

Compliance Matters

Office of the President / Office of Compliance and Risk Management / Office of Equal Opportunity



Navigating Conflicts of Interest

by Rachna Vaid

You are employed as an administrator at New York University (NYU) and have an outside business. Can your business provide goods or services to NYU? Can you work on your business during your workday or use NYU resources? You refer your spouse or child for a job opening at NYU. Is that acceptable? Is it acceptable if you are making the hiring decision, or will be supervising the new employee, or will have some decision making role with regard to the new employee?

An NYU vendor, or a vendor seeking to do business with NYU offers you a free trip to a conference in Hawaii. Can you accept it? A work colleague or a friend outside NYU asks you to look up some confidential information about a vendor contract or employee compensation that you have access to as an NYU employee. Can you reveal that information?

The scenarios above all have a common undercurrent: conflicts of interest. In each scenario, there are, or appear to be, competing and conflicting interests – NYU’s interests and your own interests which may at times not coincide with NYU’s interests. Where those two interests diverge, a conflict of interest arises.

A determination that a situation presents a conflict of interest is fact specific and its management also depends on the specific facts involved. The scenarios noted above represent some common types of situations where conflicts of interest may arise. Whether a particular situation represents an actual or potential conflict of interest depends on its specific facts.

What is important is to recognize the kinds of situations that may give rise to a conflict of interest and to disclose them whenever they arise. In addition to the ongoing obligation to disclose conflicts of interest, certain members of the University community must file an annual conflict of interest disclosure form, including members of the NYU Board of Trustees, Officers and Senior Administrators, faculty, and designated administrative employees.

Continued on page 2



In This Issue:

- ◆ Navigating Conflicts of Interest, page 1
- ◆ Highlights of the *New Employee Policy on Conflicts of Interest*, page 2
- ◆ Traveling to Cuba, page 3
- ◆ Introduction to NYU’s New Import and Export Compliance Officer, page 3
- ◆ Updated Policy News, page 5

Navigating Conflicts of Interest (Continued from page 1)

NYU Policies on Conflicts of Interest

Avoidance of conflicts of interest is one of the principles applicable to all members of the University community in the [Code of Ethical Conduct](#). In addition, specific conflict of interest policies apply to different members. This article focuses on the policy applicable to administrative employees, the new [Employee Policy on Conflicts of Interest](#). In addition, departments and schools may have their own conflict of interest policies as well that may be more restrictive. As a reference, the [Conflicts of Interest Policy for Trustees, Officers, and Senior Administrators](#) applies to Board of Trustees, Officers and Senior Administrators. The [Academic Conflict of Interest and Conflict of Commitment Policy](#) applies to Faculty.

Recognize - Avoid - Disclose - Manage

The [Employee Policy on Conflicts of Interest](#) states that employees “should seek to avoid Conflicts of Interest,” which are defined as follows:

...[A]ny circumstance in which the personal, professional, financial, or other interests of an employee may potentially or actually diverge from, or may be reasonably perceived as potentially or actually diverging from, his or her obligations to NYU and the interests of NYU. It includes indirect conflicts, such as benefits provided to an Immediate Family Member of an employee.

The Policy provides examples of some common types of conflicts of interest and sets out a process for both em-

ployees and supervisors. Employees have an ongoing obligation to disclose conflicts of interest to their supervisors; supervisors may determine that the conflict of interest should be eliminated, reduced or managed in some other way appropriate to the particular situation, including creating a conflict management plan with which the employee must comply. Before approving a conflict of interest, a supervisor must consult with the [Office of Compliance and Risk Management](#). Both employee and supervisor may seek guidance from the Office of Compliance and Risk Management and/or the [Office of General Counsel](#).

So, navigating a conflict of interest requires recognizing that a particular situation may give rise to a potential or actual conflict of interest, avoiding the conflict of interest, disclosing it, and complying with any plan to manage it. Depending on your job responsibilities, and applicable departmental guidelines, specific requirements may address activities that are prohibited. Going back to the scenarios at the beginning of this article, some considerations that come into play are outlined below.

Business Arrangements

Where an NYU employ has a business outside NYU and seeks to become a vendor to NYU, a conflict of interest may be created between the best interests of NYU which are to engage the best vendor and those of the employee which are to promote her outside business. The employee could avoid this conflict of interest by not seeking

to become a vendor to NYU, or by leaving NYU employment. Within these extremes, there may be a situation where the service is unique or otherwise important to NYU’s interests. Disclosing the employee’s relation to the outside business is all important. Once the employee has made the disclosure, the decision to engage the vendor is a management decision.

Should management decide that it is in the best interest of NYU to engage the vendor, despite the connection with the employee, a conflict management plan may be required that ensures that this particular vendor is the best vendor for the purpose, that the employee has no decision making role with respect to selection of the vendor, and no ongoing role in negotiating the contract, reviewing the services provided, or extending the contract.

Use of NYU Resources

Where the employee does not seek a vendor contract with NYU but conducts some of the business during her workday a conflict of interest may still be created because the employee’s sole obligation during the workday is to her NYU job responsibilities. Likewise, using NYU resources such as computers, copiers, telephones and staff to conduct outside business is another form of a conflict of interest.

Employment Relationships

NYU encourages employees to recommend their relatives and friends for employment. The employee

Continued on page 4

Meet the New Import / Export Control Officer at NYU

Wendy Epley joined the Office of Compliance and Risk Management in February 2015 as the new Import and Export Compliance Officer and oversees the University's Import and Export Compliance Program. Wendy is certified as an Export Compliance Professional (ECoP®) from the Export Compliance Training Institute in both the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). She received her Bachelor of Science degree in Global Business from Arizona State University.

During her career, Wendy has been published by the National Council of University Research Administrators (NCURA), co-presented on several webinars on export controls, and has presented at the Association of University Export Compliance Officers (AUECO) *Impact of Export Controls on Higher Education and Scientific Institutions* conference.

Prior to joining NYU, Wendy was the Export Compliance Officer for the University of Miami in Miami, Florida, where she developed and managed the Office of Export Control & Technology Management for the entire university. Wendy's career spans across several Fortune 100 and Fortune 500 industry leaders such as Honeywell Aerospace, Schering-Plough Pharmaceuticals, and Arthur Andersen LLP. For more information about Import and Export Controls, please contact Wendy at 212-998-6884, or email her at wendy.epley@nyu.edu.

Traveling to Cuba— New Opportunities by Wendy Epley

For over 50 years, relations with Cuba have been strained at best, and, due to sanctions that the U.S. imposed on Cuba, conducting business and even traveling to Cuba was extremely difficult even with approvals.

On December 17, 2014, President Obama announced plans to fully restore diplomatic relations with Cuba and a U.S. embassy in Havana. This was exciting news for many, including the New York University community. In this article, we highlight some of the recent changes, summarize ongoing restrictions, and identify additional resources and University offices that can assist you with questions.

Traveling to Cuba - Changes in U.S. Regulations

On January 16, 2015, U.S. federal agencies began making changes in regulations to implement the President's Cuba initiatives, including modifications to the U.S. Department of Treasury's Cuban Assets Control Regulations (CACR) that are administered by the Office of Foreign Assets Control (OFAC) and the U.S. Department of Commerce's Export Administration Regulations (EAR) that are administered by Bureau of Industry and Security (BIS). These changes may be of particular interest to the NYU community.

OFAC has issued "general licenses" authorizing travel and travel related transactions to, from, or within Cuba in 12 categories. When OFAC issues a general license, no further permission from OFAC is required to engage in transactions by a person who meets *all criteria* in a general license.

Among other activities, these general licenses permit:

- Educational activities in Cuba by faculty, staff, and students at U.S. academic institutions, *subject to specific conditions set forth in Federal Regulations [31 CFR § 515.565](#)*;
- Educational activities in the United States by Cuban scholars, *subject to specific conditions set forth in Federal Regulations [31 CFR § 515.565](#)*;
- Research in Cuba relating to a traveler's profession, professional background, or area of expertise, *subject to specific conditions set forth in Federal Regulations [31 CFR § 515.564](#)*;
- Professional meetings or conferences in Cuba relating to a traveler's profession, professional background, or area of expertise, provided that the purpose of the meeting or conference is not the promotion of tourism in Cuba, *subject to specific conditions set forth in Federal Regulations [31 CFR § 515.564](#)*; and
- The exportation, importation, or transmission of information or informational materials in and to and from Cuba, *subject to specific conditions set forth in Federal Regulations [31 CFR § 515.532](#) and [515.545](#)*.

Continued on page 4

Traveling to Cuba— New Opportunities *(continued from page 3)*

Authorized US travelers will be allowed to import back to the United States up to \$400 worth of goods acquired in Cuba for personal use. This includes no more than US\$100 of alcohol or tobacco products.

The Department of Commerce (BIS) has issued changes in the EAR that, among other things, permit:

- Export to Cuba of consumer communications devices that enable the flow of information to, from, and among the Cuban people – such as personal computers, mobile phones, televisions, memory drives, recording devices, and consumer software – through commercial sales, as well as donations.
- Export to Cuba of certain items to human rights organizations, individuals, or non-governmental organizations that promote independent activity intended to strengthen civil society.

Continued Cuban Embargo and Sanctioned Activities

Although U.S. relations with Cuba are improving, it is important to remember that Cuba still remains an embargoed country and many activities, such as tourist travel to Cuba, are still strictly prohibited. Because many Cuba sanctions remain in place, and new regulations are com-

plex and changing, we recommend that prior to traveling, engaging in transactions with Cuba and/or Cuban nationals, that you seek advice.



For all matters related to Cuba, please feel free to contact NYU's Import & Export Compliance Officer, Wendy Epley, at 212-998-8664, or email her at wendy.epley@nyu.edu, well in advance. You may also seek assistance from Danny Magida in NYU's [Office of General Counsel](#). ■

Wendy Epley is the Import and Export Compliance Officer in the Office of Compliance and Risk Management.

Navigating Conflicts of Interest

continued from page 2

recommending the relative or friend, however, cannot be involved in the Nor can the employee be involved in any supervisory role with regard to the relative once hired. Once again, disclosing the relationship with the person being recommended is key as is complying with the restrictions noted and contained in the University policy specifically addressing this area, the [Employment of Members of the Same Family/Household](#)

Gifts

Accepting a gift or favor from an individual or entity doing business with, or seeking to do business with, NYU may become a conflict of interest. A gift from a supervisor to a subordinate, or vice versa, may be a conflict of interest. The context and value of the gift are important. Specific laws may prohibit gifts. Cultural norms may be relevant.

Confidential Information

Information to which we have access because of our jobs that is not public is confidential, such as vendor contracts or employee compensation. Disclosing it to anyone, whether to someone inside NYU who does not have a legitimate need to know it or to someone outside NYU is a conflict of interest unless the disclosure is authorized.

Guidance Available

General guidance, training on conflicts of interest, specific guidance on particular situations, and fact-finding reviews are all available through NYU's [Office of Compliance and Risk Management](#). In the meantime, know the policies that apply to you and when in doubt seek guidance and disclose situations that may be conflicts of interest. ■

Rachna Vaid is the Senior Associate Compliance Officer in the Office of Compliance and Risk Management

Policy Post

Policy Post is a new addition to the *Compliance Matters* newsletter that brings awareness to the University community about new and updated university-wide policies and guidelines. Each newsletter will cover any significant new and revised University policies.

The University recently adopted a new [Employee Policy on Conflicts of Interest](#). The new policy- applies to **all NYU employees** except for (1) Faculty and investigators subject to the Policy on Academic Conflict of Interest and Conflict of Commitment, and (2) Members of the University Leadership Team and others to the extent subject the *Conflicts of Interest Policy for Trustees, Officers, and Senior Administrators*. Among other important items, the policy provides examples of conflicts of interest and explains that

- ✓ Examples of Conflicts of Interest
- ✓ Employee Obligations
- ✓ Procedures for Managing and Disclosing

A revised [Global Payment Card Policy](#) has been posted and supersedes the former *Purchasing Card Program Policies and Procedures*. Information about the new policy can be found by clicking on the policy link.

A revised [Purchasing Policies and Procedures Manual](#) has been posted. Information about Purchasing policies and procedures can be found by clicking on the policy link.

The renamed University Policy on Policies is now called [Developing University Policies](#).

You can find always find the most recent University policies and procedures at the University Policies and Guidelines database at nyu.edu/policies.

Compliance Matters is a newsletter published by the Office of the President. Compliance Matters is issued twice a year and provides updates about important compliance, enterprise risk management, policy, equal employment opportunity, and disability issues.

We welcome feedback and suggestions from the NYU community for articles in future issues. Please send your ideas or submissions to Diane Delaney, Associate Compliance Officer, at diane.delaney@nyu.edu.

Previous issues of *Compliance Matters* can be found by visiting the Office of Compliance and Risk Management Services webpage or by clicking here.

