Education Advisory Board | Business Affairs Forum

Conflict of Interest Policies at Canadian Research Universities

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Table of Contents

1) Executive Overview

Key Observations

Conflict of interest policies articulate employee obligations to disclose and manage conflicts between personal interests and duties to the university. Most profiled policies require employees to declare to their supervisor any conflicts an impartial observer might reasonably interpret to impair or potentially impair the employees' ability to fulfill their obligations to the university. Policies outline acceptable conflicts and give the employee's supervisor the authority to decide whether to permit potential conflicts. Should a supervisor conclude the potential conflict can be managed in a way that does not prevent the employee from fulfilling their obligations to the university, policies allow conflicts but require employees to manage the conflict as their supervisor determines.

Administrators require employees to declare actual or potential conflicts of interest as soon as the employee learns of the potentially conflicting circumstance. Documents included with the letter of employment require signed acknowledgment of all applicable policies (including conflict of interest) before new faculty or staff begin work. Most profiled institutions require faculty to formally declare conflicts of interest to their supervisor in the first few weeks of employment. Three of six profiled policies also require faculty to submit an annual declaration of conflict statement whether a potential conflict exists or not. No contact institutions currently require an annual re-signing of the all-policy acknowledgement document signed upon acceptance of a job offer. However, many contacts report a desire to begin annual sign-offs on all relevant policies to increase compliance.

Contacts report minimal faculty resistance to the content of conflict of interest policies. The majority of reported faculty complaints occur in the three profiled institutions that require annual conflict statements. Contacts report that faculty perceive annual reports to be an unnecessary administrative requirement. Of the few reported faculty complaints related to the content of conflict of interest policies, contacts note grievants focus on the collection of information faculty perceive to be private (e.g., personal investments, familial information, weekend activities). No contact reported any complaints related to academic freedom.

Failure to report and manage potential conflicts constitutes misconduct and warrants sanctions against the employee. University policies give an employee's supervisor the authority to impose sanctions in accordance with the severity of the offense. Most conflict of interest policies also state the university's right to reclaim any profit an employee gains through undisclosed or improperly managed conflicting activity.

Administrators make changes in policies through formal procedures that require months of review. Substantive changes to the conflict of interest policies typically expand the scope of the policy to include circumstances previously unaddressed or alter policies to follow legal requirements (e.g., the Personal Health Information Protection Act). Administrators communicate policy changes through mass emails and newsletters.

2) Conflict of Interest Policy Overview

Structure

Include a 'Policy Purpose' Statement in the Introduction to Articulate Motivations for the Conflict of Interest Policy

All profiled policies include a statement of purpose. Policy purpose statements (also referred to as objectives or preambles) give employees context with which to read the policy. Purpose statements appear in the policy introduction or overview. Introductions typically acknowledge that potential conflicts of interest are a natural part of professional life, particularly in research environments. Introductions note that professional conflicts of interest adversely affect the university and the policy exists to ensure that potential conflicts are declared and appropriately addressed.

Policy Purpose Language

The statement from **University A**, shown below, summarizes policy purpose statements succinctly:

"Purpose: To reduce the incidence of conflict or potential conflict (conflict of interest or conflict of commitment or institutional conflict) and appropriately manage any permitted conflict."[1]

Place Clauses Specific to Certain Groups After General Information

Contacts reference applicable policy sections during the distribution of policy changes to impacted groups. Because clauses that apply to all staff appear first in **University D's** conflict of interest policy, followed by policies specific to the professorate, university personnel follow clearly defined sections and may stop reading when clauses no longer apply. This organizational structure makes reference to applicable policies easier and eliminates the need for entirely separate policies for staff, faculty, and members of the board.

Some Policies Include Examples of Potential Conflicts, but Contacts Caution Against Attempts at an Exhaustive List

The conflict of interest policies at **University A** and **University B** do not include examples of specific or general circumstances that might lead to a conflict. The four other profiled policies include between five and 12 examples of potential conflicts. Nearly all policies include a statement about the impossibility for examples to encompass all scenarios that may lead to conflict. Contacts at **University C** note situational, but non-comprehensive examples policies short enough to read, write, and enforce.

1) University A, Conflict of Interest Policy

Definitions

Provide Clear Definitions of Terms to Minimize Confusion and Maximize Policy Scope

Definitions should be broad enough to encompass most situations but specific enough to reduce confusion and scrutiny. The inclusion of broad definitions maximizes the scope of the policy by incorporating persons, professional entities, activities, interests, or circumstances that may otherwise be interpreted as outside of the scope of a term. A definition section eases interpretation because it eliminates the need to define terms throughout the policy.

Only four of six policies offer an explicit definition of conflict of interest within the conflict of interest policy. An 'x' indicates the institution includes an explicit definition of the term within the conflict of interest policy's definition section. The list below is not exhaustive of all definitions included in profiled definition sections.

For definitions not explicit within the conflict of interest policy, administrators define the majority of terms within a separate definition document that applies to all institutional policies.

Definitions Included in Conflict of Interest Policies at Profiled Institutions

Defined Terms:	University A[2]	University B[3]	University C[4]	University D[5]	University E[6]	University F[7]
Conflict of Interest	x	x			x	x
Conflict of Commitment	x	x			x	
Person/Member	x	x			x	
Family Member	x		x		x	
Financial Interest	x	x				
Gift						x
Outside Professional Activity		x			x	x
Business/ Corporation	x	x				

2) University A, Conflict of Interest Policy
3) University B, Conflict of Interest Policy
4) University C, Conflict of Interest Policy
5) University D, Conflict of Interest Policy
6) University E, Conflict of Interest Policy
7) University F, Conflict of Interest Policy

A Sample of Language Included in Definitions

The definitions highlighted below represent typical definitions from profiled conflict of interest policies. The majority of definitions shown below are exact quotations. For examples that include minor changes from profiled policy language, changes are meant to shorten definitions too long for this format.

Defined Limits on Interest, Gifts, and Activities

- **Financial interest**: any shares of a private company, a board membership, more than $50,000 of shares in a public company, or greater than five percent ownership in any entity.
- **Gifts**: with value greater than a common courtesy associated with accepted business practice, any gifts that could be perceived as bribes, or cash gifts in any amount.
- **Outside professional activity**: limits range from 'a few days' to 52 days per year, including weekends. Limits average around 25 days per year.

- **Conflict of Interest:** Conflicts of Interest are real, perceived, or potential situations in which an impartial observer might reasonably question whether actions or decisions taken by the Member on behalf of the university are influenced by considerations of private interest to the disadvantage of the university.[8]
- **Person/Member:** Any person that teaches, conducts research, or works at or under the auspices of the university and includes, without limitation any person acting in his or her capacity as full- or part-time faculty, staff or student, clinical or adjunct faculty, education associate, post-doctoral fellow, research assistant, and any other persons while they are acting on behalf or at the request of the university.[9]

Broad Definitions

The definition of 'member', shown to the left, listed by **University E's** conflict of interest policy illustrates a broadly defined term for 'person'.

- **Family Member:** A person related to the Member by blood, adoption, marriage or common-law marriage, or with whom the Member has a close personal relationship; it may also include an individual with whom the Member has had such a relationship.[10]
- **Financial Interest:** "Financial Interest" means having or having the expectation to receive:
  - Greater than a five percent ownership interest in a single entity; or
  - Anything with a monetary value exceeding $5,000 in one calendar year, including remuneration, equity interests, and intellectual property rights.[11]
- **Gift:** "Gifts" includes not only articles of value, but also includes, and is not limited to, travel, accommodation, extravagant meals, and the like… in situations in which the faculty member may be in a position to influence the business decisions of external organizations.[12]
- **Outside Professional Activity:** "Outside Professional Activity" means any activity outside a person's scope of work within the university that involves the same specialized skills and knowledge that the person utilizes in his or her work with the university and includes the operation of a business, consulting or advisory services, external teaching, external academic appointments and external speaking engagements.[13]

8) University E, Conflict of Interest Policy
9) University E, Conflict of Interest Policy
10) University E, Conflict of Interest Policy
11) University B, Conflict of Interest Policy
12) University F, Conflict of Interest Policy
13) University B, Conflict of Interest Policy

3) Policy Administration and Change

Conflict Reporting Obligations

Annual Reporting Requirements Remind Staff of Obligations to Declare Conflicts

All profiled policies require employees to disclose potential conflicts of interest as soon as the employee learns of the potentially conflicting circumstance. Three of six profiled institutions also require faculty to submit an annual declaration of potential conflicts whether or not the faculty member perceives a potential conflict to exist. For example, administrators at **University B** require faculty to submit answers to a ten-question online survey once annually. If the answers are all 'no', the conflict declaration is automatically approved. If the respondent answers 'yes' to any questions, the form is submitted to the employee's supervisor for review.

Sample questions include:[14]

- In the last year have you had or in the next year do you expect to have a financial interest in any entity (e.g., a company, partnership, or non-profit corporation) that is engaged in an area related to your work at University B?
- In the last year have you engaged in or in the next year do you expect to engage in any activity outside the university (for example, by way of illustration only, the operation of a business, teaching, providing consulting or advisory services) that involves the same specialized skill and knowledge that you use in your work at University B?
- If as part of your work at the university, you teach or supervise students, graduate students, or post-doctoral fellows, do you have an interest outside the university that might reasonably be considered to affect your ability to properly discharge your responsibilities to those you teach or supervise?

Withhold Incoming Funds and Outgoing Applications to Encourage Reporting

For respondents of **University B's** online Conflict of Interest and Conflict of Commitment declaration form, only around 30 percent answer 'yes' to any of the ten questions. Contacts report an 82 percent response rate. To incentivize responses, the university withholds any new incoming research grants or funds from faculty who have an expired declaration form. Additionally, the university withholds human ethics research applications until faculty update conflict declarations.

14) University B, Internal 'Conflict of Interest and Conflict of Commitment Declaration' Form. Provided by a research contact.

After Disclosure, Supervisors Determine if a Potential Conflict not Explicitly Prohibited within the Policy is Manageable and Permissible

Policies specify that after employees disclose potential conflicts, and in the case that a potential conflict exists but is not explicitly prohibited within the policy, it is the job of the supervisor to determine whether the potential conflict can be managed and will be permitted. Supervisors typically support conflicts that do not diminish the employees' ability to fulfill their duties to the university. For example, contacts would approve a faculty member to accept an honorarium to speak on a panel that promotes their research, even if it meant rescheduling class time. This supports the university's research and contributes to the broader university goal of distributing knowledge.

Resistance to Conflict of Interest Policies

Limited Faculty Resistance References Bureaucratic Frustrations and Privacy Violations

Contacts report minimal faculty resistance to the content of conflict of interest policies. Complaints stem from reporting obligations faculty view as unnecessary or unrelated.

Bureaucratic Frustration: Faculty often perceive compulsory annual reporting an unnecessary and burdensome administrative requirement, particularly when conflict of interest policies require ongoing conflict declaration. Contacts report extra resistance from senior faculty accustomed to prior policies and faculty who do not anticipate ever encountering a potential conflict of interest.

Privacy Violation: Some conflict declaration forms require faculty to provide information about their investment portfolios, family, and weekend activities. Contacts report many faculty perceive this to be private information unrelated to their duties as employees.

Academic Freedom Concerns

No contacts report any faculty resistance to conflict of interest policies that reference academic freedom. Only **University E** uses the term 'academic freedom' in the policy. In the first sentence of the preamble, the policy states "University E is committed to academic freedom and to excellence in teaching and research."[15]

Provide Resistant Faculty Opportunities to Consult Legal, Human Resources, or Dean's Staff

Policies and policy change announcements provide contact information for a university representative should an employee seek clarification. For faculty who refuse to fill out annual declarations, administrators require faculty to discuss any potential conflicts with supervisory staff from the employee's department, legal counsel, or human resources. Supervisors determine during consultations whether a potential conflict exists and is permissible. Consultations are also an opportunity for representatives of the university to explain why the policy exists and requires conflict disclosure (i.e., to protect the university and its staff). Contacts at **University D** report that an employee requests consultation approximately once per month.

15) University E, Conflict of Interest Policy

Administrators Address Policy Breaches on a Case-by-Cases Basis

University policies give employer supervisors the authority to impose sanctions for policy violations in accordance with the severity of the offense. Contacts report few faculty breaches of the conflict of interest policy. In most cases, breaches relate to unintentional underreporting and require only a consultation and a warning. However, contacts note that breaches could result in sanctions including termination of employment and the reclamation of any profits an employee gained during unmanaged or unreported conflicting activity.

Policy Change Processes

Solicit Community Input on Policy Changes to Encourage Participation and Mitigate Future Resistance to Policy Content

Administrators seek community input on potential policy changes through community meetings and online solicitation of comments and suggested changes. Contacts at **University B** report that although some policies receive hundreds of comments, the most recent revision of the conflict of interest policy received only three responses. Contacts encourage employees to give feedback to increase their sense of ownership over policies and decrease future employee resistance to policy content.

Follow the Same Procedures for Change as Introduction of New Policies

Only contacts at **University D** report intention to change or amend the conflict of interest policy in coming years. Contacts there note the policy is vague and has not been able to encompass some recent conflict situations.

All contact institutions follow the same procedure for policy change as for the introduction of an entirely new policy. A typical policy change process includes the formation of a policy review committee, the solicitation of feedback from university employees, the formalization of changes, the approval of proposed changes by the board of governors, and a formal policy change announcement. Contacts report this process typically takes between six months and three years to complete.

Exception to Formal Procedures: Friendly Edits

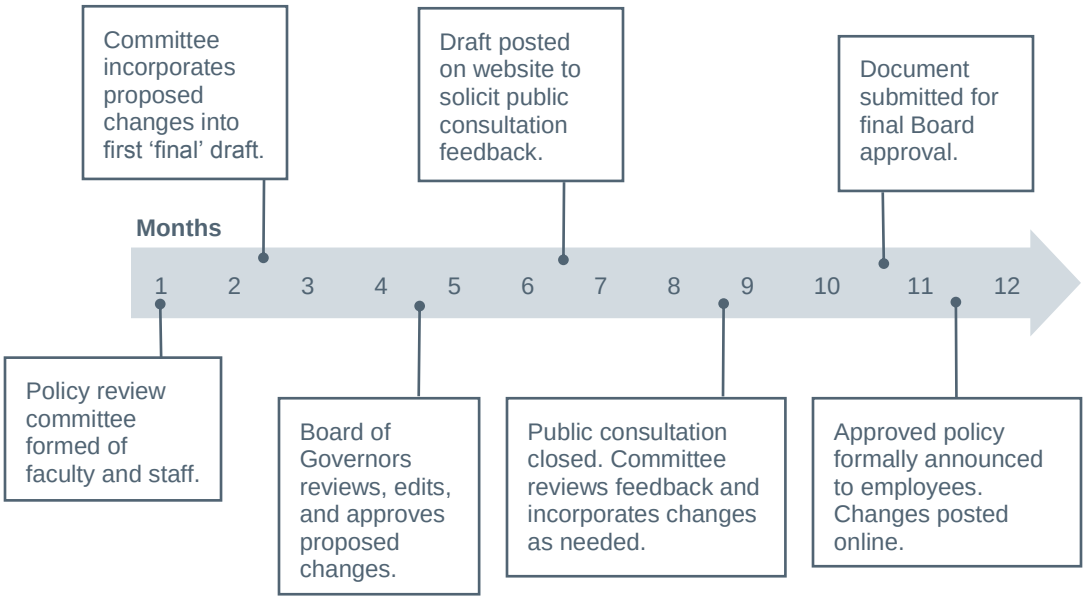
At **University A**, administrators distinguish minor edits from substantive changes. These 'friendly' edits do not require formal policy review.

Contacts provided a working definition of friendly edits, shown below:

- Revisions to policy or procedure that do not change the intent or requirements, and do not have a significant impact on users. Friendly edits include: changes to names and contact information, updates to reflect changes to referenced links, grammar and spelling errors, etc.[10]

16) Working Definition of "Friendly Edits" from University A. Provided by a research contact.

Timeline for the Most Recent Conflict of Interest Policy Change at *University B*



Communicate Changes in Policy Through Formal Email Announcement and Inclusion in a Policy Newsletter

All contacts report email as the primary method institutions use to communicate changes in policies to employees. Although most policies apply to specific employee groups, the majority of contacts send policy change information to the entire campus community. Policy change emails typically include a summary of changes, a link to the new policy, and contact information for a representative within the legal or human resources department for employees who seek clarification or explanation of new provisions. Three profiled institutions also publish some form of general policy and procedure newsletter every few months that outlines all changes and amendments.

Contacts at **University D** field one employee policy inquiry approximately every two months. Contacts address the majority of inquiries in brief, one-time consultations.

The 'Risk at University A' Newsletter Provides Policy Updates

Contacts at **University A** distribute a 'Risk at University A' newsletter every three or four months that outlines policy and procedural changes. However, contacts report the majority of newsletter content refers to procedural change because there are more procedures and the process to change them is less demanding than the process to change policies.

4) Research Parameters and Methodology

Project Challenge

Leadership at a member institution approached the Forum with the following questions:

- What elements do conflict of interest policies at other institutions include?
- How do administrators choose which elements to include in formal policies?
- What process do administrators follow during policy change or revision?
- How do conflict of interest policies address faculty concerns about academic freedom?
- How do administrators communicate conflict of interest policies with new faculty or staff?
- How have faculty reacted to conflict of interest policies?
- How do administrators address faculty resistance to current policies or changes in policy?
- How do administrators approach breaches in policy?
- Do administrators at other institutions require that faculty and staff sign an agreement form for policies?
- Do faculty consider the conflict of interest policy a breach of their academic freedom?

Project Sources

The Forum consulted the following sources for this report:

- Advisory Board's internal and online research libraries (eab.com)
- Institution websites

Research Parameters

A Guide to Institutions Profiled in this Brief

The Forum interviewed legal counsel and policy administrators at public Canadian research universities.

Institution	Location	Approximate Institutional Enrollment (Undergraduate/Total)	Classification
University A	Western Canada	31,900 / 39,500	Medical-Doctoral
University B	Western Canada	46,000 / 57,000	Medical-Doctoral
University C	Central Canada	23,200 / 26,700	Comprehensive
University D	Central Canada	34,700 / 40,700	Medical-Doctoral
University E	Western Canada	30,000 / 35,400	Comprehensive
University F	Central Canada	33,300 / 46,000	Medical-Doctoral