

**MAINE COMMUNITY COLLEGE SYSTEM**

**PERSONNEL AND EMPLOYEE RELATIONS**

**Section 410.1**

**SUBJECT: CONFLICTS OF INTEREST**

**PURPOSE: To provide guidelines and procedures for avoiding conflicts of interest**

---

**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 MCCS policy and/or state law are as follows. An MCCS employee must not:

1. Use or attempt to use, in a manner contrary to the interest of the MCCS, his or her position or MCCS 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 MCCS;
3. Solicit or receive gifts or entertainment of significant monetary value from suppliers of goods or services, or from persons already associated with the MCCS;
4. Use confidential information acquired in connection with MCCS related activities for personal gain or for other unauthorized purposes;
5. Enter into any contract or lease with the MCCS if the employee is in a position to approve or influence in his/her official capacity the MCCS' decision to enter into the contract or lease;
6. Contract with the MCCS to provide a service which is the same as or similar to the service that the employee provides as an MCCS employee;
7. Use the official title of the MCCS or any of its parts, in whatever form that title may appear, except in connection with legitimate MCCS purposes;
8. Make unauthorized use of any MCCS resources, including the services of MCCS employees, the MCCS 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 MCCC; and
14. Engage in outside activities that could impair the employee's judgment in the performance of MCCC 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.

### **3. Employees Serving as Vendors**

Any employment contract with a person who has or is reasonably expected to benefit from a non-employment contract with a college or the System (i.e., a vendor becoming an employee), and any non-employment contract that benefits a person who has or is reasonably expected to have an employment contract with a college or the System (i.e., an employee becoming a vendor), shall be referred to the MCCC President or designee for review and approval prior to any commitment being made to such person(s).

#### **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 MCCC Policy**

For related requirements imposed by various MCCC Policy, employees should consult MCCC 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: MCCC Policy 410 and sources cited above

DATE ADOPTED: March 23, 2010

DATE(S) AMENDED: January 24, 2012