Rules governing Conflict of Interest at Karolinska Institutet

Effective as of 26 April 2006

These rules replace the former rules from 1997
Approval of revised rules

A decision was taken at the meeting of the Ethical Council on 8 June 2005 on the need to revise the rules governing Conflict of Interest (COI). A comparison was drawn with similar rules drafted between the National Medicinal Products Council, the Medical Products Agency, the Swedish Council on Technology Assessment in Health Care, and the National Board of Health and Welfare. The Council also decided to draw up a COI declaration form.

The Ethical Council has submitted its proposal for the revised rules and a new declaration for Karolinska Institutet (ref. no. 00/06-608), which are hereby approved for use as of 26 April 2006.

The regulations given in the appendix replace the former regulations (No. 2 – Ethical Board’s document series, 1997).

The decision on this matter has been taken by President Harriet Wallberg-Henriksson in the presence of University Director Rune Fransson after presentation by administrative officer Maria Schale Sjöström.

Harriet Wallberg-Henriksson

Maria Schale Sjöström

Appendix: Rules governing Conflict of Interest (including COI declaration).

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Rules governing conflict of interest, approved by the president and effective as of 26 April 2006. These rules replace the former rules from 1997.
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Dnr 900/06-608

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1 The objectivity principle

Section 9, chapter 1 of the constitution and the Administrative Procedure Act (1986:223) contains regulations guaranteeing that all administration and decision-making procedures adopted by the administrative authorities must conform to demands on objectivity and impartiality (the Objectivity Principle). Some more serious breaches of this principle have been made punishable through the provisions of the penal code concerning active and passive corruption. In addition to this are regulations forbidding public sector employees from pursuing extramural occupations that might undermine confidence in them.

Universities and university colleges are administrative authorities, which is to say autonomous units of public administration under the auspices of the Ministry of Education and Research. Decision-makers and administrative officers at various levels of the university sector must thus make sure to observe objectivity at all times when dealing with cases the outcome of which they have the power to influence. This applies to all types of cases handled by the authorities, but is of particular importance for the exercise of authority over individuals; i.e. regarding decisions affecting the rights or obligations of private physical persons, such as recruitment, grant allocation, grades, and disciplinary action. The rules governing conflict of interest do not, however, apply to the de facto actions of the authorities (e.g. teaching, research and treatment).

2 “Administrators”

The provisions of the Administrative Procedure Act regarding Conflict of Interest apply to “whoever is responsible for the administration or handling of a case”. By this is meant people whose dealings with a case can put them in a position of influence over its outcome. This includes those who are involved in the actual decision (e.g. members of a board), and those who otherwise participate in a case’s final processing (e.g. presenters of reports). In the interests of simplicity, such persons are referred to herein under as “administrators”. Employees responsible for maintaining journals, printing, implementing decisions, etc. are generally not subject to the rules regarding conflict of interest when carrying out these and other tasks of a purely clerical nature. Independent experts are not expected to be subject to these rules either unless they take part in another capacity in the administration of a case.

3 Conflict of Interest

A conflict of interest (COI) arises when an administrator is deemed in danger of compromising his or her objectivity in the execution of his or her duties. According to §11 of the Administrative Procedure Act, a COI arises when an administrator:

- has a personal legal or actual interest in a case;
- is related in some way with an involved party;
- acts as a proxy for the person whom the case involves;
- has previous dealings with the case (sometimes);
- is a representative of or an assistant to a involved party;
• is or acts in any other way liable to undermine confidence in his or her impartiality.

No conflict of interest arises when the question of impartiality is deemed irrelevant.

4 Examples of COI
There are not so many examples of COI in legal usage, probably because the authorities are generally careful and observe the principles of COI when it is necessary to do so. The following examples, some of which are taken from the official report of the Parliamentary Ombudsman (JO) and the yearbook of the Supreme Administrative Court (RÅ), may be of some guidance when judging cases of COI.

4.1 COI due to personal involvement
Any party involved in a case (i.e. claimant, complainant or other) is deemed to hold a conflict of interest and may not deal with its administration. (In the case of RÅ 1977 ref. 138, the Supreme Administrative Court annulled, after some trouble, a decision taken by a local politician to place in a managerial position a person appointed to submit information about applicants, even though he himself was an applicant and therefore theoretically disqualified.) Similarly, a head of department is disqualified if he or she has a significant interest in terms of ownership or influence in a company with which the department is engaged in business.

4.2 COI due to financial gain
A teacher who stands to gain financially from a book by virtue of authorship or otherwise should be considered disqualified on grounds of COI when, for example, a research and education decision-making body is considering the inclusion of the book on a course reading list.

4.3 COI due to kinship etc.
If the outcome of a case is likely to bring particular benefit or harm to an administrator’s spouse, parents, children or siblings, it constitutes a conflict of interest. (In JO 1983/84 s.326, a chief education officer was considered disqualified to participate in a recruitment process as his wife was one of the applicants to the position.)

This also applies to non-kin relatives of the administrator, such as anyone with whom he or she is in close contact, engaged to or cohabits. (In JO 1979/80 s. 320, the conflict of interest did not even apply to the administrator but to his son, who was cohabiting with an applicant to a local council post; the administrator, a director of a social insurance office, was considered disqualified to handle the case.)

Teaching a child does not put a teacher in a position of COI (de facto action), while examining and grading him or her (exercise of authority) clearly does. However, it can not be taken for granted that a pupil benefits from being taught by
a parent or relative; in an effort to preclude accusations of favouritism, he or she might put unfairly high demands on the child in question.

4.4 COI due to personal proxy
A conflict of interest arises when an administrator or a close friend or relative acts as the proxy of the physical or juridical person in question or someone who can expect to be particularly benefited or harmed by the outcome of the case. This can occur in a business relationship between a department and a company of which the administrator is an authorised signatory. Depending on the circumstances, an administrator can, however, be disqualified even if he or she is only a director of a company or other organisation active in the same field as the authority (cf. omnibus clause item 5, and the rules on extramural occupations).

4.5 COI due to double instance
A conflict of interest arises when an administrator of a higher instance has already taken part in the final handling of a related case at a subordinate authority. Serving on a referral board at a departmental level thus does not prevent an administrator from dealing with the same case at a faculty or board level. Nor is there a conflict of interest when a person from the same authority participates in different phases of the administration of a case.

4.6 COI due to representation or assistance
An administrator who speaks on behalf of the person the case concerns, or who assists someone in return for payment, is uncommon in the academic sector. All officials are required by the provisions of the Administrative Procedure Act and other legislation to assist private individuals with issues relating to the administration’s sphere of activity. However, they should exercise restraint when, for example, helping someone to prepare an application so that concerns of prestige etc. do not render them unable to judge the case objectively when administrating it at a later date. Here too the administrator should bear the omnibus clause (see next item) and the rules governing extramural occupations in mind.

4.7 Omnibus clause – discretionary COI
The fifth item is a relatively general rule (an omnibus clause) intended to cover such conflict of interest situations that do not fall into any of the above categories but where the circumstances may still throw doubt on the impartiality of an administrator or expert.

An example of such discretionary COI would be when the administrator is clearly on either good or bad terms with the person involved or a third party, or in some respect manifestly dependent upon them.

Co-authorship has been taken to compromise on the administrator’s impartiality if the joint works are sufficiently numerous and if the collaborative period has fallen in the previous 12 months. Union or student union representatives can be disqualified on grounds of discretionary COI in cases concerning the union in question.

(JO 1985 s. 397 concluded that a senior lecturer should not have been involved with the examination of a student to whom he had given private lessons for payment in kind. In cases such as this, the teaching can be considered a situation liable to undermine confidence in the impartiality of the examiner.)
It should be remembered that the circumstances giving rise to a conflict of interests apply at all times to the administrator *personally* and not to the work he or she does at the organisation. A teacher may feel free to handle professionally important issues relating to budget, premises, etc. without disqualification.

A problem particular to the university sector is that specialist competence in a certain research field is often so limited that most people involved know each other and have professional relations. This sometimes makes it difficult, for instance, to find experts who have had no previous contact with any of the applicants.

If the discretionary COI rules were interpreted too strictly in such cases, it would limit the availability of competent experts or decision-makers. It can also be seen from previous National Board of Universities recruitment praxis that a relatively liberal interpretation of the COI rules is allowed.

However, a previous or current opinion on or involvement in the issue in question that raises suspicions of undermined impartiality constitutes a conflict of interest. Paragraph two of §11 contains a “safety valve” to the effect that conflict of interest may be disregarded in certain obvious cases. Formally speaking this does not impinge upon the above principles, and does not entail the consequences specified in §12 of the Administrative Procedure Act. Such cases might relate to registration, which is wholly routine and unaffected by the administrator’s partiality or impartiality.

A head of department may implement a decision taken by a departmental board, even if he or she has been disqualified from taking part in the actual decision-making process.

### 5 Consequences of COI

Section 12 of the Administrative Procedure Act provides that no one may handle a case for which he or she is disqualified on grounds of COI. As a general rule, he or she may therefore not take part in any preparatory work or decisions regarding the case. He or she may, however, take whatever action cannot be taken by another person without inconvenient delay. In urgent cases that may not be postponed, a disqualified person may take a decision if the shortage of time so demands. A restrictive interpretation of this exemption is recommended.

Whoever is disqualified on grounds of COI from a case due for review at a meeting must refrain from commenting or voting on it, and should even vacate the session room. Although there is no explicit provision for this in the Administrative Procedure Act, it is customary to do so to prevent the presence of the disqualified person from influencing any decision to be taken on the case.

Whoever knows of any circumstances that might constitute a conflict of interest must disclose them immediately. Consequently, administrators are expected to be aware of any grounds for COI that may exist. This obligation applies not only to employees but also, for example, to members of the board of a public authority.
6 Examining cases of COI

If a person is challenged on grounds of COI, and if a replacement cannot be found, the public authority is required to pass judgement on the case with the minimum of delay. Such a situation can arise if an external party discloses a conflict of interest against a person when he or she refutes the existence of any such circumstances. It has also been known for people who do not want to participate in the review of an unpleasant case to allege a conflict of interest. The disqualified person may then take part in the examination of the COI allegation but on condition that the public authority in question is unauthorised to take a decision in his or her absence and that nobody else can be co-opted without causing inconvenient delay. If the authority should subsequently judge that the case does not constitute a real or potential conflict of interest, the administrator may continue to participate in the review of the case in question.

The following considerations regarding external experts may, however, also apply to KI personnel.

(A hearing at the Supreme Court, NJA 1995:11, illustrates how a person can create a COI situation for another by provoking a conflict. In the case, which involved the so-called laser man’s right to change public defence counsel for the seventh or eighth time, the defendant claimed that his lawyers held a conflict of interest since the police report was filed after his physical attack on them. The Supreme Court, and subsequently the Svea Court of Appeal, found the circumstances of the case so unusual that the laser man’s appeal was dismissed.)

It is incumbent upon the expert him or herself to disclose a conflict of interest. Should he or she forget to do so, the decision taken remains valid until declared invalid or appealed against.

According to §12 paragraph 4 a conflict of interest ruling may only be challenged in connection with an appeal against the public authority’s final decision. Normal practice is to forbid any appeal against a decision on the dismissal of a COI claim until such time that a decision is taken by the public authority on the case in question.

Even if a conflict of interest claim in any one case is based on the relevant expert’s personal judgement, the public authority must still comply with the requirements of the constitution and the Administrative Procedure Act and exercise great care. It falls to the organisation to judge if the engagement of an expert for or during a particular assignment, should circumstances dictate, constitutes a conflict of interest. If it emerges that the expert is disqualifiable or that a COI-like situation exists, the organisation must make immediately sure that the expert is no longer able to influence either the assignment or the case.

The expert must be prepared to answer the organisation’s questions and to acknowledge that the circumstances are a matter for its concern.

Each prospective expert is asked to acquaint him or herself with all information relating to conflict of interest and similar circumstances, and complete and sign a declaration.
Decisions on whether a conflict of interest or other such connection applies to a case are taken by the person or body that is required to take the final decision on that case (e.g. the recruitment committee in matters of professional appointment).
Declaration of COI

DECLARATION of COI or other such connections or conflicts of interest that may impinge upon the impartiality or objectivity of Karolinska Institutet.

I have read the information provided by Karolinska Institutet regarding conflicts of interest and similar circumstances.

Name: (Filled in by KI)
Address: (Filled in by KI)
Position at KI: (Filled in by KI)
Contracted/proposed position at KI: (Filled in by KI)

I have the following personal, professional or commercial relations to other interested parties of relevance to the assignment:

Collaboration (e.g. co-author, supervisor):

Employment/paid work:

Grant/Clinical trials/Other collaboration:
Financial interests (shares, loans, etc.)

Other relations, connections or conflicts of interest regarding the assignment:

☐ I have no such relations to disclose.

I undertake to inform KI immediately of any change in circumstances affecting the execution of my current/proposed duties. I am aware that this declaration is a public document.

________________________________________  __________________________
Date Signature