CONFLICTS OF INTEREST, ANTI-NEPOTISM, AND GIFTS

Statement of Policy: The officers and employees of the University are subject to the Standards of Conduct for Public Officers and Employees, Act 196 of the Michigan Public Acts of 1973, as amended. MCL 15.341 et seq. University employees shall act in a manner consistent with their duties to the University and to the public and shall ensure that they have no conflicts between their duties to the University and their outside employment, personal duties or relationships. Should any such conflict exist, University employees shall disclose those conflicts and work with the University to manage them. Conflicts may arise in situations such as outside commitments, giving or receiving gifts, participating in the contracting process, participating in the purchasing process, or others.

Summary of Contents/Major Changes: Establish a uniform Conflict of Interest, Anti-Nepotism, and Gift Policy for the University; combine prior conflict statements that existed in the Human Resources Policies and Procedures Manual, the Employee Handbook, and on the Purchasing Department’s webpage; add conflict of interest language specific to contracting and other conflict types.

Responsible Office and Responsible Enforcement Official: The office responsible for the Policy is the Office of the General Counsel. The Responsible Enforcement Official is the Vice President of the area in which the potentially conflicted University Employee works.

Classification:

X Board of Trustees Policy
☐ Board-delegated Policy

Categories:

University Organization and Authority

History:

a. Effective date of current version: April 24, 2019
b. Date first adopted: April 24, 2019
c. Revision history: N/A
d. Proposed date of next review: April 2022
1. **Purpose of Policy**

Part of the University’s vision is to create new knowledge, form innovative solutions, lead to economic development, and make substantial contributions to the community.\(^1\) Thus, University Employees are encouraged to engage in outside activities consistent with this vision and receive benefit from their outside professional activities so long as these interests do not interfere with their University duties or distort the judgements expected of them. However, University Employees shall not exercise University decision-making authority or exert influence concerning any organization or transaction with which they or a family member has a personal interest. To this end, University Employees are required to make the disclosures outlined below to facilitate effective identification and management of Conflicts of Interest or Conflicts of Commitment (collectively, “Conflicts”). This Policy complements the Conflicts of Interest in Research Policy administered by the Office of the Vice President for Research.

2. **Stakeholders Most Impacted by the Policy**

All University Employees.

3. **Key Definitions**

3.1. **Conflict of Commitment**: when a University Employee’s external relationships or activities may, in actuality or in appearance, interfere or compete with the University Employee’s commitment to WMU’s mission to provide leadership in teaching, research, learning, and service, or with that individual’s ability or willingness to perform the full range of responsibilities associated with their position.

3.2. **Conflict of Interest**: personal, professional, commercial, or financial interests or activities outside of the University that may, either in actuality or in appearance: 1) compromise a University Employee’s judgment; 2) bias the nature or direction of their scholarly research; 3) influence a University Employee’s decision or behavior with respect to teaching and student affairs, appointments and promotions, uses of University resources, contracting, or other matters of interest to the University; or 4) result in a personal or Family Member’s gain or advancement arising out of University business.

3.3. **Designated University Official**: the next higher administrator in the employee's supervisory line who is at least at the level of director or department chairperson.

3.4. **Family Member**: a spouse, domestic partner, dependent child, or anyone else with whom a University Employee has a close, continuing personal or business relationship. Siblings, parents and non-dependent children (including step- and in-law variants of those relationships) are included in this definition in circumstances where the University Employee has actual knowledge that such relative is likely to, or will, benefit from a particular University transaction.

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\(^1\) https://wmich.edu/about/mission-history
3.5. **Institutional Responsibilities:** a University Employee’s responsibilities on behalf of the University, including research, teaching, professional practice, institutional committee memberships, service on panels, and all other administrative activities.

3.6. **Research conflict of Interest:** An actual or potential conflict of interest exists when the vice president for research reasonably determines that a Significant Financial Interest could affect the design, conduct, or reporting of the research or educational activities funded by a governmental agency.

3.7. **University Employee:** full- and part-time faculty, staff, student employees, terminal employees, and temporary employees.

4. **Full Policy Details**

University Employees stand in a relationship of trust and confidence to the University. They shall act in good faith with due regard for the best interests of the institution and shall comply with the principles set forth in this Policy. University Employees must not use their official University positions or influence for further gain or advancement for themselves, their Family Members, or other personal and business associates.

Conflicting interests can undermine the judgment or objectivity of the employee and compromise their primary obligation to the University. Furthermore, bias or the appearance of bias may undermine public trust in the University. Therefore, all actual and potential conflicts of interest or commitment must be disclosed to a Designated University Official; evaluated; and, if found to be significant, eliminated or managed as described below.

This Policy is consistent with and is in addition to relevant federal and state law and University policies. If deemed appropriate by the unit and its supervising administrator, individual units may require more disclosures and conflict management than mandated by this Policy.

4.1. **General Principles**

4.1.1. Generally, a Conflict exists when an individual’s external interest provides an incentive to affect the individual’s conduct of his or her University activities or when the individual has the opportunity to affect the University decision or other activity. Conflicts may arise naturally from an individual’s engagement with the world outside the University, and the mere existence of a Conflict does not necessarily imply wrongdoing. When Conflicts do arise, however, they must be recognized, disclosed and either properly managed or eliminated.

4.1.2. Conflicts may exist with respect to University financial decisions in which the individual is involved, such as through investments, loans, purchases or sales of goods or services, and financial accounting decisions. They may also exist with respect to the conduct of research, the care of patients, the protection of human research subjects, and the treatment of students and faculty colleagues. Conflicts may also exist with respect to matters with both financial and non-financial implications, such as decisions about the use of University equipment and facilities and the negotiation of research
agreements and license agreements. Specific examples of conflicts are discussed further below.

4.1.3. As soon as a University Employee receives knowledge of a University transaction or proposed University transaction to which such employee or a Family Member is a party (regardless of the dollar amount of the transaction), or with an organization in which such employee or Family Member has a financial interest, such employee shall disclose the nature of their or their Family Member's interest in the transaction.

4.2. Disclosing and Managing the Conflict

4.2.1. Direct disclosures required under this Policy in writing to the Designated University Official. Review after disclosure must take place promptly to help the employee determine which interests are not in conflict, which conflicting interests may be permissible, and which conflicting interests must be eliminated or addressed.

4.2.2. Examples of management mechanisms include, but are not limited to revising the reporting structure to place the decision-making capacity with non-conflicted individuals; divestiture of the interest; severing the relationship that creates the conflict; or obtaining a written decision from University authority finding that the University’s best interests outweigh any potential, actual, or perceived conflict.

4.2.3. An allegation of violation of this Policy and the basis of the allegation shall be communicated confidentially, preferably (but not necessarily) in writing, to the next higher administrator in the employee’s supervisory line who is at least at the level of director or department chairperson. Measures shall be taken to ensure that no adverse action is taken, either directly or indirectly, against a complainant who makes allegations in good faith. Any University Employee who believes they have been subject to retaliation for making a good faith report pursuant to this Policy should contact the Office of Institutional Equity immediately.

4.2.4. Review by Designated University Official

4.2.4.1. The Designated University Official shall:

- review and document the disclosure for real, apparent, or potential conflicts;
- if necessary to evaluate the presence or absence of a conflict, request and document additional details including precise dollar figures for ownership interests or remuneration;
- determine whether detailed conflict information must be elevated for review by additional University personnel;
- meet with individual University Employees to discuss how to resolve the identified conflict;
recommend and initiate action to resolve the apparent, potential, or real conflict; and

evaluate whether a change in reporting structure is necessary.

4.2.5. If the Designated University Official finds that there is a Conflict, and that the Conflict cannot be managed by the steps identified above, the Official must consult with the appropriate Vice President who may, in consultation with the Office of the General Counsel, determine that the interests of the University in having the employee continue in their current capacity outweigh any potential, perceived, or actual conflict. Such determination shall be made in writing and kept in the Office of the General Counsel. A copy shall also be provided to Procurement if such conflict relates to a specific purchase.

4.2.6. In certain circumstances, members of the Board of Trustees or Senior University Administrators may consult with the Board of Trustees’ Audit Committee regarding a transaction or arrangement involving a Conflict between the University and any interested person.

4.3. Appeal

Any University Employee who disagrees with the resolution recommendation of their reviewing administrator may appeal to the next higher administrator in the supervisory line. If the University Employee is dissatisfied with the determination of the next higher administrator, they may request that administrator to refer the matter to the Vice President in their reporting line, whose decision shall be final. Conflicts belonging to a Vice President shall be reported to the President. Conflicts belonging to the President shall be reported to the Secretary of the Board of Trustees.

4.4. Confidentiality

In order to encourage full disclosure of potential Conflicts without unduly intruding on the privacy of University personnel or their families, disclosures shall be treated confidentially to the extent permitted by law and disclosed only to the extent necessary to review and resolve Conflicts.

4.5. Examples of Conflicts that Require Disclosure

4.5.1. Misuse of Information

No University Employee shall, for personal gain or for the gain of others, use any information not available to the public that was obtained as a result of service to the University. No University Employee may disclose confidential information acquired in the course of their employment prior to the date of its authorized release to the public. No University Employee shall personally take advantage of any business opportunity in which the employee knows or reasonably should know the University is or would be interested, unless the University first consents to such use in writing.
4.5.2. **Conflicts of Interest in Contracting**

It is a Conflict for a University Employee to participate in any contract negotiation, execution, or administration if the employee is or appears to be in a position of influence over the University's business with a supplier or contractor with which the employee or a Family Member has a personal, financial, or advisory interest. It is also a Conflict for a University Employee with such relationship to supervise a University Employee who is negotiating, executing, or administering such contract.

University Employees may not have any Conflicts if negotiating, executing, or administering contracts involving federal funds. The Anti-Kickback Act of 1986 makes it illegal for any person to provide, solicit, accept, or attempt to accept any kickback in connection with any contract or subcontract with any department or agency of the federal government. This includes any fee, commission, credit, gift, or anything of value that is provided, directly or indirectly, to the University or any of its departments, divisions, or employees in order to improperly obtain or reward favorable treatment in connection with any federal government contract.

4.5.3. **Conflicts of Interest in Procurement**

It is a Conflict of Interest to purchase a product, good, or service from a University Employee or a Family Member, or from a company of which the Employee or Family Member owns more than 1% of the stock. Members of the Board of Trustees or Executive Officers of the University may have additional restrictions. Consult the University’s Conflict of Interest Policy for the Board of Trustees and Executive Officials. All others must consult the University’s Purchasing Department for reporting and disclosure procedures.

4.5.4. **Conflict of Commitment**

Work outside the University or work for different units besides the Employee’s primary unit within the University could constitute a Conflict of Commitment if the University Employee’s supplemental or additional activities, even when they result in no personal gain or improper advantage, interfere improperly with the University Employee’s obligations to the University. Conflicts of Commitment may also arise when University Employees accept more than the equivalent of one full-time appointment. This language shall not be interpreted in a way that is inconsistent with any collective bargaining agreement or employee policy on the subject.

4.5.5. **Anti-Nepotism**

4.5.5.1. As public employees, University Employees have a duty to refrain from showing favoritism for Family Members or others. Actual favoritism, or an appearance of favoritism, reduces the authority of and the public’s confidence in the University.

4.5.5.2. The University may employ persons related to a University Employee by family or marriage so long as such individuals meet and fulfill regular University
employment standards. However, University Employees shall not initiate, participate in, or influence in any way, institutional decisions involving a direct benefit (financial or otherwise) to members of their families.

4.5.5.3. In instances where a Conflict might occur due to the supervisory or reporting structure within a unit, the responsibility for decision-making will pass to an authorized representative at the next higher administrative level. The appropriate dean or division director and vice president will review all such decisions regularly and automatically.

4.5.6. Gifts

The Gift Policy as set forth below applies only to gifts between individuals. It does not address gifts to or from the institution as a whole.

4.5.6.1. Gifts to University Employees from Internal or External Sources

- No University Employee shall solicit or accept for personal use, or for the use of others, any gift, favor, loan, gratuity, reward, promise of future employment, or any other thing of monetary value that might influence or appear to influence the University Employee’s judgment or conduct in their University duties.

- Employees may accept occasional, unsolicited courtesy gifts or favors (such as business lunches, tickets to sporting events, or holiday baskets) so long as the gifts or favors have an aggregate market value under $75 are customary in the industry, and will not influence or appear to influence the judgment or conduct of the employee vis-a-vis University business.

- An employee may be exempted from the restrictions in this paragraph by a supervisor who is at least at the level of director or department chairperson as to a specified gift or favor. The exemption shall be in writing with a statement of the basis for the exemption. Individual administrative units within the University may impose further restrictions on gifts or favors for employees within their units.

4.5.6.2. Gifts from University Employees to Internal or External Recipients

University employees may not give gifts with the intent to influence any decision, negotiation, or transaction in their or their Family Members’ favor. Gifts given among employees that are unrelated to their work performance could have income tax implications.

4.5.6.3. Gifts from University Employees to WMU Supervisors

No employee may offer a gift to their supervisor in return for influencing an official action or decision. If an individual employee (or group of employees) feels it is appropriate to make a gift to their supervisor, the gift may be worth no more than $25 (aggregate). Limits do not apply to gifts made to an employee for non-regular events, such as marriage, graduation, birth of a child, or retirement/resignation from...
the University. Birthdays are regular events, so are subject to the $25 aggregate limit.

4.5.6.4. Exceptions to the Gift Policy

- food, flowers, or other consumables or perishables that the recipient makes available to guests, visitors, or the entire office;
- items won at a conference, meeting, etc., in which all attendees had an equal opportunity to win;
- items made available to all University Employees or to the general public;
- food or beverages consumed at a business function or entertainment, which have an aggregate value of less than $50;
- attendance at professional meetings and/or customer events, at which a University Employee’s expenses are underwritten in whole or in part by a business or commercial enterprise, so long as it has been disclosed, the attendance is not prior to a potential WMU purchase from that business or enterprise, and the meeting/event is not being offered solely to/for WMU.
- Staying or dining with a personal friend at their residence.

4.6. Policy Exceptions and Exemptions

4.6.1. The President or designee may approve additional exceptions to this Policy. University Employees must submit any request for an exception through their appropriate Vice President or equivalent. Exceptions involving the President or Board member(s) will be handled in accordance with the Conflict of Interest for Board of Trustees and Executive Officials Policy.

4.6.2. Approval of all exceptions must be in writing and include disclosure of the parties involved, the nature of the transaction, and reasons for the exception. If approved, the signed exception must be forwarded to the Office of the General Counsel. The Office of the General Counsel will keep the documented exemptions for the duration of the Employee’s University employment.

4.6.3. Exemptions or exceptions are not available for interactions involving federal funds.

4.7. Implementation/Communication

Units should work with their Vice President or designee to draft and post procedures for identifying, addressing, and mitigating conflicts.
5. Accountability

5.1. Violations of this Policy include, but are not limited to, situations in which:

5.1.1. A University Employee knows of a situation that places them in a potential or actual conflict but fails to disclose it fully and according to the policies of his or her unit; and

5.1.2. A University Employee discloses a potential or actual conflict but fails to abide fully by the required plan for avoiding or managing the conflict.

5.2. Violations of this Policy, as determined by the appropriate Vice President, in consultation with the Department of Human Resources, are misconduct on the part of a University Employee and may subject that employee to institutional sanctions up to and including termination in accordance with applicable disciplinary procedures.

6. Related Procedures and Guidelines

https://wmich.edu/logisticalservices/purchasing/policies-procedures

https://wmich.edu/research/compliance/ethicscenter/conflicts

7. Additional Information

N/A

8. FAQs

8.1. How does this Policy relate to or interact with the Conflict of Interest and nepotism language in the AAUP contract?

Answer: Unless otherwise explicitly stated in the AAUP contract, this Policy prevails.

8.2. May I continue to consult outside of my university work in my area of expertise?

Answer: Yes. However, if your outside business seeks to do business with the University in any way, you may not participate in that discussion or negotiation; nor may any of your subordinates.

8.3. Is it still a conflict of interest if the amount of a purchase is below the bid limit ($5000)?

Answer: Yes. Other than as specifically applicable to gifts, there is no dollar amount on what constitutes a conflict of interest.

8.4. If I think I have a Conflict, or I think someone else has a Conflict, what’s the first thing I need to do?

Answer: Disclose the Conflict a Designated University Official.
Related Policies:
Conflict of Interest Policy for Researchers, available at [link]
Conflict of Interest Policy for Board of Trustees and Executive Officials, available at [link]
Outside Employment, available at [link]
WMU Data Classification Policy, available at [link]
Conflict of Interest Policy for WMU Foundation, available at [link]
WMU Foundation Gift Acceptance Policy, available at [link]

References:
Contracts of Public Servants with Public Entities, MCL 15.321 et seq. (1984)
Agreement between the WMU Chapter of the American Association of University Professors, Art. 29 (2017).
Colorado State University, Conflict of Interest Policy, http://webcms.colostate.edu/facultycouncil/media/sites/43/2015/03/colorado-state-faculty-adminpro-manual.pdf#page=67&view=FitV
University of Pittsburgh, Conflict of Interest Policy for Research, No. 11-01-03 (last updated May 10, 2018), https://www-policy.pitt.edu/conflict-interest-policy-research-11-01-03


Yale University, Policy on Conflict of Interest, (Nov. 29, 2012), https://your.yale.edu/sites/default/files/coi_policy_final_rev_11_29_12_01_1.pdf

Certified by:                    At the Direction Of:
Responsible Enforcement Official                  The Board of Trustees

/s/_________________________________________  /s/_________________________________________
[Position/Title]                        Kahler B. Schuemann

[Date]                              [Date]