

Rectorate Guidelines on Conflicts of Interest in Appointment Procedures

(Last updated: October 2023)

Avoiding conflicts of interest and avoiding the appearance of what could be interpreted as a conflict of interest by a third party forms the basis for a fair and transparent appointment procedure.

The University of Bonn reviews conflicts of interest in appointment procedures in line with § 20 and § 21 of the Administrative Procedure Act for the state of North Rhine-Westphalia (*Verwaltungsverfahrensgesetz für Nordrhein Westfalen, VwVfG NRW*), and the DFG Guidelines for Avoiding Conflicts of Interest, where applicable.

At whom is the guideline directed?

The guideline is aimed at deans, appointment committee members and chairs, appointments officers, gender equality officers and reviewers.

Who can assist regarding unclear cases?

In case of doubt, please contact a staff member of Section 3.1 – Appointments and Professorates for confidential assistance.

For which parties should conflict of interest reviews be performed?

Reviews should be performed for conflicts of interest with respect to candidates, not conflicts of interest between committee members.

What criteria apply in a conflict of interest review?

In order to ensure objectivity, appointment committee members and reviewers must maintain a necessary distance to candidates. They may not have any close personal or professional association with candidates.

There are two types of criteria: 1) exclusion criteria and 2) criteria which require review and decision-making on a case-by-case basis.

1) As a rule, the following persons are excluded from participation in the appointment committee and from acting as reviewer (in line with § 20 of VwVfG NRW):

- a.) Applicants
- b.) Persons who may directly benefit or be disadvantaged as a result of functioning in such capacity, or by the decision made
- c.) Relatives as defined under §20 VwVfG NRW: These include:
 - 1) Fiancé/es
 - 2) Spouses and registered life partners
 - 3) Immediate and direct relatives, in-laws
 - 4) Siblings
 - 5) Children of siblings

- 6) Spouses of the siblings, siblings of spouses
 - 6.a) Registered life partners of siblings, siblings of registered life partners
- 7) Siblings of parents
- 8) Individuals living in a shared household who are associated by way of a long-term care relationship, such as parents and children (foster parents and foster children).

The above individuals constitute relatives even if 1) in the cases per numbers 2, 3, 6 and 6a, the marriage or registered partnership creating the relationship no longer exists; 2) in cases per numbers 3 to 7 the relationship or in-law status no longer exists due to adoption of the child; 3) in cases per number 8 if a shared household no longer exists but a personal relationship similar to a parent/child relationship still exists.

- d.) Committee members employed by candidates for pay or who work for the candidate as a management or supervisory board member, or in a similar role
- e.) Reviewers employed by candidates for pay or who work for the candidate as a management or supervisory board member, or in a similar role
- f.) Individuals who have submitted a review or have been active otherwise in the same matter outside of the capacity of serving on the appointment committee
- g.) Holders of the professorship coming vacant to be filled, except as allowed per § 4 of the appointment regulations
- h.) Individuals with whom an employment-related dependency exists (e.g. professor and staff member) or a supervision/advisory relationship (e.g. teacher of a doctoral student or reviewer for a habilitation candidate). This applies to existing dependent employment and supervisory relationships and continues to apply for a period of six years after the ending of such relationships.

For the Faculty of Medicine, an exception can be made if the appointment is for a clinical W 2 professorship (senior physician/*Oberarzt*). To ensure the necessary relationship of trust between chief physician (*Chefarzt*, W 3) and senior physician (W 2), a chief physician may be an appointment committee member. Such exception is overruled by a conflict of interest as defined in letter c, which results in exclusion from the appointment committee.

(2) If the following criteria apply, a possible conflict of interest (§ 21 VwVfG NRW) must be reviewed on a case-by-case basis.

This review is not to establish whether an appointment committee member or reviewer is biased or influenced by other unrelated matters. Instead, the mere impression of work not being carried out objectively shall be prevented. Comprehensible, substantial circumstances must exist that justify the participants having doubts regarding the objectivity of the appointment committee member.

It suffices if suspicion could thereby be created for an objective observer.

- a. Close research cooperation within the last six years, e.g. joint teaching activities, conducting joint projects, joint publications.

The nature of project cooperation varies greatly, thus where joint projects are concerned, the circumstances in a given case must be disclosed and discussed with the appointment committee. The mere fact of committee members or candidates belonging to the same CRC, Cluster of Excellence or other similar group such as a multi-site collaborative research project, does not indicate a conflict of interest. Cases as per letters a) or c) through e) must furthermore be

concerned. Subsequently, a decision must be made as to whether a conflict of interest could be deemed in evidence.

'Joint publications' refers to co-authored articles, books, book chapters and encyclopedia articles as well as jointly published books and individual or special editions of journals. The term does not refer to situations in which appointment committee members publish essays in a work published by the candidate or vice versa, or to cooperative work on the editorial panels of journals. Where a large number of co-authors are concerned, the existence of a conflict of interest depends on whether the individuals in question directly worked together.

- b. Membership in or pending transfer of an appointment committee member or reviewer to the same university institute/department or research institution of which the candidate is a member, and vice versa. This does not apply to internal reviews in interim and final evaluations as part of tenure track procedures or to internal appointments. In such cases, a potential conflict of interest only exists if one of the cases per letters a) or c) to e) additionally applies, or if there is a close personal relationship between reviewer and the candidate being reviewed.
- c. Situations of direct competition in research
- d. Currently or previously serving on advisory committees at the candidate's institution, such as academic advisory councils
- e. Situations where the candidate reviewed by committee members is subject to review/assessment by the candidate otherwise; review/assessment situations for other appointment procedures; as part of final evaluations or peer reviews within the past twelve months.
- f. Where research personnel and technology or administration staff members belong to the organizational unit in which the professorship is to be filled, if their positions are directly related to the professorship, thus creating a hierarchical relationship.

The list of criteria which indicate a potential conflict of interest is **not exhaustive**. Circumstances which create or could potentially create a conflict of interest per nos. 1 and 2 must be disclosed.

(3) In selecting reviewers, the appointment committee must observe the following points:

- a. Candidates may not propose reviewers themselves.
- b. Candidates may not be instructed to submit documents required for the review directly to a reviewer.
- c. Former appointment committee members who left the committee due to a conflict of interest or other reasons may not be selected as reviewer.
- d. Reviewers may not be informed of what the appointment committee is preliminarily considering regarding the listing order of candidates. The appointment committee makes its decision regarding the listing order after receiving and discussing the reviews, not before.

What is the review process for conflicts of interest in appointment procedures and how should these be handled?

1. Conflict of interest review following evaluation of all applications:

The reviewing of potential conflicts of interest is to be added as an agenda item for the constitutive meeting and addressed accordingly in the meeting. The appointment committee chair must explicitly inform the committee that any potential conflicts of interest absolutely have to be disclosed. Upon identifying a potential conflict of interest as per criteria nos. 1 and 2 above in reviewing all received applications, the appointment committee member in question must state this concern for the committee record without delay. The appointment committee decides with respect to the aforementioned criteria as to whether a conflict of interest is in evidence and how to proceed (in case of doubt, the appointment committee chair is to contact Section 3.1). The principal reasons for the decision on potential conflict of interest must be recorded in the meeting minutes.

2. Dealing with conflicts of interest among appointment committee members:

If after screening applications a conflict of interest is found to be in evidence, the appointment committee member in question must leave the room while the preselection is being conducted. The appointment committee then again determines that it has a quorum. If there is a quorum, the preselection process goes ahead without the committee member who has a conflict of interest. If the application for which a conflict of interest was found to be in evidence is rejected for the further selection process, the committee member previously excluded may rejoin the appointment committee.

If after preselection is completed a conflict of interest still exists, the committee member in question must be replaced. A member who has been excluded may not attend committee meetings as a guest.

3. Conflict of interest screening in reviewer selection:

The criteria for exclusion due to conflict of interest must be applied in discussions regarding reviewer selection. Reviewers must confirm in writing at the top of the submitted review documents that there are no conflicts of interest. Reviewers must immediately report any potential conflicts of interest to the appointment committee. The committee decision on whether a conflict of interest is in evidence is to be recorded in the meeting minutes, outlining the reasons.