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COLLEGE OF LITERATURE, SCIENCE, AND THE ARTS
IMPLEMENTATION OF POLICY ON FACULTY CONFLICTS OF INTEREST AND
CONFLICTS OF COMMITMENT
October 15, 2007

The College of Literature, Science, and the Arts recognizes that our faculty participate in a wide range of outside scholarly activities and encourages participation in sponsored research, consultation and other activities that benefit the individual, his or her department, the University as a whole, and the wider community. At the same time, the College regards it as important that faculty members understand that their primary professional responsibilities and obligations are to the University of Michigan and that they know what they may do to ensure that these outside activities do not interfere with the expectations of the institution.

The foundation of our intellectual community is a shared commitment to honesty, integrity, and work in the best interest of the University.

A. *Identification of Potential Conflicts of Interest and Commitment*

Potential conflicts of interest and commitment can arise when faculty are engaged, with individuals and institutions outside the University. The University allows and indeed encourages faculty to engage in such outside activities and relationships as enhance the University's mission. What is required is that faculty disclose any potential conflicts of interest or commitment as soon as they arise so that these conflicts can be evaluated and managed. LSA does not intend to implement a policy that is more restrictive than that required by the existing University rules, policies, and procedures. The present document is intended to clarify and, where necessary, supplement existing LSA and University policy.

As defined in the Standard Practice Guide (SPG 201.65-1), a potential **conflict of interest** (“**COI**”) arises when external ties bias or might appear to bias a faculty member's judgment in performing his or her University obligations or when a faculty member uses his/her position inappropriately for financial gain or uses state resources to influence a political campaign. A potential **conflict of commitment** (“**COC**”) arises when a faculty member engages in external activities or assumes external commitments that compromise or might appear to compromise his or her ability to fulfill the responsibilities of his or her University position.

The existence of a potential conflict of commitment must be evaluated in light of the minimum expectations for commitment required for the faculty member in question.

The term **faculty**, as used in this policy, shall include members of the teaching and research staff together with the executive officers, the directors of various teaching, research and library units, research associates, curators, and persons with similar duties as outlined in the LSA

Faculty Code. Teaching staff includes professors, associate professors, assistant professors, instructors, lecturers¹, and teaching fellows.

All faculty, including visiting, research, and clinical faculty, with at least half-time University appointments owe their primary professional commitment to the University. A commensurate commitment of those faculty members' time and intellectual energy must therefore be devoted to activities that further the University's mission.

To meet minimum commitments of time and effort within LSA, tenure-track faculty members are expected to pursue a variety of activities including the following: teach an assigned number of hours each year; engage in research; fulfill administrative obligations including participation on assigned departmental committees, and in hiring and tenure processes; attend faculty meetings; and participate in student and faculty educational and collegial functions.

Other teaching staff including Lecturers, part-time faculty, and adjunct faculty, similarly owe the University time and effort commensurate with their appointments by teaching an assigned number of hours each year.

Even where obligations to the University are met, it is inappropriate for faculty, without prior approval, to divert to other entities or institutions opportunities for research, education, clinical care or financial support that otherwise might flow to the University.

Any work external to the University potentially raises a question of conflict of commitment. In general, however, any such work that contributes to the scholarly or educational goals of the University is permitted. For full-time faculty, other professional work (not including regular employment) is permitted up to one work day per week if it does not interfere with the minimum expectations outlined above (as described in the UM Faculty Handbook). If there is any question about whether a particular commitment falls within these categories, or if there is any potential for interfering with the minimum expectations above, the matter must be disclosed.

B. *Examples of Potential Conflicts of Interest and Commitment*

Potential conflicts of interest/conflicts of commitment may occur in a number of situations including those outlined in the examples below. LSA's general approach to managing these examples is also included. This list is not exhaustive.

1. Time

- Faculty members are expected to spend a majority of their working time on their primary professional commitments to the University. However, a faculty member may accept appropriate outside commitments that advance scholarship and University priorities. If a substantial time commitment is

¹ Lecturers are covered by this COI/COC policy except where specifically otherwise indicated by their union contract.

required a potential conflict of commitment may arise (see section below on Conflict of Commitment). Significant outside consulting obligations, individually or collectively, may not conflict with primary commitments to the University but must be disclosed to the Chair or Director.

- The University year (U-Yr) appointment for a faculty member covers the period of time from September 1st through May 31st each year during which a primary professional commitment to the University is expected (payment for this contract is distributed over 12 months). Faculty members on sabbatical are considered to be on active duty for the University. Some Lecturers and visitors have eight month appointments (September 1st through April 30th). Faculty who are not receiving compensation for spring/summer term(s) may accept outside commitments during the months of June through August provided the professional activity for pay is wholly performed and completed between June 1 and August 31, and does not conflict with this policy statement. Any potentially conflicting commitment must be disclosed to the Chair or Director.
- Outside employment during the University year by faculty is not allowed except with approval of proper University authorities through the disclosure process (Article VI. A 6.01 Sec 1: LSA Faculty Code), which will be granted only when either or both of the following conditions exist: (1). when the work in question gives promise of enhancing the individual's usefulness as a teacher and scholar in the individual's field to a greater degree than a corresponding amount of work within the walls of the University, (2). when the work is of a distinctly public nature or when for any other reason the University wishes to be actively engaged in its furtherance. Faculty members may not teach entire courses at other institutions while on sabbatical or while receiving partial pay from the University while on an outside fellowship.
- Faculty members may not hold two active full-time salaried positions (Regent's Bylaws Section 5.12; University of Michigan Faculty Handbook Section 5.G.1.).
- Consistent with principles of avoiding conflict of interest and commitment, faculty with full-time appointments at the University should not use (or permit others to use) their work in ways that compete with the University's courses, or its educational programs or activities – unless prior written permission is obtained from the appropriate dean, director, or executive officer, or their designee(s). This provision applies to works developed exclusively for compensation at other educational institutions, including for-profit and on-line institutions. Use of faculty working conformance with University norms does not violate this provision. For example, it is permissible to share syllabi or other course materials with colleagues at other non-profit educational institutions; provide ordinary outside consulting, participate in professional or scholarly organizations, scholarly presentations and publications, pursue future employment opportunities and public service. (UM Copyright policy)

- Start-up ventures in which the faculty member has an outside interest must be disclosed and are also regulated by OVPR policy (<http://www.research.umich.edu/policies/um/coi/>).

2. Relationships

- Close personal relationships that could affect the outcome of hiring or evaluation decisions must be disclosed to the Chair/Director and written policies for managing any relationships involving supervision or evaluation must be developed by the department/program (SPG 201.23).
- A faculty member may not assign or ask students or staff to contribute services or money to institutions or people external to the University with whom the faculty member has a financial interest. A supervisor may not use the services of a supervised employee during University employment time to advance the supervisor's personal or externally paid professional activities.
- The University Faculty Student Relationship policy must be adhered to in all circumstances. Disclosure to the Chair or Director of any relationships covered by the policy is required (SGP 601.22).

3. Resources

- University resources are normally to be used for university business. These resources include University equipment including copying and fax machines, office and computer supplies, and electronic mail. University policy allows for limited use of electronic resources (computers, email, internet connections) for personal business that does not conflict with the primary business use. Use of office and laboratory space for a venture in which the faculty member has an outside interest must be disclosed but is regulated by OVPR policy (<http://www.research.umich.edu/policies/um/coi/>).
- A faculty member may incur reasonable meal and travel expenses that are reimbursed either by the University or by external organizations. However, a faculty member may not accept reimbursement that amounts to a gift of more than \$25 value from people or institutions that contract with the University, when the faculty member participates in decisions concerning that contract.
- At the University of Michigan, students often have the opportunity to take courses from leading authors in a discipline. A faculty member may assign his or her own textbook to his or her students according to the guidelines of the American Association of University Professors policy statement: <http://www.aaup.org/statements/REPORTS/05owntext.htm>. Excerpting from this policy: "The right of individual professors to select their own instructional materials, a right protected under principles of academic freedom, should be limited only by such considerations as quality, cost, availability, and the need for coordination with other instructors or courses. Professors should assign readings that best meet the instructional goals of their courses, and they may well conclude that what they themselves have written on a subject best realizes that purpose. In some cases, indeed, students

enroll in courses because of what they know about the professor from his or her writings, and because they hope to engage in discussion with the professor about those writings in the classroom. Because professors are encouraged to publish the results of their research, they should certainly be free to require their own students to read what they have written. At the same time, however, students in a classroom can be a captive audience if they must purchase an assigned text that is not available either on library reserve or on a restricted Web site. Because professors sometimes realize profits from sales to their students (although, more often than not, the profits are trivial or nonexistent), professors may seem to be inappropriately enriching themselves at the expense of their students.” Therefore, faculty members intending to assign their own textbooks should disclose this to their Chair/Director for review. Faculty should ensure that this material is available on library reserve or on a website, especially if only a small portion of the work is going to be assigned.

- Faculty may not have direct dealings with students in the sale of books, instruments, lectures, notes, or similar materials (Article VI. A 6.07, Sec. 7 LSA Faculty Code).
- The University may have a stake in patents and copyrights issued or acquired as the result of or in connection with administration, research, and other educational activities conducted by members of the University faculty/staff and supported directly or indirectly (e.g. through the use of University resources or facilities) by funds administered by the University. Procedures for managing this are available in OVPR (<http://www.research.umich.edu/policies/um/coi/>)
- No member of the teaching staff shall, for pay beyond his or her university compensation, give private instruction in any course offered by him/her in the University, nor shall that member of the teaching staff give private instruction to enrolled students in any other course without approval of the head of his/her department (LSA Faculty Code Article VI. A 6.06 Sec 6).
- A faculty member may not direct business to anyone with whom he or she has a close personal relationship or use University resources to promote outside business interests. Exceptions can be made where appropriate and documented.

4. Gifts

- A faculty member may not accept a gift of substantial value (including gifts of service) or payment of any sort from any student or staff member over whom he or she has authority. Even when a gift is trivial, it is never appropriate to accept a gift that is given with the expectation that there will be some benefit in return.

- In line with state law and IRS regulations, the same rule applies to gifts of \$25 or more from people or institutions that contract with the University where the faculty member participates in decisions concerning that contract.
- Faculty members may not provide gifts to the University with the expectation that they will then be given the authority to control the dispersal of these gifts.

5. Political Endorsement or Outside Affiliation

- There are circumstances in which a faculty member's expertise is relevant to expression of a public opinion. In these cases a faculty member may indicate his or her affiliation with the university in written correspondence to public entities as long as the correspondence includes a statement indicating that he or she is not speaking on behalf of the University but as an individual.
- Faculty members obviously have the full right to political activity outside of work hours but they may not use University resources to further these activities.
- A faculty member may not use University resources (including electronic mail accounts) to support or oppose a political candidate or the qualification, defeat or passage of a ballot initiative. In addition to being contrary to this policy, such action constitutes a violation of State Law for which there are individual fines and penalties (Michigan Campaign Finance Act section, MCL 169.257). University guidelines on this issue are available at:
<http://www.vpcomm.umich.edu/guidelines/>

C. *Disclosure, Evaluation, and Management of Potential Conflicts of Interest and Commitment*

1. Disclosure of Potential Conflicts

All faculty members must promptly disclose potential conflicts of interest or commitment to their Chair or Director in writing. Email will suffice. The Chair or Director can seek advice from the appropriate Divisional Associate Dean. Recurring or long-term commitments incurred by faculty must be included in the annual report of each faculty member to his or her Chair or Director. The Chair or Director reports at the end of each year on all COI/COC issues and the department/program procedure for managing them to the appropriate Divisional Associate Dean.

Disclosure need not be made where there is no violation of the general approaches outlined above but disclosure should be made whenever there is any question whether the action falls within the generally permitted situations described above.

2. Management of Potential Conflicts

Upon disclosure of a potential conflict of interest or commitment, the Chair or Director (in consultation, as needed, with the appropriate Divisional Associate Dean – who serves *ex officio* as “Unit COI/COC Manager”) shall evaluate the extent of the potential conflict. The purpose of this evaluation is to determine whether it is necessary to manage or to eliminate the potential conflict. The Chair or Director may require the faculty member to provide additional information or documentation if necessary.

In some circumstances, evaluation of the potential conflict will require the Chair or Director to consult with central administration offices. For example, consultation is necessary in the following circumstances:

- With the Office of the Vice President for Research, where the disclosure involves sponsored research or technology transfer, (<http://www.research.umich.edu/policies/um/coi/>).
- With the Provost’s Office, where there may be a conflict between two academic units,
- With the General Counsel’s Office, where legal obligations or potential liability may be involved, and
- With Purchasing, where the disclosure involves a purchase of goods or services.

If the Chair or Director (in consultation with the Divisional Associate Dean as needed) determines that management of the potential conflict is necessary, he or she shall develop a conflict management plan in consultation with the faculty member. Management options include, but are not limited to:

- A determination that no action is necessary.
- Documenting the disclosure and Chair or Director’s evaluation and determination that no further action is required.
- Disclosing the potential conflict to appropriate sources inside and outside the University.
- Modifying or limiting the faculty member’s duties to minimize or eliminate the conflict.
- Securing the faculty member’s agreement to modify or suspend outside activity, use of University resources, or other activities that create the potential conflict.
- Prohibiting certain outside activity as inconsistent with the faculty member’s obligations to the University.

3. Record-Keeping and Issues of Confidentiality and Privacy

The Dean’s Office will keep records of action on disclosures made under this policy, in part to develop consistent practices in the treatment of like cases. Chairs and Directors will also keep records of disclosures and related actions at the department/program level. The record may be as simple as identifying the disclosure and including a notation on the disclosure description to the effect that no further action was required. Appropriate records may also be maintained in the individual faculty member’s personnel file.

Chairs, Directors, and Divisional Associate Deans will make all reasonable efforts to preserve the privacy and confidentiality of personal information revealed as part of this process; to that end, all records that include personal information about named individuals will be kept in a secure file accessible only to the current Chairs, Directors, Divisional Associate Deans, and the Dean of LSA or their authorized designees.

Records documenting disclosures and management plans related to COI/COC policy should be kept for seven years after the potential conflict has been eliminated or otherwise ceases to exist.

In some circumstances, the University is required to disclose potential conflicts to people within or outside the University. For example, if a conflict exists within the context of a federally sponsored project, the University is required both to disclose the existence of that conflict (without providing identifying information) to the Federal Government and to indicate whether and how it has managed that conflict. Also, the University may be legally required to disclose information in response to requests made under the Michigan Freedom of Information Act (FOIA). Should any individual have a legitimate reason to access the confidential records, whether in the context of a federally sponsored project, a FOIA request, or otherwise, the appropriate Chair, Director, Associate Dean, or the Dean may authorize access to the file, provide copies, or provide oral or written summaries. Where possible, the individual to whom disclosure has been authorized will be required to maintain at least the same level of confidentiality as applicable to the original information or documents.

D. *Dispute Resolution*

A faculty member may dispute any decision made in response to the disclosure or non-disclosure of a potential conflict of interest or commitment by an appeal to the appropriate divisional Associate Dean. If the faculty member is not satisfied with the decision of the Associate Dean, further pursuit of a dispute falls under the LSA Faculty Grievance Procedure outlined in the LSA Faculty Code. Following exhaustion of these procedures, the faculty member may dispute any action or decision under this policy in accordance with applicable University procedures. Sponsored research/tech transfer must be handled in accordance with processes adopted by the OVPR Conflict of Interest Review Committee.

E. *Education and Training*

LSA will develop a website that provides the full text of the LSA Implementation Policy on Faculty Conflicts of Interest and Conflicts of Commitment, along with links to relevant University policy statements. The site will also provide examples of the resolution of potential COI/COC issues and a link to Frequently Asked Questions, and other relevant sites. The policy and the website will be referenced in all offer letters. Discussion and instruction on management of the policy will be included in new Chair & Director training each fall. Training will also be provided to departmental administrators on a yearly basis.

F. *Violations*

Any failure by faculty to comply with SPG 201.65-1, its procedures, or this implementing policy may lead to disciplinary action, up to and including termination of appointment in accordance with applicable disciplinary procedures. Possible violations that may lead to disciplinary action include, but are not limited to, the following: failure to disclose a potential conflict; failure to comply with a required conflict management plan; failure to maintain the confidentiality of conflict documentation and information; and failure to complete any required training or education regarding the policy. In addition, employees covered by collective bargaining agreements shall be subject to the provisions of this policy to the extent that they do not conflict with the relevant collective bargaining agreement. In all cases, existing LSA and University procedures governing faculty misconduct will apply.

G. *Policy Review and Revision*

The Divisional Associate Deans will annually review all conflicts under management within this policy and may at that time make recommendations to the Dean regarding necessary revisions to the policy or the need for increased education. Any revisions in policy or practices will be discussed with the faculty prior to implementation. If the Dean in consultation with the LSA Executive Committee determines that any of the changes he or she would like to adopt will materially change the policy, the Dean will follow the procedures used to adopt the original policy. In particular, the Dean will submit any materially revised policy to the Office of the Provost and Executive Vice President for Academic Affairs for further review and approval and then to the President for formal adoption. A current version of LSA's policy should be on file with the Provost's Office at all times.

This policy applies to all faculty of LSA, including both full- and part-time faculty, whether classified as regular instructional, primary research, clinical, adjunct, LEO Lecturer, visiting faculty or teaching fellow.

H. *Governing Policies*

This policy implements SPG 201.65-1, *Conflicts of Interest and Conflicts of Commitment*, incorporates SPG 201.65-1 in its entirety, and includes all elements required under that SPG. Implementation of SPG 201.65-1 within LSA requires compliance with other University policies and procedures, including all Regents' Bylaws and SPGs, as well as with any relevant external rules of professional conduct and applicable law. Relevant policies, procedures, rules, and law include (but are not limited to) the following:

- Regents' Bylaw 2.16, regarding gifts to University employees
- Regents' Bylaw 5.12, regarding outside employment of University faculty
- Regents' Bylaw 5.13, regarding governmental elected or appointed service
- Regents' Bylaw 5.14, regarding leaves of absence

- SPG 201.23, regarding appointment of individuals with close personal or external business relationships
- SPG 201.65, regarding employment outside the University
- SPG 201.85, regarding special stipends for work performed for other University units, the payment of honoraria, and the payment of travel expenses
- SPG 500.01, 601.03-2, and 601.11, in particular to the extent that they address copyright and other appropriate use of University resources, such as the libraries, office space, computers, secretarial and administrative support staff, and supplies
- Office of Vice President for Research
OVPR(<http://www.research.umich.edu/policies/um/coi/>)
- The College of Literature, Science, and the Arts Faculty Code
- American Association of University Professors Statement on Professional Ethics (as well as other discipline-specific professional ethics codes and statements)
- The Provost's Office August 2005 "Policy Statement on the Use of Faculty Research and Discretionary Accounts"
- Michigan Compiled Laws § 15.321 et seq., regarding contracts of public employees with their employers

In the event of any inconsistency between this policy and other University or external requirements, those other requirements will prevail. In interpreting this policy the Dean and the Associate Deans as Unit COI/COC Managers should be attentive to preserving the principle of academic freedom of speech and thought. In addition, policy administrators will make every reasonable effort to preserve confidentiality and protect the privacy of all parties in the course of investigating and managing a potential conflict of interest or commitment.