

**STANDARDS OF BUSINESS CONDUCT POLICY
(INCLUDING CONFLICT OF INTEREST, CONFLICT OF COMMITMENT,
AND WHISTLEBLOWER POLICIES)**

FREQUENTLY ASKED QUESTIONS

1. Why is the College proposing these draft policies?

- Fundamentally, the College wants to ensure that members of the campus community are aware of certain values that must guide our conduct in our official roles at the College.
- Because the College receives external funding from federal agencies and other sources, and in order to comply with certain other regulatory requirements, the College is obligated to have these policies in place.
- Beyond the strict legal requirements, the College believes its policies must be more in line with “best practices” recommended for risk management purposes.

2. These policies seem to suggest that faculty members are doing something wrong by engaging in some of the very activities that the College expects faculty members to pursue. Isn't this a mixed message?

As indicated above, much of the impetus for these policies comes from external pressures that simply reflect the current regulatory environment in which the College must function. To ensure compliance with certain laws and regulations, the College's policies must adopt certain terminology like “conflict of interest” or “conflict of commitment” that may sound offensive.

It is important to understand that *the existence of a conflict of interest or conflict or commitment* (whether the conflict is potential, actual, or apparent) *does not mean that there has been any wrongdoing or even necessarily that any activity must be curtailed*. Rather, the policies require that individuals have a greater awareness of potential conflict situations and that timely conversations take place between the individual and administrators to ensure that conflicts are resolved appropriately.

Example: A faculty member's partner owns a tee shirt company. The faculty member is going to host a major event and has a budget that includes purchasing tee shirts. A potential conflict of interest exists if the faculty member wants to purchase tee shirts from the partner, because the faculty member's relationship with the partner could influence the decision of which tee shirt vendor to use. The faculty member must disclose the business relationship with his or her partner, but there is no actual conflict of interest as long as the transaction is at fair market value.

3. What has been the process for developing the draft policies?

The summary below lists the most significant procedural steps undertaken to date. Additional discussions, not reflected below, took place with the Faculty Executive Committee, Academic Affairs leadership, Cabinet, the College's legal counsel, and others.

4-23-10: IPPC approved charge to the Working Group.

Group originally included Professors Roy Rotheim and Denise Smith, Michael Thomas, Bill Tomlinson, and Barbara Krause (coordinator). Professor Sylvia Franke McDevitt replaced Denise Smith January 2012.

11-24-10: Draft forwarded to Cabinet (Acting President Susan Kress), FEC (Chair Reg Lilly), and SGA Executive Committee (SGA President Alexandra Stark) for consultation.

Spring 2011: Further policy development by Working Group.

3-29-11: Acting VPAA Muriel Poston distributed draft policy to Academic Staff and invited comment.

4-8-11: IPPC discussed draft policy – no substantive comments; suggestion to vet with Academic Staff.

5-6-11: Academic Staff discussed draft policy. Significant concerns raised.

5-25-11: CAFR letter expressing concerns regarding policy.

Academic year 11-12: Working Group met regularly to address concerns and revise policy.

Spring 2012: Informal consultations with CAFR Chair.

3-30-12: Draft dated 3-30-12 forwarded to President Glotzbach and Denise Smith as chair and vice chair of IPPC. Also sought advice on what student input would be appropriate.

4-9-12: Presentation of draft policy and related documents (drafts dated 3-30-12) to Cabinet; Cabinet supported presentation of draft documents to IPPC.

4-20-12: IPPC discussion. Comments focused on \$5,000 threshold for reporting salary or consulting fees (Conflict of Interest Policy and disclosure form).

Expected Fall 2012:

Working Group will submit final draft to IPPC.

Academic Affairs leadership and FEC to determine appropriate role for faculty.

Other steps to be determined by IPPC and Cabinet.

4. What are the various parts of the draft Standards of Business Conduct Policy?

The draft document consists of four parts:

- The Standards of Business Conduct Policy itself
- Attachment A: Conflicts of Interest Policy
- Attachment B: Conflicts of Commitment Policy
- Attachment C: Whistleblower Policy (NOTE: in light of external regulatory expectations, Cabinet approved the Whistleblower Policy on August 20, 2012; IPPC expressed its support for this action on September 7, 2012. The policy will be implemented as soon as the services of the external reporting service are in place.)

Once approved, each of the four policies will stand on its own, although the Standards of Business Conduct Policy will continue to include the other three as attachments.

5. Faculty members, in a presentation to Academic Staff in Spring 2011 and in correspondence from CAFR dated May 25, 2011, raised significant concerns about the draft policies. How have those concerns been addressed?

- a. Faculty members required to sign an annual disclosure form:** The current draft significantly limits the number of faculty members who will be required to complete an annual disclosure form. The 4-27-11 draft required all faculty to complete an annual form; the current draft requires annual disclosure only by certain faculty who serve in administrative positions (including department chairs and program directors) and faculty members (and non-faculty personnel) who have a defined role with externally funded research.
- b. Definition of “Family”:** The 4-27-11 draft defined “Family” to include spouse or domestic partner, child or stepchild, parent, sibling, grandparent, grandchild, or in-law. The current definition, based on what is required by federal regulations, is significantly more limited:
 - Definition of “Family” now includes only the individual, the individual’s spouse or domestic partner, and the dependent children of either.
 - Based on comments from attorneys and experience with reporting at the College, we also have added a definition of “Related Person” to capture other significant associations that a reasonable person might believe could influence the reporting person’s judgment or conduct.
 - In all cases, questions about “Family” and “Related Persons” are based on the reporter’s knowledge – i.e., there is no duty to inquire or research information about such individuals.

- c. **Definition of “nominal value”:** Clarified “permissible activities” in ways that broaden what is clearly allowed. Disclosure is now required only for (1) salary or consulting fees in excess of \$5,000 per year [see also Item 6 below] and (2) gifts with a value of greater than \$100 – in both cases, disclosure is required only if the payment would result in an actual or apparent conflict of interest.
- d. **Concerns about distinction between professional activity and private life:** Have attempted to address this in several ways: (1) significantly narrowed the number of faculty members who will be required to submit an annual disclosure forum; (2) narrowed definitions of “Family” and “Nominal Value” (see a and b above); (3) assigned responsibility for administering the policy with the Dean of the Faculty and Vice President for Academic Affairs (DOF/VPAA) – rather than an Associate DOF, department chair, or program director. The focus of the policy is now more clearly only on those activities that relate to one’s responsibilities at the College.
- e. **Reporting procedures and structures:** In response to a specific concern raised by CAFR, the DOF/VPAA (rather than department chairs) will oversee Conflict of Interest and Conflict of Commitment reporting for faculty.
- f. **Consequences of violations:** CAFR expressed concern that consequences of violations were not clearly spelled out. The Working Group believes that the Spring 2012 revision to the *Faculty Handbook* Part One, Article X addresses this concern.

6. Why does the Conflict of Interest Policy distinguish between honoraria, stipends, and royalties (no dollar amount indicated for disclosure) and salary or consulting fees (disclosure required if greater than \$5,000)?

The Working Group believes it is helpful to include a list of examples – examples of activities that will *not* require disclosure and examples of activities that *will* require disclosure.

The examples of activities that will not require disclosure include “honoraria, stipends, or royalties for published scholarly works and other writing, creative works, lectures, or presentations.” The Working Group, in consultation with Academic Affairs, believes that these activities are most central to the activities of faculty members as faculty members. We also were guided on this point from regulations issued by the National Science Foundation, one of the College’s important grant sources.

“Salary or consulting fees in an amount not to exceed \$5,000 per year for services provided to an outside entity or organization” also will not need to be reported unless the payment would result in an actual or apparent conflict of interest. The Working Group offers the following regarding this provision:

- a. The Working Group identified \$5,000 as the triggering point based on the U.S. Department of Health and Human Services (HHS) Final Rule – Responsibility of Applicants for Promoting Objectivity in Research (NOT-OD-11-109) that took effect on August 24, 2012.
- b. The Working Group believes the \$5,000 is an appropriate level to trigger a conversation with a department chair, program director, or supervisor.
- c. Even salary or consulting fee earnings of less than \$5,000 could require disclosure if the payment constitutes a conflict of interest.

7. What are the next steps?

1. The Working Group will forward its final draft to IPPC in the Fall of 2012 and seek substantive feedback.
2. The Working Group or IPPC needs to loop back officially with CAFR and provide a written response to their letter of May 25, 2011.
3. The Working Group will seek IPPC's guidance regarding the further vetting process. Among other steps:
 - a. We will need to determine the process for consultation with faculty (including whether faculty action is required, whether the policy must appear in the *Faculty Handbook*, etc.)
 - b. We will need to determine the process for consultation with students (including whether any SGA action is required).
 - c. Recommend at least one open community meeting for all campus constituents.
 - d. Need final legal review.