

SOM- Department of Obstetrics and Gynecology	TITLE: MCG Policy for Avoiding Conflicts of Interest	Policy: LR004
Department Guideline	Date: September 20, 2005	Rev. 0
Approvals:		
Chairman/Date	Dept. Manager/Date	

URL link to this online policy is: <http://www.mcg.edu/Services/Legal/conflicts.htm>

Guidelines for Avoiding Conflicts of Interest

The following document is a brief summary of those laws, policies and regulations applicable to MCG employees and dealing with the topic of Conflicts of Interest.



I. Rules and Regulations Applicable to All MCG Faculty, Housestaff and Employees

1. Gratuities

There have been some significant proposed changes to Georgia state regulations governing the acceptance of gifts and gratuities by state employees and the law is somewhat ambiguous at the present time. In January of 2003, Governor Perdue issued stringent new guidelines pertaining to gratuities which would apply to most public employees, including anyone employed at MCG. These guidelines, contained in an Executive Order on Ethics, were broad in their scope and would prohibit many practices common on college campuses: such as accepting honoraria for a speaking engagement. Representatives of the Board of Regents met with members of the Governor's staff to discuss our concerns in March of 2003. As a result of that meeting, the Governor, through his staff, has agreed to allow University System institutions and employees to apply interim policies and procedures regarding ethics, pending a formal revision of the original Executive Order. As of the date of this entry, the formal revision has not yet occurred. MCG is still operating under the interim policies and will do so until such time as the Governor amends his Executive Order. Any changes will be noted on this website.

In accord with the situation we have just described, the Board of Regents' and MCG's interim policy on gifts and gratuities is as follows:

- No MCG employee shall accept a gift from any person with whom MCG currently does business, including lobbyists, vendors, patients and students. A "gift" is defined as anything (including but not limited to goods, services, memberships, transportation, food, and loans) having a value of more than \$25. An "MCG employee" is anyone employed by MCG in a full-time or part-time capacity but does not include consultants or independent contractors.

This policy does not preclude the receipt of personal gifts. Only gifts from persons who currently do business with MCG are affected. Note that receipt of a gift from a person may preclude them from doing business with MCG in the future. A gift to MCG is also not prohibited; only gifts to individual employees are banned. . For instance, if a pharmaceutical Company donates \$1000 to a department to be used for books or travel; this is not a gratuity since it is a gift to MCG and not to an individual. Any such gifts must be available to all members of the department (or all faculty or residents of the Department) and not for the use or benefit of one or two individuals.

It is not uncommon for a gift to be made where the MCG employee is unsure of the value. The employee should use his or her best judgment in estimating the value of such a gift and if that value is estimated to be more than \$25, the gift should be declined or donated to MCG (as mentioned above).

Offers of meals and beverages are covered by this prohibition. Thus, an employee may accept a meal and/or beverages so long as the value of that meal is not greater than \$25. There is an exception to this general rule for situations where a meal or beverages are offered to all attendees at a meeting or conference. For instance, a reception including food and beverage at a conference. The offer must be open to all attendees at the meeting or conference to meet this exception. This would also apply to situations where a vendor wanted to supply a meal to all faculty and/or residents of a department or section.

A related exception allows MCG employees to accept reasonable and actual reimbursement for travel and fees to attend a professional meeting. The travel must be official, MCG travel as evidenced by prior approval of an MCG travel request form. See: <http://www.mcg.edu/policies/1203.html>.

- No member of an MCG employee's family shall accept a gift from any person with whom MCG does business. "Family member" is defined as an employee's spouse, parent, child, sibling, uncle, aunt, niece, nephew, in-laws, first cousins, stepparents, stepchildren, step-siblings, half-brothers and half-sisters.
- MCG employees may not accept honoraria for their services. "Honoraria" does not include payments to individual employees as compensation for a seminar, lecture, workshop, consultation or similar service provided the employee has received prior permission to engage in the activity in compliance with MCG's policy on outside professional activities. See: <http://www.mcg.edu/faculty/facman/policies.html#OutsideProfessionalActivity>.
- No MCG employee shall advocate for or cause the appointment, employment, promotion or transfer of any member of the employee's family to any position with any Georgia state agency.
- No MCG employee shall serve for compensation as an officer or member of the board of a for-profit or publicly held company. Service on a corporate board without compensation is permitted provided it does not conflict with the employee's MCG duties and the employee should obtain the permission of their immediate supervisor before accepting such appointment. Reimbursement of reasonable and actual out-of-pocket expenses related to service on a corporate board is not a gratuity.

One final factor to consider is that Georgia's laws and regulations do not require that

an employee actually be influenced by a gift or gratuity. Receipt of any prohibited gratuity is presumed to have influenced the employee and it is not necessary to actually demonstrate any favoritism or advantage resulting from the gift. Violations of these policies may subject an MCG employee to disciplinary action and employees have been terminated for this reason. Additionally, violations may subject an individual to criminal prosecution by state or local authorities.

2. Bribery

Similar to the Board of Regents policy on gratuities but narrower in scope is Georgia's law concerning the crime of bribery (see O.C.G.A. 16-10-02). This state law provides that any public employee who directly or indirectly solicits, receives, accepts or agrees to receive anything of value by inducing the reasonable belief that by the giving of this thing will influence his/her performance or failure to perform any official action is guilty of the crime of bribery. This crime is a felony punishable by up to a \$5,000.00 fine and imprisonment of up to twenty years, or both.

The major distinction between the state bribery statute and the Regents' gratuities policy is that bribery requires proof of a criminal intent. A person is not presumed to act with criminal intent and it must be proven. The "intent" in question here is the intent to induce a reasonable belief that acceptance of the gift would influence performance or failure to perform any official action (see Unofficial Opinion of the Attorney General, July 10, 1991). Again, there is no minimum value for such a gift to be a violation nor is there a requirement of a direct *quid pro quo*. A gift made to the Medical College of Georgia and not to an individual would not be covered under this statute. However, should an employee communicate to a vendor that the donation of such a piece of equipment to the Medical College of Georgia might result in their obtaining a contract with the school, this would be a violation of the statute. That is true even if that individual employee did not in any way influence the decision on the contract nor even if they had no ability to influence the decision on the contract.

It is also worth noting that the decision on whether or not there has been a violation of the statute and whether or not an individual would be prosecuted for it would not be made by the Medical College of Georgia, but by local prosecutors or the Attorney General's office.

3. Transacting Business with the State

All state employees are severely restricted in their ability to engage in business transactions with the state or any of its agencies. State law prohibits full-time or part-time employees of the State of Georgia from transacting any business with the state agency by which that person is employed, either for himself/herself, or on behalf of any business in which the employee or a member of the employee's family has a substantial interest. For purposes of this statute, the following definitions apply: "public employee" is any person who is employed by any state agency; "family" means spouse or any dependents; "business transaction" means any sale, purchase, or leasing of any real property, personal property, goods or services; and "substantial interest" means the direct or indirect ownership of more than twenty-five (25) percent of the assets or stock of any business. This means that any MCG employee is prohibited from doing any business with the Medical College of Georgia or any other institution which is part of the University System of Georgia. This prohibition would also apply to any business on whose behalf that employee was working or in which the employee or any member of

their family has a substantial interest. Violation of this statute subjects the employee to removal from employment, a fine of up to \$10,000.00 and a requirement of restitution of any benefits received as a result of such violation. It should also be noted that the business which engages in these activities would also be subject to a fine of up to \$10,000.00 and the requirement of restitution.

There are a number of exceptions to this general prohibition which are applicable to the Medical College of Georgia and its employees. Foremost among these is an exception for part-time employees on behalf of themselves or any business or a business in which the employer or a member of their family has a substantial interest may transact business with the agency by which they are employed provided one of the following conditions is met:

- (a) The transaction is made pursuant to a sealed, competitive bid;
- (b) The amount of a single transaction does not exceed \$250.00 and the total of all such transactions does not exceed \$9,000.00 for the calendar year; or
- (c) It is a transaction involving purchase of surplus state property at public auction.

State law also provides that part-time employees holding masters or doctoral degrees from an accredited college or university, physicians, dentists, psychologists, registered nurses, licensed to practice nurses, or interpreters for deaf persons employed by an agency of the government may work for another agency of the government. Persons wishing to employ other members of the University System in such a capacity should refer to the University System Consultant Agreement.

Georgia law does not prohibit full-time or part-time employees from transacting business with other state agencies. However, individuals are required to submit an annual financial disclosure report on or before January 31 of each year disclosing all such transactions occurring during the previous calendar year. A report is not required if each individual transaction is less than \$250.00 and if the total of all such transactions during the calendar year was less than \$9,000.00. Penalties for failure to file a disclosure report include termination of employment, fine of up to \$10,000.00 and restitution in full to the State of Georgia for the amount of any business transaction.

II. Policies and Regulations Applicable to Specific Categories of MCG Employees:

The following policies, rules and regulations apply only to specific categories of MCG employees.

1. Outside Professional Activities

The Medical College of Georgia has implemented policies concerning outside professional activities. This policy does not apply to all employees, but does apply to all full-time faculty, as well as persons in administrative positions, regardless of whether they also have faculty appointments. It does not apply to non-exempt classified employees or part-time faculty. The policy basically acknowledges that employment at the Medical College of Georgia sets certain limits on outside professional activities. Specifically, employees covered by this policy are not allowed to engage in any outside activities within the realm of their professional expertise without first obtaining the approval of their department chair/division director and dean/Vice President. The OA-1

form must be filled out and approved in advance of any outside activity. In addition, a yearly summary of all outside activities must be submitted by each employee covered by this policy. Failure to obtain the appropriate approval or submit the appropriate annual report may result in disciplinary action.

The types of outside activities an employee may engage in, the total amount of time that may be devoted to such activities and the amount of remuneration the employee may receive for these activities are not specified in the policy. Rather, they are left to the discretion of the individual chair, division director, dean and vice president. As a general rule, employees engaged in outside activities will be required to do so on their own time. That is, they may do it during times when they are not expected to be providing services to the institution or when they have taken appropriate leave. Generally, it is not necessary to obtain approval for an outside activity where no remuneration is received.

It is important to note that approval of an outside activity applies only to the activities of the individual employees submitting the OA1 and OA2 forms. Any use of ancillary support or of the facilities, supplies or equipment of the Medical College of Georgia must be separately requested and approved. Additionally, the Medical College of Georgia will expect full compensation for the value of those services, facilities or supplies.

2. Research Conflict of Interest

URL: <http://www.mcg.edu/Research/policy/coipol.html>

To ensure the integrity and objectivity of research and other scholarly activities of MCG employees, the Medical College of Georgia has enacted a policy requiring the disclosure of all financial conflicts of interest on the part of the principal investigator, co-investigator, or any other person, (e.g., post doctoral fellow) responsible for the design, conduct or reporting of research or scholarly activities which are funded or proposed for funding by a sponsor. "Significant financial interest" is defined to mean anything of monetary value including salary, equity interest, (e.g., stock or stock options) and intellectual property rights (e.g., patents or copyrights). All persons submitting a proposal for review and approval through the Office of Grants and Contracts will be required to sign a statement indicating whether or not they have any significant financial interest. This disclosure is included on the "Grants and Contracts Routing Sheet" (the so-called "purple sheet"). It must be signed by the principal investigator. Any disclosure must be updated by the investigator if at any time there is a change in the facts reported in the initial disclosure. For instance, if no conflict of interest existed at the time of the initial proposal but such a conflict arose during the course of the project or proposal, the investigator must file a disclosure of conflict of interest as soon as those facts become known to him or her. Upon disclosure of a significant interest, the department chair or other "responsible representative of the institution" will determine whether or not the conflict may be resolved. The policy offers numerous alternatives for resolution of conflicts of interest including public disclosure, monitoring, modification of the research plan, disqualification of the researcher from participation, and divestiture of any financial interest.

Penalties for failing to comply with this policy include all the same disciplinary action available for violation of any MCG policy. Additionally, if any federal funds are involved, federal regulations may apply which carry penalties including financial penalties, a ban of the investigator from applying for future grants and significant penalties against the Medical College of Georgia.

3. State Purchasing Regulations

Medical College of Georgia employees engaged in purchasing and procurement activities are subject to regulations related to state purchasing. These restrictions are in addition to those applicable to other employees at the Medical College of Georgia. These policies may be found in the State Purchasing Manual available in the Supply Administration Division.

4. VA Conflict of Interest

The U.S. Department of Veteran Affairs has recently amended its regulations regarding outside activities of VA employees. Employees of the Medical College of Georgia who are also part-time employees at the VA should contact the VA Medical Center-Augusta for information on these regulations and their application. Individuals who may be VA employees but who are also full-time or part-time employees of the Medical College of Georgia should be reminded that MCG policies still apply to them. The fact that an activity may be allowed under VA regulations does not automatically exempt the employee from the requirements of MCG policies and procedures.

Questions

This document is intended to serve as a reference and a guide to all employees at the Medical College of Georgia in complying with the various rules and regulations and requirements discussed above. It is each individual employee's responsibility to ensure that they are in compliance with these policies. If there is a question regarding application or interpretation of any of these policies and procedures it should be directed first to the supervisor. If it is not resolved at that level, inquiries may be directed to Legal Affairs 721-4018.