTORSHIPS AND MEMBERSHIPS IN BOARDS

There are many benefits to be gained by both the individual and the university from a faculty or staff member's active involvement in community service activities. Such activity enhances the community's awareness of the contribution the university makes to our society, while providing opportunities for many and varied linkages of members with business and philanthropic organizations and leaders. However, there is also the concern that duty imposed by membership on the board of another organization could conflict with a faculty or staff member's duty to the university.

Unless appointed as a representative of the university, and recognized and recorded as such by the university, a faculty or staff member serving on the board of an outside organization does so in his or her individual capacity.

4 CONFLICT OF INTEREST

4.1 COMMITTEES

A conflict of interest arises in a committee when a committee member stands to benefit personally or professionally as a particular individual from a decision that is under consideration by the committee. Such benefit is to be contrasted with the personal or professional benefits that accrue generally as a result of the committee's decisions when those decisions promote the interests, integrity or fundamental mission of the University. It is the responsibility of each member to be vigilant about the identification of conflicts of interest.

A conflict of interest also arises in a committee when a committee member participates in its debates so as to influence decisions for the benefit of a group to which the member belongs, but to the detriment of the interests, integrity or fundamental mission of the University. Subject to the foregoing, it is recognized and expected that as members of groups committee members will frequently be charged with or wish to represent or advocate the interests of their group.

5 CONTEXTS AND CIRCUMSTANCES

The circumstances and contexts in which conflicts can arise are almost limitless, so no set of procedures can identify and proscribe all possible conflicts. Members are expected, and required, to conduct themselves in a manner that will bear the closest scrutiny and, in particular, they should take steps to avoid even the appearance of a conflict.

This policy is meant to protect both the individual and the institution. Existing contractual collective agreements/letters of understanding between the university and its members, or between the university and any other party will prevail if any inconsistencies arise in this policy.

Regulations or Guidelines have been developed about the acceptability of certain activities in the following areas:

5.1 TEACHING

If in exceptional cases, where instructors/assistants teach their own children or other close relatives then, in those very rare instances where there is no other option, such as when the course is a degree requirement taught only by that particular instructor/assistant and for which a course substitution cannot be found, the instructor/assistant will notify the Dean (or designate) immediately who will confirm whether there is another option and, if not, establish checks and balances to minimize the potential conflict prior to the start of the course offering. Under no circumstances should the instructor/assistant be assessing and grading the relative's course work. The student's evaluative procedures must be assessed and graded by a third party, possibly from another university if there is no other instructor with the same or comparable expertise at the University of Windsor.

Senate bylaws 51 and 31 deal with the relationship between teachers and their students in both the disciplinary and learning/teaching contexts.

5.2 SCHOLARLY ACTIVITIES

Members of the university community build on each other's research, creative and professional work of distinction. They are mutually dependent on the honesty and care with which they conduct such work and report results. Members can foster an environment characterized by openness of communications and interdependence of thought and work by promoting honesty and appropriate ethical research behaviour, and by discouraging misconduct, unethical behaviour and irresponsible research, creative or professional work.

Conflict of interest in the conduct and reporting of research/creative/professional work can take many forms. In addition, the university's commitment to liaise with industry and transfer technology will often result in arrangements which are or result in actual or potential conflicts of interest. Particularly attention must be given to Articles 35 (copyright) and 60 (ethical conduct of research) in the collective agreement between the University of Windsor and the Faculty Association of the University of Windsor and any other relevant policies of such funding agencies as the national and provincial government research councils and agencies.

The following categories illustrate the range of situations which faculty and staff members should recognize as potential conflicts of interest, and are not an exhaustive list of all types of conflict of interest situations in the areas of research and industry liaison.

5.2A Service as a Referee

Since the academic community relies heavily on peer review for evaluation of research, referees bear an ethical responsibility. In the role of referee, the researcher could attempt to take advantage of the knowledge gained through the review processes associated with research proposals to agencies and submissions to journals and other publications.

For example:

- o It could be a conflict of interest if research applications and reports are not handled expeditiously, and the content of such applications and reports not treated confidentially and honestly.
- o Use of applications and reports for purposes other than the review is considered a conflict of interest.

5.2B Ethical Tradition of the Discipline

On occasion a member of a discipline may be asked to review the academic work of a colleague. Sometimes the reviewer may perceive that dealing with the matter in a certain way will either advance or retard the interests of the reviewer. This creates a conflict of interest that must be handled with integrity, honesty and care. As leaders in their fields, members of the university community are expected to offer their expertise. In such instances the views of scholars with such an interest should be balanced with views from outside the field or discipline.

5.2C Recognition of Scholarship

It is unethical and not acceptable to fail to give proper recognition to any reliance on the ideas, work or assistance of others, or to fail to obtain prior permission for the use of work done or results obtained by others.

5.2D Independence in Choosing Licensees

There is a variety of possible avenues from which the university can choose for licensing a discovery or invention, such as incorporating a new company established for the specific purpose of bringing the invention to market or the use of an existing company. The importance of the transfer not only of the patent, but also of the know-how is recognized as essential to the success of the venture. In making these decisions, the issue of personal gain by the researcher must be addressed. This requires the complete disclosure on the part of the researcher about involvement with companies under consideration, because the royalties awarded through the license will be adjusted to take into consideration any company holdings of the researcher.

5.2E Business Involvement in Research Field

A member of the faculty or staff is considered to have a potential conflict of interest if, in dealings with the university, the best interests of the university could be compromised in the personal interest of the faculty or staff member or in the interests of an external company or agency in which the individual has a significant interest. "Significant interest" implies that, as a result of affiliation with an outside organization (formal or informal), the individual can influence that organization's decisions to the detriment of the university. Examples of significant interest that could lead to this situation include but are not limited to:

- o shared position * directorship * managerial position (paid or unpaid) * consulting relationship

For example:

- o A company in financial difficulty owes the university money for a cooperative research program; a University employee with a significant interest in the company could take part in a decision to pay creditors other than the university.

- o A university graduate student supervised by a university faculty member who has a significant interest in a company works on a project of interest to the company is asked to assign his or her intellectual property to the company without disclosure to the university.

- o A university faculty member who through any activity utilizes intellectual property to which students, university staff, or other faculty members have made substantial contributions without recognition of or compensation to the other individuals.

- o Supervising faculty or staff members use University students or staff on university time to carry out work on behalf of a company in which they have a significant interest.

- o University resources, space or facilities are used by a faculty or staff member to benefit a private concern in which the individual has a significant interest.

- o Charges for use of the university's specialized laboratories or equipment which are differential for outsider organizations, may lead to allegations of favouritism.

5.2F Payment of Research Honoraria

Honoraria to full-time members of faculty or staff for services rendered to departments other than departments of which they are members, will normally not be granted if the payment comes from university funds. In exceptional cases, payment of such honoraria may be allowed, subject to the approval of the appropriate Deans, the Office of the President and the Board of Governors. This does not apply to honoraria paid to full-time members of faculty or staff from funds specifically provided for the purpose (e.g. stipends for extra-sessional and continuing education teaching).

Research contracts between the university and contracting agencies involving honoraria paid to members of faculty or staff shall be approved by the Office of Research Services only on the recommendation of the Dean of the College, with the approval of the Head of AAU. If so recommended, the Office of Research Services is authorized to sign such contracts on behalf of the university, provided that the total of all honoraria paid to the faculty or staff member from all sources (contracts, grants, etc.) does not exceed two-twelfths of the member's salary during the appointment year (July 1 to June 30). Proposals for research contracts which involve honoraria exceeding this amount shall be forwarded by the Dean of the College to the Vice President, Academic for consideration.

Faculty and staff members select the method of receiving an honorarium from the following options in advance of any payment being made:

Honoraria may be accepted for an individual's personal use and are then to be considered as income, are included in the individual's T4 slip for income tax purposes, and are paid through the Payroll Section of the Department of Financial Services. The procedure for initiating this payment is:

- o A memo requesting payment, indicating its purpose and the account number to be charged, signed for approval by both the administrative head of the unit and one additional level above, is sent to the Office of the Vice-President Academic. When a payment is to be made by another College, the signatures of both deans are required.
- o Payments may be requested in monthly instalments or in one or more lump sums.

Faculty or staff members may decline the honorarium for personal use, but may wish to use it for research, for a donation to the university or for other university activities. A member may also direct monies received for consulting or other professional fees to a university account.

The authority for establishment of accounts to be used to promote research is the Research Administrator. For accounts to be used for any other university activities, the authority is the Vice President, Administration and Finance. In all cases, a description of the purpose of the account must accompany requests for these transfers. The request is approved by the AAU Head and the Dean of the College. Expenditures from such accounts are consistent with regulations concerning university accounts. In particular, these accounts shall not be used, directly or indirectly, for expenditures that provide personal or private benefits to the donor or to any other person.

6 FINANCIAL AND NON-FINANCIAL GAIN

6.1 Acceptance of Gifts

Acceptance of gifts, entertainment, travel, and services for personal use from people or companies who do business with the university could impede the objectivity of faculty and staff members and create a conflicting obligation to that person or company contrary to the obligation of faculty and staff members to the university.

There are many instances when members of faculty and staff are presented small gifts because of their work or the position they hold at the University. Tokens of appreciation of insignificant value may be

accepted at the discretion of the individual.

However, when gifts of significant value are (or are about to be) offered, it is incumbent on the individual faculty or staff member to initiate a discussion with the AAU Head or other administrative head so that issues surrounding any obligation that may be perceived to ensue as a result of receipt of the gift may be completely disclosed and so that approval to accept or retain the gift may be received or rejected. Heads of units, in considering requests, will take into account the source, value, purpose and frequency of the offering. Any potential detriment to the university should be grounds for denial of the request to accept the gift for personal use.

6.2 Business Decisions

A conflict of interest appears to exist when faculty and staff members take part in decisions to transact the university's business with a company in which they have a material interest. Therefore, the responsibility rests with individuals to disclose whenever they have influence over a decision about a proposed contract between the university and a company in which they have substantial holdings and to withdraw from the university's decision-making process.

6.3 Client Solicitation

Many faculty and staff members are remunerated for consultation in their professions, and to avoid the appearance of conflict of interest, should refrain from soliciting clients for private practice through connections at the university. This applies not only to government agencies, private companies, and the public, but also to students and fellow members of faculty and staff. For example, a perception on the part of a student that he/she is being coerced/exploited through referral for assistance could be of detriment to the university and the student.

Student requests to their instructors/advisors for professional service should be referred to other experts. When such requests are of an exceptional nature such that the instructor/advisor believes he or she should provide the professional service, this should only be done after discussion of the matter with the administrative head of the unit to further explore alternate sources.

FORMER SECTIONS 7.0 AND 8.0 DELETED AS OUTSIDE THE MANDATE OF CONFLICT OF INTEREST.

7 FAVOURITISM IN EMPLOYMENT

The university takes every precaution to guard against favouritism of every kind in hiring. Faculty and staff members must be scrupulously fair and honest in ensuring that positions are well advertised and that appointments are offered always to the best-qualified available candidates. In so doing, however, the university acknowledges that, occasionally and in unique circumstances, there are cases in which, to fulfil the mission of the university, potential conflicts of interest may arise.

When a faculty or staff member is in a position to influence personnel decisions (such as the recruitment, offer of employment, evaluation of performance, promotion, granting of tenure, or termination of employment) with respect to another with whom the faculty or staff member has a relationship, which might reasonably be construed as a conflict or potential conflict of interest, then the faculty or staff member has a duty to disclose the situation to the administrative head of the unit.

Search, hiring, tenure, promotion procedures are regulated by Senate bylaws, Collective Agreements, and equity policies and practices of the University of Windsor. The principle prevails that members involved in these processes are expected to avoid conflicts of interest situations by not participating in or withdrawing from the

decision-making process when such a relationship exists with the candidate.

There are, however, cases in which this is not possible, such as that of a researcher who employs a research assistant on a grant. If, in such a situation, the faculty or staff member and/or administrative head of unit deem that a disclosed potential conflict of interest may warrant monitoring rather than avoidance, the administrative head will consult with the Director of Human Resources and/or Vice-President, Academic, as appropriate, who will determine procedures to be followed to ensure the systematic monitoring of the potential conflict of interest throughout the period of employment. The process by which monitoring occurs shall be consistent, fair, unbiased and documented in order to protect both the individual(s) and the university and will normally include events such as recruitment, offer of employment, performance evaluation, tenure, promotion, discipline and termination of employment.

A record of each case will be documented and kept on file in the office of the appropriate Vice President for the duration of the employment and in accordance with legislated requirements governing employment records. Each record must contain a signed statement of agreement between the individual(s) and the university which permits the university to release information concerning the process used to monitor the potential conflict of interest and, with the written permission of the individual(s) for whom there is a potential conflict of interest, release information concerning the substantive elements of the case.

Members of faculty and staff will be asked to review their current relations with other employees at the university and to disclose any potential conflicts of interest which might presently exist to the administrative head of their unit.

When a faculty, administration or staff member is in a position to influence the conditions of employment or the University-related projects of a University member (such as the assignment of courses, committee duties, graduate students, student assistants, equipment, office space, staff support, etc., or the approval of requests for funding, or special appointments such as transitional appointments or redeployment, or sabbatical or other leaves, etc.) with respect to another with whom the faculty or staff member has a relationship which might reasonably be construed as a conflict or a potential conflict of interest, then the faculty, administration or staff member has a duty to disclose the situation to the administrative head of the unit.

8 PROCEDURES FOR RESOLUTION AND COMPLIANCE

Conflict of commitment or of interest cases may fall into one of three categories:

1. those which require disclosure;
2. those which require disclosure and also require prior approval;
3. and those which are prohibited.

In order to achieve transparency and to promote an environment of equity, full disclosure followed by aggressive monitoring and conflict management is the key to preventing and resolving conflict of interest or conflict of commitment situations. Full disclosure of relevant information and the establishment of a confidential record are in the best interests of both the institution and the employee.

Disclosure demonstrates good faith and protection of reputations. It will not necessarily restrict or preclude an employee's activities. It will restrict and preclude harmful decisions and activities.

It is desirable that the formats of the agenda of various formal meetings have a specific item at the beginning of the agenda providing the occasion to "disclose" a real or potential conflict of interest or commitment.

If there is a potential conflict of interest or of commitment of any of those situations or examples described in the above policy, it is incumbent upon the member of the university to comply with the following procedures which include the initial act of "disclosure" and the final act of resolution in the event of an actual conflict.

8.1 PROCEDURES FOR DISCLOSURE

Disclosure of real or potential conflicts of interest or commitment is the ultimate responsibility of the member. Depending upon the circumstances, the disclosure may be oral or written or both. A member may be responsible for immediately disclosing to the AAU Head in writing any potential or actual conflicts of interest or commitment if prior approval or subsequent disclosure is required. [A form might be designed to accommodate this action.] Such situations as the following are examples requiring such action:

- o membership in or an appointment to a board whose activities would put the member in conflict of interest financially or in conflict of commitment by detracting from their university responsibilities;
- o a vote as a committee member that would involve peer review of the work or the candidacy of a relative;
- o a position in a non-university organization which might commit the member to the disclosure of confidential or proprietary information to which their university position provides access.

8.2A COMMITTEES

Disclosure must be made at the beginning of any committee meeting in which debate in the particular context may result in a conflict of interest or commitment arising for a member.

The first role of a unit leader or an administrator or a defined committee is evaluative. The second role is both adjudicative and arbitral. Once an actual conflict is identified, the unit leader or other must make arrangements so that a conflict is avoided or does not persist. If the attempt fails, the matter will be adjudicated by the appropriate administrators and/or committee.

If the disclosure occurs in the context of a committee meeting, the committee will be responsible for adjudicating the matter. The members of the committee by simple majority vote may determine the potential or real existence of the conflict:

- (a) declare no serious conflict and permit full participation;
- (b) prohibit the member to be counted in a quorum of the relevant meeting,
- (c) prohibit the member any participation or presence,
- (d) permit limited presence and participation, e.g., only in the vote and to answer questions.

If the activity is permitted but requires modification, the options should be developed which might include: disclosure of all relevant information; reformulation of the activity; close monitoring of the activity; divesting of relevant personal interests; reduction of involvement; severance of outside relationships; reimbursement for direct or indirect costs to the university.

8.2B OTHER REQUIREMENTS:

Attention should be given to careful recording and documentation of these situations by the retention and filing of oral and written disclosures, e.g., in the unit leader's files or in the minutes of a committee meeting.

If the conflict involves matters beyond the context and competence of the AAU, then the next appropriate administrator must attempt to remedy the matter, e.g., a research contract that involves compliance with existing bylaws or regulations established by Senate and/or Research Board.

Allegations of violations of conflict of interest policy shall be investigated by a committee appointed by the relevant body, e.g., the Dean, the President, the relevant committee etc.