

MAINE COMMUNITY COLLEGE SYSTEM
Understanding and Complying with the Conflict of Interest Rules

A. Overview

1. Defining a Conflict

A conflict of interest arises when the institutional interests of a college or the System conflict with the personal interests of its employees.

2. Reasons for Avoiding a Conflict

Actual and apparent conflicts of interest have the potential to result in serious harm to the MCCS and its employees. This harm includes monetary loss, negative publicity, and erosion of employee morale and public confidence. Such conflicts can also subject the employee to both disciplinary action under MCCS policy and criminal prosecution under state law.

3. Actual vs. Apparent Conflicts

Generally speaking, there are two types of conflicts: those that actually exist (“actual conflicts”) and those that may not actually exist but that reasonably appear to others to exist (“apparent conflicts”). Employees are required by state law to avoid actual conflicts, and by MCCS policy to avoid both actual and apparent conflicts.

4. Types of Conflicts

Actual and apparent conflicts of interest can arise in number of different situations. For examples of such situations, see *section B* below.

5. Economic Conflicts

Often, the most common conflict is economic; where an employee stands to receive a unique private or personal economic benefit or value as a result of his or her employment. Employees must not accept anything of greater than minimal benefit or value, and should be cautious about accepting anything that provides any benefit or value. Both state law and MCCS policy distinguish between:

- a. those minor and inconsequential benefits which are too small (i.e., less than \$25 value), customary (e.g., a courtesy copy of a textbook or a holiday fruit basket), or incidental (e.g., a company pen or mouse pad) to threaten the integrity of MCCS business; and
- b. those benefits that are in fact substantial and material enough to affect, or appear to affect, the course of such business (e.g., a free condominium for a family weekend).

6. Erring on the Side of Caution

The analysis of whether an employee has an actual or perceived conflict of interest often turns on the specific facts of each case. Consequently, if an employee believes that he or she may have a conflict of interest, or if the employee is not sure whether he or she has a conflict, the employee must err on the side of avoiding the conflict by promptly and fully disclosing the issue to the employee's college president or the president's designee.

B. Areas Where Conflicts are Prohibited

Generally speaking, the most common conflicts of interest that are prohibited by M CCS policy and/or state law are as follows. An M CCS employee must not:

1. Use or attempt to use, in a manner contrary to the interest of the M CCS, his or her position or M CCS property or services, to gain or attempt to gain anything for the private benefit of the employee;
2. Solicit or receive gifts or entertainment of significant monetary value from suppliers of goods or services, or from persons seeking an association with the M CCS;
3. Solicit or receive gifts or entertainment of significant monetary value from suppliers of goods or services, or from persons already associated with the M CCS;
4. Use confidential information acquired in connection with M CCS related activities for personal gain or for other unauthorized purposes;
5. Enter into any contract or lease with the M CCS if the employee is in a position to approve or influence in his/her official capacity the M CCS' decision to enter into the contract or lease;
6. Contract with the M CCS to provide a service which is the same as or similar to the service that the employee provides as an M CCS employee;
7. Use the official title of the M CCS or any of its parts, in whatever form that title may appear, except in connection with legitimate M CCS purposes;
8. Make unauthorized use of any M CCS resources, including the services of M CCS employees, the M CCS name, facilities, equipment, stationery, supplies, personnel and other resources for the personal benefit of the employee;
9. Have a romantic or sexual relationship with another employee when the employee supervises or otherwise has authority over the other employee;

10. Have a romantic or sexual relationship with a student when the employee instructs, advises or otherwise has authority over that student;
11. Supervise or participate in employment, grievance, retention, promotion, salary, leave, or other personnel decisions concerning members of the employee's immediate family;
12. Participate in institutional academic decisions involving a direct benefit to a close relative;
13. Accept any outside position that would impair the employee's ability to fulfill the employee's obligations to the MCCS; and
14. Engage in outside activities that could impair the employee's judgment in the performance of MCCS duties and responsibilities.

C. Handling a Conflict

1. Deciding Whether There is a Conflict

The analysis of whether an employee has an actual or perceived conflict of interest often turns on the specific facts of each case. Consequently, if an employee believes that he or she may have a conflict of interest, or if the employee is not sure whether he or she has a conflict, the employee must promptly and fully disclose the issue to his or her college president or the president's designee. During this disclosure and discussion period, the employee must also refrain from participating in any way in the matter, or from accepting anything of personal value, to which the conflict relates until the question has been resolved.

2. Avoiding the Conflict

Generally speaking, there are three ways to avoid a conflict of interest. The first way is to disclose the issue to the college president or the president's designee as described above. The second is to participate but not accept anything of value from someone affected by that participation. The third way is to not participate either officially or informally in the employment function or decision that involves the employee's personal interest. In all events, the employee should not decide alone whether the employee has a conflict and, if so, which of these, or perhaps another, action should be taken.

D. Specific Provisions of Maine Law

For the specific requirements imposed by Maine law, employees should consult:

1. [17 MRSA §3104, Conflicts of Interest](#)
2. [17-A M.R.S.A. §602, Bribery in Official Matters](#)
3. [17-A MRSA §604, Improper Compensation for Past Action](#)
4. [17-A MRSA §605, Improper Gifts to Public Servants](#)
5. [17-A MRSA §606, Improper Compensation for Services](#)
6. [17-A MRSA §609, Misuse of Information](#)

E. Specific Provisions of MCCS Policy

For related requirements imposed by various MCCS Policy, employees should consult MCCS Policies 211 (Sexual Harassment and Consensual Relations), 410 (Conflict of Interest), 704 (Employee Travel for System Business), 707 (Acceptance of Gifts), and 710 (College Affiliations with Foundations).

REFERENCES: MCCS Policy 410 and sources cited above

DATE ADOPTED: March 23, 2010

DATE(S) AMENDED: