
Chapter: Compliance & Ethics

Modification No. 001

Subject: **Conflict of Interest**

- I. The Board of Trustees recognizes that the continued excellence of educational programs and services at Montgomery College is dependent, in part, upon continued public trust and faith in the individuals who administer and operate the institution. It is the policy of the Board of Trustees that its trustees and employees shall not maintain, exercise or engage in relationships or practices that are illegal, could prevent or limit the objective exercise of sound ethical judgment, or have the appearance of preventing or limiting the objective exercise of sound ethical judgment. No member of the Board of Trustees nor any College employee shall engage in or have a financial interest, directly or indirectly, in any activity that conflicts, or appears to conflict, with his or her public duties and responsibilities. [The Board of Trustees' Bylaws also include policy statements relating to conflict of interest.]
- II. Montgomery College has been held to be an executive agency of the State of Maryland for purposes of the Maryland Public Ethics Law and the College Board of Trustees and its employees are subject to that law.
- III. The President is authorized to establish procedures to implement this policy with respect to College employees.

Board Approval: September 21, 1987.

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I. Scope and Applicability

The Maryland Public Ethics Law and the following procedures apply to all employees of Montgomery College.

II. Purpose

The mission of the College is advanced when members of the College forge links outside MC as scholars, artists, consultants, participants in research ventures, and in other capacities that relate to their professional expertise. Montgomery College encourages the development of such links, but also recognizes that these positive interactions can create the occasion for real, potential, or perceived conflicts of interest and commitment, any of which may damage the individual as well as the institution. This procedure is intended:

- A. To provide guidance that will enable these extra-College liaisons to continue while avoiding situations that could harm the individual and/or the College through the reality or perception of ethical, legal, or financial conflicts;
- B. To encourage members of the College to participate in such enriching external activities by providing a clear disclosure mechanism through which conflicts-prone situations may be proactively shared, evaluated, and managed to the benefit of all parties concerned;
- C. To increase individual consciousness of the possibility of actual, potential, and perceived conflicts between private interests and public responsibilities and actions; and
- D. To promote continued public trust and confidence in the integrity of College employees.

III. Definitions

- A. "Conflict of Commitment": A situation in which an employee engages in an activity, paid or unpaid, that involves a commitment of time that interferes, or reasonably appears to interfere, with fulfillment of the employee's obligations to the College, even if the outside activity is valuable to the College or contributes to the employee's professional development, competence, or prestige in the field. Conflicts of commitment are a subcategory of conflicts of interest.
- B. "Conflict of Interest": An umbrella term encompassing any situation in which a member of the College community has an interest or loyalty that directly or indirectly affects, or has the appearance of affecting, the individual's professional judgment in performing any College duty or responsibility.
 - 1. *Actual Conflict of Interest*: A conflict that presently exists between the College's interests and an employee's interests or obligations.

2. *Perceived Conflict of Interest:* A present situation where it could reasonably be perceived that an employee's duty to the College may be compromised by the employee's other interests or commitments. The perception of a conflict may exist even when the employee's interests are not actually improperly influencing the performance of official duties. Because the appearance of a conflict may undermine public trust in the College, perceived conflicts of interest must be disclosed and managed in the same way as actual conflicts.
 3. *Potential Conflict of Interest:* A situation that does not presently constitute or appear to constitute a conflict of interest, but where there is a reasonable possibility of an actual or perceived conflict developing in the future.
- C. "Employee": All full and part-time faculty members, administrators, temporary employees, regular status staff, and student employees.
- D. "Interest": Anything of value to a person or organization, including a financial stake or benefit, an asset, a relationship with another, or a reputational interest.
- E. "Relative":
1. A College employee's spouse or domestic partner per Montgomery County Code, Section 33-22;
 2. A child or parent of the employee or of the employee's spouse or domestic partner;
 3. A brother or sister of employee or of the employee's spouse or domestic partner;
 4. A grandparent or grandchild of employee or of the employee's spouse or domestic partner;
 5. An aunt or uncle of employee or of the employee's spouse or domestic partner;
 6. A nephew-or niece of employee or of the employee's spouse or domestic partner;
 7. A brother-in-law or sister-in-law of employee or of the employee's spouse or domestic partner; and
 8. A son-in-law or daughter-in-law of employee or of the employee's spouse or domestic partner.

IV. General Principles

- A. Employees stand in a relationship of trust and confidence to the College. Employees shall act in good faith with due regard for the best interests of the institution, and shall comply with the principles of conduct set forth in this procedure.
- B. Although not all conflicting interests are impermissible, those involving the

potential for self-gain or gain by a third party to whom the employee is related can undermine the judgment or objectivity of the employee such that the primary obligation to the College is compromised.

- C. Full and timely disclosure of conflicts of interest by employees protects both the employee and the College. Employees must therefore disclose to the Office of Compliance, Risk, and Ethics any situation believed likely to present a conflict of interest, as soon as the employee becomes aware of the relevant facts.
- D. To disclose a conflict, an employee must complete the Disclosure Form available at <https://info.montgomerycollege.edu/resources/code-of-ethics-and-employee-conduct/disclose-a-conflict-of-interest.html> and submit the form to ethics@montgomerycollege.edu. The Office of Compliance, Risk, and Ethics will review the disclosure, evaluate the circumstances, and work with the employee and any other College official as appropriate in order to eliminate or manage the conflict (where one exists). Where no conflict of interest—actual or perceived—is found, the Office of Compliance, Risk, and Ethics will provide the employee written approval to proceed without further restrictions.
- E. Serious violation of the foregoing policy and this procedure, including
 - 1. Failure to disclose a situation which an employee knows, or reasonably should have known, may constitute a conflict of interest, or
 - 2. Engaging in an action counter to a conflict-of-interest management plan duly instituted by College in response to a disclosed conflict,shall be considered misconduct. Violations may be dealt with by prosecution under state or local law, by termination of employment, or by other disciplinary action, or by any combination of the above.
- F. It is not possible to list all activities that constitute a conflict of interest or an unethical practice. The following are examples of activities that may operate to limit an individual's ability to either legally or ethically perform assigned duties.

V. Financial Interests

The Maryland Public Ethics Law, codified at Md. Code Ann., Gen. Provisions §§ 5-101 *et seq.*, applies to all College employees, not just those who must file annual financial disclosure statements. The Public Ethics Law generally prohibits College employees from having financial interests in or employment relationships (including consulting) with entities which have or are negotiating contracts with the College.

VI. Restrictions on the Employment of Relatives (Nepotism)

- A. Relationship to another College employee is not a bar to initial employment at the College. However, an individual may not be assigned or promoted to, transferred to, evaluated by, or in any way accept employment in a department in which any form of supervisory authority is exercised by a relative of the individual.
- B. No employee of the College may participate in or otherwise influence the hiring process or any employment-related decisions pertaining to the employee's relative, including decisions regarding retention, evaluation, promotion, salary, or leave of absence.

- C. The College shall not employ in any position, or engage as a consultant or contractor, any relative of the President.
 - D. The College shall not employ in any position, or engage as a consultant or contractor, a relative of any Senior Vice President or a relative of the Chief of Staff/Chief Strategy Officer, unless
 - 1. the Senior Vice President or Chief of Staff/Chief Strategy Officer first discloses the relationship in writing using the Disclosure Form available at <https://info.montgomerycollege.edu/resources/code-of-ethics-and-employee-conduct/disclose-a-conflict-of-interest.html>,
 - 2. the Senior Vice President or Chief of Staff/Chief Strategy Officer submits the disclosure to the Office of Compliance, Risk, and Ethics at ethics@montgomerycollege.edu, and
 - 3. after review of the disclosure, the President, in consultation with the Office of Compliance, Risk, and Ethics and the Office of Human Resources and Strategic Talent Management, provides written approval for the employment of the SVP/COS's relative as described in the disclosure.
- VII. Restrictions on Familial Relationships Between Faculty and Students
- A. A student shall not enroll in a course section taught by a faculty member who is the student's relative.
 - B. In the event it is not possible for the student to avoid the class taught by the related faculty member, the faculty member shall immediately advise their department chair and dean regarding the relationship. After consultation with the appropriate vice president/provost, the department chair or dean shall:
 - 1. Appoint another faculty member within the same discipline to evaluate the student's written work, such as essays, research papers, essay tests, care plans, etc.; and
 - 2. Appoint another faculty member within that discipline to evaluate the student's non-written work or performance, such as artistic performances, teaching practice, or clinical practice.
 - C. A student shall not be assigned to a faculty advisor or counselor with whom the student has a family relationship.
 - D. A College employee whose responsibilities at the College entail teaching or academic coaching of students under the age of eighteen shall immediately disclose to the Office of Compliance, Risk, and Ethics—per the process set forth in Section IV.D, above—any amorous or romantic relationship with the parent or guardian of a student under the employee's tutelage.
- VIII. Private Tutoring and Other Services Offered for Remuneration
- A. No College employee shall tutor privately, for remuneration, any student who is currently enrolled in the College.

- B. Faculty and other employees whose work involves direct interaction with currently enrolled students:
 - 1. Shall not receive remuneration from those students for other services the employee may offer outside of their employment at the College. Such outside services include, but are not limited to: coaching or athletic training, private music lessons, and therapy or psychological counseling services.
 - 2. Shall not in any way utilize their position at the College or their access to MC students to promote, solicit, or develop any private client- or patient-relationship with MC-enrolled students.

Notwithstanding this restriction, a College employee who has a pre-existing professional relationship with an individual shall not be in per se violation of this procedure nor shall the employee be expected to cease the outside professional relationship with the individual, if that individual subsequently enrolls as a student at the College and the outside professional relationship does not otherwise violate any provision of this policy and procedure.

- C. A College employee shall not engage in private tutoring activities on College property, for remuneration.

IX. Gifts and Favors

No employee may solicit or accept, directly or indirectly:

- A. Any gift that would tend to impair the impartiality and independent judgment of the employee;
- B. Any gift that has significant value and that would give the appearance of impairing the impartiality and independent judgment of the employee; or
- C. Any gift where the employee believes or has reason to believe that the gift is designed to impair the impartiality and independent judgment of the employee.

The term "gift" includes, but is not limited to food, travel, promotional items, and tickets to entertainment events.

X. Prohibition on Undue Favoritism

- A. Undue favoritism occurs when a person who, by virtue of his or her position with the College, has authority to grant or deny College-related benefits, privileges, or rewards, but abandons professional judgment and confers such a benefit based on factors other than individual merit and qualifications.
- B. Conduct that meets the foregoing definition of undue favoritism is prohibited by the College.

XI. Endorsements

- A. No employee of the College will cause, permit, or assist any organization or individual, to distribute through the College or through College technology

resources any commercial material of a purely advertising nature, unless that material relates to identified potential purchases in support of College programs or operations.

- B. College employees shall neither be involved in any commercial venture on the College premises, nor utilize College technology resources to promote any commercial venture—which involves the solicitation, acceptance of orders for, or the delivery of any commercial product or services unless all of the following conditions are met:
 - 1. The commercial venture is for the benefit of the College or for a project that is sponsored by a "recognized" group or organization. "Recognized" groups or organizations are those which have approved charters on file with the campus Student Life Office or which have been duly authorized by the President.
 - 2. The procurement of the product or service is covered by either a written agreement between the College and the vendor or a purchase order issued by the Director of Procurement.
 - 3. Any profits and/or commissions will become the property of Montgomery College.
 - 4. No rebates, commissions, gifts, samples, or other considerations will inure to the benefit of any College employee.
- C. Although engaging in a commercial venture outside of College time and off College premises is permitted where it does not otherwise interfere with an employee's duties to the College, no College employee who engages in such a venture shall imply College sponsorship or endorsement of a particular product or service, or otherwise trade on the reputation or goodwill of the College. Mere identification of the College as one's employer is permitted, provided that such identification is not used to imply College sponsorship or endorsement.
- D. Appropriate College staff may provide references for services and items used by Montgomery College. Such references may only be furnished in response to a specific verifiable request from another institution, a business entity, or an organization. In this context, providing a truthful favorable reference does not constitute an endorsement prohibited by this procedure.

XII. Procurement of Goods and Services

- A. College employees shall not recommend or participate in decisions or actions regarding the procurement of a specific product or service in circumstances when the employee, or a relative of the employee, has a substantial direct or indirect financial interest in the entity furnishing the product or service. Examples of the above include:
 - 1. A buyer ordering products from a firm in which he or she has a financial interest;
 - 2. An account manager authorizing the purchase of consultant services from a member of his or her immediate family.

- B. In the event that participation in decisions and actions such as those noted above appears unavoidable by nature of an employee's position at the College, it is the responsibility of the employee to notify their immediate supervisor of the nature and extent of the employee's interest prior to participating in any such decision. The vice president/provost or the appropriate administrative supervisor, in consultation with the Chief Compliance, Risk, and Ethics Officer, is authorized by the President to render a final decision regarding the employee's participation in such decisions or actions.
- C. Any College employee, with the concurrence of his or her supervisor, may withdraw voluntarily from participation in any decision or action which may conflict, or which may raise the appearance of conflict, between the employee's private, personal interests and the employee's duties to the College.

XIII. Conflicts of Commitment

A. Description

A Conflict of Commitment arises only when other activities burden or interfere with an employee's primary obligations and commitments to the College. All full-time faculty and staff members are expected to devote their primary professional time, and energy to their position at Montgomery College.

B. Activities Which May Constitute a Conflict of Commitment

A Conflict of Commitment may exist even if the individual does not receive compensation for the external activity. Such activities include employment outside the College, employment in a second position at the College (in addition to a full-time position), involvement with professional societies, community service, conferences, consulting, and business activities related to outside entities including start-up companies.

C. Disclosure Required

In general, where an activity overlaps with an employee's regularly-scheduled work hours at the College, or often requires the employee's attention during those work hours, the employee must disclose the activity through the process set forth in Section IV.D above, in the interest of transparency.

D. Exemption from Disclosure: Prescribed Responsibilities to the College

Faculty and staff members have prescribed domains of job responsibility, defined in their respective position descriptions. External activities—such as involvement in professional associations or affinity groups—that fall within the employee's scope of work or directly advance the employee's core responsibilities to the College are exempt from this disclosure requirement, as such activities do not constitute a conflict of commitment.

Union activities authorized by collective bargaining agreements do not constitute conflicts of commitment and are exempt from disclosure.

E. Outside Employment

1. College employees may not engage in any other employment or in any

private business that conflicts with duties owed to Montgomery College. Faculty may be assigned duties during those hours that the College is open. The assignment of specific hours varies from semester to semester and duties frequently require availability at short notice.

2. Because outside employment may affect an employee's performance of assigned College duties, full-time employees who engage in employment outside of the College are must disclose the nature and extent of the outside employment to the Office of Compliance, Risk, and Ethics in accordance with Section IV.D, above.

F. Part-time Teaching at Montgomery College by Administrators and Staff

1. Administrators

An administrator may teach part-time at the College provided that all of the following conditions are met:

- a. The administrator must be appropriately qualified to teach the particular course.
- b. An administrator may not teach more than one course in any given semester or summer session, unless the course is part of a regular work assignment.
- c. The teaching must have the approval of the administrator's supervisor.
- d. The part-time teaching assignment shall be made in accordance with the procedures of the relevant campus, and the appropriate dean has final responsibility for assignment of courses.
- e. If the teaching is a part of the administrator's regular assigned workload or is done during the regular administrative work schedule, there will be no extra compensation.
- f. If the teaching is done outside of the regular administrative work schedule, compensation at the part-time faculty teaching rate may be granted, with approval of the Senior Vice President for Academic Affairs.

2. Full-time Exempt Staff

Full-time exempt staff may teach part-time at the College provided that all of the following conditions are met:

- a. The person must be appropriately qualified to teach the particular course(s).
- b. The part-time teaching assignment shall be made in accordance with the procedures of the relevant campus.
- c. Compensation shall be based on the part-time faculty salary schedule.

- d. The part-time teaching shall be done outside of the individual's normal work schedule.
- e. Full-time exempt staff may not teach credit courses as part of their normal work assignment.

3. Full-time Non-exempt Staff

Full-time non-exempt staff shall not teach part-time at the College.

XIV. Use of Faculty-Owned Works in College Courses

A. Faculty-Owned Works in Credit Courses

Full-time and part-time faculty members may require use of their own copyrighted works in credit courses in accordance with the following procedures:

- 1. Prior to assigning materials for which the faculty member holds the copyright in a for-credit College course, the faculty member will submit the material for review to a campus review committee composed of faculty members in the discipline which is covered by the material.
- 2. The members of the discipline review committee will be selected by discipline faculty.
- 3. The discipline review committee shall:
 - a. Review the appropriateness of the materials for the student population and the relevant course;
 - b. Conduct a cost comparison with similar materials; and
 - c. Approve or disapprove the assignment of the particular instructional material for use in the credit course. The committee's decision will be noted in writing and forwarded to the faculty member, appropriate dean, and the bookstore.
- 4. The faculty member may appeal the decision of the campus discipline review committee to the Faculty Council, which may involve discipline faculty from other campuses in the appeal process before rendering a decision. The Faculty Council's decision is final; it may not be appealed.
- 5. The respective dean is responsible for assuring that the processes set forth above are followed.
- 6. Faculty-owned materials which are approved for use by the appropriate faculty discipline review committee may be ordered through a campus bookstore in accordance with normal procedures for ordering instructional materials.
- 7. The Senior Vice President for Academic Affairs or designee shall ensure compliance with the process set forth above.

B. Faculty-Owned Works in Non-Credit Courses

Faculty members who teach non-credit courses may require the use of their own copyrighted works in non-credit Continuing Education courses and programs only with the written approval of the appropriate dean.

XV. Misuse of Information

No employee of the College shall, for personal gain or for the gain of others, use any information not available to the public that was obtained as a result of employment at the College, including contact information, aggregated employee or student email address lists, or information concerning prospective customers or clients.

XVI. Use of College Resources

- A. All College resources—including property, supplies, equipment, materials, employee time, buildings, technology, and certain services—are purchased and/or maintained, in whole or in part, from appropriated public funds. As a publicly supported institution, the College has a responsibility to ensure that its resources are used and consumed for the specific educational or support purposes for which they are authorized.

B. Use of College Property

All College property (including supplies, installed and movable equipment, and motor vehicles) shall be used by employees only for purposes related to the authorized business of the College.

C. Use of College Resources for Non-College Activities

Use of College resources—including, but not limited to, paper, personnel time, photocopy machines, software, word-processing equipment, mail facilities, email servers, messenger services, or other College-funded services—in support and/or furtherance of personal activities or the activities of any private organization is a misuse of public funds and is not permitted.

D. Construction of Provisions Regarding Use of College Resources

Nothing in the preceding subsections is intended to nor shall override any negotiated union rights to use College space or resources as provided for in applicable collective bargaining agreements.

E. Authorization for Use of College Resources

1. Responsibility for ensuring that inventorial property is used for its authorized purpose is assumed by the individual accountable for the control and general security of the property as provided for in the policies and procedures pertaining to property control, as well as by the individual employee.
2. Responsibility for ensuring that non-inventorial property, supplies, and other College resources are used for an authorized purpose is assumed by the head of the department or office, academic or administrative, in which the resources are normally used or consumed, as well as by the

individual employee.

3. Responsibility for ensuring that the staff services of College employees are used solely for an authorized purpose is assumed by the head of the office, academic or administrative, to which the employee is assigned, as well as by the individual employee.

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