



Regulation on Conflict of Interest

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Senate
Board of Governors

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Preamble

The University must pursue its mission in a manner that advances its goals, protects the integrity of all it does and maintains the confidence of all members of the University community, its affiliated institutions, granting agencies and its public and private sponsors, in an environment in which there is both increased attention to conflict of interest and an increase in apparent conflict situations.

Trust is fundamental to the effective operation of the University. An assumption of personal integrity in every member of the University community underlies University policies and procedures, and those of granting agencies and the regulatory bodies who have oversight of many University based activities. The expectation is that all members of the University will conduct themselves with integrity in accordance with the trust and confidence that is reposed in them.

Conflicts of interest may take various forms and may arise in various contexts. In essence a potential conflict of interest will exist whenever a member of the University community is in a position to influence the conduct of research, academic, human resource, business, financial, governance or other matters in ways that could lead to personal gain for the member or a related party, or give improper advantage to others, to the detriment of the University or other members of the University community.

The purposes of this Regulation are to ensure that:

- all affairs of the University are conducted in a manner that is free of actual and apparent conflict of interest and maintains the trust of the community in the University and its affiliated institutions;
- at all times all members of the University Community act with integrity and adhere to the highest ethical standards;
- the integrity of all members is protected in the performance of their University obligations and functions;
- all members can identify actual or apparent conflicts of interest; and
- all actual and apparent conflicts of interest are properly managed in keeping with the law and best practices.

The Regulation also recognizes that the existence of a potential conflict situation does not necessarily connote misconduct or preclude the involvement of a member in the situation in which the conflict has arisen – provided the conflict is recognized, disclosed, assessed and addressed. However, it must be recognized that not all conflicts of interest, even if disclosed in a timely manner, will be permitted.

This Regulation applies to all members of the University community. It is part of a broader commitment by the institution to cultivate and reinforce a culture that will enable its members to identify and resolve conflicts of interest with the support and guidance of the administration and their units. To this end, opportunities to discuss and mentor members of the community on addressing conflict of interest will be enhanced.

Definitions

1. For the purposes of this Regulation:
 - 1.1 “Agency” includes a funding agency, granting council, foundation, organization or other entity, public or private, supporting in whole or in part, research and scholarly activities
 - 1.2 “Conflict of Interest” means any situation in which:
 - (i) a Member or a Related Party has a personal interest, whether direct or indirect, of which the Member is, or should be, aware, and that in the opinion of a reasonably informed and well advised Person is sufficient to put into question either the independence, impartiality, and objectiveness that the Member is obliged to exercise in the performance of his or her duties or the ability of the Member to act in the best interests of the University (actual Conflict of Interest); or
 - (ii) a Member or a Related Party appears, in the opinion of a reasonably informed and well advised Person, to have a personal interest, whether direct or indirect, that is sufficient to put into question the independence, impartiality, and objectiveness that the Member is obliged to exercise in the performance of his or her duties or the ability of the Member to act in the best interests of the University (apparent Conflict of Interest);
 - 1.3 “Financial Interest” means any interest, or the opportunity to acquire any interest, in any business or Person or anything else of value including remuneration (such as salary, consulting fees, retainers, honoraria, bonuses, gifts, speaker’s fees, advisory board remuneration, finders or recruitment fees), equity interests (such as stocks, stock options or other ownership interests), and intellectual property rights (such as patents, copyrights, royalties or other payments from such rights);
 - 1.4 “Legal Person” includes corporations, partnerships, associations, foundations, organizations, government agencies, and any other entity or body.
 - 1.5 “Member,” subject to section 8, means any member of the McGill University community:
 - (i) who is an employee of the University;
 - (ii) who holds office under the University Charter or Statutes or who serves on any body or committee of the University;
 - (iii) who holds office on the board of an institution affiliated with McGill University or who serves on a committee established by such board; or
 - (iv) who is an appointee (including a volunteer) of the University.
 - 1.6 “New Member” means an individual who becomes a Member after the coming into effect of this Regulation;
 - 1.7 “Person” includes, where the context requires, both natural and Legal Persons.
 - 1.8 “Related Party” includes:
 - (i) a Member’s immediate family;
 - (ii) a Person living in the Member’s household;
 - (iii) a Person with whom a Member has, or had, a close or intimate personal relationship;
 - (iv) a Person with whom the Member shares, directly or indirectly, a financial or other interest; or
 - (v) a Person to whom the Member owes a financial or moral obligation.

1.9 “Reporting Officer” means:

- (i) for the Principal, the Chair of the Board of Governors;
- (ii) for the Provost, Deputy-Provost or a vice-principal, the Principal;
- (iii) for an assistant or associate provost, the Provost;
- (iv) for an assistant or associate vice-principal, that vice-principal to whom the Member reports;
- (v) for the Director or Dean of Libraries, the Provost;
- (vi) for a dean, the Provost;
- (vii) for the Secretary-General, the Principal;
- (viii) for an assistant or associate dean, the dean;
- (ix) for the chair of a department or director of a centre, institute or school, the dean;
- (x) for the director of an administrative unit, the Provost, Deputy-Provost or vice-principal responsible for that unit;
- (xi) for a Member of the academic staff of a faculty having departments, centres, institutes or schools, the chair of the department or the director of the centre, institute or school to which the member has been appointed in his or her official letter of appointment;
- (xii) for a Member of the academic staff of a faculty without departments, centres, institutes or schools, the dean of the faculty to which the member has been appointed in his or her official letter of appointment;
- (xiii) for a Member of the librarian staff, the Director or Dean of Libraries;
- (xiv) for a postdoctoral fellow, the supervisor of the postdoctoral fellow;
- (xv) for a graduate student, the student's supervisor;
- (xvi) for any other Member, the holder of the office to whom the Member reports or who has supervisory responsibility over the Member;
- (xvii) for a Member of a committee other than a committee of the Board of Governors, the chair of the committee;
- (xviii) for the chair of a committee other than a committee of the Board of Governors, the individual or the chair of the body to which the committee reports;
- (xix) in the event that a Reporting Officer is also implicated in the Conflict of Interest situation, the first Reporting Officer's Superior not so implicated.

1.10 “Reporting Officer's Superior” means the individual to whom the Reporting Officer would personally report a Conflict of Interest.

2. General Duties of Members

2.1 A Member shall:

- (i) act responsibly, ethically and fairly with care, diligence, and loyalty and be accountable for his or her actions and decisions in the workplace;
- (ii) arrange their affairs in a manner that will bear public scrutiny;
- (iii) disclose Conflicts of Interest as soon as he or she is aware of them and address or manage them in the best interests of the University community;
- (iv) not act, after ceasing to be a Member, in such a manner as to take improper advantage of his or her prior association with the University.

3. Addressing Conflict of Interest

3.1 A Member, immediately upon becoming aware of a Conflict of Interest, shall make written disclosure of the facts material to the Conflict of Interest on a form approved by the Provost to:

- (i) his or her Reporting Officer in accordance with these provisions; and
- (ii) in the case of a Conflict of Interest situation arising in the context of research involving human subjects, to the Research Ethics Board in accordance with the University policies governing the ethical conduct of human subject research as exist from time to time.

3.1.1 The facts material to the Conflict of Interest may include as appropriate to the situation:

- (i) the Persons or group of Persons likely to benefit from the Conflict of Interest;
- (ii) any Persons or group of Persons whose interests may be adversely affected by the Conflict of Interest;
- (iii) the nature and value of any advantage or benefit, monetary or other, direct or indirect, that may be derived by the Member or a Related Party from the Conflict of Interest situation;
- (iv) any existing Financial Interest the Member or a Related Party may have in any Person involved in the Conflict of Interest situation;
- (v) the relationship the Member or a Related Party has with the Person which is the source of the Conflict of Interest situation including whether the Member or Related Party is an officer or director of, or consultant to, or serves on an advisory or other board external to the University or its affiliated institutions;
- (vi) the benefit, if any, that will be derived by the University from the situation; and
- (vii) other relevant information that may be requested by the Reporting Officer or, where appropriate, a Research Ethics Board.

3.1.2 In addition to the requirements of sections 3.1 and 3.1.1, a disclosure of a Conflict of Interest by a Member pertaining to matters in his or her capacity as a Member of a University committee or board shall be recorded in the minutes of the body in question and the Member shall withdraw from the committee's or board's deliberations and abstain from voting on any resolutions pertaining to the matter in which the Member has a Conflict of Interest.

A Member may also be required to resign his or her membership on the committee or board.

3.2 If a Member is uncertain as to whether he or she is, or will be, in a Conflict of Interest with regard to some matter, such Member shall consult his or her Reporting Officer or, where appropriate, a Research Ethics Board, to clarify the issue.

3.3 Subject to section 3.5, the Reporting Officer, after reviewing the Member's disclosure, may determine:

- (i) there is no Conflict of Interest;
- (ii) there is a Conflict of Interest but it is permissible if appropriately addressed; or
- (iii) there is a Conflict of Interest and it is not permissible.

- 3.3.1 When making a determination under section 3.3(ii) and (iii) the Reporting Officer shall meet with the Member and be guided by whether, if the Conflict of Interest is permitted:
- (i) the interests of the University can be adequately protected;
 - (ii) the interests of other Persons affected by the Conflict of Interest can be adequately protected;
 - (iii) the Conflict of Interest can be effectively addressed;
 - (iv) the proposed Conflict of Interest may compromise the Member's judgment in fulfilling his or her obligations and duties to the University;
 - (v) a reasonably informed and well advised Person would view the Conflict of Interest as appropriate.
- 3.3.2 The decision of the Reporting Officer shall be in writing and include:
- (i) his or her determination as to the existence of a Conflict of Interest together with supporting reasons;
 - (ii) whether the Member is permitted to engage in the Conflict of Interest;
 - (iii) the period for which permission is effective;
 - (iv) the conditions, if any, under which permission is granted, which conditions shall as a minimum require:
 - (a) disclosure of the Conflict of Interest to any and all other Persons who would be affected by it; and
 - (b) that the Member promptly report any change in circumstances that may change the nature or scope of the Conflict of Interest or affect its management; and
 - (v) where appropriate, the mechanism to be used to monitor the Conflict of Interest.
- 3.3.3 The Reporting Officer shall forward a copy of his or her determination to the Member, the Reporting Officer's Superior and, in research related matters, to the Office of the Vice-Principal (Research and International Relations) within ten (10) working days of receipt of the Member's disclosure or within ten (10) working days of receipt of the additional information requested pursuant to section 3.1.1(vii).
- 3.4.1 If a Member is of the opinion that permission to engage in the Conflict of Interest has been unreasonably withheld by the Reporting Officer he or she may, within fifteen (15) working days of receipt of the Reporting Officer's determination, request a review of the Reporting Officer's determination by the Reporting Officer's Superior.
- 3.4.2 If the Reporting Officer's Superior is of the opinion that permission has unreasonably been granted or withheld, after consulting with the Member and the Reporting Officer, he or she may revoke or vary the Reporting Officer's determination in writing with accompanying reasons.
- 3.4.3 The Reporting Officer's Superior shall forward a copy of his or her determination to the Member, the Reporting Officer and, in research related matters, to the Office of the Vice-Principal (Research and International Relations) within fifteen (15) working days of receipt of the Reporting Officer's determination or a Member's request for a review of that determination, as appropriate.

- 3.5 Notwithstanding sections 3.3 through 3.4.3, where a Research Ethics Board has been charged with a Conflict of Interest situation the matter shall be dealt with in accordance with the provisions of University policies governing the ethical conduct of human subject research as exist from time to time.

In addition to any filing requirements contained in University policies governing the ethical conduct of human subject research, a copy of the decision of the Research Ethics Board and, where appropriate, of the decision of the Research Ethics Appeals Committee shall be filed with the relevant chair and dean and the Office of the Vice-Principal (Research and International Relations).

4. Confidentiality of Information

- 4.1 Except as required by law, any confidential information disclosed by a Member pursuant to this Regulation shall be available only to those Persons who have a legitimate need to know, and to any Agency where disclosure is required to ensure compliance with the rules of that Agency.

5. Responsibility of Reporting Officers

- 5.1 It is the responsibility of a Reporting Officer:
- (i) to ensure that those who report to them are aware of the provisions of this Regulation;
 - (ii) to implement this Regulation by promptly initiating remedial or disciplinary action as appropriate on becoming aware of an undisclosed Conflict of Interest affecting a Member.

6. Responsibility of New Members

- 6.1 A New Member shall disclose all Conflicts of Interest to his or her Reporting Officer as required by this Regulation within sixty (60) days following his or her becoming a Member.

7. Cessation of Membership

- 7.1 A Member, upon ceasing to be a Member:
- (i) shall respect the confidentiality of all information received in the performance of his or her duties, as well as the confidentiality of the deliberations of any University board or committee or body on which the Member has served in any capacity;
 - (ii) shall not make use of any University information that is not generally available to the public, in order to derive there from a benefit or advantage for the Member, a Related Party or his or her employer.

8. Board of Governors

- 8.1 This Regulation does not apply to Members serving on the Board of Governors or its committees of the Board of Governors in so far as they are engaged in the official business of the Board of Governors. Such Members shall comply with the *Code of Ethics and Conduct for Members of the Board of Governors of McGill University and Trustees of the Royal Institution for the Advancement of Learning*.

9. Failure to Comply with Regulation

9.1 The failure of a Member who knows, or who should reasonably know, that he or she is in a Conflict of Interest, to comply with the provisions of this Regulation may constitute a disciplinary offence under the regulations, policies, code or collective agreement to which the Member is subject.

10. Review of Regulation

10.1 The operation of this Regulation shall be reviewed at the end of its third year of operation by a working group comprised of:

- (i) one representative designated from within each of the following sectors: academic staff, support staff, administrative staff, trades and services staff, teaching assistants, undergraduate students, and graduate students and post-doctoral fellows; and
- (ii) one representative from each of: the Office of the Provost; the Office of the Vice-Principal (Research and International Relations); and the Office of the Vice-Principal (Administration and Finance).

<i>History:</i>		
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