

# **Conflict of Interest By-law**

## **By-law No. 10**

**Definition:**

An actual or potential conflict of interest arises when a member is placed in a situation where his or her personal interest, financial or otherwise, or that of a proximate third party (who may also be a member) conflicts or appears to conflict with his or her primary responsibility to the University.

For the purpose of this by-law “proximate third party” refers to immediate family (spouse, partner, parent, child or sibling); persons with whom there exists, or has recently existed an intimate (sexual and/or non-sexual) personal relationship; and, former, existing or prospective business associates, whether or not they are members.

For the purpose of this by-law “member(s)” includes:

- a person employed by the University,
- a person whose salary is paid from externally funded specific purpose grants and contracts
- a person who has a contract to provide services to the University in a research, teaching or administrative capacity
- a person conducting research at the University with funds administered by the University
- a student registered in course work or in a degree program at the University
- a person appointed to serve on a University committee, Board of Governors, the Brandon University Foundation, and/or the Brandon University Alumni Association, and
- a person holding an appointment as an Adjunct Professor, Professor Emeritus or other like academic appointment.

The existence of an actual or potential conflict of interest does not depend upon willful wrongdoing by a member nor upon the issue of whether the judgment of a person has, in fact, been affected. A conflict of interest may exist whether or not a pecuniary advantage has been or may have been conferred upon the person.

The existence of an actual or potential conflict of interest does not necessarily preclude the involvement of the member in the situation where the conflict has arisen or may arise, but it does mean that the conflict should be declared by the member and resolved in conjunction with the person to whom the member reports. It is recognized that in some situations, there may be legitimate doubt as to whether a conflict of interest exists, in which case, discussion with the person to whom the member reports may clarify the issue and/or lead to a solution. These considerations notwithstanding, the following examples provide a framework for interpreting and addressing conflict of interest situations that may arise at Brandon University. The list is illustrative not exhaustive:

**Employment, supervision or evaluation:**

No member shall participate in the appointment, employment, promotion, supervision or evaluation of a proximate third party.

Where the proximate third party is a student, it is the responsibility of the member to disclose the matter to the appropriate Dean/Director and to cooperate with measures for avoidance of the conflict of interest that the Dean/Director recommends to the member. When avoidance of apparent conflict of interest would be unfair to a student (e.g. because a particular course is required for their program), Deans/Directors should make arrangements for independent evaluation of the student's work and address perceptions other students may have regarding fairness and impartiality, as appropriate, for the protection of the student, the member and the University.

**Acquisition and disposition of assets:**

No member shall influence, participate in or authorize the acquisition or disposition by the University of any asset, including supplies or services from or to an enterprise in which the member or a proximate third party has a pecuniary interest.

**Participation in organizations doing business with the University:**

No member may influence the decisions of an external enterprise doing business with the University, whether or not for profit, as it relates to the University in general and to the member's activities at the University specifically.

**Unauthorized use of privileged information:**

Information acquired as a result of the member's position may not be used for purposes unrelated to that position. Specifically, members are prohibited from using, for personal gain, the benefit of proximate third parties, or other unauthorized purposes, information acquired as a result of the member's University activities that are not available to the general public. Such information might include, but is not limited to, knowledge of forthcoming developments requiring contractor or consultant selection or bulk purchases, but not the member's own intellectual property.

**Use of University services and resources:**

A member may not make more than inconsequential use of University facilities, supplies, resources or services of other members to serve a personal interest or the interests of proximate third parties unless authorized to do so.

**Acceptance of gifts:**

Acceptance of gifts, gratuities, or favours in any form (except for gifts of purely nominal value and social entertainment considered in keeping with established professional ethics and which does not obligate the member) is prohibited.

**Competition with the University:**

No member may compete with the business of the University in which the member is actively involved, unless such activity has been duly authorized. No member may be associated in any manner with an enterprise that, in any manner, including through its name, publicity or operations, falsely implies that it is associated with or benefits from the University, unless authorized to do so.

**Circumstances that do not constitute a conflict of interest:**

A conflict of interest does not exist when:

- members participate in negotiations with respect to salary or other terms of employment on behalf of the university or a group of employees
- a member represents another member
- the interest of the member and any benefit to the member is only as part of the advancement of the interest of the member's administrative or academic unit, or the University
- members participate in collegial processes relating to another member and his/her terms of employment, understanding that such participation is limited to providing information and associated discussions and not to decision-making and related deliberations

**Duty to Disclose:**

Members shall disclose the existence of an actual or potential conflict of interest. Where the conflict arises in the course of the business of a University committee, disclosure shall be to the chair of the committee; and in any other case, disclosure shall be to the University administrator who is responsible for the matter to which the conflict of interest pertains.

Should the member be uncertain whether there exists a conflict of interest requiring disqualification, he/she shall declare his/her interest in the matter, question or issue and shall be governed by the decision made by his/her supervisor (or person with like responsibilities) or committee majority vote of those present, whether he/she shall be disqualified from further participation.

*Passed by Board of Governors February 27, 2003*

*Name Changed from "Conflict of Interest Policy" to "Conflict of Interest By-law" at the March 25, 2004 Board of Governors meeting.*