Guidance: Conflict of Commitment

**Purpose**

The purpose of this document is twofold: (1) to describe the difference between Conflict of Interest and Conflict of Commitment; and (2) to clarify how this relates to our federal obligations on disclosures and commitment to transparency. The concepts behind Conflict of Commitment undergird BMC obligations to (A) provide sufficient disclosures for Other Support and Foreign Component, and (B) to provide sufficient disclosures to BMC via the COI Smart survey. This document is not comprehensive; instead it is an overview. For questions, contact Senior Research Compliance Manager, at [michelle.irick@bmc.org](mailto:michelle.irick@bmc.org) or the Senior COI Manager at [jami.wood@bmc.org](mailto:jami.wood@bmc.org).

**What is a Conflict of Commitment?**

Very generally, conflicts of commitment come about when there is something that does or could interfere with your BMC obligations and responsibilities – this is broad and can include commitments, relationships or activities that are both paid and unpaid. See formal definitions below for the key terms and concepts in Conflict of Commitment.

1. For a more specific definition, a “**Conflict of Commitment**” (COC) means one or more Outside Activity (defined below) that actually, potentially, or give the appearance of overlapping inappropriately or conflicting, delaying, burdening, compromising, competing with, or otherwise interfering with a person’s obligations to BMC or their compliance with BMC policies.
2. An “**Outside Activity**” means any paid or unpaid professional or commercial activity involving any interest, appointment, commitment, or other responsibility to an Outside Entity.
3. “**Outside Entity**” means any non-BMC, domestic or international, for-profit or not-for-profit, corporation, foundation or other entity, including any law firm, non-government organization (NGO), foundation, professional society, other organization, or individual operating or transacting business.

**How Is This Different from Conflict of Interest?**

In general, COC is related to the concept of conflict of interest, but it is broader, because the federal trend is toward broader disclosures. This means that the federal government wants to know more about appointments, lab space or other provided equipment, honorarium, teaching or other activities, talent program participation, foreign contracts, etc., whether paid or unpaid, and funding if it generally relates to any research.

**Key Concept!** Keep in mind that while the focus is on foreign interests, the disclosure

obligation is broader, including any interests outside of our BMC institution, both domestic and foreign.

For a specific definition, “**Conflict of Interest**” (COI) means one or more Outside Activities that actually, potentially, or gives the appearance of influencing or biasing decisions one makes on behalf of BMC or while fulfilling BMC responsibilities.

As you can see, the two concepts, COI and COC, are similar, but COC is broader. This means disclosures may overlap in some cases, which is expected.

**What Are Examples of Disclosures Required to Avoid Conflict of Commitment?**

**Key Concept!**

**Keep in mind** that the below interests, activities, and commitments *are not* conflicts, per se. These are things that must be *disclosed* because they pose a risk of being a conflict. After disclosure, Research Operations and Compliance will help analyze where there are higher risk disclosures and advise the researcher on next steps if there is in fact a COC found.

The examples below are not exhaustive. In general, for disclosures you must disclose broadly; if related to your research you should disclose, and if you have doubts, err on the side of disclosing and reach out for assistance.

* An appointment, position or membership at a university or board, paid or unpaid
* Employment or affiliation (paid or unpaid) at a for-profit company
* ‘Gifts’ are sometimes misclassified. A ‘Gift’ is only a true gift when there is nothing expected in return. As to Other Support and Foreign Component disclosures, if a ‘Gift’ may actually be related to research, or could have the appearance of relating to your research record this disclosure, or contact Research Operations for guidance.
  + COI Smart Survey: However, when disclosing in the COI Smart Survey, gifts must be disclosed whether or not there is expectation of something in return.
* Having research support staff or lab members outside of BMC or at a foreign institution
* Having personnel in labs that are supported by a foreign entity
* Having office or lab space outside of BMC or at a foreign institution
* Provision or access to lab supplies or equipment outside of BMC
* Talent Program contracts (e.g. Thousand Talents Program)
* Foreign contracts with Outside Entities
* Teaching classes outside of BMC
* Consulting (paid or unpaid) if related to research

**What Are My Obligations?**

As part of the BMC research community, you are obligated to cooperate with fully disclosing your Outside Activities as part of our efforts to comply with commitment to transparency. Our commitment to transparency involves two related avenues through which researchers much provide sufficient disclosures: **(1)** Other Support and Foreign Component disclosures for NIH awards; and **(2)** BMC COI Smart survey disclosures. These two efforts work hand in hand, bringing together Research Operations, Compliance, and BMC Departments.

1. Other Support and Foreign Component Disclosures

Provide sufficient disclosure, taking a broad approach on your Other Support and Foreign Component disclosures. Provide all your research-related affiliations/positions, support, and valuation in your biosketch, as opposed to only what you deem relevant to the project. Reach out for help if you have questions.

1. BMC COI Smart Survey Disclosures

BMC finalized and implemented a revised COI Smart survey in July 2020. The newly added questions were added to respond to our federal obligations for greater transparency on the activities, commitments, and interests of our researchers. Expect new questions to appear as federal obligations and institutional needs evolve. Provide complete and accurate answers to the COI Smart survey. Be sure to update your COI Smart survey as soon as you have a new interest. If Research Operations or Compliance follow up with additional questions, understand it is routine to get clarification where needed to comply with our federal obligations.

**What Happens If I Do Not Comply?**

Reports of researchers, some prominent such as Dr. Charles Lieber at Harvard, being questioned, arrested, and splashed on the news have been widespread and continuing for over a year. There is no indication that enforcement efforts are slowing down. There have also been news stories about Van Andel Research Institute (VARI) and UCLA indicated federal enforcement could also be aimed at institutions. The fundamental heart of the problem behind all these news stories is a lack of sufficient disclosure, then leading to accusations of violating the False Claims Act, theft of Intellectual Property, lying to the FBI, falsifying visa documents, tax fraud, wire fraud, to name a few causes of action used to charge individuals. In addition, funding agencies could cut funding and in extreme cases prohibit one from receiving federal funding in the future.

The new National Defense Authorization Act (“NDAA”) also includes terms that impose obligations to comply and provide sufficient disclosures to BMC and the federal government. Section 223 of the NDAA applies to every federal research agency, requires that all key personnel on a grant application “disclose the amount, type, and source” of their current funding. It covers both domestic and foreign sources of support and any entity paying for the research. The NDAA provides consistency throughout the government and also makes clear that we must comply.

Providing sufficient disclosures to the federal government and to BMC as an institution protects you and our research community. For questions, contact [michelle.irick@bmc.org](mailto:michelle.irick@bmc.org).