Dear Colleagues,

As done every year, I would like to direct your attention to the requirements of the University on avoiding conflicts of interest. Employees of the Free and Hanseatic City of Hamburg, and thus all employees of Universität Hamburg, are fundamentally bound to *not participate in processes in which they have a conflict of interest, even when this may only be an apprehension of bias*. This should serve to keep administrative processes and legal protections free from the extraneous influence of officials and employees involved in the process and ensure substantive due process is observed at all times. Due process must prevent not only partiality but also any “hint of impropriety.” In addition, no third party may benefit or receive gifts of any kind (see also the Universität Hamburg Guidelines on the Acceptance of Benefits, Rewards, and Gifts and the Anti-Corruption Code of Conduct).

According to Section 20 of the Hamburg administrative procedures act (Hamburgisches Verwaltungsverfahrensgesetz, HmbVwVfG), particular care must be taken to prevent participation in processes that involve an employee personally or one of their dependents. Dependents include spouses, partners, relatives, relatives-in-law to the first degree, siblings, and siblings’ spouses, partners, and children.

Pursuant to Section 21 HmbVwVfG, employees must inform the head of the department or one of their appointees if there is any reason to presume or to claim bias on their part. Notification will then result in an internal assessment.

Pursuant to Section 54 of the Hamburg civil servants act (Hamburgisches Beamtenverhandelsgesetz, HmbBG), civil servants are also subject to Section 20 HmbVwVfG for official duties conducted outside the administrative procedure.

In addition, employees may not issue any assessments or certificates for matters involving them or a dependent personally (see also point 15.2.2 of the administrative code for payments, accounting, and invoicing [Verwaltungsverfahrensatz, Zahlungen, Buchführung, Rechnungslegung, VV-ZBR] appendix 3 provisions on orders, vouchers, and accounting [Bestimmungen zu Anordnungen, Belegen und Buchführung, BestBuch]).
Below, a few examples help illustrate what could in practice amount to conflicts of interest at Universität Hamburg:

- **Commercial and/or legal connections between project manager/contractor or their dependents and the officer charged with issuing the contract in the area of commissioned research.**

  Where connections exist, these must be **announced in advance**—that is, **prior to reaching a contractual agreement**—to ensure transparency. These will be examined for conflicts of interest on a case-by-case basis.

- **Use of University facilities** (e.g., laboratories, workshops) for purposes other than those for which they were intended: **for private or commercial purposes** including by third parties.

- **Reimbursement of travel or other expenses and recreational leave applications may not be approved by employees themselves.**

All decisions involving dependents, friends, or companies/institutions at which employees themselves work must be determined with the utmost care. Participation in the issuing of contracts to or the employment of people with whom such a close relationship exists constitutes a conflict of interest. Affected staff may not participate in the process.

In the event of any uncertainty or in the presence of a potential conflict of interest, staff must inform their supervisors.

See the attachment for the key statutory instruments.

Sincerely,

Dr. Martin Hecht

Attachment
Hamburg administrative procedures act (Hamburgisches Verwaltungsverfahrensgesetz, HmbVwVfG)

Section 20 Persons excluded

(1) The following persons may not act for an authority in an administrative procedure:
1. any participant
2. dependents or family members of a participant
3. anyone empowered by law or power of attorney to represent a participant generally or in this administrative procedure
4. any dependents or family members of a person representing a participant
5. anyone in a paid employment relationship with a participant or who is a member of a management board, supervisory board, or similar body (this does not apply to a person whose employment body is a participant)
6. any person who, outside of an official capacity, has provided an assessment for the procedure or who has been otherwise involved.

Participant includes any person who could derive direct benefit or disadvantage as a result of their actions or the decision. This does not include when the benefit or disadvantage is only derived from their belonging to a professional group or section of the population.

(2) Paragraph 1 does not apply to appointments to honorary office or to the dismissal of honorary staff.

(3) Anyone who is excluded under paragraph 1 may take measures that cannot be postponed in the event of imminent danger.

(4) If a member of a committee (Section 88) believes their participation is ruled out or put in doubt by the conditions of paragraph 1, they must inform the head of the committee immediately.
2. The committee decides on exclusion.
3. The affected person may not participate in this decision.
4. The excluded member may not be present for any further discussion or decision making.

(5) Dependents pursuant to paragraph 1 numbers 2 and 4 are:
1. fiancé(e) or partner in accordance with the Act on Registered Life Partnerships,
2. spouse,
2a. life partner,
3. relatives and in-laws of the first degree,
4. siblings,
5. children of siblings,
6. spouses of siblings and their siblings,
6a. life partners of siblings and their siblings,
7. siblings of parents,
8. persons bound by a long-term dependent relationship in the same household, similar to the relationship between parents and child (foster parents and foster children).

Persons listed in sentence 1 are still deemed dependents
1. when the marriage giving rise to the relationship indicated by numbers 2, 3, and 6 has been dissolved;
1a. when the registered partnership giving rise to the relationship indicated by numbers 2a, 3, and 6a has been dissolved;
2. where the family relationship or in-law relationship referred to in numbers 3–7 is dissolved by adoption;
3. if the shared living arrangement referred to in number 8 no longer exists, where the parties continue to be bound as parent and child.

Section 21 Apprehension of bias

(1) Where there are reasonable grounds to suspect partiality in the exercise of an official duty, or where a participant asserts the existence of such grounds, any person authorized to act on behalf of a public authority in administrative proceedings must inform the head of that public authority and, if instructed, abstain from participating in the procedure. If the apprehension of bias concerns the head of the authority, this order shall be issued by the supervisory authority, unless the head of the authority voluntarily abstains from participating.
(2) Section 20 subsection 4 applies mutatis mutandis to members of a committee (Section 88).

Hamburg civil service act (Hamburgisches Beamten­gesetz, HmbBG)

Section 54 Exclusion and exemption from official duties

Sections 20 and 21 of the Hamburg administrative procedures act (Hamburgisches Verwaltungsverfahrensgesetz, HmbVwVfG) applies mutatis mutandis for official duties outside of a administrative procedure. Sentence 1 does not apply to people who belong to one of the bodies listed in Section 20 subsection 1 sentence 1 number 5 in an official capacity.

Hamburg state budget regulations (Landes­haushalts­ordnung, LHO)

Section 70 Payments

Payments may only be made from and accepted by payment offices and cost centers. Orders for payment must be made electronically or in writing by the authority responsible or from the office authorized by that authority. The authority responsible for finances may not permit any exceptions.

VV-ZBR—Appendix 3, Best­Buch on Sections 70–72 and 74–80 LHO

15.2 Review of content and accuracy

15.1 Content and accuracy of the information in the formal payment order, its annexes and supporting documents, and the facts on which it is based shall be established and certified, unless exceptions have been authorized by the Ministry of Finance in agreement with the auditor general’s office (Rechnungshof).

15.2.2 Civil servants and employees may not issue assessments or certificates for matters involving them or a dependent (Section 63 HmbBG). This also applies for employees with procurement or similar duties; they may not certify or assess deliveries and services they or a dependent provide. The Ministry of Finance, in agreement with the auditor general’s office, may permit simplifications to sentence 2.