February 21, 2006

Memorandum

To: Jon Stricklen, Chairperson
    Executive Committee of Academic Council

From: Dr. Ross Emmett, Chairperson

Subject: Conflict of Interest Policy

On February 21, 2006, the University Committee on Faculty Affairs (UCFA) endorsed a new proposed university policy on Faculty Conflicts of Interest. Attached is a copy of the proposed policy, including an appendix which is part of the policy. In addition, commentary is provided regarding high points of the proposed policy.

The policy as a draft was circulated to the entire faculty for one month to allow commentary. Revisions based on comments received were made where appropriate.

I ask that this proposed policy be placed on an early agenda of a Faculty Council meeting and for subsequent consideration by the Academic Council and the Michigan State University Board of Trustees.

Attachment

c: Karin Wurst, Chairperson
   University Graduate Council
Commentary Regarding Faculty Conflicts of Interest Policy

What is new:

- Eliminates annual sign-off requirement.
- Recommends appointment of a Faculty Conflict of Interest Information Officer (FCOIIO). This individual serves the proposed educational function of the original annual sign-off requirement and beyond that, acts as an institutional champion for solid Conflict of Interest (COI) policies and a focal point for unit- and college-level advice and policy development. The FCOIIO now has responsibility for preparing the handbook/FAQs that are essential to the policy.
- Provides for both a model college-level COI reporting procedure to be developed by the FCOIIO, and also an option for individual colleges to develop their own variants of the procedure consistent with the model procedures, but based on special needs and circumstances.
- Reframes the policy as a whole to make clearer why it is needed and in what way a COI threatens the well being of the whole University.

Paragraph by paragraph analysis of the policy:

1a: Explains why COI policy is important in terms of institutional integrity and public trust.

1b: Defines COI, makes it clear that critical point is interfering with a faculty member’s independence of judgment re: how a faculty member performs University responsibilities.

2: FCOIIO to be appointed by President in consultation with a joint subcommittee of the University Graduate Council/the University Committee on Faculty Affairs (UGC/UCFA).

3: Responsibility for compliance for self-disclosure located with individual faculty.

4a: FCOIIO prepares model college procedure for faculty self-reporting of COI; any college may choose to develop its own procedure, with approval of VPRGS.

4b: The Vice President for Research and Graduate Studies (VPRGS), consulting with FCOIIO, creates mechanism for investigating reports by others alleging a COI ("whistle-blowing").

5a: Highlights human subject’s research and exploiting scholarship for commercial gain as areas where COI most likely to arise, refers to external laws/policies that constrain the university.
5b: Requires COI disclosures and/or management before the university spends funds on research or transfers intellectual property rights.

6: VPRGS to establish Conflict Review Committee (CRC). Joint subcommittee of UGC and UCFA choose members after deans nominate; staggered 3-year terms. CRC elects its own chair; FCOIIIO convenes CRC and can assist.

7a: If faculty self-discloses possible COI, unit head and dean confer. If they conclude no COI exists, notify faculty member and VPRGS.

7(b) i-v: Lays out steps by which CRC investigates and reviews management plans for COIs that are disclosed either as a result of faculty self-disclosure, or as a result of investigating a whistle-blower complaint. Appeals possible and outcome subject to regular faculty grievance procedure (this will be pointed out in handbook). Requires effort to choose least intrusive way of resolving COI, but also notes that disclosure in itself inadequate to resolve some serious COIs.

8: Unit should develop guidelines on faculty assigning their own instructional materials to students where financial benefit to faculty may constitute COI.

9: The university should respect confidentiality of financial information disclosed by faculty as part of COI inquiry to maximal extent possible.

10: Usual university disciplinary procedures also apply to violations of this policy.

11: Penalties for false allegations of COI.

12: FCOIIIO given responsibility for the handbook/FAQ; colleges may, using FCOIIIO's help, develop their own FAQ/handbook to address differences among disciplines in practices that are viewed as COIs.

Appendix: Lays out in more detail the role, mechanism of appointment, reporting responsibilities, and annual evaluation of FCOIIIO.
FACULTY CONFLICTS OF INTEREST

1. (a) As a modern research intensive land-grant university, Michigan State University must maintain the trust of the general public which supports it and which it serves. For the University to do so, its faculty must pursue their scholarship, teaching, service and outreach responsibilities with integrity and professional judgment in a manner consistent with the highest standards of their respective disciplines and in the best interests of the University. A faculty member's reputation for integrity and for exercising proper professional judgment can be seriously compromised, however, if the faculty member fails to avoid or disclose a conflict of interest. Moreover, an individual faculty member's unmanaged and unresolved conflicts of interest can undermine confidence in the University and, thus, harm its standing and that of all its faculty.

(b) This Policy addresses the disclosure, review, management, and resolution of conflicts of interest relating to the performance by faculty of their research, teaching, and service/outreach responsibilities at the University. For purposes of this Policy, a conflict of interest exists when a faculty member’s financial interests or other opportunities for tangible personal benefit may compromise, or reasonably appear to compromise, the independence of judgment with which the faculty member performs his/her responsibilities at the University.

2. The President, in consultation with a joint subcommittee of the University Graduate Council (UGC) and the University Committee on Faculty Affairs (UCFA), will appoint a Faculty Conflict of Interest Information Officer (FCOIIIO) to serve as a resource to faculty and administrators on defining and addressing conflicts of interest, and to convene the Conflict Review Committee described in Paragraph 6.

3. Each faculty member is responsible for disclosing his/her own conflicts of interest, in accordance with the procedure established under Paragraph 4(a).

4. (a) (i) The FCOIIIO shall prepare a model college procedure for faculty members to report their own conflicts of interest.

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1 Although "faculty" is used throughout for simplicity, this Policy applies to all individuals appointed with pay through the academic personnel system other than graduate assistants.
(ii) Any college that chooses not to adopt the model procedure may develop its own procedure for its faculty to report their conflicts of interest, provided that the Vice President for Research and Graduate Studies (VPRGS) approves the procedure after consulting with the FCOIIO.

(b) The VPRGS shall establish a mechanism after consulting with the FCOIIO, for investigating concerns or allegations regarding conflicts of interest on the part of faculty which are not self-reported.

5. (a) The conduct of research by faculty, particularly research involving human subjects, and efforts to commercialize intellectual property created by faculty on present situations in which the disclosure and management of conflicts of interest are especially important. The University administrators charged to manage those areas shall, therefore, prepare disclosure processes, in consultation with academic governance, that accord with applicable legal requirements, including rules imposed by external funding sources, and that permit the timely assessment and resolution of conflicts of interest relating to research and to commercialization of intellectual property created by faculty.

(b) The University will not make expenditures on externally funded sponsored research or transfer rights in intellectual property to entities in which faculty have a financial interest unless all required disclosures have been made and any conflicts of interest identified as a result of the disclosures have been evaluated and resolved.

6. The VPRGS shall establish a Conflict Review Committee (CRC) composed of three faculty members from different disciplines, one of whom they will select as chairperson. The deans and the director of the National Superconducting Cyclotron Laboratory (NSCL), after consultation with the relevant faculty advisory body at the college/NSCL, will nominate faculty candidates. Final selection of the faculty members will be made by the subcommittee of the UGC and the UCFA. CRC members shall serve for staggered three-year terms. They may be reappointed to additional terms. The FCOIIO shall convene the CRC and may assist the CRC in its deliberations.

7. (a) When a faculty member self-reports a possible conflict of interest pursuant to the procedure established in Paragraph 4(a), the faculty member’s unit administrator should review the disclosure with the faculty member’s dean. If the unit administrator and the dean agree that no conflict of interest exists, they shall inform the faculty member and the VPRGS of that determination in writing.

(b)(i) If any conflict of interest is identified as a result of the disclosures made by a faculty member under paragraph 4(a), or as a result of a report made by another party and investigated pursuant to the mechanism established in Paragraph 4(b), the faculty member’s unit administrator shall develop a written plan for the resolution or management of the conflict of interest in consultation with the faculty member, the FCOIIO, and depending on the subject matter of the conflict, appropriate representatives of the central administration.

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2In this Policy "Dean" means deans of colleges, and the equivalent unit administrators for faculty appointed in non-college units.
(ii) The plan shall be submitted, first, to the faculty member’s dean for approval, then to the CRC for review and comment, and, finally, to the VPRGS, who may accept the plan or decide to implement another plan for the management or resolution of the conflict of interest.

(iii) If the dean does not approve the plan developed by the unit administrator, the dean may adopt a different plan for the management or resolution of the conflict of interest. In that event, both plans shall be submitted to the CRC for its review and comment. After receiving the recommendations of the CRC on the matter, the VPRGS shall decide on the plan for the management or resolution of the conflict of interest, and shall report his/her decision to the CRC, faculty member, unit administrator and dean.

(iv) If the faculty member does not agree with the unit administrator’s plan for the management or resolution of the conflict of interest, the faculty member may submit an alternative plan to the dean. The dean may accept the faculty member’s plan, the unit administrator’s plan, or formulate a different plan. The plans of the faculty member, unit administrator, and dean shall be distributed to the members of the CRC, which shall submit its recommendations on the matter to the VPRGS. The VPRGS shall decide on the plan for the management or resolution of the conflict of interest, and shall report his/her decision to the CRC, faculty member, unit administrator, and dean.

(v) In devising the plan to address the conflict of interest, the unit administrator, the dean, and the VPRGS shall seek to employ the least intrusive management techniques that will suffice to resolve the ethical and legal concerns arising from the conflict. Sometimes conflict of interest situations may be satisfactorily addressed through public disclosure of the faculty member’s financial interest (or other opportunity for tangible personal benefit) that is the cause of the conflict of interest. On other occasions, stronger measures may be required to resolve or eliminate a serious conflict of interest.

8. The University encourages faculty authorship of instructional materials and does not discourage the use of faculty-authored materials in the faculty member’s courses. To avoid the semblance of any conflict of interest, however, each academic unit should establish guidelines appropriate to its circumstances for the selection of instructional materials whose purchase by students results in a financial benefit to the faculty member who assigns those materials.

9. Each faculty member shall supply the appropriate administrators with all information necessary for those administrators to review, manage, and resolve any conflicts of interest involving that faculty member. The University shall respect the confidentiality of private financial and other private information supplied by faculty, and shall not release this information publicly unless it is legally required to do so, or unless the resolution or elimination of the conflict of interest requires the public disclosure of the information, or unless the faculty member consents to its public disclosure.

10. A faculty member who violates this Policy may be subject to disciplinary action as may apply to violations of other University policies.
11. Any member of the University community who knowingly files a false allegation that this Policy has been violated, or who knowingly provides false information to or intentionally mislead University officials who are investigating an alleged violation of this Policy, may be subject to disciplinary action.

12. The FCOIO, in consultation with appropriate faculty committees, shall arrange for the preparation of a handbook for faculty, incorporating a list of frequently asked questions, explaining and interpreting this Policy. Assessment, management, and resolution of conflicts of interest should take into account the different norms, customs, and expectations of the various disciplines found among faculty in the University. Therefore, each college (or relevant non-college unit) is encouraged to prepare, in consultation with the FCOIO, a supplement to the handbook, with frequently asked questions, that addresses conflict of interest issues specific to the disciplines and activities of the faculty of that college.
Appendix: Role, Appointment, and Evaluation of the Faculty Conflict of Interest Information Officer (FCOIIIO)

1. Role of the FCOIIIO
   A. Serves as an information resource to faculty and administrators on defining and addressing conflicts of interest, as defined in the Policy, paragraph 2.
   B. Prepares a model college procedure to be used in establishing conflict reporting mechanisms. (paragraph 4a)
   C. Convenes the Conflict Review Committee (CRC) and assists the CRC in its deliberations. (paragraph 6)
   D. Arranges preparation of a handbook incorporating a list of frequently asked questions explaining and interpreting the Policy in consultation with relevant administrators and appropriate faculty committees. (paragraph 12)

2. Appointment of the FCOIIIO
   A. The FCOIIIO shall be appointed preferably from the tenured faculty of Michigan State University by the President after consultation with a joint subcommittee of the University Graduate Council (UGC) and the University Committee on Faculty Affairs (UCFA) and shall serve at the pleasure of the President.
   B. The FCOIIIO shall report to the President and shall keep the Provost and VPRGS informed about implementation of the Policy and about educational and other activities of his/her office.
   C. Should the FCOIIIO recuse himself/herself from FCOIIIO duties with regard to a particular conflict of interest, the President shall appoint a replacement after consultation with the chairperson of the Academic Subcommittee of UGC.

3. Evaluation of FCOIIIO
   A. The FCOIIIO shall submit a report annually to the UGC describing progress on the implementation of the Policy, relevant consultations with college faculty and administrators, the caseload of and topics addressed by the CRC, and educational and other activities by the FCOIIIO.
B. The UGC shall evaluate the performance of the FCOIIO at intervals not to exceed five years pursuant to criteria established by the President, Provost, and VPRGS in consultation with the UGC. The UGC shall submit the results of this evaluation of the FCOIIO to the President, the Provost, and the VPRGS.

4. Nature of Appointment and Other Matters

A. The appointment of the FCOIIO shall be on a half-time basis for a term of 5 years which may be renewed.

B. The Office of the VPRGS shall provide the FCOIIO with administrative support.