

Medical University of South Carolina and Medical University Hospital Authority Policies and Procedures

Policy Name: MUSC/MUHA- Conflict of Interest Policy			
Approved- Board of Trustees			Date: December 10, 2015
Effective Date: December 10, 2015	Page 1 of 8	Section: General (Miscellaneous)	Policy Number: Amendment 1
Amendment to Policy dated May 17, 2012			Dated: N/A

Persons covered by this policy

This policy applies to all Trustees, Officers, Faculty, Administrators, and Staff, including all full-time, part-time, temporary, and contract Employees of Medical University of South Carolina ("MUSC") and Medical University Hospital Authority ("MUHA"). Affiliates (entities which derive their not for profit status from MUSC, such as MUSC Physicians, the MUSC Foundation, and the MUSC Foundation for Research Development) shall as a condition of continued business with MUSC and MUHA adopt a policy substantially similar to this Policy, adapted to accommodate those affiliate employees who are not public employees.

Preamble

1. Enhancing the public good through improved health initiatives and superior economic development is the foundation of many government policies. MUSC, as a contemporary, public research university, has a responsibility to actively participate and promote these initiatives even if conflicts of interest are more likely and many times unavoidable. Conflicts of interest, therefore, may arise from ordinary and appropriate activities as a part of assigned employment duties so the existence of a conflict should not imply wrongdoing. When conflicts of interest do arise, however, they must be recognized and disclosed, then eliminated or appropriately managed. The Board of Trustees for MUSC and MUHA has a duty to govern those State entities in a manner such that conflicts are appropriately reviewed and acted on to maintain public confidence in the integrity of our institutions.

2. This policy provides a framework for recognizing and managing employee conflicts of interest, and should minimize even the appearance of conflicts of interest. The primary goal of this policy is to prevent an employee's activities from adversely influencing MUSC or MUHA operations.

3. Particular departments and activities of MUSC or MUHA may have specific conflict of interest policies. It is intended, however, that this policy will apply to the entire MUSC enterprise, providing a framework for those specific additional policies to operate under, such that those specific policies will not supersede this policy unless approved by the Board of Trustees.

4. This policy references South Carolina Code (S.C. Code § 8-13-10 et seq.) (the "Ethics Law"), which makes it unlawful for public officials, public members, and public employees to use their position to obtain an economic interest or to have a financial interest in most any contract or purchase connected with MUSC/MUHA, unless certain exceptions apply. This policy is implemented in addition to all requirements of the Ethics Law and does not supersede it. The South Carolina Ethics Law is at <http://www.scstatehouse.gov/code/t08c013.php>

5. As MUSC conducts research funded by the Public Health Service and other federal agencies, it is required by federal law to maintain an appropriate written, enforced policy on conflict of interest that complies with 42 CFR Part 50 Subpart F - "[Responsibility of Applicants for Promoting Objectivity in Research for which Public Health Service Funding is Sought](#)" and 45 CFR Part 94 "Responsible Prospective Contractors" as well as all other relevant policies of federal funding and oversight agencies.

A. Statement of general policy

1. MUSC/MUHA policy is that its employees conduct the affairs of MUSC/MUHA in accordance with the highest legal, ethical and moral standards.

2. MUSC/MUHA policy is that employees of MUSC/MUHA shall disclose perceived and real conflicts of interest.

3. MUSC/MUHA policy is that employees shall not use their position to secure personal financial benefits or economic interest for themselves, any member of their immediate family, any individuals or entity with whom the employee has a business relationship that renders an employee economic benefit. A perceived and/or real conflict of interest arises whenever the employee has the opportunity to influence University or Authority operations or business decisions in ways that could result in a personal financial benefit or economic gain to the employee, a member of an employee's immediate family, or individuals or entities with whom the employee has a business relationship which renders the employee economic benefit. Although certain specific examples of conflicts of interest are provided in this policy, they are meant only as illustrations, and supervisors and employees are expected to use good judgment to identify possible conflicts of interest that may adversely influence MUSC/MUHA operations, and to avoid or manage them as appropriate.

4. This policy is not intended to prohibit approved and appropriately managed economic development activities related to MUSC/MUHA generated intellectual property, including MUSC/MUHA employee involvement with startup companies, Small Business Administration (SBIR/STTR) funded research and Centers of Economic Excellence Activities. However, any such activities by MUSC/MUHA employees that make use of University or Authority property, facilities, equipment or other resources for personal benefit shall be approved as required herein, of benefit to MUSC/MUHA, and for fair value.

5. Nothing in this policy shall be construed to permit, even with disclosure, any activity that is prohibited by law.

B. Definitions

1. Conflicts of interest occur when an employee or immediate family member receives personal financial benefit or an economic interest from the employee's position in a manner that may inappropriately influence the employee's judgment, compromise the employee's ability to carry out MUSC/MUHA responsibilities or, be a detriment to MUSC/MUHA integrity.
2. Immediate family includes the employee's parents, spouse, siblings, children, stepchildren, and grandchildren.
3. Manage and managing means an affirmative action by the University or the Authority to establish parameters or conditions that minimize or eliminate the risk of the perceived or real conflict of interest.
4. Personal financial benefit or economic benefit is defined as anything of monetary value, including salary, commissions, fees, honoraria, gifts of more than nominal value, equity interests, interests in real or personal property, dividends, royalty, rent, capital gains, intellectual property rights, loans, and forgiveness of debt. "Personal financial benefit" does not include:
 - a. compensation or payments received from MUSC/MUHA or any of its affiliates or the Ralph H. Johnson Department of Veterans Affairs Medical Center;
 - b. payments for participation in seminars, lectures or other educational activities as long as not acting in the employee's official capacity, or reasonable expenses for the same activities even if acting in official capacity;
 - c. payments for participation in seminars, lectures or other educational activities sponsored by and service on advisory or review panels for a federal, state, or local government agency, an institution of higher education as defined at 20 U.S.C 1001(a), an academic teaching hospital, a medical center, or a research institute that is affiliated with an institution of higher education, and reasonable expenses for the same activities as long as acting within the context of an individual's Faculty Appointment Contract;
 - d. any financial interest arising solely by means of investment in a mutual, pension, or other institutional investment fund over the management and investments of which the employee or an associated immediate family member does not exercise control; and
 - e. investments in publicly traded entities as long as the value of the employee's equity interest in the entities is less than \$5,000.
5. University means Medical University of South Carolina.
6. Authority means the Medical University Hospital Authority.
7. MUSC or MUHA institutional responsibilities are defined as the responsibilities of an employee to perform MUSC or MUHA activities as defined by management or contract.

C. Policy provisions

1. An employee shall disclose any situation in which the employee has, or may have, a real or potential conflict of interest as defined herein. The Vice President for Academic Affairs and Provost will determine which employees, by nature of their duties, responsibilities or other relevant criteria, must complete an annual conflict of interest disclosure. For those employees required to submit annual disclosures, if any business or financial relationship changes or develops, the employee is required to update their disclosure form within 30 days. An authorized group of employees shall review the disclosure and recommend to the appropriate Vice President a suitable action plan to eliminate or manage the conflict of interest so as to ensure that MUSC or MUHA business is not improperly influenced or adversely affected. In the event that there is no reasonable way to manage a conflict of interest, then the employee may be prohibited from participating in related MUSC/MUHA affairs until such a time as the conflict is eliminated. In other words, employees and Officers of MUSC/MUHA have a duty to immediately disclose, manage or eliminate any real or potential conflicts of interest that are not in the best interests of the University or Authority.

a. Employees who are required to file an annual conflict of interest disclosure shall disclose conflicts of interest in writing on an approved paper or digital Conflicts of Interest Disclosure Form, including a statement describing the nature and extent of the conflict, to their supervisor and to the Conflict of Interest Office. This disclosure must be completed annually, on a form designated for such purposes. A new disclosure form must be completed whenever a new conflict of interest arises or when a significant change occurs concerning an existing disclosure. See the following website for this disclosure form: Annual Conflict of Interest Disclosure www.musc.edu/coi .

b. If a supervisor becomes aware of a conflict of interest that an employee has not disclosed, the supervisor shall discuss the situation with the employee, require that a written disclosure be made as provided in this policy, and inform the Conflict of Interest Office to anticipate the receipt of a new Disclosure Form.

c. All conflicts of interest shall be reported to the Conflict of Interest Office. The Board of Trustees or its designee will retain authority to take such action as it deems appropriate regardless of any action or inaction by an Officer of MUSC and/or MUHA.

2. The following are examples of conflicts of interest requiring disclosure. These examples are illustrations only and are not meant to be exclusive.

a. Employee or immediate family member has a financial interest in a business entity with which the University or Authority does or proposes to do business, and the employee is in a decision-making role or otherwise is in a position to influence the University's or Authority's business decisions regarding the business entity. Business entity examples for which an employee disclosure is required:

- i) finance or accounting services
- ii) equipment services

- iii) marketing services
- iv) construction services
- v) consulting
- vi) counseling
- vii) catering
- viii) computer supplies
- ix) programming
- x) architectural services
- xi) legal services
- xii) grant preparation
- xiii) temporary personnel services
- xiv) office or laboratory supplies
- xv) painting services
- xvi) lawn and grounds services

b. Employee holds or assumes an executive, officer or director position in a for-profit or not-for-profit business or entity engaged in commercial, educational, or research activities similar to those in which the University or Authority engages.

c. Employee participates in consultation activities for a for-profit or not-for profit business or entity engaged in commercial, educational or research activities similar to those of the University or Authority.

d. Employee holds or assumes an executive, officer or director position in a for-profit or not-for-profit business or entity that does business with the University or Authority.

3. The activities listed below are prohibited unless sanctioned by an Officer of the University or Authority. Sanctioned activities are those activities documented within an individual's Faculty Appointment Contract, contained within an employee's job description or expectations, appropriately authorized agreements, Memoranda of Understanding, or otherwise approved by the employee's Vice President.

a. Significant use of University or Authority property, facilities, equipment or other resources in any manner other than as part of the employee's responsibilities, that results in personal financial benefit or economic interest to an employee, a member of an employee's immediate family or business with which the employee has a business relationship.

b. Using significant University or Authority property, facilities, equipment or other resources in any manner to support an entity not associated with the University or Authority unless special permission is provided in writing by an authorized Officer of MUSC or MUHA.

c. Using University or Authority stationery, letterhead, logo, or trademark in connection with outside activities, other than activities having a legitimate relationship to the performance of University or Authority business.

- d. Using University or Authority facilities, resources, or the employee's position at the University for the purpose of advocating, endorsing, or marketing the sale of any goods or services, other than as part of the employee's responsibilities, without the prior approval in writing by an authorized Officer of MUSC or MUHA.
- e. Using the University or Authority name, trademark or trade name for personal business or economic gain to the employee, a member of the employee's immediate family or a business with which the employee has a business relationship.
- f. Using any University or Authority intellectual property data or information that is not in the public domain for personal financial benefit or economic gain to the employee or a member of the employee's immediate family, or a business which the employee has a business relationship.
- g. Using any University or Authority employee for any outside activity during normal work time for which he or she is receiving compensation from the University or Authority (not applicable when employees are on a paid or unpaid leave).
- h. Participating in the selection or awarding of a contract between the University or Authority and any entity with which an employee is dually employed, IS seeking employment or has been offered employment.
- i. Other activities may be prohibited if there is no reasonable way to manage an associated conflict of interest.

D. Employee responsibilities

1. Employees shall not engage in the prohibited activities listed above unless sanctioned in advance or in any other activity that has been prohibited following a completed review of an employee's conflict of interest disclosure.
2. For employees subject to the annual conflict of interest disclosure process, as determined by the Vice President for Academic Affairs and Provost, these employees shall disclose a real or perceived conflict of interest as described above:
 - a. As soon as the employee knows of the conflict, and then annually thereafter for as long as the conflict continues to exist;
 - b. In writing on the approved Conflict of Interest Disclosure Form;
 - c. To the Conflict of Interest Office;

Employees not subject to the annual conflict of interest disclosure process shall still disclose any potential conflict of interest related to their job duties to their immediate supervisor for review.

3. Employees shall avoid any involvement with all related University or Authority activities and decisions until such time as the conflict of interest has been evaluated and the disclosed activity has been approved.

4. If there is any question whatsoever about an activity representing a conflict of interest, then the employee should consult with the Conflict of Interest Office or an MUSC or MUHA Office of Legal Counsel for direction.

E. MUSC/MUHA responsibilities

1. Supervisors shall ensure that all new employees are informed of this policy.

2. Supervisors and administrators of MUSC and MUHA shall ensure that all current employees are reminded of this policy on a periodic basis.

3. The University and Authority shall develop a peer process to evaluate conflict of interest disclosures, and to review the conduct of approved Management Plans.

4. In the event that a reported conflict of interest is approved, the Conflict of Interest Office shall ensure there is an appropriate Management Plan in place to monitor and manage the situation so that resources are used in an appropriate manner and that there is no improper influence on University or Authority decisions.

5. The Conflict of Interest Office shall ensure that Conflicts of Interest Disclosure forms are retained for future reference. Upon an employee's transfer from the unit or termination from the University or Authority, associated Conflict of Interest Forms shall be retained by the Conflict of Interest Office for a minimum of three years.

6. Supervisors shall establish and maintain a work environment that encourages employees to ask questions about real or potential conflicts of interest.

7. If supervisors have any question whatsoever about an external activity representing a conflict of interest, they should consult with the Conflict of Interest Office or an Office of Legal Counsel.

F. Sanctions for violation

1. Violations of University or Authority policies, including the failure to avoid a prohibited activity or disclose a conflict of interest in a timely manner, will be dealt with in accordance with applicable policies and procedures that may include disciplinary actions up to and including termination of employment.

2. The Board of Trustees, as the ultimate governing body, or its designee retains authority to make a final determination of any matter covered by this Policy.

G. South Carolina state law

1. The South Carolina Ethics Government Accountability and Campaign Reform Act (herein the "Ethics Law") S. C. Code § 8-13-100, among other things, makes it unlawful for a public official, public member or public employee to knowingly use his official office, membership or employment to obtain economic interest for himself, a member of his immediate family, an individual with whom he is associated* or a business with whom he is associated**. This policy is implemented in addition to any requirements of the Ethics Law. Certain persons associated with the Authority or University are required to make filings with the South Carolina Ethics Commission and completion of the form attached to this policy will not satisfy that requirement.

* Defined in the Act as: "Individual with whom he is associated" means an individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

** Defined in the Act as: "Business with which he is associated" means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Office responsible for this policy

Conflict of Interest Office

Policy Review.

This Policy, if approved, establishes a set of conditions that may have an unanticipated impact on existing MUSC, MUHA, and affiliate policies and procedures. Given the breadth of this policy, it seems reasonable that not only may some unforeseen consequences surface but that State or federal compliance regulations may require some alterations to this Policy. A periodic review of this Policy by the Vice President for Academic Affairs and Provost, acting on behalf of the Vice Presidents, seems most appropriate. If proposed change(s) is(are) considered necessary and appropriate, a Vice President may ask the Board of Trustees to modify this Policy by approving the change(s).