

RECOGNIZING CONFLICTS

This document provides a series of brief scenarios that illustrate situations in which an apparent or actual conflict of interest may reasonably be seen to be present and which require, at the very least, prompt disclosure to, and discussion with, the individual's reporting officer (as established in the *Regulation on Conflict of Interest*). The scenarios are drawn from situations that have occurred at McGill, from examples provided on the websites of other institutions of higher education, and from the literature on conflict of interest.

Please note that the list of scenarios does not purport to be exhaustive – from time to time other scenarios may be added to this document. The university conflict of interest regulations that these examples illustrate are specifically drafted in broad terms as it is never possible to enumerate all possible conflicts. Moreover, while the scenarios have been grouped for presentation purposes, some scenarios could be assigned to more than one category of conflict – however, they are not repeated under each heading which may be applicable.

Please also keep in mind when reviewing these illustrations that the mere existence of an apparent or real conflict situation does not necessarily connote misconduct or mean that the individual implicated is prohibited from further involvement in the situation. Before such a conclusion can be reached one needs to inquire as to whether there are any other relevant considerations that do not appear from the scenario:

- was there proper disclosure to the appropriate persons;
- was consent given by the proper authority;
- is the conflict being properly managed; and
- is the conflict one which should as a matter of principle never be permitted?

It is only when all relevant information has been gathered that a decision can be made as the acceptability of the situation. Thus, it is important to keep in mind that conflict of interests exist independently of the affected party's motives and intentions and the only certain way to avoid unpleasant consequences is to be aware of the scope of the regulations and to make prompt disclosure where necessary.

In reviewing the scenarios keep in mind that the *Regulation on Conflict of Interest*

- applies to virtually all members of the university community whatever their status within the University (see section 1.5); and
- the term "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 (see section 1.8).

A. IN RELATION TO STUDENTS

- A.1 A member is involved in a teaching, supervisory or evaluative role with respect to a related party. For example, where
- a teaching assistant forms a close personal relationship with a student in the group assigned to her; or
 - an instructor becomes his nephew's Ph.D. thesis supervisor or a member of his supervisory committee.
 - a professor and a student are involved in a romantic or sexual relationship.
- A.2 A member participates in an admissions or any other university decision concerning a related party. For example, where
- an administrator serving on a scholarships and awards committee participates in a discussion or decision concerning his daughter's application for a scholarship; or

- an instructor, who also has external business interests, participates in the admissions decision of her business partner's child.
- A.3 A member takes part in any proceedings at any level that affect the academic standing of a related party. For example, where
- an instructor re-reads an examination paper of his partner's child; or
 - an academic administrator writes a letter of reference for her sister's child.
- A.4 An instructor assigns course materials to students in circumstances in which she or a related party will benefit from the assignment. For example, where
- an instructor assigns students in his course a text book he has written and for which he will receive royalties; or
 - an instructor assigns students course materials prepared by a related party and for which the latter will receive royalties.
- A.5 A member seeks remuneration from a student for
- writing a letter of recommendation for the student;
 - reviewing the student's term paper; or
 - fast-tracking the review of the student's thesis manuscript.
- A.6 A member enters into any contractual relationship (other than in a position explicitly sanctioned by the University such as a research or teaching assistant) with a student with whom the member has a teaching, supervisory or evaluative relationship. For example, where
- a researcher employs her Ph.D. student in his or a related party's private off-campus laboratory; or
 - an instructor rents his house/apartment to a Ph.D. student who he is supervising.
- A.7 A member and her spouse serve as the co-supervisors for a student's thesis.
- A.8 A thesis supervisor delays the completion/publication of a student's thesis to allow the supervisor or a related party to be the first to publish the data/findings developed primarily by the student.
- A.9 An instructor imposes as a mandatory course requirement that students registered in the course participate as research subjects in the instructor's research.
- A.10 A thesis supervisor gives priority to his/her or a related party's research or other activities to the detriment of his or her students' theses.

B. IN RELATION TO RESEARCH

- B.1 A researcher uses her, or a related party's, outside business interests to provide services to be charged to the researcher's research grants.
- B.2 A researcher has an arrangement with a third party who has an interest in the outcome of the research wherein advantages (including the payment of money, royalties, or grants, or the transfer of shares or options in the sponsor) are promised, formally or informally, to the researcher or a related party.
- B.3 A researcher diverts any research resources for his personal use or that of a related party.

- B.4 A researcher enters into any commitments relating to proprietary research that are likely to interfere or be confused with the researcher's duties to the University.
- B.5 A researcher receives, directly or indirectly, any payment, gift or other advantage or benefit from a third party in respect of the member's research activities.
- B.6 A member uses for her personal benefit, or that of a related party, research conducted at the University.
- B.7 A researcher recruits any member of the University community over who the researcher or a related party has authority, to be a participant in medical testing or in clinical trials involving human subjects.
- B.8 A member influences any research activities at the University so as to advance the personal interests of the member or a related party.
- B.9 A researcher enters into a private licensing agreement with a related party for the development of intellectual property generated as a result of University research.
- B.10 A researcher for her benefit, or that of a related party, unreasonably delays publication of, or prematurely announces, research results.
- B.11 A researcher accepts research funding on terms that are seen to compromise his ability to conduct the research freely or to publish promptly the results, whether positive or negative.
- B.12 A researcher engages in private consulting activities (as defined from time to time in University regulations or policies) for a third party with whom the University has a research contract and under which the member is a member of the research team.
- B.13 A researcher accepts to peer review a research proposal or funding application of
 - another with whom the member or a related party is in direct competition; or
 - a related party.
- B.14 A researcher fails to disclose in a research publication that the research contained therein was funded by parties who have an interest in its outcome and where such relationship may raise questions about the researcher's objectivity or impartiality.
- B.15 A researcher, or a related party, has a financial interest in the outcome of a clinical trial in which the researcher is participating.

C. IN RELATION TO HUMAN RESOURCES

- C.1 A member employs a related party in a position funded, directly or indirectly, by the University or the member's research grant or contract.
- C.2 A member is responsible for, or participates in, the appointment, employment, evaluation, advancement, or supervision of a related party.
- C.3 A member makes or contributes to a decision on the appointment, advancement or evaluation of the performance and other activities of another who is directly competing with a member or a related party. For example, where
 - a dean appoints a related party as chair of a department;

- a principal investigator employs a related party as a research associate; or
- an instructor employs a related party as his teaching assistant.

- C.4 A member occupies a position in which a related party directly or indirectly reports to her.
- C.5 A member, already on staff at the University, actively lobbies for and promotes the “spousal employment” of her spouse.

D. IN RELATION TO THE INSTITUTION

- D.1 A member serves on a board of directors, advisory board, or the like, of an outside organization which does, or is proposing to do, business with the University.
- D.2 A member participates as a member of a board or committee of the University (or of an institution affiliated with the University) on a matter in which the member or a related party has an individual interest in the outcome of the deliberations of that board or committee.
- D.3 A member accepts employment with, or undertakes any activities on or off campus for, a third party at times during which the member would normally be expected to be engaged in his or her duties to the University.
- D.4 A member engages in a course of studies, or any other program or activity, that calls for attendance at or participation in lectures or other events at times during which the member would normally be expected to be engaged in his duties to the University.
- D.5 A member uses University facilities, equipment, personnel or services for non-university activities or for the personal benefit of the member or a related party.
- D.6 A member uses attributions or references to the name of the University, or of any member of the University, or of any affiliated institutions, associations or organizations (including the insignia of the University or of any unit or affiliated institution, association or organization), to promote the non-university activities of the member or a related party.
- D.7 A member uses his official University position for publicity, endorsement or advertising purposes for a related party.
- D.8 A member promotes or advertises her or a related party’s products or services at a University event.
- D.9 A member uses information that is not available to the general public and acquired as a result of his University position, for purposes unrelated to that position.
- D.10 A member privately commercializes intellectual property developed by her in the performance of the performance of her University duties.
- D.11 A member receives, directly or indirectly, any payment, gift or other advantage or benefit (except of a nominal value or as part of social entertainment considered in keeping with good professional ethics and which do not obligate the member) from a third party for the performance by the member of his or her University functions or duties.
- D.12 A member enters into any commitment with a third party that is likely to interfere or be confused with his duties to the University.

- D.13 A member competes with the University in any activity or matter.
- D.14 A member associates in any manner with a third party (including through its name, publicity or operations) which falsely implies that the third party is associated with or benefits from a relationship with the University;

E. IN RELATION TO FINANCIAL MATTERS

- E.1 A member participates in the purchase or sale by the University of any goods or services from or to a related party.
- E.2 A member influences the decisions of a third party doing business with the University for the benefit of any party besides the University.
- E.4 A member makes personal purchases, or purchases for a related party, through:
- the University purchasing department; or
 - his P-card.
- E.5 A member diverts any University resources or funds for personal use or the use of a related party.
- E.6 A member approves the expense claims or expenditures of a related party.
- E.7 A member accepts to teach or perform other duties for remuneration at another institution while on sabbatic or other paid leave from the University.
- E.8 A member accepts payment from any third party for the performance activities that fall within his or her duties at the University.
- E.9 A member sells property acquired, in whole or in part, through research funds, to the University for personal profit.
- E.10 A member donates property acquired, in whole or in part through research funds (or the proceeds received on the sale of such property), to the University for a charitable tax receipt.
- E.11 An instructor places all his/her orders all of his/her course texts through a bookstore owned by a related party.