

Guidelines on conflict of interest (COI)

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NOTE: This is a translation of the Swedish version (*Riktlinjer om jäv*). In the event of any discrepancy between the versions, the Swedish version constitutes the official decision and the Swedish wording will prevail.



**Karolinska
Institutet**



Guidelines on conflict of interest

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1 Introduction

Karolinska Institutet (KI) is an administrative authority that in its case administration, decision-making and actions shall observe the principles of equality before the law, objectivity and impartiality. It is essential to the upholding of public confidence that such activities are not influenced by undue consideration or interests. This is a reflection of the objectivity principle enshrined in Chapter 1 section 9 of the Constitution of Sweden and section 5 paragraph 2 of the Administrative Procedure Act (2017:900). Some more serious breaches of this principle have been made punishable through the provisions of the Penal Code concerning active and passive corruption. There are also regulations forbidding public sector employees from pursuing secondary occupations that might undermine confidence in their impartiality or damage the authority's reputation (förtroendeskadliga bisysslor).

The provisions of the Administrative Procedure Act shall guarantee that for each specific case an authority is composed in such a way that its impartiality cannot be called into question. A description of the concept conflict of interest (COI) is given in the following sections.

2 Purpose and scope

Guidelines are recommendations that do not exclude other action options. The purpose of these guidelines is to ensure that no circumstances exist that could render KI employees involved in the administration of a case, including student representatives and externally co-opted experts, biased in their decisions.

3 Situations qualifying as COI

This section describes situations in which an employee can be considered as having a conflict of interest – i.e. when it can be assumed that the decision made on a particular case will have a significant effect on the person in his or her capacity as party to said case or in some other way. Whether or not the person is actually biased does not decide the matter; what is important is how the situation is interpreted from the outside. In other words, whether the employee considers him or herself objective is immaterial.

3.1 COI due to personal involvement

An employee is deemed to have a COI due to personal involvement when administrating a case of which he/she is a party, such as one relating to a perquisite for which he/she has applied.

Examples:

- An employee has a COI if he/she has a significant stake in or influence over a company with which KI is to enter an agreement.
- An employee has a COI if he/she administrates or decides the filling of a vacancy to which he/she has applied.

- An employee has a COI if he/she requests remuneration from KI and verifies his/her own bills.

3.2 COI due to personal gain

An employee is deemed to have a COI due to personal gain when it can be assumed that he/she will be significantly affected by a decision in which he/she is involved.

Example:

- A teacher has a COI if he/she is a rapporteur for or a member of an education or research decision-making body discussing the inclusion on a course reading list of a book that he/she has written or otherwise been involved in and would thus profit from.

3.3 COI due to personal proxy

An employee is deemed to have a COI due to personal proxy when he/she represents or has represented either the physical or juridical person to which the case applies or someone who it can be assumed will be significantly influenced by the decision.

Examples:

- An employee has COI if he/she represents a company or other juridical person that is a party to the case and for which he/she has the authority to act as official signatory or similar.
- An employee has COI if he/she is a board member of a company or other organisation that operates within KI's own field of activity (cf. section 3.6 Discretionary and regulations on secondary occupations).

3.4 COI due to kinship

An employee may be deemed to have a COI due to kinship in the situations described in sections 3.1–3.3 if the outcome of the case benefits or harms a closely related person.

Example:

- An employee has COI if he/she administrates a case to a closely related person is a party, such as one relating to disciplinary measures, grading or hiring.

3.5 COI due to double instance

An employee may be deemed to have a COI due to double instance if he/she has already taken part in the final administration of a case at a subordinate authority and can therefore not be considered impartial in its further consideration. This kind of COI is rare at KI but it should be borne in mind that such dual roles

might constitute discretionary COI (see below).

Examples of situations that *do not* qualify as COI due to double instance:

- Taking part in a referral process at department level does not prevent an employee from taking part in the administration of the same case at a president or board level.
- Taking part in different stages of the administration of a case at one and the same authority does not constitute COI due to double instance.

3.6 Discretionary COI

Discretionary COI is a general rule 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 a person involved in the administration or decision-making of a case. A cumulative assessment of the circumstances must be made on a case-by-case basis.

Examples:

- An employee has COI if he/she is *financially dependent* on a party to the case.
- An employee has COI if he/she is *a close friend of or is on bad terms with* a party to the case.
- An employee has COI if he/she has *had any kind of relationship with* a party to the case, e.g. has or has had intimate relations with a student due to be examined.
- In a decision by the Parliamentary Ombudsmen (ref. no. 1985-86 p. 397), the Ombudsmen stated 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.
- *Close professional collaborations – ongoing or recent*, such as jointly conducted research over the past five years, may affect impartiality. *Co-authorship* may affect impartiality depending on the number of articles and how recently they were written.
- The *doctoral student-supervisor relationship* is always a COI situation regardless of when it was established.
- 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 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. A previous or current opinion on or involvement in the issue in question that throws doubt on a person's impartiality, however, constitutes a conflict of interest.

- *A staff union representative or student representative* can be considered to have a COI in cases that concern his/her union.
- In a decision by the Parliamentary Ombudsmen (ref. no. 2015-16 p. 412), it was stated that *friendship on Facebook* with a party to a case is inappropriate and a circumstance that might undermine confidence in the administrator's impartiality, even though it is not of such a serious nature as to constitute COI. In a different case (ref. no. 2015-16 p. 526) the Parliamentary Ombudsmen stated that a work-related contact and limited contact on Facebook with a party did not constitute a COI. The Parliamentary Ombudsmen added, however, that it would be appropriate for an employee of a public authority to hand a case over to a colleague in the event that he/she discovers a circumstance that would throw doubt on his/her impartiality.

3.7 When COI may be overlooked

If it is clear that the matter of impartiality is immaterial, COI may be overlooked.

Examples:

- Registration, service or other procedural matters such as salary payments that are not affected by partiality or impartiality.
- The COI-qualifying circumstances apply to the employee and not his/her activities at KI. A teacher may thus take part in the administration of matters concerning budget and premises allocation, which can be crucial to his/her work.
- An employee may execute a decision that has been taken by an internal body if he/she has not taken part in its administrative or decision-making procedures due to COI.

4 Consequences of COI

Whoever is disqualified from a case due to COI may not take part in its administration or decision-making or be present when the matter is to be settled. He/she must therefore pass the case to a colleague or vacate the session room. Should he/she have specialist expertise in the field or other such essential competence, he/she may report objective facts before vacating the room.

In rare cases, a disqualified person may take certain administrative action if time is short and no one else can deal with the case without significant delay.

5 Reporting obligation

All employees are obliged to take it upon themselves to keep an eye on circumstances that might conceivably constitute COI and report any qualifying instance, e.g. to their immediate manager, board or committee. Even if a matter of COI is based on an employee's personal assessment of the situation, KI is required by the Constitution of Sweden and the Administrative Procedure Act to be on the alert. For example, KI has responsibility for assessing if the engagement of an expert for a current or future assignment constitutes COI. If it emerges that expert is disqualified or that a COI-like situation exists, KI must act immediately to ensure that the expert can no longer exert an influence on proceedings.

6 Examining cases of COI

If a person is challenged on grounds of COI, either his/her immediate manager or the decision-making body in question is required to examine the matter with the minimum of delay.

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 make a decision in his/her absence and that nobody else can be co-opted without causing inconvenient delay. This exemption is to be applied very restrictively.

There is no provision in the Administrative Procedure Act for when the examination shall lead to a particular decision. Often the matter can be settled informally by passing it to another administrator or decision-maker. If, however, a party claims that an administrator or decision-maker is disqualified due to COI but KI does not agree, a special decision should be announced. If an employee reports a potential COI circumstance but KI judges it not to qualify as COI, an official note should be made of this.

Decisions on matters of COI may be appealed to a higher instance, which may then refer the matter back to KI with a request that KI appoint different people to re-examine it