

EXH	MOTION
	SECOND
	ACTION APPROVED BY THE REGENTS
DATE:	JUL 21 2005

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION

ITEM FOR INFORMATION

Subject: Revision of SPG 201.65-1
Conflicts of Interest and Conflicts of Commitment

Background:

SPG 201.65-1 was first issued in September 1981. Subsequently, attention to and regulation of conflict matters has grown significantly.

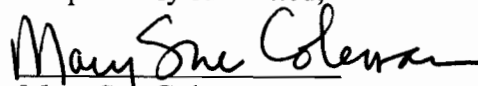
In February 2003 the Provost and Executive Vice President for Academic Affairs and the Vice President for Research appointed a committee of faculty and staff to develop a new policy consistent with the current norms for higher education. In 2004 I asked the Vice President and General Counsel to help accelerate the process of revising the SPG.

Drafts of the policy were presented to, and comments were received from, the University's executive officers and the faculty through the deans, the Senate Assembly Research Policies Committee, the Senate Advisory Committee on University Affairs (SACUA), and the Academic Affairs Advisory Committee (AAAC). Numerous changes were made in light of the comments and conversations regarding the policy.

Last month the Board of Regents adopted a procedure for handling potential conflicts of interest involving a Regent. This month, Provost Paul Courant and I issued a revised Standard Practice Guide 201.65-1 that applies to all University faculty and staff. This policy creates a framework under which various units of the University will establish implementation policies that will be required to align closely with SPG 201.65-1. We anticipate that these implementation policies will be established over the 2005-2006 academic year. The companion procedures establish a process for developing, reviewing, approving, and monitoring implementation policies in the schools, colleges, and administrative units. We believe this policy and its companion procedures will help ensure that the University maintains consistent and fair standards of conduct.

The revised Standard Practice Guide 201.65-1 and its associated Procedures and reference document are attached.

Respectfully submitted,


Mary Sue Coleman
President

July 2005



DRAFT THE UNIVERSITY OF MICHIGAN

STANDARD PRACTICE GUIDE

SECTION: Human Resources **Number:** 201.65-1
SUBJECT: Conflicts of Interest and Conflicts of Commitment **Revised:**
APPLIES TO: All Faculty and Staff Members **Date Issued:** 9/1/81
ISSUED BY: Office of the President and Office of the Provost and Executive Vice President for
Academic Affairs

I. Policy

Paul H. Conway
Mary Swelton

The University is committed to basic values of transparency, integrity of scholarship, and independence as it pursues its mission to create, preserve, and disseminate knowledge through teaching, research, and public service. Accordingly, the University of Michigan allows and encourages faculty and staff to engage in outside activities and relationships that enhance the mission of the University. All faculty and staff members are to act with honesty, integrity, and in the best interest of the University when performing their duties, and to abide by the highest standards of research, educational, professional, and fiscal conduct.

Given that the University of Michigan allows and encourages outside activities and relationships that enhance the mission of the University, potential conflicts of interest and commitment are inevitable. Outside activities should not, however, interfere with an individual's University obligations. Faculty and staff must not use their official University positions or influence to further gain or advancement for themselves, parents, siblings, spouse or partner, children, dependent relatives, or other personal associates, at the expense of the University.

Faculty members and staff members with 50% or more appointments owe their primary professional commitment to the University of Michigan. Accordingly, a commensurate commitment of time and intellectual energy should be used to support and enhance the mission of the University. Other part-time faculty members and staff members owe time and effort commitments to the University commensurate with their appointments.

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 in section III.
Regulations below.

This policy is consistent with and is in addition to relevant federal and state law and University policies, as well as with unit policies and with other relevant University policies not listed here. See procedures. Academic or administrative units may require further disclosure and conflict management than mandated by this SPG as may be deemed appropriate by the unit and its supervising administrator.



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II. Definitions

A. *Conflict of Interest*

A **potential conflict of interest** exists whenever personal, professional, commercial, or financial interests or activities outside of the University have the possibility (either in actuality or in appearance) of (1) compromising a faculty or staff member's judgment; (2) biasing the nature or direction of scholarly research; (3) influencing a faculty or staff member's decision or behavior with respect to teaching and student affairs, appointments and promotions, uses of University resources, interactions with human subjects, or other matters of interest to the University; or (4) resulting in a personal or family member's gain or advancement at the expense of the University. For purposes of subsection (4), family members include spouse, domestic partners and dependents.

B. *Conflict of Commitment*

A **potential conflict of commitment** exists when a faculty or staff member's external relationships or activities have the possibility (either in actuality or in appearance) of interfering or competing with the University's educational, research, or service missions, or with that individual's ability or willingness to perform the full range of responsibilities associated with his or her position.

III. Regulations

Faculty, staff, and administrators in the schools, colleges, academic departments/programs, other administrative units, and central administration share the institution's obligation to implement University policies and practices related to conflict of interest and conflict of commitment. In meeting this obligation, each of these groups has specific roles and responsibilities, as described below.

A. *Rights and Responsibilities of Faculty Members and Staff Members*

1. *Right to Outside Interests:* Faculty members and staff members have the right to acquire and retain outside interests of a professional, personal, or economic nature that do not conflict with University interests or with the individual employee's commitment to the University, to the University's students, sponsors, patients, or to other parties to whom the University has a duty.
2. *Professional Commitments:* Faculty members and staff members must meet the specific responsibilities and professional activities that constitute their appropriate commitments to their respective schools, colleges, academic departments/programs, and other administrative units.
3. *Requirement to Disclose:* All faculty members and staff members must disclose all actual or potential conflicts of interest or conflicts of commitment to his or her appropriate dean, director, or supervisor (or his or her designate) as potential conflicts arise or are identified. A staff member must disclose all actual or potential conflicts of interest or conflicts of commitment to his or her supervisor or to the designated conflict of interest officer in his or her unit. In addition, when sponsored research or technology transfer is involved, a faculty member must disclose actual or potential conflicts of



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interest or conflicts of commitment to the appropriate conflict of interest committee. A faculty or staff member must also provide additional relevant information concerning disclosed or undisclosed matters as may be requested by his or her supervising authority for the purpose of evaluating actual or potential conflicts of commitment or interest. All disclosures must be made promptly.

4. *Requirement to Abide by Plans to Resolve Conflicts:* When a faculty member or staff member has disclosed a potential conflict of interest or conflict of commitment, and the appropriate dean, director, supervisor, or conflict of interest committee has determined that a conflict exists, the appropriately designated University official or body will also determine whether further management or elimination of the conflict is required. If required, that official or body will develop a plan in consultation with the faculty or staff member, and the faculty member or staff member must abide by the terms of the plan.
5. *Prohibition Against Using Position or Influence for Personal Gain or Advancement:* It is not acceptable for any University employee to use his or her official position or influence to further his or her personal gain or advancement, or that of family members or personal associates, at the expense of the University and against University policy.
6. *Use of University Resources:* Except as authorized by the appropriate University official, faculty members and staff members may make only incidental use of University resources for purposes unrelated to the education, research, scholarship, and public service missions of the University. Such resources include but are not limited to facilities, personnel, students, equipment, and confidential information.
7. *Knowledge of Policies and Procedures:* Faculty and staff must know and abide by applicable University and unit policies and procedures.

B. Responsibilities of Executive Officers and Chancellors

Consistent with this policy and all other relevant University policies, each Executive Officer and Chancellor will:

1. Ensure the development of implementation policies for conflicts of interest and conflicts of commitment for all faculty and staff members who hold appointments in his or her area of responsibility; and
2. Approve and monitor the relevant implementation policies.

C. Rights and Responsibilities of Schools, Colleges, and Administrative Units

Consistent with this policy and all other relevant University policies, the dean of each school or college, in consultation with the faculty as set forth in procedures developed in conjunction with this SPG, and the director of each administrative unit (or his or her designate) must articulate and disseminate implementation policies that apply to faculty and/or staff within that unit, including:



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1. Procedures that faculty members and staff members in the academic unit or administrative unit must follow to disclose potential or actual conflicts of interest and conflicts of commitment that arise in their units. At a minimum, all faculty members and staff members must promptly disclose matters as they arise or are identified. The procedures shall also require further additional relevant disclosures when the evaluator at the academic or administrative unit determines that such information is required for disclosed or undisclosed matters that may be actual or potential conflicts. Schools, colleges, and administrative units may add additional disclosure requirements and procedures, as appropriate to their circumstances;
2. A conflict of interest and conflict of commitment implementation policy at the unit level (i.e., school, college, or administrative unit) that addresses the expectations and responsibilities that the school, college, or administrative unit associates with professional appointments and other job classifications within the unit;
3. Procedures for evaluating disclosures and managing conflicts of interest and conflicts of commitment;
4. Standards and procedures for governing employees' actions with regard to soliciting and accepting gifts;
5. Procedures for responding to alleged violations of this policy (see section IV. *Violations* below); and
6. Procedures to follow when a faculty or staff member wishes to dispute or appeal any action or decision related to a conflict of interest or conflict of commitment. See section V. *Disputes and Appeals* below.

IV. Violations

Violations of this policy as determined by the appropriate dean, director, supervisor, or conflict of interest committee are considered misconduct on the part of a faculty or staff member and may be subject to institutional sanctions up to and including termination of appointment in accordance with applicable disciplinary procedures.

Violations include but are not limited to situations in which:

1. A faculty member or staff member knows of a situation that places him or her in a potential or actual conflict of interest or conflict of commitment but fails to disclose it fully, according to the policies of his or her unit; and
2. A faculty member or staff member discloses a potential or actual conflict of interest or commitment but fails to abide fully by the required plan for avoiding or managing the conflict.



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V. Disputes and Appeals

When a faculty or staff member disputes any action or decision related to a potential conflict of interest or conflict of commitment, existing University policies for disputes of faculty and staff will be used. Disputes with decisions or actions taken by an established conflict of interest committee for those projects for which the committee is responsible must be through the processes established by the applicable committee. If a school, college or administrative unit develops additional procedures for handling disputes or appeals regarding any action or decision taken with respect to a faculty or staff member's conflict of interest or conflict of commitment, the additional procedures must coordinate with and may not substitute for existing University policies for handling disputes.

Procedures: <http://www.umich.edu/~hrra/procedures/spg201-65-1.htm>

Procedures for SPG 201.65-1 Conflicts of Interest and Conflicts of Commitment

[Note: Reformat will be required for web implementation]

Procedures for Conflict of Interest and Conflict of Commitment Implementation Policies in the Schools, Colleges, and Administrative Units

A. Procedures for developing implementation policies in the schools, colleges, and administrative units

1. Executive officers charge schools, colleges, and administrative units

The executive officers will ask the dean or director of each unit, or appropriate cluster of units, within his or her purview to develop school, college, or unit implementation policies, following the guidelines provided below.

2. The schools, colleges, and administrative units will develop conflict of interest/conflict of commitment implementation policies that include the elements described below and are consistent with SPG 201.65 and other relevant University policies. The deans and directors of the schools, colleges, and research units will consult with faculty in this development process.

Many schools, colleges, and administrative units have existing policies or procedures that meet at least some of the requirements of SPG 201.65-1, although not necessarily in a single policy or framework as suggested by the SPG. Therefore, schools, colleges, and administrative units may revise existing policies or develop new policies that would, where applicable, incorporate existing unit procedures relevant to conflicts of interest and commitment:

- a. The expectations and responsibilities that the school, college, or administrative unit associates with professional appointments and other job classifications within the unit.
- b. The procedures that faculty members and staff members in the academic unit or administrative unit must follow to disclose potential or actual conflicts of interest and conflicts of commitment that arise. The procedures should include:
 - i. Reference to Standard Practice Guide 201.65-1 *Conflicts of Interest and Conflicts of Commitment*
 - ii. The requirement that all faculty members and staff members must fully disclose such matters promptly as they arise or are identified.

Schools, colleges, and administrative units may choose to use a disclosure form suited to the mission of the school, college, or administrative unit and the specific activities that may represent a conflict of interest or conflict of commitment in the

school, college, or administrative unit. Such a form needs to be approved as part of the review process described in section B below.

In any case, the school, college, or unit procedures should:

- Provide examples of possible COI or COC to reflect the areas in which disclosure may be required in the school, college, or administrative unit
- Identify the office (or individual) to whom or to which faculty and staff member should disclose potential or actual conflicts of interest or conflicts of commitment.

iii. A set of situations relevant to activities in the school, college, or unit that could create a COI or a COC or the appearance of a COI or a COC. A list of such situations that the Medical School included in its policy at one time is provided below as an example of the desirable level of specificity.

- Benefit by an investigator from the financial outcome of their research
- Referrals to a business in which the faculty/staff member or a member of his or her immediate family has an interest
- Interest in a business that competes with the UM
- Publishing or presentation of research without disclosure of the investigator's related financial interest
- Allowing University responsibilities to influence or benefit a company in which the investigator or a member of his or her immediate family has an interest
- Participation in technology development in a company where the investigator or a member of his or her immediate family has an interest
- Executive participation in a start-up biomedical company

iv. Identification of the individual(s) who will evaluate potential COIs and COCs and a description of the evaluator's roles, responsibilities, and a list of University resources for consultation and support in carrying out the evaluator role.

v. A statement that a faculty or staff member must also provide additional information concerning disclosed or undisclosed matters as may be requested by the designated COI and COC evaluator in the academic or administrative unit for the purpose of evaluating actual or potential conflicts of commitment or interest and that all such disclosures must be made promptly.

c. Procedures by which the school, college, or administrative unit implementation policies will interface with the separate disclosure requirements of key offices with which the unit commonly interacts (e.g. Purchasing Services and the Office of the Vice President for Research).

d. Procedures that the dean, director, or head of the unit will follow in evaluating disclosures and managing conflicts of interest and conflicts of commitment, so that unit practice is fair and consistent.

e. The procedures that the dean, director, or head of the academic or administrative unit will follow when responding to alleged violations of this policy.

f. The standards and procedures that govern faculty and staff actions with regard to soliciting and accepting gifts.

g. The procedures a school or college will follow when a faculty or staff member expresses concerns about the scope or details of a plan to eliminate or manage a conflict of interest or conflict of commitment (see SPG 201.65-1, Section III.C.6 and Section V), which may be a standing faculty committee activity and/or existing dispute procedures.

h. A description of the school, college, academic or administrative unit program to educate all faculty and staff, on an ongoing basis, about conflict of interest and conflict of commitment.

3. Disputes or appeals

If a school, college or administrative unit develops additional internal procedures for handling disputes or appeals regarding any action or decision taken with respect to a faculty or staff member's conflict of interest or conflict of commitment, the additional procedures must coordinate with and may not substitute for existing University policies for handling disputes.

4. Faculty approval

The conflict of interest/conflict of commitment implementation policy for each school or college will be submitted to the governing faculty for approval, following the applicable procedures of the school or college.

B. Procedures for reviewing approving, and monitoring policies and procedures in the schools, colleges, and administrative units

1. Reviewing and approving school, college, and administrative unit policies and procedures

a. In accordance with established procedures, the dean or director of the school, college, or administrative unit will lead a process for developing and adopting school, college, or unit policy and procedures, and for seeking faculty approval, and will submit the policy and procedures to the appropriate executive officer.

b. The executive officer will review the unit policy and request any necessary revisions. To ensure the policy meets the minimum requirements of the SPG, he or she will then submit the unit policies to a policy review group that consists of:

- At least three faculty members appointed by the Provost and Executive Vice President for Academic Affairs, at least two of whom will be selected from a slate of at least five nominees submitted by the Senate Advisory Committee on University Affairs (SACUA)
- Office of the Provost and Executive Vice President for Academic Affairs
- Office of the Chancellor at UM–Dearborn
- Office of the Chancellor at UM–Flint
- Office of the Executive Vice President and Chief Financial Officer
- Office of the Executive Vice President for Medical Affairs
- Office of the Vice President for Research
- Office of the Vice President and General Counsel
- Office of University Audits

The review group will recommend to the President that the unit policies be accepted or, if necessary, revised before acceptance. The review group will also provide the Senate Assembly with periodic reports on its activities.

c. Final approval by the President

2. Monitoring school, college, and administrative unit policies and procedures

The Office of University Audits will review the compliance of the schools, colleges, and administrative units with their own policies, procedures, and efforts to disseminate the policies and ensure their consistent application.

3. Material modifications of implementation policies

It can be anticipated that from time to time the need will arise to modify the implementation policies and procedures of a school, college or administrative unit. Where the modification is material, all the review and approval processes set forth in Sections A. and B. shall be applicable.

University of Michigan

Other Policies Relevant to Conflicts of Interest and Conflicts of Commitment

A supplement to the procedures for

Standard Practice Guide 201.65-1 *Conflicts of Interest and Conflicts of Commitment*

The University of Michigan's Standard Practice Guide 201.65-1 *Conflicts of Commitment and Conflicts of Commitment* operates in conjunction with the following state law and University policies, as well as with unit policies and with other relevant federal and state law and University policies not listed here.

I. State of Michigan Statute

A. State of Michigan Statute (P.A. 317 of 1968 *State of Michigan Conflict of Interest Law*)

The State of Michigan Conflict of Interest Law is set forth as Public Act 317 of 1968, as amended by Public Act 81 of 1984. The State Conflict of Interest Law prevents University employees, or enterprises in which they hold a stipulated interest, from contracting with the University without the explicit approval of the Board of Regents. To obtain such approval, the University employee must disclose any pecuniary interest in the contract, and the Regents must approve the contract by a vote of not less than two-thirds of the full Board membership in open session. The terms of the contract must be disclosed in the official minutes of the Board of Regents, including duration, financial consideration between parties, facilities and services of the University included in the contract, and the nature and degree of the assignment of the University employee for fulfillment of the contract.

<http://www.legislature.mi.gov> (Scroll down to see Michigan Compiled Laws Search Information.)

II. Regents' Bylaws

A. Regents' Bylaw 1.13 *Business Transactions*

Governs University compensation to Regents and University officers.

<http://www.umich.edu/~regents/bylaws/bylaws01.html#13>

B. Regents' Bylaw 1.14 *Regental and Executive/Senior Officer Conflict of Interest Policy*

Describes when a Regent or executive/senior officer is considered to have a conflict of interest and the steps he or she must take in that event. The Bylaw is in addition to any obligations imposed on a Regent or executive/senior officer by state law (P.A. 1968, Nos. 317 and 318, as amended).

<http://www.umich.edu/~regents/bylaws/bylaws01.html#14>

<http://www.legislature.mi.gov> (Scroll down to see Michigan Compiled Laws Search Information)

C. Regents' Bylaw 2.16 Gifts to Regents and University Employees

Prohibits individual Regents and University employees from accepting gifts of substantial value from a student enrolled in the University, from any person having business relations with the University, or on the basis of the Regent's or employee's position at the University.

<http://www.umich.edu/~regents/bylaws/bylaws02.html#16>

D. Regents' Bylaw 3.10 Ownership of Patents, Copyrights, Computer Software, Property Rights, and Other

Describes the general guidelines under which ownership for patents, copyrights, computer software, or property rights accrue to the University; to the inventor, author, or creator; or to the University and the inventor, author, or creator by agreement.

<http://www.umich.edu/~regents/bylaws/bylaws03.html#10>

E. Regents' Bylaw 5.12 Outside Employment

Governs permissible outside employment of full-time faculty members. The Bylaw states, "Each of the governing faculties of the University shall formulate for the guidance of its administrative officers such regulations, appropriate to the fields represented by it, as it may consider necessary to give effect to the general policy defined herein."

The governing faculties of the University may formulate regulations appropriate to the fields those faculties represent to provide guidance to its administrative officers in the implementation of this policy.

<http://www.umich.edu/~regents/bylaws/bylaws05b.html#3>

F. Regents' Bylaw 5.13 Governmental Activities

Describes University policy on University staff members' holding public office (either elective or appointive).

<http://www.umich.edu/~regents/bylaws/bylaws05b.html#4>

III. University Standard Practice Guide (SPG)

A. SPG 201.23 Appointment of Relatives or Others with Close Personal or External Business Relationships

Describes University policy on appointment of individuals with close personal or external business relationships and procedures to assure equal opportunity and to avoid the possibility of favoritism.

<http://www.umich.edu/~spgonlin/200/>

B. SPG 201.65-0 *Work Outside the University*

Permits University employees “to be employed outside the University,” but provides that “the outside employment must not detract from the performance of the duties and responsibilities of the University position, nor may it create a conflict of interest. The use of official position and influence to further inappropriate personal gain or that of families or associates is considered to be unacceptable behavior and in direct opposition to University policy. In a community as diverse and complex as the University, there is always the possibility that the pursuit of individual interests may result in a conflict with those of the University. This places an important responsibility on faculty and staff to recognize potential conflicts and prevent them.

<http://www.umich.edu/~spgonlin/200/>

C. SPG 201.85 *Special Stipends (Form G)*

Governs payment of “special stipends,” which are defined as compensation to eligible University staff members who provide additional non-recurring services outside of their regular work schedule or assignment, the payment of honoraria, or the payment of moving and travel expenses in accordance with University policy, and generally limits dean or director approval of special stipends to no more than four days in any calendar month.

<http://www.umich.edu/~spgonlin/200/>

D. SPG 303.01 *Implementation of Regents’ Policy Concerning Research Grants, Contracts, and Agreements*

Establishes implementation SPG guidelines for the acceptability of restrictions on openness in research grants, contracts, and agreements. Faculty members and staff members must not enter into agreements that include a priori limitations on publications of research results, unless approved beforehand by the University. Project agreements that have publication restrictions that violate University policy are subject to the PAF-R process before they can be accepted

<http://www.research.umich.edu/research/proposals/forms/forms.html>

<http://www.umich.edu/~spgonlin/300/>

E. SPG 303.03 *Policy Statement on the Integrity of Scholarship and Investigating Allegations of Misconduct in the Pursuit of Scholarship and Research*

Defines serious academic misconduct and establishes a procedure for investigating and reporting allegations of misconduct.

<http://www.umich.edu/~spgonlin/300/>

F. SPG 303.04 *Policy on Intellectual Properties: Including Their Disclosure, Commercialization, and Distribution of Revenues from Royalties and Sale of Equity Interest*

Amplifies Regents' Bylaw 3.10, which speaks to the objectives of the University's technology transfer/intellectual property development activities.

<http://www.umich.edu/~spgonlin/300/>

See also Regents' Bylaw 3.10 *Ownership of Patents, Copyrights, Computer Software, Property Rights, and Other* (<http://www.umich.edu/~regents/bylaws/bylaws03.html#10>)

G. SPG 507.1 General Policies and Procedures [Issued by Purchasing]

Explains the responsibility of each member of the University staff and of the Purchasing Department to ensure that the University does not knowingly enter into a purchase commitment that could result in a conflict of interest. See Section IV, "Ethics, Confidentiality, and Conflict of Interest."

<http://www.umich.edu/~spgonlin/500/>

H. SPG 520.1 Property Control [Issued by Property Control Office]

Prohibits use of property acquired by and used in the University for University-supported activities for personal, for-profit activities or illegal activities.

<http://www.umich.edu/~spgonlin/500/>

I. SPG 601.3-2 Policy on Ownership of Copyrighted Works Created at or in Affiliation with the University of Michigan

Copyright includes a bundle of rights—including rights to ownership, reproduction or copying, preparation of derivative works, distribution, public display, and public performance. This policy sets forth general principles regarding this bundle of rights in the University context.

<http://www.umich.edu/~spgonlin/600/>

IV. Sponsored Projects Policies

University Policy on Financial and Management Interest in Sponsored Projects and Technology Transfer

When a faculty researcher on a proposed sponsored project, a member of his or her immediate family, or any key investigator has a significant financial or management interest in a sponsored project, he or she must file a disclosure on the Proposal Approval Form (PAF); see URL below. A check-off on the PAF serves as a reminder that a positive disclosure must be submitted or, if signed, constitutes certification that there is nothing to disclose.

<http://www.research.umich.edu/proposals/forms/forms.html#PAF>

When technology transfer is involved, the faculty researcher must file a disclosure with the Office of Technology Transfer at the time a licensee is identified. Designated faculty committees review such

disclosures to determine whether a conflict of interest exists and, if so, whether the conflict of interest can be managed. The committees develop conflict of interest management plans and recommend Regental action when required. The disclosure form and the policy itself are available on the UM Research Web site (see URL above). School and college policies may also require additional disclosures.