

ACADEMIC COUNCIL REPORT

SESSION:

Public

ACTION REQUESTED:

Decision
Discussion/Direction
Information

TO: Academic Council

DATE: May 26, 2020

PRESENTED BY: Cheryl Foy, University Secretary and General Counsel
Niall O'Halloran, Policy and Compliance Advisor

SUBJECT: Draft Code of Ethical Conduct Policy for Consultation

COMMITTEE/BOARD MANDATE:

- Academic Council has a role in the Policy Framework as a mandatory consultation body for all substantive amendments to existing Legal, Compliance and Governance Policies.
- We ask for your consideration of and comments on substantive amendments to the Code of Ethical Conduct Policy and related policy instruments

BACKGROUND/CONTEXT & RATIONALE:

- Ontario Tech currently has no comprehensive code of ethical conduct for employees, relying instead on a variety of conflict of interest clauses embedded in existing policy instruments. The process for addressing conflicts of interest in each policy instrument may differ, as may the requirements for different types of employees.
- The university is regularly asked to represent in contractual agreements that it has a code of ethics.
- We have developed a draft code of ethical conduct policy and supporting procedures to create a framework for addressing conflicts of interest, the acceptance of gifts, the use of university resources, confidentiality, policy compliance, and other ethical considerations.

RESOURCES REQUIRED:

- Existing USGC resources will be used to implement the process for receiving and reviewing gift reports from the university and subsequent reporting to Board committees.

IMPLICATIONS:

- N/A

ALIGNMENT WITH MISSION, VISION, VALUES & STRATEGIC PLAN:

- This policy supports the university's values of integrity and respect, honesty and accountability.

ALTERNATIVES CONSIDERED:

- N/A

CONSULTATION:

- Senior Leadership Team (May 11, 2020)
- Governance, Nominations and Human Resources Committee (May 14, 2020)
- Online Consultation (May 18 to June 1 2020)
- Policy Advisory Committee (May 19, 2020)
- Academic Council (May 26, 2019)
- Administrative Leadership Team (June 9, 2020)
- Audit & Finance Committee (Deliberation – June 17, 2020)
- Board of Governors (Approval – June 25, 2020)

COMPLIANCE WITH POLICY/LEGISLATION:

- *Freedom of Information and Protection of Privacy Act, RSO 1990, c F.31*
- *Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended*
- *Human Rights Code, R.S.O. 1990, c. H.19*

NEXT STEPS:

- Continue consultation and approval path outlined above

SUPPORTING REFERENCE MATERIALS:

- Draft Code of Ethical Conduct Policy
- Draft Gift Registry Procedures
- Draft Code of Ethical Conduct Investigation Procedures
- Draft Conflict of Interest Procedures



Classification Number	LCG XXXX
Framework Category	Legal, Compliance and Governance
Approving Authority	Board of Governors
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

CODE OF ETHICAL CONDUCT POLICY

PURPOSE

1. The purpose of this Policy is to promote standards of ethical conduct that advance integrity and accountability, and support the University’s mission, vision and values.

DEFINITIONS

2. For the purposes of this Policy the following definitions apply:

“**Confidential Information**” means any information deemed confidential under University information security policies, non-public or proprietary University information, information expressly or implicitly shared in confidence, and any and all personal information as defined in the Freedom of Information and Protection of Privacy Act.

“**Employees**” means individuals, including students, who are employed by the University or holding an appointment with the University including paid, unpaid and/or honorific appointments.

“**Expenses for Outside Activities**” means travel and accommodation expenses incurred by an Employee in the completion of voluntary service (including voluntary service with payment of an Honorarium) to an entity other than the University.

“**External Funding and Awards**” means grants and funding such as research grants, fellowships, awards or honors that are awarded to an individual for academic merit and not administered by the University. These honors are not considered gifts for the purposes of this Policy.

“**Exempt Outside Activities**” means Related Outside Activities that constitute service to the employee’s discipline or to the University. This includes teaching in Ontario Tech Continuous Learning, being an external reviewer for a department at another university, being an external referee for a promotion or tenure case, acting as a peer reviewer for a granting agency or publisher, serving as editor of a journal in one’s area of expertise, serving as a local, regional, national or international representative on a professional organization and serving on a board of directors at the University’s request.

“**Honorarium**” means a voluntary payment of \$500 or less made to a person for services for which fees are not legally or traditionally required. [NTD: \$500 threshold from CRA]

“**Report**” means a written report made by a University Member under this Policy concerning any actual or perceived violation of this Policy where the report is:

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- Made to a University Recipient;
- Based on a reasonable belief or information that the violation has occurred; and
- Not malicious, frivolous, vexatious and/or knowingly false.

“Related Person” means a spouse, common-law spouse, ~~same-sex domestic~~ partner, child, stepchild, sibling, parent, sister/brother-in-law, mother/father-in-law, niece, nephew, aunt, uncle, cousin, grandparent or grandchild of an Employee or an individual with whom an Employee has an ongoing or past romantic or sexual relationship. ~~In an intimate relationship~~

“Related Outside Activities” means activities which involve the same kind of specialized skills and knowledge that the employee uses in the employ of the University. Activities such as teaching at other post-secondary institutions, private contracts, consulting, professional practice, being an officer of a company whose business relates to the teaching/research interests of the faculty member and serving on a board of directors when not at the request of the University are examples of related outside activities.

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"Reprisal" refers to the retaliation against, coercion, dismissal, threats or intimidation of any individual who in good faith: submits a Report, or participates in a related investigation under this procedure.

“Senior Academic Administrator” means a person who holds any of the following positions:

- Vice-President, Academic and Provost;
- Associate Provost;
- Dean;
- Vice-President with the designated responsibility for overseeing the University research function;
- Any other position as designated and approved in accordance with the University of Ontario Institute of Technology Act and By-Laws.

“University Administered Funding” means grants and funding such as research grants, fellowships, awards or honors that are awarded to an individual or a research project, and administered by the University in accordance with applicable research finance procedures. This type of funding is not considered a gift for the purposes of this policy.

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“University Gift” means a voluntary gift of cash and/or kind, given to the benefit of the University. University Gifts are not subject to the value restrictions set out in this Policy, and will be accepted in accordance with the University’s Gift Acceptance Policy. [NTD: this could include gifts of training/conference invitations for non-speakers; gifts of text books]

“Unrelated Outside Activities” means activities which are distinct from the work done for the University by the employee, such as running an unrelated business, community work and volunteer work.

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“University Member” means any individual who is:

- Employed by the University;
- Registered as a student, in accordance with the academic regulations of the University;
- Holding an appointment with the University, including paid, unpaid and/or honorific appointments; and/or

- Otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

“University Recipient” means the:

- Appropriate supervisor or manager;
- Chief Financial Officer (CFO) for a Report that is finance-related, or the Chair of the Audit and Finance Committee where the disclosure may implicate the CFO; or
- General Counsel (GC) for a Report that is non-financial, or the Chair of the Governance, Nominations and Human Resources Committee (GNHR) where the disclosure may implicate the GC.

“University Resources” means tangible or intangible property, facilities and/or assets purchased, leased or acquired by the University, or under the University's control, that are intended to foster or support the ongoing mission of the University.

“Unrelated Outside Activities” means activities which are distinct from the work done for the University by the employee, such as running an unrelated business, community work and volunteer work.

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SCOPE AND AUTHORITY

3. This Policy applies to Employees of the University.
4. The University Secretary and General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

POLICY

5. All Employees will act ethically and with integrity. Employees are responsible to the University for their actions, and decisions not to act, when they are representing the University.
6. **Compliance with Laws, University by-laws and Policies**
 - 6.1. Employees must be familiar with the compliance requirements that govern their work at the University. These include laws, University by-laws, policies, procedures and contractual commitments.
 - 6.2. Employees must, in good faith, adhere to compliance requirements in fulfilling their duties. Where there is a question about compliance, Employees are expected to seek guidance from their supervisors.
 - 6.3. Employees must complete all mandatory compliance training within six months of their start date and prior to engaging in any activities that require specialized training.
 - 6.4. University Members in regulated professions whose roles at the University consist of regulated professional activities must comply with all applicable codes or standards in all of their professional activities.
7. **Confidentiality and Privacy**

- 7.1. Employees may have access to Confidential Information in connection with the performance of their duties. Confidential Information must not be used or disclosed without direction. Disclosure of Confidential Information without a legitimate purpose is prohibited. Where there is a question about the disclosure or use of Confidential Information, Employees are expected to seek guidance from their supervisor.
- 7.2. Employees must be familiar with and comply with relevant laws and University policies and procedures pertaining to privacy and the access, use, modification, protection, and disclosure of personal information.

8. Conflict of Interest

- 8.1. To ensure public and professional trust and confidence, the University will deal with actual, potential, or perceived conflicts of interest in a consistent and transparent way.
- 8.2. A conflict of interest arises when an Employee’s official power, duty or function provides an opportunity to further their private interests or those of a Related Person, friend or external organization, or to improperly further another person’s private interests.
- 8.3. Employees must not act in self-interest or further their private interests by virtue of their position at the University or through fulfilling their University responsibilities.

~~8.3.~~

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~~9. Potential Conflicts of Interest moved to Conflict of Interest Procedures~~

10.9. Addressing Conflicts of Interest

- 9.1. In all cases where an Employee believes or suspects they may be in a real, potential or perceived conflict of interest, they must disclose it to their supervisor immediately.

~~10.1.~~

- 10.2.9.2. Conflicts of interest disclosed under this policy will be resolved by the supervisor in accordance with the Procedure to Address Conflicts of Interest under this policy.

- 9.3. Provided potential conflicts of interest can be mitigated in an approved mitigation plan, an individual may be permitted to remain involved in a situation with a potential conflict of interest.

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- 10.4.9.4. **Related Persons:** A Related Person may apply for, and be considered for positions at the University. An Employee should not exercise any form of supervision or direct influence over a Related Person and should not be the sole decision-making authority for decisions related to hiring, tenure, promotions, renewal of contracts, performance evaluation, disciplinary procedures, salary considerations or confidentiality for a Related Person.

~~9.5.~~ ~~Favors: from students under your supervision. No consent in a power based relationship.~~ Relationships with individuals under supervision: Employees hold a position of trust and power in their interactions with students and individuals who report to them. Relationships (including sexual and romantic relationships) must not jeopardize the effective functioning of the University by the appearance of either favoritism or unfairness in the exercise of professional judgment. Employees are expected to be aware of their professional responsibilities and to avoid apparent or actual conflict of interest, favoritism or bias. Employees should exercise discretion when asking for favors from individuals under their supervision, due to the inherent power imbalance, as mutual consent may be in question.

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~~10.5.~~

~~10.6.9.6.~~ Intimate Relationships: The existence of an intimate sexual or romantic relationship between an Employee and a person who reports to them in an employment/supervisory relationship or who relies upon them for opportunities to further their academic or employment career must be disclosed, to their supervisor. Their supervisor will remove any ability to exercise any form of supervision or direct influence.

11.10. **Concurrent Employment and Conflict of Commitment**

~~11.1.10.1.~~ A conflict of commitment occurs when an Employee's commitment to external activities adversely affects their capacity to meet University responsibilities, or results in a divided loyalty between the University and an external organization. Accordingly, the nature and extent of professional service, consulting and related work undertaken should complement the primary commitment of Employees to the University: and/or benefit the profile of the University. Concurrent employment must not detract from the University's right to full-time and efficient service from its full-time Employees.

10.2. Before an Employee accepts any Related Outside Activities or Unrelated Outside Activities that are not Exempt Outside Activities external activities that may result in a Conflict of Interest or conflict of commitment, the Employee must report the potential employment or activity to the University to ensure that there is no Conflict of Interest or conflict of commitment.

~~11.2.10.3.~~ Exempt Outside Activities do not need to be reported in advance, and an employee may accept an Honorarium for their service.

10.4. Any concurrent employment of a student who is an Employee does not need to be reported and will be deemed to have been preapproved.

~~11.3.10.5.~~ Reporting of Conflicts of Commitment will be done in accordance with the established procedures, and in accordance with the relevant collective agreement where the employee is a member of a bargaining unit.

12.11. **Political Activity**

~~12.1.11.1.~~ Employees are free to participate actively in the political process and the University upholds the right of every person to support political parties, political committees, and candidates of their choosing. Employees have the right to seek and

hold political office. The University requires that an Employee's efforts devoted to political activity:

- a) Not constitute a Conflict of Interest;
- b) Be outside of working hours;
- c) Be without contribution or other support from the University;
- d) Be without implied or official endorsement by the University due to the Employee's position at the University; and
- e) Not involve the use of University Resources.

13.12. Use of University Resources

13.1.12.1. Employees may only use University Resources for activities on behalf of the University and within their scope of responsibility.

13.2.12.2. Notwithstanding section XX.1, University Resources may be used for personal purposes in limited circumstances when permitted by an existing policy or where incidental personal use is reasonable in all of the circumstances.

13.3.12.3. The use of University Resources is prohibited where resources are used:

- a) To perform duties associated with outside employment.
- b) In a way that impedes normal University activities.
- c) In a way that creates additional expense for the University.
- d) For the purposes of political campaigning.

13.4.12.4. Employees are required to treat University Resources with care and to adhere to laws and university policies and procedures regarding the acquisition, use, maintenance, documentation, and disposal of University Resources.

14.13. Accepting Gifts and Hospitality

14.1.13.1. This section addresses gifts and hospitality accepted by an individual Employee. For information related to ~~philanthropic gifts and fundraising accepted on behalf of the University~~ **University Gifts**, see the Gift Acceptance Policy (LCG 1130).

14.2.13.2. Employees must not accept gifts or hospitality that are connected directly or indirectly with the performance of their University responsibilities or position, where a reasonable person might conclude that the gift could influence the Employee when performing their duties on behalf of the University. Employees must avoid the appearance of a Conflict of Interest due to the acceptance of gifts from entities involved in a business transaction with the University, or subject to a decision the Employee will make.

14.3.13.3. Acceptance of cash or cash equivalents as gifts is always strictly prohibited.

14.4.13.4. Tangible Gifts

Consistent with section XX.2, gifts may be accepted where they do not exceed a maximum value of \$250 for a single gift and are:

- a) The normal exchange of gifts between friends;

- b) Tokens exchanged as part of protocol;
- c) The normal presentation of gifts to persons participating in public functions, awards, speeches, lectures, presentations or seminars.

14.5.13.5. Hospitality and Expenses for Outside Activities

Consistent with section XX.2, reasonable hospitality and Expenses for Outside Activity, including meal-related expenses, may be accepted where it is the normal exchange of hospitality between persons doing business together, and would be otherwise allowable as a business expense claim under the University's Expense Policy and Procedure.

14.6.13.6. Maximum annual gift value

The cumulative maximum cash value limit for tangible gifts and hospitality permitted by this section from a single source in a calendar year is \$250500.

14.7.13.7. Event and Conference Invitations

- a) Individuals who are invited to attend a conference, workshop, seminar, etc. to speak, or participate on a panel are sometimes gifted with admission, registration, transportation, and accommodation costs as a condition of their participation. Where the participation relates to the Employee's University responsibilities or their major academic interests, the maximum cash value that may be accepted related to a single invitation is \$8,000. The cumulative maximum cash value limit for conference invitations permitted by this section from a single source in a calendar year is \$16,000.
- b) An Employee can accept an event invitation provided the value is \$500 or less. The cumulative maximum cash value limit for event invitations permitted by this section from a single source in a calendar year is \$500.
- c) The chair of the University's Board of Governors, the President, Senior Academic Administrators, Vice-Presidents, General Counsel or Assistant Vice-Presidents, can accept an event invitation from a donor or friend of the University provided the value is \$1,000 or less. The cumulative maximum cash value limit for event invitations permitted by this section from a single donor or friend of the university in a calendar year is \$2,000.
- ~~d)~~ Sections XX and XX do not apply to attendance at social events if attendance at the social event is sponsored by a charitable foundation, the Governor General of Canada, a provincial Lieutenant Governor, any Canadian federal, provincial, municipal or regional government or any member of any such government, a consul or ambassador of a foreign country or a not-for-profit organization, provided the not-for-profit organization is not constituted to serve management, union or professional interests and does not have for-profit enterprises or representatives of for-profit enterprises as a majority of its members.
- ~~d)~~e) Where the value of an event or conference invitation would exceed the thresholds in section 13.7 a), b), or c), an employee's supervising Vice-President may approve, in writing, an increase in the threshold value for a specific gift. In considering the increase, the supervising Vice-President will

consider any potential, actual or perceived Conflict of Interest, as well as any reputational, academic or other institutional benefits.

~~14.9.13.8.~~ The University will establish a procedure for reporting of gifts and hospitality received. The ~~university~~ University will maintain a registry of gifts and hospitality accepted by its Employees and provide a report to the Board of Governors each year.

~~15.14.~~ Reporting and Investigation

~~15.1.14.1.~~ Maintaining the ethical standards of this Policy is the responsibility of every Employee. Anyone who has observed or learned of a violation of this Policy should make a written Report to a University Recipient. Reports will be addressed in accordance with the University Investigation Procedure.

~~16.15.~~ Protection from Reprisal

~~16.1.15.1.~~ No University Member who makes a Report will be subjected to Reprisal, either directly or indirectly. The University will investigate and take all appropriate action to address allegations of Reprisal.

MONITORING AND REVIEW

~~17.16.~~ This Policy will be reviewed as necessary and at least every three years. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

~~18.17.~~ Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended
Human Rights Code, R.S.O. 1990, c. H.19
Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

RELATED POLICIES, PROCEDURES & DOCUMENTS

~~19.18.~~ Gift Registry Procedures (in development)
Code of Ethics Investigation Procedures (in development)
Conflict of Interest Procedures (in development)
Personal Use of University Resources Policy
Technology Use Policy
Harassment and Discrimination Policy and Procedure
Policy Against Workplace Violence, Harassment and Discrimination and related procedures
Information Security Policy
Procurement of Goods and Services Policy and Procedure
Supply Chain Code of Ethics

Fair Processes Policy

Safe Disclosure Policy and Procedures

Policies that address Conflicts of Interest in specific situations:

- Gift Acceptance Policy
- Use of Instructor-Produced Materials for Course Requirements Procedure
- The Conflict of Interest in Research Policy
- Expendable Funds Policy
- Statement of Investment Policies

DRAFT

Classification Number	<i>To be assigned by Policy Office</i>
Parent Policy	Code of Ethical Conduct Policy
Framework Category	Legal, Compliance and Governance
Approving Authority	Audit & Finance Committee
Policy Owner	General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

PROCEDURE TO ADDRESS CONFLICTS OF INTEREST

PURPOSE

1. The purpose of these Procedures is to provide a consistent process for supervisors to address conflicts of interest reported by their Employees.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Employees” means individuals, including students, who are employed by the University or holding an appointment with the University including paid, unpaid and/or honorific appointments.

“Conflict of Interest” means a situation where an Employee has an opportunity to exercise an official power, duty or function in a way that furthers his or her private interests or those of his or her relatives or friends or that improperly furthers another person’s private interests

SCOPE AND AUTHORITY

3. These Procedures apply to all Employees.
4. The General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

5. Responsibilities

5.1. Supervisors are responsible for:

- a) Receiving Conflict of Interest declarations from their Employees.
- b) Developing a mitigation plan to address a Conflict of Interest reported by an Employee.

5.2. Employees are responsible for:

- a) Immediately declaring any real, potential or perceived Conflict of Interest that arises to their supervisor in writing.

- b) Following the direction of any mitigation plan established under this procedure.

5.3. The Office of the University Secretary and General Counsel is responsible for:

- a) Advising on the development of Conflict of Interest mitigation plans.
- b) Reporting to the Board of Governors on Conflicts of Interest.

6. Conflict of Interest Reporting

6.1. Employees will declare any Conflict of Interest in writing. A supervisor who receives a declaration of Conflict of Interest will determine whether the declaration amounts to a real, potential or perceived Conflict of Interest and the significance thereof. In making this determination, the supervisor will consider:

- a) The type or extent of the Employee's interest;
- b) The significance of the University's decision or activity;
- c) The extent to which the Employee's other interest may specifically affect the University's decision or activity;
- d) The nature or extent of the Employee's involvement in the University's decision or activity.

6.2. The Office of the University Secretary and General Counsel can provide advice and guidance to a supervisor in this determination.

7. Mitigation plan

7.1. The supervisor will determine whether the conflict of Interest can be mitigated, guided by applicable University policy instruments, and applicable legislation. If not, the Employee will be advised that they cannot engage in the activity declared. The Office of the University Secretary and General Counsel can provide advice and guidance to a supervisor in this determination.

7.2. The mitigation plan will document the Conflict of Interest, whether it is real, potential or perceived, and provide direction on how to mitigate areas of Conflict of Interest. The plan will consider and be proportional to the type of conflict of interest involved (e.g. real, potential or perceived), the extent to which the Employee might be inappropriately influenced and the harm that is likely to result from such influence or the perception of such influence. The plan may do so by one or more of the following means:

- a) Taking no action;
- b) Enquiring as to whether all affected parties will consent to the Employee's involvement;
- c) Seeking a formal exemption to allow participation (if such a legal power applies);
- d) Imposing additional oversight or review over the Employee;
- e) Withdrawing from discussing or voting on a particular item of business at a meeting;

- f) Exclusion from a committee or working group dealing with the issue;
- g) Re-assigning certain tasks or duties to another person;
- h) Agreement or direction not to do something;
- i) Withholding certain confidential information, or placing restrictions on access to information;
- j) Transferring the Employee (temporarily or permanently) to another position or project;
- k) Relinquishing the private interest; or
- l) Resignation or dismissal from one or other position or entity.
- m) Removing the Employee from a supervisory position over an individual where there is a Conflict of Interest.

7.3. Conflict of Interest mitigation plans will be approved by the Vice-President of the applicable organizational area, or where the Conflict of Interest involves a member of the Senior Leadership Team, the Audit and Finance Committee.

8. Scenarios involving Conflict of Interest

- 8.1. **Intimate Relationships:** When an Employee engages in an intimate relationship with a person who reports to them in an employment/supervisory relationship or who relies upon them for opportunities to further their academic or employment career. The supervisor will remove any ability to exercise any form of supervision or direct influence.
- 8.2. **Interest in any Concern:** When an Employee or a Related Person works for or has a substantial financial interest in any concern that does business or seeks to do business with the University. The supervisor may remove the Employee from any role involved in evaluating bids, or negotiating with the concern.
- 8.3. **Representation by Related Person:** When an Employee is representing the University in a transaction and a Related Person is representing the other Concern. The supervisor may remove the Employee from any role involved in evaluating bids, or negotiating with the concern.
- 8.4. **Inappropriate Use of Information:** Use or communication by an Employee of Confidential Information obtained in the course of University related activities or as a result of their position at the University for personal gain or other unauthorized purposes. The supervisor may require the Employee to sign a confidentiality agreement relating to information obtained in the course of official duties.
- 8.5. **Political activity** When an Employee uses their position with the University in a political campaign to imply that they have the support or endorsement of the University. The supervisor may require the Employee to take a leave of absence during the campaign period for provincial or federal campaigns.

9. Reporting

- 9.1. Approved mitigation plans will be forwarded to the Office of the University Secretary and General Counsel. The Office of the University Secretary will report to the Audit and Finance Committee on Conflicts of Interest.

MONITORING AND REVIEW

10. These Procedures will be reviewed as necessary and at least every three. The Policy Advisor, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

11. Legislation 1
Legislation 2
Legislation 3

If no associated legislation use the text “This section intentionally left blank”.

RELATED POLICIES, PROCEDURES & DOCUMENTS

12. Associated Document 1
Associated Document 2
Associated Document 3



Classification Number	<i>To be assigned by Policy Office</i>
Parent Policy	Code of Ethics
Framework Category	Legal, Compliance and Governance
Approving Authority	Audit and Finance Committee
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
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Supersedes	

GIFT REGISTRY PROCEDURES

PURPOSE

1. The purpose of these Procedures is to establish a process for reporting gifts received by Employees and documenting those gifts to ensure compliance with the Code of Ethical Conduct.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Employees” means individuals, including students, who are employed by the University or holding an appointment with the University including paid, unpaid and/or honorific appointments.

“Gifts” means Tangible Gifts, Hospitality, or Invitations given to Employees.

“Tangible Gift” means tangible goods given by an external party in connection with an Employee’s University responsibilities or position.

“Hospitality” means meals, accommodations, entertainment or similar given by an external party in connection with an Employee’s University responsibilities or position or major academic interests.

“Invitation” means an invitation from an external party to attend or speak at an event, workshop, conference or similar and may include of admission, registration, transportation and/or accommodation costs.

SCOPE AND AUTHORITY

3. These Procedures apply to Employees of the University.
4. The General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

5. Responsibilities

- 5.1. **Office of the General Counsel** is responsible for:

- a) Developing an online form for submission of Gift details and maintaining a Registry of Gifts.
- b) Providing advice to supervisors on the acceptance of gifts.
- c) Annual compliance reporting under these procedures.

5.2. Unit Supervisor is responsible for:

- a) Reviewing Gifts reported by their Employees.
- b) Determining whether Gifts are consistent with the Code of Ethical Conduct.

5.3. Employees are responsible for:

- a) Reporting Gifts received using the prescribed means.
- b) Understanding the rules regarding acceptable gifts under the Code of Ethical Conduct and seeking advice when necessary.

6. Reporting of Gifts

6.1. All Gifts received by an Employee will be reported to their immediate supervisor as soon as possible. The supervisor will determine if the gift is consistent with section XX of the Code of Ethical Conduct Policy. The supervisor will consider whether:

- a) The Gift is a University Gift that can be accepted in accordance with the Gift Acceptance Policy.
- b) The value exceeds the maximum allowable.
- c) The Employee is directly involved in transactions or other activities with the source that would give rise to a perceived Conflict of Interest.
- d) The Employee's attendance at an event would be of benefit to the University due to increased public profile, training or development of the Employee, or strengthening of institutional partnerships.
- e) The gift is consistent with Procurement Policy, related procedures and the Supply Chain Code of Ethics.
- f) Hospitality would be otherwise allowable as a business expense claim under the University's Expense Policy and Procedure.

6.2. Tangible Gifts inconsistent with section XX of the Code of Ethical Conduct Policy should not be accepted, or, if accepted, should be returned. Where returning a Tangible Gift would be considered a breach of protocol or would give offense, disposal by donation to a non-profit organization or similar should be considered.

6.3. Hospitality inconsistent with section XX should not be accepted.

6.4. A supervisor may contact legal@ontariotechu.ca for advice when making determinations based on section XX of the Code of Ethical Conduct Policy.

7. Registry of Gifts

- 7.1. The Office of the General Counsel will maintain a Registry of Gifts to track Tangible Gifts, Invitations and Hospitality received by Employees.
- 7.2. The Office of the General Counsel will create an online form for submitting information on Gifts received by Employees. The following information is required:
 - a) Value (or estimated value) of Gift
 - b) Type of Gift
 - c) Source of Gift
 - d) Date of Gift
 - e) Recipient of Gift
 - f) Unit of Recipient
 - g) Supervisor
- 7.3. Gifts should be reported to the Office of the General Counsel within a month of receipt.
- 7.4. An annual report on Gifts received will be submitted by the Office of the General Counsel to [the Audit and Finance Committee] as part of compliance reporting.

MONITORING AND REVIEW

8. These Procedures will be reviewed as necessary and at least every three years. The [insert position/committee], or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

9. Legislation 1
Legislation 2
Legislation 3

If no associated legislation use the text "This section intentionally left blank".

RELATED POLICIES, PROCEDURES & DOCUMENTS

10. Code of Ethical Conduct Policy
Code of Ethical Conduct Investigation Procedure
Procurement of Goods and Services Policy and Procedure
Supply Chain Code of Ethics



Classification Number	<i>To be assigned by Policy Office</i>
Parent Policy	Code of Ethical Conduct Policy
Framework Category	Legal, Compliance and Governance
Approving Authority	Audit and Finance
Policy Owner	General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

UNIVERSITY INVESTIGATION PROCEDURES

PURPOSE

1. The purpose of these Procedures is to establish a consistent process for conducting an investigation of a disclosure under the Safe Disclosure Policy or a report of a violation of the Code of Ethical Conduct Policy by a University Employee.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Appellant” means a Respondent that has submitted a notice of appeal under these Procedures.

“Conflict of Interest” means a situation where an Employee is in a position to use authority, research, knowledge or influence for personal gain, or to benefit a Related Person or external organization to the detriment of the University.

“Disclosure” means a written report made by a University Member under the Safe Disclosure Policy concerning any actual or perceived Improper Activity where the report is:

- Made to a University Recipient;
- Based on a reasonable belief or information that the Improper Activity has occurred, or could potentially occur; and
- Not malicious, frivolous, vexatious and/or knowingly false.

“Employees” means individuals, including students, who are employed by the University or holding an appointment with the University including paid, unpaid and/or honorific appointments.

Commented [NO1]: Students may also have consequences under student conduct

“Report” means a written report made by a University Member under this Procedure concerning any actual or perceived Improper Activity where the report is:

- Made to a University Recipient;
- Based on a reasonable belief or information that the violation has occurred, or could potentially occur; and
- Not malicious, frivolous, vexatious and/or knowingly false.

“Improper Activity” means an act of misconduct that a University Member knew or should reasonably have known to be wrong or inappropriate. Improper Activity includes, but is not limited to:

- Significant financial misconduct or mismanagement;

- Theft, fraud, and/or misappropriation of University assets;
- Significant contravention of University policies and procedures;
- Violation of the University's legal or regulatory obligations;
- Forgery, falsification, and/or inappropriate alteration or destruction of University records (paper and electronic);
- Making a disclosure that is not in Good Faith.
- The act of concealing, or attempting to conceal, Improper Activity, and/or knowingly directing or assisting in the commission or concealment of Improper Activity, will also be considered a form of Improper Activity under this Policy.

"Innocent Violation" means an Improper Activity that is inadvertent or where the University Member could not reasonably be expected to have known the Improper Activity is a form of misconduct.

"Investigator" means an individual appointed to investigate by a Designated Decision-Maker.

"Personal Information" means information about an identifiable individual, as defined in s. 2 of FIPPA, as amended from time to time.

"Reprisal" refers to a retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: submits a Report, or participates in a related investigation under this procedure.

"Reporting Party" means a University Member who makes a Report.

"Respondent" means an Employee named as a subject of a Report.

"University Recipient" means the:

- Appropriate supervisor or manager;
- Organizational Area Vice-President, where the disclosure may implicate the appropriate supervisor or manager.

SCOPE AND AUTHORITY

3. These Procedures apply to all Employees of the University.
4. Under the Policy Framework, where there is a conflict between these Procedures and an existing collective agreement between the University and one of its bargaining units, the collective agreement will prevail.
5. Reports of conduct that would constitute harassment, violence, sexual violence, or discrimination will be investigated and addressed under the Policy Against Harassment, Violence and Discrimination in the Workplace or the Harassment and Discrimination Policy, as applicable.
6. The University Secretary and General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

RECEIVING REPORTS OF VIOLATIONS OF THE CODE OF ETHICAL CONDUCT POLICY

7. Making a Report

- 7.1.** Any individual who has evidence of a violation of the Code of Ethical Conduct Policy may make a Report to a University Recipient. Where the violation involves the President or an organizational area Vice-President, the Report should be submitted in accordance with the Safe Disclosure Policy and Procedure.
- 7.2.** A Report will be provided in writing, signed, and will include a brief summary of the evidence or basis for the belief that a violation has occurred, as well as the names of the University Members involved.
- 7.3.** Reports may be submitted anonymously noting that the ability to investigate or address a Report may be hindered by a Complainant remaining anonymous.

8. Receiving a Report

- 8.1.** Upon receipt of a Report, a University Recipient will forward it to the appropriate organizational area Vice-President. The Vice-President will determine, in consultation with others as necessary, whether the allegation, if true, would constitute a violation of the Code of Ethical Conduct Policy.
- 8.2.** If the allegation set out in the Report would not, if true, amount to a violation, the Vice-President will respond to the Reporting Party in writing, usually within 60 days, advising that the Report has been reviewed, and that the information provided does not support an allegation of a violation of the Code of Ethical Conduct Policy.
- 8.3.** The Reporting Party will also be advised that the Vice-President may reconsider the Report if additional and significant information is provided. If there is another process or resource at the University that would be more appropriate for the subject matter of the Report, the Reporting Party will be advised of this alternative process.

9. Decision to Proceed with an Investigation

- 9.1.** In cases where a Report would, if true, constitute a violation of the Code of Ethical Conduct Policy, the Vice-President will decide whether to proceed with a formal investigation, or to attempt an informal resolution. Where the alleged conduct is serious, where there are indications of a repeated course of conduct, or where the alleged conduct is considered Improper Activity, an informal resolution is not appropriate.
- 9.2.** If a University Recipient decides to proceed with an investigation, they will consult with the Senior Dispute Resolution Officer and Human Rights Advisor in the Office of the University Secretary and General Counsel who will appoint an Investigator.

CONDUCTING AN INVESTIGATION UNDER THE CODE OF ETHICAL CONDUCT POLICY AND THE SAFE DISCLOSURE POLICY

10. Investigation Process

- 10.1.** Under no circumstances will an investigation be conducted or overseen by an individual who was directly involved in the events in issue, or by an individual whose involvement would give rise to a Conflict of Interest or a perception of a Conflict of Interest. No individual who was involved in or who has a personal stake in the events in issue will be involved in an investigation (other than as a witness).
- 10.2.** In addressing a Report, the Investigator will establish an investigation process that is appropriate in the circumstances and that maintains the procedural rights granted in collective agreements to any individuals involved in the Report. This process will be summarized in written form and distributed to the Respondent. At a minimum, any investigation will provide a reasonable opportunity for the parties to understand the allegations, and to submit relevant information.

11. Determination and Corrective Action

- 11.1.** The Investigator will be charged with providing an opinion, based upon a review of the totality of the evidence (including the Respondent's evidence and submissions), whether misconduct occurred and whether the misconduct is considered Improper Activity or an Innocent Violation, based on a balance of probabilities. The Investigator will ensure that the results of the investigation are brought to the attention of, and reviewed by, the Vice-President.
- 11.2.** Human Resources will advise the Vice-President with respect to appropriate corrective measures, if any, to be taken, including measures aimed at preventing Reprisal, where appropriate. Corrective measures may include non-disciplinary actions (e.g. education) or disciplinary measures (e.g. a written reprimand, a suspension or termination).
- 11.3.** The final determination regarding the outcome of the investigation and the recommended corrective actions will be made by the Vice-President, or in the case of a Disclosure, in accordance with section 7.4 of the Safe Disclosure Procedure.
- 11.4.** Employees that are members of a bargaining unit will have any corrective measure(s) imposed in accordance with applicable collective agreement requirements.
- 11.5.** Once a decision has been reached, the Vice-President will notify the Respondent, in writing, of its decision, including reasons (if any) and recommendations (if any) with respect to the violation. The written decision will clearly indicate any corrective measures.
- 11.6.** The investigation and review process will be conducted expeditiously. All reasonable attempts will be made to protect the privacy of the Reporting Party and Respondent at all material times during and after the review process.

12. Confidentiality

- 12.1.** Information collected under this Procedure will be used only for the purposes of administering this Procedure and related processes, and may be disclosed only on a

need-to-know basis to the extent required to fulfill the University's legal obligations. Personal Information collected, used and disclosed under this procedure will otherwise be kept confidential.

- 12.2. All individuals involved in this Procedure will be advised of their duty to maintain the confidentiality of all information disclosed to them in this Procedure, including any Personal Information disclosed to them.
- 12.3. Except as required under these procedures, or as otherwise required by law, investigation reports created under this procedure will not normally be disclosed or produced to a Reporting Party, Respondent or witness. Reporting Parties, and Respondents who are Employees, will, however, be advised of the outcome of the investigation, and the corrective actions if any.

13. Right to an Advisor/Support Person

- 13.1. Respondents who attend an interview in an investigation under this procedure may be accompanied by one advisor/support person. The role of an advisor/support person is to assist the individual by providing procedural information, to ask questions regarding the investigation process and to provide moral support. Individuals who choose to attend an interview with an advisor/support persons will choose their own advisor/support person and will notify the Investigator of their advisor/support person's name at least 24 hours prior to the interview. In the case of an Employee who is a member of a bargaining unit, the advisor/support person may be a union representative. During the interview, an advisor/support person will be permitted to speak and ask questions regarding the investigation process, but will not be permitted to make legal submissions or arguments on behalf of the individual, or to disrupt the interview. In any event, individuals who are being interviewed must answer the interview questions themselves.

14. Appeal

- 14.1. The Respondent has a right to appeal the decision and/or disciplinary penalties imposed by the Vice-President under one or both of the following grounds:
 - a) New evidence exists that was not available to the Respondent at the time of the original decision (through no fault of their own) that, if considered would likely have altered the outcome of the decision; or
 - b) There was a fundamental flaw in the investigation or decision-making procedures that led to the decision, resulting in a lack of Administrative Fairness.
- 14.2. A notice of Appeal must be submitted in writing, and must set out the specific grounds on which the appeal is being made and provide a summary of evidence in support of these grounds to the Senior Dispute Resolution Officer and Human Rights Advisor in the Office of the University Secretary and General Counsel within ten (10) Working Days of the date of the Decision.
- 14.3. The Senior Dispute Resolution Officer and Human Rights Advisor will appoint an Appeal Officer to conduct the appeal.

- 14.4.** If, after considering the written submissions, the Appeal Officer finds that the case does not meet the grounds for appeal set out in Section XX, the Appeal Officer will dismiss the Appeal or Review within five (5) Working Days of receipt of the Appeal. Otherwise an appeal hearing will be conducted.

15. Appeal Hearing

- 15.1.** Appeal hearings will normally be conducted in writing as follows:

- a) The Appeal Officer will provide a copy of the notice of appeal and any new supporting evidence to the Vice-President, or delegate.
- b) The Vice-President, or delegate will have ten (10) Working Days to provide the Appeal Officer with a written response to the Appeal. A copy of the written response will be provided to the Appellant.
- c) The Appellant will have ten (10) Working Days to provide the Appeal Officer with a final written response. A copy of this response will be provided to the Vice-President, or delegate.
- d) The Appeal Officer will normally issue a written decision to the Appellant and the Vice-President, or delegate within ten (10) Working Days of their receipt of the Appellant's final written response. The decision will provide the reasons in support of the decision.

- 15.2.** The time limits specified under these procedures may be extended by the Appeal Officer at the request of the Appellant or the Vice-President, or delegate, if reasonable grounds are shown for the extension.

16. Protection from Reprisal

- 16.1.** Any Reprisal for making and pursuing a Report under this Procedure is itself considered a breach of the Code of Ethical Conduct Policy. Any individual experiencing Reprisal may file a Report, and that Report will be processed under this procedure.

MONITORING AND REVIEW

- 17.** These Procedures will be reviewed as necessary and at least every three years. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

- 18.** Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

RELATED POLICIES, PROCEDURES & DOCUMENTS

- 19.** Code of Ethical Conduct Policy
Harassment and Discrimination Policy and Procedures

Policy Against Violence, Harassment and Discrimination in the Workplace, and related procedures

Fair Processes Policy

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