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| <b>Policy Title:</b>                       | Conflict of Interest Policy  |
| <b>Policy ID:</b>                          | #3-344   |
| <b>Manual Classification:</b>              | Section 3 – Human Resources  |
| <b>Approved by:</b>                        | Board of Governors   |
| <b>Revision Date(s):</b>                   | Original: May 26, 2021 (supersedes #4-404, <i>Employee Conflict of Interest</i> )                                      |
| <b>Effective Date:</b>                     | June 1, 2021   |
| <b>Next Policy Review Date:</b>            | May 2024   |
| <b>Contacts for Policy Interpretation:</b> | Vice President, Organizational Effectiveness and Human Resources<br>Director, Employee and Labour Relations<br>Counsel |

## 1.0 - Policy Statement

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Sir Sandford Fleming College (“the College”) strives to ensure integrity, transparency, and public confidence at all times. Employees of the College are expected to act in ways that maintain and enhance the reputation and integrity of the College, to conduct themselves in a transparent and accountable manner that would bear closest public scrutiny, and to ensure that they, their spouses/partners, and their dependants do not have private or financial interests that could conflict or appear to conflict with the discharge of the employee’s official duties.

Employees have an obligation to avoid placing themselves in a Conflict of Interest and to immediately disclose any such situation. The College is committed to working with employees to address any such situations in a fair, timely, and consistent manner.

An Employee may request and/or the College will seek appropriate consultation in instances that require Cultural consideration.

## 2.0 - Purpose

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The expectations in this Policy, and the operating procedure, are not intended to question the honesty and good faith of employees. Maintaining Fleming’s strong reputation for integrity requires that employees look beyond the scope of their intentions and motives, and consider how the public may view their actions.

This Policy is intended to:

- Provide a framework for recognizing Conflicts of Interest;

- Communicate a clear expectation that employees will disclose all Conflicts – actual, perceived, or potential – as part of a collaborative effort to maintain the College’s and employees’ reputation for integrity; and
- Support a process through which disclosures will be assessed quickly, fairly, consistently, and where a resolution is required, with the employee’s participation.

This Conflict of Interest Policy is not intended to:

- Restrict the ability of non-full-time College employees to teach or work at other post-secondary institutions; nor to
- Replace the requirements of Article 11.06 of the Academic Employees Collective Agreement.

All examples provided in this document are for illustrative purposes only and do not constitute a comprehensive list of potential conflict of interest scenarios.

### 3.0 - Definitions and Acronyms

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#### **Affiliate**

Any person, firm, or organization with which an employee has a personal, financial, employment, or business interest outside of the College.

*Examples:*

- An employee is in a position to hire a friend with whom they have a close personal relationship without disclosing the relationship and involving their manager in the hire.
- An employee who owns or co-owns a business uses their position at the College to sell products or services to students without seeking prior approval to do so.
- Participating on an interview panel where one of the candidates is a friend or family member.

*Not Included:*

- Teaching or curriculum development contracts with other post-secondary institutions except where these are secondary employment for full-time College employees and interfere with the employee’s ability to perform their duties for Fleming College effectively. Article 11.06 of the Academic Employees Collective Agreement shall continue to apply to employees covered by the collective agreement.

#### **Confidential Information**

Any information, in any format, that belongs to the College, is not publicly available, and/or is protected by statute or regulation.

*Examples:*

- Sharing information that is not publicly available with a friend or neighbour that provides an unfair advantage to that individual

- in a competitive procurement.
- Helping a colleague or acquaintance prepare for an interview using confidential information not available to other candidates.

**Conflict of Interest (“Conflict”)**

A situation where an employee’s (or their spouse/partner’s or dependant’s) private interests, or the employee’s outside activities, acceptance of a gift, hospitality, or other benefit, or plans for post-employment will impair, or could reasonably be perceived to impair, the employee’s ability to perform their job duties effectively and/or make decisions with integrity, impartiality, honesty, and in the best interest of Fleming College.

A Conflict may be actual, potential, or perceived (i.e. there is no Conflict, but a reasonable person would view the situation as a Conflict in the absence of fully detailed information).

A conflict of commitment, in which an employee engages in outside activities, paid or unpaid, that interfere with the employee’s primary obligation and commitment to the College, is a type of Conflict of Interest for full-time employees of the College.

**Conflict of Interest Committee (COIC)**

Conflict of Interest declarations are reviewed by a committee comprised of the Vice-President, Organizational Effectiveness and Human Resources, the Vice-President, Corporate Finance, and the Senior Management Team member responsible for the employee’s area of employment (or their delegates). In addition, the committee may call on legal counsel or other appropriate resources for advice depending on the specific circumstances of the situation being disclosed.

**Employee**

An individual employed by the College on a full-time, part-time, or contractual basis.

**Family Member**

Spouse or common-law partner and dependants/children of the employee. The definition of family member includes any person with whom an employee may have a bond that is analogous to the examples listed, including Culturally recognized and/or non-traditional family.

**Personal Interest(s)**

Any personal, business, commercial, financial, or other affiliation or involvement of an employee that is, could be, or could be perceived as harmful to the financial interest or reputation of the College and/or could interfere with the employee’s ability, or perceived ability, to make decisions with integrity, impartiality, honesty, and in the best interests of the College.

*Example:*

- An employee co-owns a business that competes for College procurements without disclosing the ownership and recusing themselves from the bid process.
- An employee's spouse is running for political office and the employee actively campaigns for them using their Fleming College affiliation – for example, identifying themselves as a Fleming employee when canvassing for support.

## **4.0 - Scope**

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This Policy applies to all employees of the College for the entire duration of their employment, as well as post-employment, as outlined below.

No Employee or former employee may disclose any confidential information that is not already publicly available without seeking explicit permission from the College to do so. It is understood that any such disclosure could have a detrimental effect on the College.

## **5.0 - General Principles**

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### **5.1 Duties and Responsibilities of Employees**

College employees shall:

- a) Act honestly, impartially, and with integrity to uphold the highest ethical standards, conducting themselves in a transparent and accountable manner that would bear the closest public scrutiny;
- b) Avoid being involved in any outside activity which would impair their ability to perform their duties for the College and/or their ability (actual or perceived) to make honest and impartial decisions, with integrity, and in the best interest of the College;
- c) Avoid putting themselves in any situation which would create a Conflict of Interest, including any situation where a Conflict may occur due to the personal interests of a family member and/or affiliate; and
- d) On their own initiative confidentially fully disclose any Conflict of Interest immediately.

### **5.3 Types of Conflicts of Interest**

Both the categories and the parameters outlined below are understood not to be a comprehensive list, but to provide guidance and illustration.

#### **i. Outside Activities**

The following are examples of outside activities that would violate this Policy. Activities that:

- a) Directly or indirectly competes with the College, with the exception

- of employment with another post-secondary institution where such employment does not impair a full-time employee's ability to carry out their job duties effectively, or otherwise create a Conflict;
- b) Conflicts with the College's legitimate business interests, such as increasing enrolment, providing residence services, expanding educational offerings, etc.;
  - c) A conflict of commitment for a full-time employee whose paid or unpaid work or other outside activity interferes with their ability to perform their job functions at the College – for example, part-time employment with scheduling that conflicts with the employee's College work schedule where the employee has not requested and obtained agreement for scheduling restrictions, if applicable. (Note: agreement to scheduling restrictions does not mean that there is no Conflict of Interest – employees must still complete the disclosure process.)
  - d) Derives an advantage from the employee's affiliation with the College;
  - e) Involves the use of College premises, curriculum, equipment, supplies, staff time, or services, for personal gain, with or without compensation to the College, other than as allowed by Policy 9-904, Intellectual Property and Copyright;
  - f) Acquires or disposes of College equipment or property for personal gain or use;
  - g) Associates the College's name with any outside activity or undertaking or uses the College's address, telephone number, website, or email address for such purposes; and/or
  - h) Associates the College with any political activity at the municipal, provincial, or federal level.

The College recognizes that there can be specific circumstances in which an activity that constitutes a Conflict under this Policy would be acceptable or unavoidable. This should be identified through the disclosure process, allowing the COIC to provide written acceptance of the Conflict. This assumes, however, that the Conflict is disclosed proactively, fully, and in advance or at the earliest recognition.

It is also possible for an outside activity that has been proactively disclosed and found not to be a Conflict to become a Conflict due to a change of circumstance. Should an employee recognize that a previously disclosed situation has changed, they are expected to update their disclosure.

Full-time faculty requests for prior written consent to take any employment, consulting or teaching activity outside the College during periods of assigned workload are governed by the *Academic Employees Collective Agreement* Article 11.06.

Disclosure of all political activity at the municipal, provincial, and/or federal level (e.g. running for office, holding office, campaigning for a candidate in an election process, etc.) using this process is mandatory in all cases in order to ensure expectations are clear and to avoid misperceptions.

ii. **Confidential Information**

No College employee or former employee shall use, seek to use, or disclose any information, in any format, that belongs to the College, is not publicly available, and/or is protected by statute or regulation.

iii. **Gifts, Hospitality, and Other Benefits**

Employees may neither accept nor offer gifts, hospitality, and/or other benefits that could or could reasonably be perceived to influence their judgment and performance of their duties and responsibilities to the College, with the following exceptions:

- a) An Incidental gift, hospitality, or other benefit of nominal value, typically of under \$50, where such a gift or benefit is a common expression of courtesy or within normal standards of hospitality, and will not cause suspicion about the objectivity and impartiality of the employee or compromise the integrity of the College.
- b) When it is not possible to refuse an unauthorized gift, hospitality, or other benefit of greater value, in which case the employee must immediately report the matter to their manager and the manager will direct that such a gift be held by the College, given to charity, or otherwise handled appropriately.
- c) Where the gift, hospitality, or benefit is a Miigwewin gift presented to an Indigenous person as a customary practice for sharing their traditional knowledge.

Accepting a gift from a subordinate or from a student is not acceptable given the inherent power imbalance, regardless of the value of the gift.

iv. **Preferential Treatment**

College employees may neither grant nor accept preferential treatment in relation to any person or organization in any College process, including but not limited to hiring, promoting, procuring or purchasing goods or services, awarding and/or negotiating contracts of any kind.

Any employee in a position to participate in, or directly or indirectly influence, a College process must declare the existence of a relationship immediately on becoming aware of same. The Employee must recuse themselves from the process entirely until the COIC provides direction.

**v. Workplace Relationships**

Certain types of workplace relationships, inclusive of but not limited to those outlined below, are by their very nature, may be, or may become, a Conflict of Interest.

Any intimate, sexual, and/or close personal relationship between an employee and student, where the employee teaches or has professional contact with a student, is always a Conflict of Interest and is never allowed as consent is not possible where there is a position of trust, power or authority.

Any intimate, sexual, and/or close personal relationship between employees where there is a direct or indirect supervisory relationship, may be a Conflict of Interest. Further, employees should bear in mind that such a relationship could result in allegations of sexual harassment under the *Occupational Health and Safety Act* or the *Ontario Human Rights Code*.

No employee may report to, supervise, or be supervised by a family member or anyone with whom they have a close personal relationship. All employees applying for or being offered a position must declare the existence of such a relationship at the earliest possible time.

In addition, the President, all direct reports to the President, and all Organizational Effectiveness and Human Resources employees must declare the existence of any relationships with College employees who are family members or with whom they are in a close personal relationship at the earliest possible time.

Illustrative examples from all categories are included in *Appendix A*. These examples do not constitute a comprehensive list of all potential Conflict of Interest scenarios and are to be used as examples to assist in thinking through potential Conflicts.

**5.4 Guiding Questions**

When an employee or manager is unsure whether an action or decision is a Conflict of Interest, it can be helpful to ask the following questions:

- Is there anything about this action or decision, or the implications of the action or decision, that may be or become outside of Policy?
- Is it legal?
- How would a reasonable, objective observer see it?
- Who benefits from this action or decision?
- What is my “gut feeling” telling me?
- How would it look if it was reported on the news or in another public forum?

- Could it negatively affect my reputation or that of the College?
- Could it be perceived as “crossing a line” – for example, using undue influence or benefiting from undue influence?
- Could it put anyone’s health, safety, or wellbeing at risk?
- Would I be reluctant or embarrassed to declare it publicly?
- What would I think if I heard someone else at the College was doing this?

## 5.5 Mitigating a Conflict of Interest

Declaring a Conflict of Interest is the first, essential step in mitigating a Conflict. Additional mitigation activities may include but are not limited to:

- i. **Restricting** involvement in an activity or process – for example, recusal from vendor evaluation and selection in a procurement process.
- ii. **Relinquishing** a private interest – for example, selling a financial interest in a competing enterprise.
- iii. **Recruiting** a disinterested third party to oversee or carry out a process – for example, accepting a selection panel’s decision without participating.

## 5.6 Sanctions

Employees who violate this Policy by failing to disclose a Conflict of Interest, refusing to provide information/not cooperating during an assessment, and/or refusing to undertake the mitigation strategies necessary to manage the Conflict, may be subject to appropriate sanctions, up to and including termination of employment with the College.

The College recognizes, however, that non-compliance can be a result of lack of understanding of the Policy and how it applies, particularly when a new Policy is introduced. The College will, therefore, make every effort to educate employees and, absent evidence of intentional non-compliance, will treat any initial non-compliance as a learning opportunity with no disciplinary outcome. Any intentional or repeated violation of the Policy will result in disciplinary sanctions.

## 5.7 Protection from Reprisals, Retaliation or Threats

It is contrary to this Policy for anyone to retaliate, make reprisals or threaten to retaliate or reprise against an employee who has provided information relating to an alleged Conflict of Interest in good faith, or has sought the enforcement of this Policy through appropriate College channels. An employee who believes they have experience reprisal, retaliation, or threat relating to a Conflict of Interest disclosure may seek assistance directly from the COIC or any member of the COIC. Anyone found to have engaged in reprisals, retaliation, or threats, may be subject to sanctions up to and including termination of employment.



## 5.8 Employee Awareness

Employees are required to read, review, and confirm understanding of and commitment to comply with this Policy as part of the onboarding package during the hiring process and annually thereafter. Employees are required to review this Policy and declare any Conflict of Interest annually or whenever circumstances change between annual reviews. The College will provide additional information periodically, as required and/or appropriate. Employees may seek, and are encouraged to seek, additional information or clarification, in confidence, from their Manager, their Human Resources Consultant, or other College official at any time.

## 6.0 - Related Documents

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- *Appendix A – Illustrative Examples*
- *Administrative Operating Procedure #OP 3-344, Conflict of Interest*
- *Academic Employees Collective Agreement*

## History of Amendments/Reviews

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Approved by Board of Governors May 26, 2021 (supersedes #4-404, *Employee Conflict of Interest*)

## APPENDIX A: Conflict of Interest - Examples

The following are examples of situations where Conflicts of Interest may arise. In each of these circumstances the minimum obligation on the Employee will be to disclose the Conflict to their manager. Other steps may need to be taken to mitigate any risk to the College or the public interest.

- You have the opportunity to accept a research grant where you or a Family Member hold stock in or have other ties to the company funding the research.
- You are employed by or volunteer with another organization that does business with, is a competitor, a potential competitor, supplier, or customer of the College.
- You engage in an outside activity or undertaking that materially impacts time, energy, and/or attention that should be devoted to the College, or impairs performance of your duties at the College.
- You are involved with a procurement or other business transaction on behalf of the College with a supplier, where you or a Family Member are a principal, officer, representative of the business, or have an interest in the business.
- You or a Family Member have a significant direct or indirect financial interest or obligation (such as a debt due or repayment) to a business doing business with or competing with the College.
- You use Confidential Information for your own benefit or to further your own Personal Interest(s), or for the benefit or Personal Interest(s) of a Family Member or Friend, by selling or making available information to an outside interest.
- You make or conceive, alone or in concert with any other person, an event, concept, and/or program which is within the College's scope of business and attempt to exploit the event, concept, and/or program for a patent or for personal gain other than as prescribed or permitted by the College's *Intellectual Property Policy #2-215*.
- You accept gifts, hospitality, or other benefits from a business having dealings with the College that are not within the limits of what is acceptable, as outlined in this Policy, i.e. gifts, hospitality, and/or benefits that are of a nominal value, infrequent and unsolicited.
- You have a personal relationship with a subordinate or student, which is of such a nature that it might be perceived that the subordinate or student is in a position to benefit or be adversely affected because of the relationship.
- You use College time and resources for personal or private business purposes.
- You participate on or influence a hiring panel for a position for which a Family Member or friend has applied.

- You compete successfully for a supervisory or management role which puts you in a position to make or influence decisions or treatment that unfairly advantage or disadvantage former colleagues, some of whom may have become close personal friends over the course of the period during which you worked as colleagues without having a mitigation strategy in place.
- A family member or friend applies to the College, appeals an academic decision as a student, or otherwise engages in a process in which you exercise influence, directly or indirectly, over the outcome.
- You use your position at the College to solicit clients for your business or that of a family member or friend.