

# Question

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**TO:** Senate

**QUESTION FROM:** Senators Devin Mills, Danielle Toccalino, Amanda Winegardner, and Nicolas Chatel-Launay

**RESPONSE FROM:** Senator Josephine Nalbantoglu, Dean of Graduate and Postdoctoral Studies  
Senator Rose Goldstein, Vice-Principal (Research and International Relations)

**SUBJECT:** Question Regarding Management and/or Ownership of Companies by McGill University Professors

**MEETING DATE:** December 2, 2015

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**PREAMBLE:** WHEREAS, An unknown number of professors at McGill University receive monetary incentives for their work in consulting, managing and/or owning local and international companies;

WHEREAS, An unknown number of graduate students complete their research within such companies;

WHEREAS, A recent publication in the McGill Tribune<sup>1</sup> highlighted the potential for conflicts that may emerge around intellectual property between graduate students and supervisors in a corporate or industrial environment;

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**QUESTION:**

1. What data is available that assesses the prevalence of professors at McGill University receiving monetary incentives for their work in consulting, managing and/or owning local and international companies?
2. What data is available that assesses the prevalence of graduate students completing their research within such companies?

With regard to the consultancy, management, and/or ownership of private companies by professors, we ask the following questions:

3. What current regulations, if any, emphasize the professor's priority to the student(s) s/he supervises over the pecuniary interest they have in such companies?

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<sup>1</sup> <http://mcgilltribune.com/news/mcgill-student-sued-for-destruction-of-masters-thesis-111715/>

4. What current regulations, if any, address the role such companies may play in graduate student research?
  5. What current regulations, if any, provide protections to the student and their intellectual property when conflicts of interest between a professor's supervisory obligations to a student and their pecuniary interest in a private company involve the student's own research?
  6. What regulations are in place to ensure that students performing research remain accountable to the university in their role as students and not accountable as labourers to private companies in which their supervising professors have a pecuniary interest when these companies become involved in student research?
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## **RESPONSE**

Regarding question number 1, the University does not have a central source of data that would assess the prevalence of professors at McGill University receiving monetary incentives for work in managing and/or owning local and international companies. Work involving consulting is disclosed by the professor to the Department Chair pursuant to the Regulation on Conflicts of Interest.

Regarding question number 2, there is no centrally available data that would assess the prevalence of graduate students completing their research within such companies.

Regarding questions 3 to 6, there are many sources of guidance for professors who have interests in companies in which they own equity or to which they provide consulting services.

### **1. UNIVERSITY LEVEL**

#### **Regulation on Conflict of Interest**

At the University level, the main applicable policy is found in the Regulation on Conflict of Interest, and the guideline that supports its application. Pursuant to section 2.1 (i) of this Regulation, members of the University community, which include not only professors but all staff members and individuals serving on various governance related committees, are expected to “*act responsibly, ethically and fairly with care, diligence and loyalty and be accountable for his or her actions and decisions in the workplace*”. Further, under section 2.1 (iii) members of the University community are obliged “*to disclose conflicts of interests as soon as they become aware of them and to address or manage them in the best interests of the University community*”.

In the Regulation, the notion of conflict of interest is defined broadly at section 1.2. The application of the Regulation is supported by a guideline titled “*Recognizing Conflicts*”. It gives several examples of situations that potentially cause conflicts of interest, in relation to students, research, human resources, financial matters and, also, in relations to the University itself.

Section 1.2 provides that not only real conflicts of interests, but also perceived conflicts of interests must be managed, or if they cannot be correctly managed in the opinion of the person who is the ultimate decision maker, the person in the perceived conflict must desist from the situation in question. In the case of a member of academic staff, the decision maker is the Chair of the Department. In doubt, the Chair may, and often will, seek advice from the Dean, the Dean of Students, the Dean of Graduate Studies, the Secretary General, and Legal Services if necessary.

In practice, where a conflict exists or can be reasonably expected to exist between a professor and a graduate student under his or her supervision, the Dean of Graduate Studies will propose measures meant to manage the conflict; co-supervision of the student for example, in such a way that the supervisor in conflict is not the sole person making decisions about the academic merit of the student. Advisory thesis committees, and involvement of the Graduate Program Director are also safeguarding measures that serve to ensure that the work of students is assessed fairly and without undue influence of individuals who may be in a conflict of interest. Pursuant to the Regulation, Conflicts of Interests must be disclosed by professors, in writing on pre-approved forms that can be found on the website, along with the Regulation and the Guidelines on application of the Regulation. They are detailed forms that are meant to ensure full disclosure and good management of situations that may present risks. The Regulation, Guidelines and Reporting mechanisms can be found at: [https://mcgill.ca/secretariat/policies/research/conflict of interest](https://mcgill.ca/secretariat/policies/research/conflict%20of%20interest).

### **Regulations Concerning the Investigation of Research Misconduct**

In some circumstances, conflicts of interests may constitute research misconduct, and in such cases they may be investigated pursuant to the Regulations Concerning the Investigation of Research Misconduct. The Regulations may be found at:

[http://www.mcgill.ca/secretariat/files/secretariat/research-misconduct-regulations-concerning-investigation-of\\_0.pdf](http://www.mcgill.ca/secretariat/files/secretariat/research-misconduct-regulations-concerning-investigation-of_0.pdf)

### **Regulation on the Conduct of Research**

The Regulation on the Conduct of Research also contains provisions directly relevant to the protection of students when their professors or supervisors have interests in companies that are funding their research, including companies in which they may have a personal interest. Section 3.3.2 (iv) provides that: “*A supervisor of Students engaged in Research shall take reasonable measures to...disclose to the Students any special conditions concerning such matters as constraints on publication, limitations on future use of Data, and ownership of intellectual property that may influence a Student’s decision to participate in the Research.*”

Section 3.5 (i) of this Regulation adds that: “*A Researcher who engages in Research which is not part of his or her academic duties for Persons external to the University shall ... comply with the disclosure requirements of the Regulatory Framework governing conflicts of interest, and conflicts of commitment and consulting activities;...*”

These Regulations may be found at: [http://www.mcgill.ca/secretariat/files/secretariat/conduct-of-research-regulation-on\\_4.pdf](http://www.mcgill.ca/secretariat/files/secretariat/conduct-of-research-regulation-on_4.pdf)

## **Policy on Intellectual Property**

In addition to the above regulations, the Policy on Intellectual Property also allows for the management of conflicts of interests. Whenever an invention is disclosed, the inventors must be correctly identified and agree among themselves on their respective contribution to the inventions. Students do not have to agree with what is being proposed, and can seek guidance from the Office of Sponsored Research (OSR) in that respect. OSR can refer potential conflicts of interests to the VP Research & International Relations, the Chair or anyone in a position to help manage them. The Policy may be found at:

[http://www.mcgill.ca/secretariat/files/secretariat/intellectual-property-policy-on\\_0.pdf](http://www.mcgill.ca/secretariat/files/secretariat/intellectual-property-policy-on_0.pdf)

## **2. OTHER SAFEGUARDS – GRANTING AGENCIES**

Granting Agencies also have rules governing conflicts of interests. Researchers must abide by these rules and failing to do so puts their funding at risk.

The policy frameworks of the FRQ are summarized in their document on Responsible Conduct of Research found at: [http://www.frq.gouv.qc.ca/hxtNx87eSZkT/wp-content/uploads/2015-04-07\\_Politique-sur-la-CRR\\_couleur\\_2014\\_EN-VF.pdf](http://www.frq.gouv.qc.ca/hxtNx87eSZkT/wp-content/uploads/2015-04-07_Politique-sur-la-CRR_couleur_2014_EN-VF.pdf), and similarly for the Tri-Agencies, found at: <http://www.rcr.ethics.gc.ca/eng/policy-politique/framework-cadre/>. These are the most relevant to McGill researchers. The NIH also has stringent rules concerning conflicts of interests and they apply to some research carried out at the University.

## **CONCLUSION**

There is no regulation preventing students from working anywhere, including for corporations in which their supervisor has an interest. However, nothing obliges them to accept such employment. Such employment is often welcome by students who are looking for sources of income in addition to stipends or salaries derived from employment at the University. It often provides valuable professional experience. We do not think it would be right to deprive students of such opportunities. However, we do think that such situations need to be managed, and we believe that all the Regulations described here give the tools necessary to manage them. It is worth mentioning that students who believe they are incorrectly treated by their supervisors have access to advice and support through their Program Directors, thesis advisory committees, Associate Deans of Graduate Studies, ombudsperson, etc. They can also file grievances pursuant to the Code of Student Grievance Procedure, found at [http://www.mcgill.ca/secretariat/files/secretariat/code-student-grievance-procedures-2013\\_may.pdf](http://www.mcgill.ca/secretariat/files/secretariat/code-student-grievance-procedures-2013_may.pdf). Anyone can also make use of the Policy on Safe Disclosure for cases that are within the purview of that Policy. It may be found at: [http://www.mcgill.ca/secretariat/files/secretariat/safedisclosure-policyon\\_6.pdf](http://www.mcgill.ca/secretariat/files/secretariat/safedisclosure-policyon_6.pdf).