

University of Michigan
Conflicts of Interest and Conflicts of Commitment
Scenarios and Questions: A Training Tool

Introduction

As stated in procedures for Standard Practice Guide 201.65-1, each school, college, and academic or administrative unit must educate its faculty and staff, on an ongoing basis, about potential conflicts of interest and conflicts of commitment. Since the nature of potential COIs and COCs varies widely among units, educational efforts must be decentralized.

In addition, UM employees in the role of COI/COC manager must prepare for their responsibility to respond to potential conflicts of interest and conflicts of commitment. For example, the COI/COC planning team developed "Basic Steps to Take After an Employee Discloses a Potential Conflict of Interest or Conflict of Commitment."

This document is provided as another tool for managers and supervisors to use. Several options of the ways in which this document can be used, either singly or in combination, are described below.

Option 1: Identify the scenarios that are most relevant for your unit. Or, if you prefer, modify the scenarios and questions to make them more directly relevant to the activities in your unit.

To accomplish this goal, you might take one or more of the actions described below:

- Identify the scenarios in the document that are most relevant to activities in your unit.
- Revise the scenario(s), if you wish, to make them more directly relevant. You may also decide to create new scenarios.

Option 2: Prepare the document for distribution in your unit.

- Cut and paste from the Word file to create a document that provides each scenario you've selected and, underneath it, the appropriate set(s) of questions to ask.
- Revise the questions, as appropriate.

Option 3: Provide the document to individuals for them to review on their own--to help sensitize them to the types of questions to ask about potential conflicts of interest and conflicts of commitment.

- Distribute the original or revised document to every person in your unit who has or who may have a role in reviewing and managing potential conflicts of interest and conflicts of commitment (e.g, designated COI/COC managers, department chairs, and key administrators).
- Make the document available online.

- Distribute the document to any new employees who have or who may have a role in reviewing and managing potential conflicts of interest and conflicts of commitment.

Option 4: Convene the individuals who have or who may have a role in reviewing and managing potential conflicts of interest and conflicts of commitment for additional education in a group setting.

The scenarios and questions are designed to promote dialogue. Since responses to the questions could vary widely across units, this document doesn't provide answers. Nor, in many cases, do absolute answers exist. Instead, participants learn through discussion. In this way, managers and supervisors help to prepare for responding to actual cases of a potential COI or COC.

Option 5: As an additional educational activity about the nature of COIs and COCs, you may wish to convene one or more groups of staff or faculty for a general discussion of the scenarios and questions. Note: This type of discussion would be most effective with groups that can tolerate the open-ended nature of exploring questions without clear answers.

SCENARIOS

1. Acme Movers learns that the university auditor who is responsible for auditing Acme's performance and reimbursement is a weekend house painter. The Acme President has several apartment houses in Ann Arbor and has asked the auditor if he would like to bid on painting three of the apartments. (*Question sets 1, 3*)

2. In addition to your university job as an attorney, you are the president of a national association of college attorneys. Annually the association offers a three-day training conference. To help cover conference costs, you have asked several companies who do business with the University – law firms, publishers, investigators etc. to be conference sponsors at a cost of \$5,000 each. (*Question set 2, 9*)

3. You are a newly hired department head. Your department of 200 employees has just moved to a new facility. You think the offices are drab, and need some accessorizing. At a staff meeting you ask your managers for suggestions on how to liven up the offices. You are part owner of an art gallery that someone else manages. The manager mentioned to you yesterday that it would be a good idea to cut the prices on some of the art in the store to refresh the inventory. You'd like to give the department the chance to take advantage of this opportunity. Your plan would be for others in the department to make the decision about whether to purchase any art from the store. (*Question sets 3, 8*)

4. The U-M Grounds Department provides a plant maintenance service (as in green and flowering) to U-M offices and units. A U-M employee (bargained for) works for 10 hours per week on this responsibility. The Department eliminates this service, and reassigns the gardener to another unit. The gardener asks if he can continue to provide the service on his own. (*Question sets 1, 4, 7*)

5. Ms. Creant holds a position in a U-M department that has issued a request for proposals for a multi-million dollar medical information system for the University. The department will select the vendor and oversee implementation of the project. Five companies bid on the project. One of the serious bidders is the XYZ Computer Company. Ms. Creant's sister works for the XYZ Company. (*Question set 3*)

6. Mr. Fied, who happens to be your spouse's brother, is an electrical inspector in the U-M Plant Extension Department. He has authority to inspect and approve work on the Life Sciences Institute building. Turnkey Electric Company is an independent electrical contractor with a contract to provide electrical services on Life Sciences Project. A principal at Turnkey has had the opportunity over the course of the past several months on the project to observe Mr. Fied's work. He is impressed. He tells Mr. Fied that Turnkey needs help on the weekends, and offers him a part-time job with the company. Mr. Fied comes to you, his supervisor, to disclose the offer, and asks your permission to work part-time for Turnkey Electric. He tells you that while he would prefer not to take on extra work, he needs the money to support his family. (*Question sets 1, 5, 9*)

Note: For guidance on responding to potential COI/COCs due to a U-M employee having influence over a family member or close personal associate as a result of his or her U-M responsibilities, see Standard Practice Guide 201.23 *Appointment of Relatives or Others with Close Personal or External Business Relationships; Procedures to Assure Equal Opportunity and to Avoid the Possibility Of Favoritism (Nepotism)*.

7. As a U-M investment manager with an international reputation, you are often asked to speak at conferences. Such talks enhance both your reputation as well as the U-M's. You've been asked to speak at a conference at which the conference organizers have offered to pay all your costs. They also offer a speaker's honorarium to you. Can you accept the honorarium? (*Question sets 2, 3, 6*)

8. Ms. Depoint holds a position in the Office of the General Counsel at the University of Michigan. She approaches her boss, Mr. Meaner and tells him that while she would like to continue working full-time in the office, she would also like to do part-time work at a private attorney practice. (*Question sets 1, 5*)

9. You have hired a new director from Texas. She asks you to recommend a realtor to assist her and her partner find a new home. You recommend your husband, who works with Real Estate Two in town. (*Question set 3*)

QUESTION SETS

Note: Due to overlap, some questions appear in more than one set of questions.

1. For potential COI/COCs where the staff member is employed outside the U-M:

A: Is there any contractual relationship between the unit in which the staff member is employed and the staff member's outside employer?

B: If yes, is the staff member involved in decision-making on either side (for the U-M or for the outside employer)?

C: Would the staff member be using any material or resources in which the U-M has a propriety interest?

D: If yes, is there a way to set up the decision-making to take advantage of the staff member's knowledge without compromising the objectivity of the decision?

E: Could the staff member's outside employment negatively affect his or her ability to carry out his or her U-M job responsibilities?

F: Is it possible that the outside employment could limit, at any time, the staff member's ability to meet the needs of his or her U-M unit (e.g., if a need arises for him or her to work evenings or weekends)?

G: Is there any temptation for the staff member to engage in work for the outside company during his or her U-M work hours (e.g., handle email correspondence)?

2. For potential COI/COCs where a company or firm that provides services or goods to the University (or that would like to enter into such a relationship) offers perks (e.g., free meals) to a U-M employee.

A: Is the perk (gift) of substantial value and given by a student enrolled in the University, from any person having business relations with the University, or on the basis of staff member's position at the University (Regents Bylaw 2.16)?

B: Could the U-M benefit in an appropriate way from the staff member accepting the perk (gift) (e.g., a prospective U-M donor buys dinner for a development officer)?

C: Could there be a prohibitive cost to the U-M of the staff member *not* accepting the perk (gift)?

D: Is the staff member in a position to influence the decisions that would benefit the company or firm where he or she performs the outside employment?

E: Is the perk part of a professional meeting (e.g., attending a sponsored reception or meal with other people), or is it a personal perk?

F: Is there even a hint of an implied expectation that in return for the perk the staff member will give special treatment to the firm or company (e.g., by influencing U-M decisions to the advantage of the company or firm)?

G: Is there anything about the situation that could be construed as a potential conflict of interest or conflict of commitment?

3. For potential COI/COCs where an employee is related to an outside vendor or has a close personal business relationship with a vendor.

A: Does your unit have a policy of not allowing employees to have any personal dealings with outside vendors (e.g., due to the possible appearance of impropriety, or due to the resulting administrative burden of managing potential COI/COCs)?

B: Is there any contractual relationship between the unit in which the staff member is employed and the outside vendor?

C: If yes, is the staff member involved in decision-making on either side (for the U-M or for the vendor)?

D: If yes, is there a way to set up the decision-making to take advantage of the staff member's knowledge without compromising the objectivity and integrity of University decisions?

4. For a potential COI/COC where the staff member (outside his or her U-M duties) offers a service or produces goods for which the University has a need.

A: Would the employee offer the services or provide the goods to another U-M unit, and therefore also be paid by the U-M? (Form G regulations)

B: Could providing these services for pay to people or agencies outside the U-M interfere with the staff member's ability to perform his or her U-M job duties?

C: If yes, and the staff member would work additional hours at the U-M for pay, could issues arise related to overtime?

D: Could the additional work interfere with or distract the staff member from carrying out his or her U-M work obligations?

E: Is there a need for Board of Regents approval of this relationship, under Michigan State law (P.A. 317 of 1968 *State of Michigan Conflict of Interest Law*) ?

5. For a potential COI/COC where the staff member could provide similar services for pay to other people or agencies outside the U-M (during off-work hours, for example on weekends or by using U-M vacation time).

A: Could providing these services for pay to people or agencies outside the U-M compete with any services provided by the U-M?

B: Could providing these services for pay to people or agencies outside the U-M interfere with the staff member's ability to perform his or her U-M job duties?

C: Would the staff member be using any material or resources in which the U-M has a propriety interest?

D: Would the staff member be using any materials or resources that were developed on U-M work time and/or with U-M resources (which could raise copyright policy issues)?

E. Could employment of the staff member by the outside company compromise or appear to compromise, in any way, decisions that the staff member has some influence over on behalf of the University?

6. For a potential COI/COC in which the U-M staff member has been offered an honorarium.

A: What is your unit's policy on honoraria?

B: Would the work for which the honorarium is being given interfere with the staff member's ability to fulfill his or her U-M obligations?

C: Would the work for which the honorarium has been offered be done on U-M time and/or with U-M resources?

D: Would the University benefit from the staff member's participation in the activity for which the honorarium has been offered?

E: Has the staff member's supervisor reviewed the circumstances and granted his or her approval for the staff member to receive the honorarium?

7. For a potential COI/COC that involves other employment inside the U-M

A: Is the work limited to the time outside your regular work hours?

B: Is the work related to the employee's principle appointment?

C: Does the appointment raise issues related to the Fair Labor Standards Act (e.g., issues related to paying an employee who works for more than 40 hours per week)?

D: Could the staff member's other employment negatively affect his or her ability to carry out his or her U-M job responsibilities?

E: Is it possible that the other employment could limit, at any time, the staff member's ability to meet the needs of his or her U-M unit (e.g., if a need arises for him or her to work evenings or weekends)?

F: Is there any temptation for the staff member to engage in work for the other U-M unit during his or her U-M work hours (e.g., handle email correspondence)?

G: Are both units aware of the arrangement?

H: Is there a possibility of the employee being paid twice for the same work?

8. For a potential COI/COC where a U-M employee owns his or her own business or has a decision-making role with an outside business.

A: If yes, is the staff member involved in decision-making on either side (for the U-M or for the outside business)?

B: If yes, is there a way to set up the decision-making to take advantage of the staff member's knowledge without compromising the objectivity of the decision?

C: Could the staff member's ownership in or role with the outside business affect his or her ability to carry out his or her U-M job responsibilities?

D: Is it possible that involvement in the outside business could limit, at any time, the staff member's ability to meet the needs of his or her U-M unit (e.g., if a need arises for him or her to work evenings or weekends)?

E: Is there any temptation for the staff member to engage in work for the outside business during his or her U-M work hours (e.g., handle email correspondence)?

F: Could the outside business compete with any services provided by the U-M?

G: Would the staff member be using any material or resources in which the U-M has a propriety interest to benefit the outside business?

H: Could involvement with the outside business interfere with or distract the staff member from carrying out his or her U-M work obligations?

I. Is the outside business a vendor to the U-M? (If so, see questions in item #3)

9. For a potential COI/COC that arises when a U-M employee makes a request for gratis goods or services from a company that's a University vendor (or that may want to become a University vendor) when the request is outside the parameters of any existing contract between the University and the company.

A. Who would benefit from the gratis goods or services?

B. Is there a suggestion that as a result of providing the gratis goods and services that the vendor would benefit?

C. Would this arrangement benefit the University in an appropriate way?

D. Does the employee have the appropriate U-M responsibilities to make the request?