

## Ethical Decision-making Guidance: Recusal

*The Campus Compliance Working Group prepared this document for decision-makers who are examining their ethical responsibility in decision-making at the university. This document is not a policy or procedure but a resource for decision-makers.*

Regardless of title or position, university employees are expected to uphold the Colorado Creed<sup>1</sup> by acting with honor, integrity and accountability in their interactions with students, faculty, staff, officers and neighbors; respecting the rights of others and accepting our differences; and contributing to the greater good of the University community. In so doing, employees may face decisions in which they have a conflict of interest or other basis on which to recuse themselves from the decision-making process. For example, financial or other personal considerations may compromise a decision-maker's judgment in administration, management, instruction, research, or other professional activities. Such conflicts of interest, as well as the appearance of such conflicts, may have the potential to influence the outcome of the decision-making process in a manner that is inconsistent with the Colorado Creed. Decision-makers, therefore, should consider whether to recuse themselves in such circumstances, and this document is intended to provide guidance accordingly.

University policies where recusal is required or contemplated:

1. CU System APS Conflict of Interest in Cases of Amorous Relationships: <https://www.cu.edu/sites/default/files/5015.pdf>. An individual with evaluative authority must recuse herself/himself from participating in a personnel action with respect to the other individual in the relationship.
2. CU System APS Nepotism in Employment: <https://www.cu.edu/sites/default/files/5003.pdf>. An immediate family member in a supervisory position shall recuse her or himself from all personnel actions involving the other immediate family member.
3. CU Boulder Conflicts of Interest and Commitment Policies and Procedures: <http://www.colorado.edu/innovate/coi/policies-procedures>. Members of the Conflicts of Interest Committee shall be recused from discussion and voting on a particular matter if: 1. The committee member has a compelling personal interest in the matter (such as research or academic collaboration with the faculty member under consideration); or 2. The committee member has a financial interest in the matter under consideration.
4. CU System APS Standards, Processes and Procedures for Comprehensive Review, Tenure, Post-Tenure Review and Promotion: <https://www.cu.edu/sites/default/files/1022.pdf>. No individual may participate in more than one stage of the review process with respect to tenure and promotion of faculty.
5. CU System APS Code of Conduct: <https://www.cu.edu/sites/default/files/2027.pdf>. This policy does not explicitly require recusal, but states as follows "As a state institution, it is imperative for both legal and ethical reasons that university employees do not improperly benefit from their positions of trust at the university. University employees are expected to avoid actual and perceived conflicts of interest related to their work and position. Actual or potential conflicts must be appropriately disclosed in accordance with university conflict of interest and conflict of commitment policies, so that such conflicts may be reviewed, and as appropriate, managed or eliminated. To avoid such conflicts, employees are responsible for seeking appropriate guidance."<sup>2</sup>

In addition to the policies above, University decision-makers should **consider** recusal when the decision-maker:

1. has (or has had) a family, or close personal, relationship -- such as that of a current or former significant other, close friend, partner, spouse, child, sibling, or parent -- that could bias or

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<sup>1</sup> The Colorado Creed can be found at: <http://www.colorado.edu/creed/>.

<sup>2</sup> This list is not exhaustive and this guidance is not a substitute for reading these policies in full.

- inappropriately influence the decision;
- for example, an admissions counselor should recuse him/herself from any admissions decision-making processes related to a family member;
2. has (or has had) a private financial interest in the outcome of the decision;
    - for example, a University employee should consider recusing him/herself from decision-making processes that result in the University giving business to the employee's family member, supporter, donor, or others where there might be an appearance of impropriety or conflict;
  3. is aware of any prejudice that would impair his or her judgment in the decision;
    - for example, an employee on a search committee should recuse him/herself when a fair and impartial decision cannot be made due to personal biases gender preference, race, political, religious or other types of biases (e.g. bias related to a hiring candidate's previous institution affiliation);
  4. has participated, or intends to participate, in deliberations about the decision at another level of review;
    - for example, the tenure review process entails many iterations of voting, and faculty members involved in the voting process at one level (e.g. the initial department vote) should recuse themselves if they are also part of the review process at another level (e.g. the academic affairs review);
  5. believes in good faith that his or her recusal is necessary to preserve the integrity of the decision-making process.<sup>3</sup>
    - for example, a subordinate employee should recuse him/herself during the decision making process if he/she would feel compelled to render a decision solely because it would appeal to, or appease, a supervisor.
    - a decision-maker may also consider recusal if asked to do so.<sup>4</sup>

If a University decision-maker believes that recusal is necessary, the first action to take is discussing the matter with their supervisor to determine if recusal is appropriate. Ultimately, it is up to the decision-maker to use best judgment as to when recusal is required or appropriate. Other resources include:

- The CU Boulder Ombuds Office: <http://www.colorado.edu/ombuds/>
- The Office of Institutional Equity and Compliance: <http://www.colorado.edu/institutionalequity/>
- Employee Relations: <https://hr.colorado.edu/lr>
- Faculty Relations: <https://facultyaffairs.colorado.edu/faculty-relations>
- University of Colorado EthicsPoint: <https://secure.ethicspoint.com/domain/media/en/gui/14973/index.html>.

Additional guidance and policies:

1. Regent Policy 1C Principles of Ethical Behavior: <http://www.cu.edu/regents/policy-1c-principles-ethical-behavior>.
2. CU System APS Fiscal Misconduct Reporting: <https://www.cu.edu/ope/aps/4012>.
3. CU Boulder Professional Rights and Duties of Faculty Members & Roles and Professional Duties of Department Chairs: [http://www.colorado.edu/bfa/sites/default/files/attached-files/PRDJanuary16\\_2013.pdf](http://www.colorado.edu/bfa/sites/default/files/attached-files/PRDJanuary16_2013.pdf).

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<sup>3</sup> This guidance is not intended to remove the essential decision-making functions of University personnel unless there are grounds for recusal as described above.

<sup>4</sup> Note, however, that recusal is not mandatory in such a circumstance. Decision-makers should consult with their supervisor in deciding whether to recuse themselves if asked to do so, and use their best judgment in making the decision. Note, also, that the person asking a decision-maker to recuse him/herself may not wish to disclose the reason for the request.