



# Complying with the SMU Conflict of Interest Policy

## FAQs for Faculty and Staff

### **Conflicts of Interest – Definitions, Purpose, and Application**

#### **Q1. What is a Conflict of Interest for purposes of this policy?**

**A1.** A conflict of interest may exist when a University Representative's financial, occupational, or other personal considerations may affect (or have the appearance of affecting) his or her professional judgment in exercising a University duty or responsibility. A conflict of interest may exist with respect to a benefit to be derived by the University Representative, by the University Representative's Immediate Family Member, or by an Associated Entity.

#### **Q2. Why does SMU have a Conflict of Interest Policy?**

**A2.** The policy exists to ensure that whenever a University Representative makes a decision involving the University's interests, it is those interests that are paramount and so that the University interests will not be compromised or made subordinate to an individual's personal interests.

#### **Q3. To whom does the Conflict of Interest Policy apply?**

**A3.** The policy applies to all "University Representatives." Trustees, Members of a Committee of the Board of Trustees, Executive Officers, Deans, faculty members, and all staff employees are all "University Representatives" for purposes of the Conflict of Interest Policy.

#### **Q4. To whom are Conflicts of Interest or Potential Conflicts of Interest reported?**

**A4.** A faculty or staff employee who learns of an actual or potential Conflict of Interest involving his or her personal interests, the interests of an Immediate Family Member, or the interests of an Associated Entity must promptly make a full disclosure to the General Counsel of the University.

#### **Q5. Who are Immediate Family Members under the Policy?**

**A5.** Immediate Family Members of a University Representative are the University Representative's spouse, domestic partner, parent, stepparent, child, stepchild, sibling, stepsibling, grandparent, step-grandparent, grandchild, step-grandchild, father-in-law,

mother-in-law, daughter-in-law, son-in-law, aunt, uncle, niece, or nephew and any person who resides in the same household with the University Representative.

**Q6. What is meant by “Associated Entity?”**

**A6.** An “Associated Entity” is any corporation, partnership, trust, or other entity (i) in which a University Representative or Immediate Family Member of a University Representative is a director, employee, officer, partner or trustee or holds another position in management or (ii) in which a University Representative or Immediate Family Member of a University Representative directly or indirectly possesses a “Significant Interest.”

**Q7. What constitutes a “Significant Interest?”**

**A7.** Under the Policy, someone has a “Significant Interest” when (i) he or she alone, or in conjunction with an Immediate Family Member, owns a direct or indirect equity or other beneficial interest in a corporation, partnership, trust or other entity where the interest or interests has/have an aggregate value in excess of \$5,000 or when that interest or interests, alone or combined, represent more than a 5% ownership interest in the entity; or (ii) when the salary, royalties, and other forms of economic benefits received from a corporation, partnership, trust, or other entity by the individual and his or her Immediate Family Member exceeds \$5,000 in the aggregate.

**Q8. What if I and/or an Immediate Family Member own more than \$5,000 or a 5% interest in a publicly-traded entity through a mutual fund or other publicly-traded entity?**

**A8.** Provided neither you nor your Immediate Family directly or indirectly influence investment decisions, then owning more than these limits in a publicly-traded entity by reason of investment in that entity through a mutual fund or other publicly-traded entity does not constitute a Significant Interest for purposes of the Conflict of Interest Policy.

**Disclosure Requirements**

**Q9. What am I required to disclose?**

**A9.** You should disclose all of the facts and circumstances known to you regarding the potential Conflict of Interest, including names of any Immediate Family Members or Associated Entities involved.

**Q10. How do I make the necessary disclosure?**

**A10.** You should complete a Potential/Proposed Conflict of Interest Disclosure Form and submit the form to the General Counsel.

**Q11. Am I required to disclose the fact that I serve on the board of one or more other organizations besides SMU?**

**A11.** You should disclose your service on the board of any other organization, whether non-profit or for-profit, if you have knowledge that the other organization has an existing, pending, or proposed transaction or business arrangement involving SMU.

**Q12. I notified the General Counsel as soon as I became aware of a proposed Conflict of Interest. Do I have any other reporting requirements?**

**A12.** Yes. Every January, each Faculty member or Staff employee must complete an Annual Disclosure Form. Once filed, the Annual Disclosure Form should be updated as soon as possible after any change in the facts reflected in the form.

**Q13. Must I fill out an Annual Disclosure Form even if I have no conflicts to report?**

**A13.** Yes. You are required to fill out the Annual Disclosure Form even if the General Counsel has determined that you are a University Representative with signature authority or who participates in the contract formation process even if you do not believe you have a Conflict of Interest to report. Further, if the situation changes and a Conflict of Interest or potential Conflict arises, you must file a revised Annual Disclosure Form.

## **Handling COI Disclosures**

**Q14. Who decides if a Conflict of Interest exists?**

**A14.** After being notified of a potential Conflict of Interest, the General Counsel will review the material facts and decide whether such facts constitute a Conflict of Interest. If they do, the General Counsel will determine whether the potential Conflict of Interest should be approved or disapproved. The General Counsel will also provide written reports of all such determinations to the Board of Trustees Conflicts Committee on June 30 and December 31 of each year.

**Q15. How is a proposed Conflict of Interest handled if it is permitted?**

**A15.** The General Counsel may impose whatever terms and conditions the General Counsel deems appropriate to manage the Conflict of Interest, including implementing policy monitoring plans and imposing restrictions and reporting requirements on the University Representative and on each Immediate Family Member and/or Associated Entity involved in such Conflict of Interest.

**Q16. What if the decision-maker has an interest in the outcome regarding a potential Conflict of Interest?**

**A16.** If the General Counsel has an interest in the outcome, the President of the University shall appoint another Executive Officer without an interest in the outcome to act in the General Counsel's stead. The General Counsel shall provide to that Executive Officer any relevant information that the latter may request.

**Q17. Does the University maintain any records of decisions regarding Conflicts of Interest?**

**A17.** Yes. When a decision is made to approve or disapprove a Conflict of Interest, the decision-maker prepares and maintains a written record of the decision and the material facts. In addition, if the Conflict of Interest is approved, the decision-maker will maintain a written record of any terms and conditions connected with the grant of approval.

**Q18. Who interprets the Conflicts of Interest Policy?**

**A18.** The General Counsel of the University has sole authority to interpret this Policy. If the interpretation relates to a material matter involving a Trustee, Member of a Committee of the Board of Trustees, or Executive Officer, the General Counsel shall consult with the President and the Chair of the Conflicts Committee prior to making said interpretation.

**Q19. What are the consequences for violation of the Conflict of Interest Policy?**

**A19.** In the event of a violation or suspected violation of this Policy, the Board of Trustees is authorized to conduct an investigation. If the investigation concludes that a violation occurred, the Board of Trustees may impose disciplinary action it deems commensurate with the violation.

**Q20. What if I have additional questions about the Conflict of Interest Policy or its implementation?**

**A20.** You should contact the General Counsel to discuss your questions or concerns.

**Examples of Particular Conflict Situations**

**Q21. May I accept a gift from someone who has or seeks a business relationship with the University?**

**A21.** You may accept gifts, meals, entertainment, and other social amenities from someone who has or seeks a business relationship with the University provided that the aggregate value of such gifts, etc. does not exceed \$250 per year from any single source. However, it is not appropriate for you to actively solicit or encourage such gifts or amenities.

**Q22. May I supervise a relative without violating the Conflict of Interest Policy?**

**A22.** While supervision of a relative may indeed represent a Conflict of Interest, in such instances you should refer to the University's Nepotism Policy to determine the possible concerns and resolutions.

**Q23. May I do business with the University through a company I own or that is owned by an Immediate Family Member?**

**A23.** Doing business with the University through a company owned by you or an Immediate Family Member is a potential Conflict of Interest. You must follow the procedures for reporting the potential Conflict so that a determination can be made whether to approve or disapprove it.

**Q24. Am I permitted to have employment or financial interests outside the University?**

**A24.** You are not automatically prohibited from having outside employment or other financial interests. However, your participation in these ventures has the potential to create a Conflict of Interest if such participation could result in your placing personal interests above the interests of the University. Therefore, you should examine your other activities in light of their possible impact on your work for the University. When in doubt, you should report the material facts to ensure that no Conflict of Interest exists or, if one does exist, that it is approved and managed.

**Q25. Are there typical situations where an outside employment or financial interest would be impermissible?**

**A25.** While there is no exhaustive list of such situations, examples may include the following:

- using your University position or information derived from your University employment for personal gain through your outside entity;
- simultaneously receiving University remuneration and outside remuneration for the same services or activities;
- making a decision on behalf of the University so as to obtain personal gain through your outside activity; and
- requiring individuals over whom you have academic or supervisory authority or influence to participate in your outside activities without full prior disclosure.

**Q26. I serve on the board of a non-profit organization. Is such service a Conflict of Interest that must be reported under the Conflict of Interest Policy?**

**A26.** Service on the board of another non-profit can benefit SMU by providing a University Representative with valuable experience and insights into governance and by fostering relationships between the University and a larger community. In most situations, service on a non-profit board does not involve financial remuneration or other tangible benefits that could cause an individual to place personal interests above those of the University. Therefore, as a general rule, such service does not constitute a Conflict of Interest, and reporting it is not required except in situations described in A.11, above.

**Q27. Despite the general rule, are there circumstances in which service on a non-profit board might conflict with my SMU duties/responsibilities such that I should report my participation? If so, what are some examples of situations when I should consider reporting my service on a non-profit board?**

**A27.** There will occasionally be situations where such service has the potential to compromise obligations to SMU, in which case reporting should take place under the Conflict of Interest Policy. It's not possible to describe each and every such situation. However, if you are a member of a non-profit board, you should consider reporting your participation under any of the following circumstances:

- (1) The time demands placed on you by virtue of your board service might compromise your ability to perform your SMU duties in a timely and adequate manner, *i.e.*, you have a conflict of commitment. If this is a concern, you should discuss the matter with your supervisor.
- (2) The non-profit on whose board you serve has a contractual or other business relationship with SMU or wishes to enter into one. Sometimes - though not always - your fiduciary obligations to the non-profit may be at odds with your duty of loyalty to the University. Using knowledge or information acquired by reason of your connection to SMU (and not otherwise publicly available) for the benefit of the non-profit is inappropriate. Your primary obligation is to the University, and when a contractual or other business relationship with SMU exists or is sought, you may need to recuse yourself from any related discussions or deliberations by the non-profit's board.
- (3) The non-profit on whose board you serve has interests that are or may be adverse to SMU's. For example, another university or research organization might be claiming patent rights that SMU also claims or might be competing with SMU for limited grant funds or contracts. Similarly, a dispute could arise between the University and a non-profit with which it has a contractual or other business relationship. Again, information you have as a result of your affiliation with the University must not be compromised to benefit or advance the interests of the non-profit where you are a board member.