

## Technology Transfer and Conflict of Interest

This advisory is intended to assist faculty, departments, and faculties in managing conflict of interest arising from technology transfer. University policy (the [Conflict of Interest Policy](#)) charges individual faculty and their faculties with the responsibility for managing conflict of interest.

### Background

In the University setting, conflict of interest is inherent in technology transfer activities. A conflict of interest arises whenever an individual is in a position to make scholarly or financial decisions which can benefit them personally, usually financially. This may include redirecting research activities in ways which will yield financial gain and using institutional resources or sponsored research funds for such activities. It can also involve ethical conflicts, especially when commercial activities involve students who are, at the same time, academic supervisees.

It is virtually impossible to eliminate conflict of interest in the commercialization of research. Moreover, attempting to do so would require eliminating many of the incentives that are necessary for effective technology transfer. However, conflict of interest can be managed in ways which can neutralize its adverse effects, including the wrongful perceptions that others may have about the way in which we conduct our activities.

### Disclosure

The first requirement in managing conflict of interest is full disclosure of any commercial involvements an individual may have that may give rise to a conflict of interest. The University's policy requires such disclosures, to department heads and Faculty deans. It is important that disclosures be made, if possible, before the conflict arises - i.e. when commercial activities and involvement are contemplated - not after. When commercial activities and institutional activities will be interconnected over time, such as the continuation of the research which led to the commercial activity in ways which enhance the commercial activity, disclosure and consultation and the management of the prima facie conflict of interest will need to be an ongoing process.

Ideally, once research results become the subject of commercial activity, they should cease to be part of the individual's University scholarly activities. The ideal is virtually impossible to achieve and would hamper legitimate and desirable technology transfer. Technology transfer is part of what the University sees as its mandate. Nevertheless, the ideal should be pursued in appropriate instances; where it cannot, other means need to be pursued so that personal benefits are not, and are not seen to be, the overriding consideration in decision making.

### Financial Approvals

For the same reasons that members of the University, including the President, do not approve their own expense claims, an individual who may derive a personal benefit from any other financial transaction should not approve, by themselves, any other financial transaction, whether it be the purchase of an item of equipment or the appointment of employees who will be engaged in financially beneficial activities.

### Students

It is not unusual for students to be engaged in technology transfer, as co-inventors or creators or in providing technical or other support. When a Faculty member and a student have an academic relationship, especial care should be taken over a collateral commercial relationship. It may be wise for one or the other relationship to be terminated to eliminate the conflict of interest. Failing that, academic decisions which the Faculty member makes affecting the student should be subject to independent consultation and review. Academic judgments should be unassailable on grounds that they were influenced by non-academic considerations. Not only must this be the case, it must be seen to be the case. The means by which this is accomplished will vary from case to case and from department to department.

## Suggestions and Recommendations

The test of any decision potentially affected by a conflict of interest is whether the decision would have been the same had the person who made the decision not stood to personally or financially benefit. At the same time, the fact that a personal or financial benefit results, does not impugn the integrity of the decision per se. The challenge for decision makers is to ensure that the process by which the decision was made was proper and that the decision was based on the relevant considerations.

1. Encourage full disclosure of potential conflicts of interest and the changing circumstances surrounding continuing conflict of interest. The disclosure should be made and received with a view to finding ways in which the multiple objectives of the University can be best achieved;
2. Ensure that informed independent adjudication is possible for decisions taken when there is a conflict of interest. In some cases this may be best done by setting out a plan for handling a particular case, over time;
3. In some cases, certain decisions may be best made by agreement, by other than the principal(s) involved;
4. Ensure that applicable University policies and procedures are followed, including the provisions of the [Intellectual Property Policy](#), the [facilities use/ Analytical Services](#) policy, and the [Outside Professional Activities Policy](#). If these require specific arrangements, agreements, or approvals, ensure these are in place before proceeding;
5. Never involve a student in a private or commercial activity without having first discussed the involvement and the arrangements and obtained approvals;
6. In some cases, it may be necessary for the decision maker to forgo (or be required to forgo) the benefit which might result.

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