Administrative Conflict of Interest (ACOI) Frequently Asked Questions (FAQs)

To whom does the ACOI disclosure process apply?
Duke senior leadership, high-level administrators and individuals who are independently responsible for making decisions for or on behalf of Duke University or Duke University Health System (DUHS) are required to disclose outside financial relationships. Additional employees may be included due to their job codes and/or organization units; for example, all staff in the Duke Office of Audit, Risk and Compliance (OARC) must complete the online form annually regardless of position.

What am I being asked to do?
You are being asked to do two things:

- First, to comply with the Duke Financial Conflict of Interest Policy (Policy) and other ethical standards of institutional importance to the university and health system (e.g., conflict of commitment, nepotism and gift prohibition).

- Second, to submit an annual COI disclosure form and to update your responses over the course of the year, within 30 days of a reportable change. Examples of a reportable change include acquiring or discovering (e.g., through purchase, marriage, inheritance) a new financial interest, including but not limited to an outside position, equity in a business, royalties or honoraria, or employing a member of your family.

How will the Policy and ethical standards be interpreted and implemented?
The Policy will be interpreted and implemented to accomplish its purposes: that is, to protect the integrity of the university and health system and the individuals covered by the Policy. In this regard, it is important to remember that an essential aspect of any COI policy is to prevent even the perception of a conflict because the integrity of the university and health system can be compromised by even the appearance of COI. Consider how the transaction or behavior in question would appear to the public if it were published on the front page of the local newspaper, or how the action would be explained to a trustee, parent or student as in Duke’s best interests.

How are family members of an employee covered and why?
Family members are covered in two ways:

- For financial COI, the Policy requires the individual to report his/her own financial interests and those of any immediate family member, which is defined to include a spouse, spousal equivalent and/or dependent children. Under these rules, the concern is that the family members’ financial interests can affect an individual’s decisions related to objectivity in their institutional responsibilities.

- For nepotism (decisions affecting the employment of relatives), “family” is broader and includes a spouse, spousal equivalent, children, parents, brothers, sisters, step-parents, step-children, step-brothers or sisters, and other persons living in the same household as that individual. There is a concern when an employee hires or supervises a family member, or where the employee can influence employment decisions affecting the family member (e.g., hiring, firing, setting hours and wages, evaluations, promotion).
What disclosures are required?
The disclosure form includes questions that try to identify relationships, primarily financial, that may affect your work for Duke. Examples of areas that might be affected include purchasing or recommending items on Duke’s behalf.

What are some examples of financial COI?
Financial COI may exist when there is a financial interest that has the potential to directly and significantly affect the performance of duties and responsibilities on behalf of Duke. Examples include:

- A financial interest that affects the care provided to a patient. For example, a decision to provide one treatment over another because the individual has a consulting contract with the company that manufactures the first treatment.

- A financial interest that affects the purchase of items like equipment, supplies and services. For example, ownership by an administrator or a family member in a vendor or potential vendor that does or may do business with Duke when the administrator has some control over the decision or recommendation of purchases from vendors offering the same services or products.

- A financial interest that affects what information the individual decides to include in an article or presentation.

Are there examples of financial interests that are exempt from the COI review process?
The following do not constitute financial interests of concern to this policy:

- Ownership of a share or shares in a mutual fund that the individual does not directly control;

- Salary or other payment from Duke or another U.S. institution of higher education, from hospitals, from research institutes or from a branch of government, including federal, state or local; and

- Payments from the Private Diagnostic Clinic, PLLC (PDC) are also considered exempt.

Do I need to report personal payments from the federal government or the PDC?
No, payments from the federal government and its agencies do not generally need to be reported. Payments from the PDC are also exempt from reporting, unless it acts as an intermediary for a consulting arrangement.

How should I handle payments from a contractor, like a medical education company, when I know who the primary sponsor is?
Payments from subsidiary companies and contractors should be reported as coming from the parent company. For example, if Company X hires a contractor to run a conference and the honorarium check comes from the meeting organizers, the money should still be attributed to Company X and should be included on the COI reporting form. In some cases, meetings may have multiple sponsors, each of whom makes contributions that are not easily distinguishable. In those cases, if the meeting meets the standard for independence (e.g., continuing medical education certification), the honorarium need not be reported; otherwise, payments should be reported as coming from the parent
company.

How should I report payments from companies that operate as subsidiaries?
In general, companies that are owned by larger companies (for example, Janssen and Ortho Biotech are owned by Johnson & Johnson) will be treated as one entity (the overarching company – Johnson & Johnson in this case), unless the COI office specifically concurs that the subsidiary truly operates independently of the holding company.

Do I need to report all my payments from external entities? For example, I own a pizza franchise in Hickory. Do I need to report that?
If the entity making payments to the faculty or staff member has very little likelihood of a business relationship with Duke (for example, if the company has no business activities in North America), it does not need to be reported on the annual form. The goal is to evaluate external relationships that might overlap with Duke institutional responsibilities like purchasing or teaching.

What are some examples of a conflict of commitment?
A conflict of commitment can exist when a non-Duke obligation prevents an individual from spending the time required for his/her full-time commitment to the university or health system. Examples include:

− Membership on multiple scientific advisory or corporate boards or committees that could take an individual away from his/her job at the university or health system to the extent that the employee's full-time job obligations are not met;
− Employment by another entity that is intended to be part-time but that interferes with full-time duties at the university or health system even if unrelated to the missions of Duke (e.g., part-time real estate agent or owner/manager in a start-up company); and
− For faculty, the fundamental rule is that consulting should be limited to approximately one day per week to a maximum of 440 hours per year for full-time employees.

How are the COI disclosure forms reviewed?
Administrative (non-research) forms are reviewed by OARC. Sometimes, the information submitted is incomplete or needs more information, and review staff will ask you to supplement or clarify your answer. Issues that reach thresholds of possible conflicts are reviewed by OARC and may be referred to one of the four Duke COI committees (Oversight/Administrative, School of Medicine/School of Nursing, Campus and Institutional) to decide if a conflict requires management, approve the management or recommend additional oversight. If the review staff or committee determines that management is needed, OARC staff will contact you to develop a plan appropriately tailored to the conflict. You will be required to sign and return the management plan.

For employees involved in research, forms are reviewed initially by the Duke Research Integrity Office (School of Medicine/School of Nursing/health system) and Office of Research Support (campus) to determine if there are any relationships over pre-defined thresholds.

What is a conflict management plan?
A conflict management plan documents your role at Duke and the fact that your financial interest results in a potential conflict, and it contains the terms for managing issues going forward.
Management plans are common and required by Duke policy. Terms that may be included in a management plan include:

- Public disclosure of the financial interest;
- Reducing or eliminating the financial interest (e.g., sale of an equity interest);
- Severing of relationships that create financial conflicts;
- Confirming the employee’s agreement to the management plan; and
- Describing how the plan will be monitored to ensure compliance.

What are the thresholds for when disclosure is required and for when management plans will be necessary?

Disclosure on the annual COI form is required when personal payments of $5,000/year from an external entity (business or individual) are received. Cautionary memos are issued for relationships between $5,000 and $50,000; these memos have most of the terms of management plans without oversight or signatures. Management plans are developed for relationships of $50,000/year or more. Disclosure is always recommended when you feel your objectivity could be called into question if you do not volunteer the information.

How does Duke handle equity in publicly traded companies?

Faculty members with fair market equity holdings ≥$5,000 in a publically-traded company are subject to the same rules as if they had received ≥$5,000 in payments/year, and holdings at this level should be reported on the annual COI reporting form. The same situation applies with ≥$50,000 in equity in a publically-traded company. Holdings of immediate family members should be aggregated for determining value. For reporting purposes, the value of a share of publicly traded stock will generally be determined on the basis of the stock’s price on the last day of trading in the previous year.

What if a company compensates me in equity instead of payments?

If a company grants equity of a certain value or number of shares in lieu of payments, the equity will be treated as if it is a payment in the first year after the transfer. Thereafter it will be treated as equity. For example, if a faculty member was given 10,000 shares of a $4.00 stock in lieu of cash, during the first year after the stock transfer, this would be considered a cash payment of $40,000.

How does Duke treat equity in privately held companies?

Because it may be difficult to determine fair market value for privately traded companies, all related equity holdings in privately traded companies must be reported in the annual COI reporting process. In most cases, any equity in a non-publicly traded company is treated as if it exceeds the $50,000 threshold, although this may be discussed with the COI Committee on a case-by-case basis.

How does Duke consider stock options?

Because options are volatile and complex, all stock options (even for a single share) must be reported on the annual COI reporting form. These will be evaluated by OARC and the COI Committee to determine the approximate value.
Do I need to report patents and intellectual property when the Office of Licensing and Ventures (OLV) knows about them?

When a faculty member has a patent or significant intellectual property that is or might be licensed, this situation should be reported on the annual COI reporting form. While OLV may know about patents and intellectual property, the number of people involved in the management of patents and intellectual property and the need for completeness require reporting this information on the annual COI reporting form.

Are any gifts acceptable or are they all banned?

That depends on where you work at Duke. Campus-based employees are prohibited from accepting material gifts, favors or hospitality that may influence or appear to influence their decision making or compromise their judgment in actions; that is, anything having a fair market value of $25 or more.

What are examples of permissible gifts?

For non-Duke Health areas, gifts that could be allowed include:

- Accepting a meal from a potential contributor or donor to Duke, when development activities are part of the employee’s job responsibilities;
- Accepting a gift from a current or potential vendor that is unrelated to the employee’s job responsibilities, (e.g., for an existing personal relationship).

What are examples of gifts that are not allowed?

The following gifts are not allowed:

- Accepting a gift basket of food/wine even if you intend to share it with all the employees in the division or department;
- Accepting from a vendor representative payment for a dinner attended by the employee;
- Accepting from a vendor tickets to sporting events, concerts, plays and similar events;
- Accepting from a vendor merchandise, such as televisions, watches, etc.;
- Payment from a vendor of expenses to attend a conference;
- Using a vendor representative’s vacation home for free or less than fair market value (unless the vendor representative is an immediate family member and the home is used for a family gathering); and
- Accepting free clinical supplies, items or equipment that would not be in compliance with Procurement’s vendor policy.

Does the gift prohibition include the payment of travel expenses related to vendor advisory boards?

Duke allows companies to hire faculty or employees as consultants. Travel to consulting activities, including advisory boards, may be paid by the company. If the company is a direct vendor to Duke and the employee is asked to serve on an advisory board, the situation must be evaluated and approved by the employee’s supervisor. If it is determined that the board participation is in the best interest of Duke and its constituency, then the expenses related to that service must be paid by Duke.
Does the gift prohibition include the payment by a vendor of travel expenses related to a site visit to review the vendor’s capabilities to provide goods or services to Duke?

Yes. With regard to visits to vendor facilities, if the department administrator, in consultation with Procurement, determines that it is in the best interest of Duke, then Duke will pay the travel expenses.

Are disclosure forms kept confidential?

Yes, disclosure forms are kept confidential except where a disclosure is required by law or for an administrative purpose (e.g., review by the COI Committee).

Who should I contact with other questions?

If you have questions that have not been addressed here, please contact OARC at admincoi@dm.duke.edu or 919-613-7630.

NOTE: The ACOI process does not cover research. For further information on research-related COI:

School of Medicine/School of Nursing/Duke University Health Center:

Duke Research Integrity Office (RIO) webpage or email RIO staff at duk ecoi@dm.duke.edu

Campus:

coi-campus@duke.edu (link sends e-mail) or 919-684-3030