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On Preventing Conflicts of Interest in Government-Sponsored Research at Universities

The many complex problems that have developed in connection with the extensive sponsored research programs of the federal government have been of concern to the government, the academic community, and private industry. The Association, through its Council, and the American Council on Education, working in cooperation with the president's science advisor and the Federal Council of Science and Technology, in 1965 developed a statement of principles formulating basic standards and guidelines in this problematic area.

An underlying premise of the statement is that responsibility for determining standards affecting the academic community rests with that community, and that conflict-of-interest problems are best handled by administration and faculty in cooperative effort. In addition to providing guidelines, the statement seeks to identify and alert administration and faculty to the types of situations that have proved troublesome. Throughout, it seeks to protect the integrity of the objectives and needs of the cooperating institutions and their faculties, as well as of sponsoring agencies.

In April 1990, the Council of the American Association of University Professors adopted several changes in language in order to remove gender-specific references from the original text.

The increasingly necessary and complex relationships among universities, government, and industry call for more intensive attention to standards of procedure and conduct in government-sponsored research. The clarification and application of such standards must be designed to serve the purposes and needs of the projects and the public interest involved in them and to protect the integrity of the cooperating institutions as agencies of higher education.

The government and institutions of higher education, as the contracting parties, have an obligation to see that adequate standards and procedures are developed and applied; to inform one another of their respective requirements; and to ensure that all individuals participating in their respective behalves are informed of and apply the standards and procedures that are so developed.

Consulting relationships between university staff members and industry serve the interests of research and education in the university. Likewise, the transfer of technical knowledge and skill from the university to industry contributes to technological advance. Such relationships are desirable, but certain potential hazards should be recognized.

A. CONFLICT SITUATIONS

1. *Favoring of Outside Interests.* When a university staff member (administrator, faculty member, professional staff member, or employee) undertaking or engaging in government-sponsored work has a significant financial interest in, or a consulting arrangement with, a private business concern, it is important to avoid actual or apparent conflicts of interest between government-sponsored university research obligations and outside interests and other obligations. Situations in or from which conflicts of interest may arise are:

- a. the undertaking or orientation of the staff member's university research to serve the research or other needs of the private firm without disclosure of such undertaking or orientation to the university and to the sponsoring agency;
- b. the purchase of major equipment, instruments, materials, or other items for university research from the private firm in which the staff member has the interest without disclosure of such interest;
- c. the transmission to the private firm or other use for personal gain of government-sponsored work products, results, materials, records, or information that are not made generally available (this would not necessarily preclude appropriate licensing arrangements for inventions, or consulting on the basis of government-sponsored research results where there is significant additional work by the staff member independent of the government-sponsored research);
- d. the use for personal gain or other unauthorized use of privileged information acquired in connection with the staff member's government-sponsored activities (the term "privileged information" includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material requirements or price actions; possible new sites for government operations; and knowledge of forthcoming programs or of selection of contractors or subcontractors in advance of official announcements);
- e. the negotiation or influence upon the negotiation of contracts relating to the staff member's government-sponsored research between the university and private organizations with which the staff member has consulting or other significant relationships;
- f. the acceptance of gratuities or special favors from private organizations with which the university does, or may conduct, business in connection with a government-sponsored research project, or extension of gratuities or special favors to employees of the sponsoring government agency, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

2. *Distribution of Effort.* There are competing demands on the energies of faculty members (for example, research, teaching, committee work, outside consulting). The way in which a faculty member divides his or her effort among these various functions does not raise ethical questions unless the government agency supporting the research is misled in its understanding of the amount of intellectual effort the faculty member is actually devoting to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of faculty members, since the various functions they perform are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a faculty member will devote a certain fraction of effort to the government-sponsored research, or the faculty member agrees to assume responsibility in relation to such research, a demonstrable relationship between the indicated effort or responsibility and the actual extent of the faculty member's involvement is to be expected. Each university, therefore, should—through joint consultation of administration and faculty—develop procedures to ensure that proposals are responsibly made and complied with.

3. *Consulting for Government Agencies or Their Contractors.* When the staff member engaged in government-sponsored research also serves as a consultant to a federal agency, such conduct is subject to the provisions of the Conflict of Interest Statutes (18 U.S.C. 202-209 as amended) and the president's memorandum of May 2, 1963, *Preventing Conflicts of Interest on the Part of Special Government Employees*. When the staff member consults for one or more government contractors, or prospective contractors, in the same technical field as the staff member's research project, care must be taken to avoid giving advice that may be of questionable objectivity because of its possible bearing on the individual's other interests. In undertaking and performing consulting services, the staff member should make full disclosure of such interests to the university and to the contractor insofar as they may appear to relate to the work at the university or for the contractor. Conflict-of-interest problems could arise, for example, in the participation of a staff member of the university in an evaluation for the government agency or its contractor of some technical aspect of the work of another organization with which the staff member has a consulting or

employment relationship or a significant financial interest, or in an evaluation of a competitor to such other organization.

B. UNIVERSITY RESPONSIBILITY

Each university participating in government-sponsored research should make known to the sponsoring government agencies:

1. the steps it is taking to ensure an understanding on the part of the university administration and staff members of the possible conflicts of interest or other problems that may develop in the foregoing types of situations, and
2. the organizational and administrative actions it has taken or is taking to avoid such problems, including:
 - a. accounting procedures to be used to ensure that government funds are expended for the purposes for which they have been provided, and that all services which are required in return for these funds are supplied;
 - b. procedures that enable it to be aware of the outside professional work of staff members participating in government-sponsored research, if such outside work relates in any way to the government-sponsored research;
 - c. the formulation of standards to guide the individual university staff members in governing their conduct in relation to outside interests that might raise questions of conflicts of interest; and
 - d. the provision within the university of an informed source of advice and guidance to its staff members for advance consultation on questions they wish to raise concerning the problems that may or do develop as a result of their outside financial or consulting interests, as they relate to their participation in government-sponsored university research. The university may wish to discuss such problems with the contracting officer or other appropriate government official in those cases that appear to raise questions regarding conflicts of interest.

The above process of disclosure and consultation is the obligation assumed by the university when it accepts government funds for research. The process must, of course, be carried out in a manner that does not infringe on the legitimate freedoms and flexibility of action of the university and its staff members that have traditionally characterized a university. It is desirable that standards and procedures of the kind discussed be formulated and administered by members of the university community themselves, through their joint initiative and responsibility, for it is they who are the best judges of the conditions which can most effectively stimulate the search for knowledge and preserve the requirements of academic freedom. Experience indicates that such standards and procedures should be developed and specified by joint administration-faculty action.

Statement on Conflicts of Interest

The statement which follows was approved for publication by the Association's Committee B on Professional Ethics in June 1990.

American universities and colleges have long been engaged with the institutions of the wider society, to their mutual benefit. Universities have trained ministers, teachers, corporate leaders, and public servants, and have taken on wider responsibilities in research and administration for state and federal governments. The years after World War II brought both quantitative and qualitative change in this relationship as a result of the world responsibilities assumed by the United States and of the strikingly new importance attained by science. This change was symbolized and advanced by an immense increase in federal and state funding for higher education and in investment by private foundations. Now, as universities enter an era of more stringent budgetary limitations, yet another major shift seems certain—to greater reliance on private funding and to a closer symbiosis between universities and industry.

The many opportunities offered to both university researchers and the private sector by sweeping developments in certain areas of science and technology have led to new concerns in both universities and government. One such concern, about freedom to do research and to publish the results, has rightly exercised universities in deliberations about whether or not to undertake such joint efforts and on what terms. More recently, the question of conflict of interest has been raised anew, with regard to the pressures that financial interests of faculty members participating in extra-university enterprises may exert, consciously or not, on the design and the outcome of the research.

The American Association of University Professors has addressed these questions in the past, and we believe it important to reaffirm the 1965 joint statement of the AAUP and the American Council on Education, *On Preventing Conflicts of Interest in Government-Sponsored Research at Universities*, and to commend the 1983 report of an Association subcommittee on *Corporate Funding of Academic Research*. The latter report, avowedly tentative and anticipating a fuller statement at a later time, properly assumed that the initiative must lie with university faculties for drawing up such conflict-of-interest guidelines as are appropriate to each campus, with due regard for the proper disclosure of a faculty member's involvement in off-campus enterprises, in terms of investment, ownership, or consultative status; for the use of university personnel, including students; and for the disposition of potential profits.

Recent developments have suggested the following considerations to be taken into account by faculties involved in developing or revising such guidelines.

Government draft proposals for policing possible conflicts of interest have been overwhelmingly rejected by the academic community as involving a massive, unneeded enlargement of the government's role on the campus. Faculties must be careful, however, to ensure that they do not defensively propose a similar bureaucratic burden differing only in the locus of administration. Any requirements for disclosure of potential conflicts of interest should be carefully focused on legitimate areas of concern and not improperly interfere with the privacy rights of faculty members and their families.

Because the central business of the university remains teaching and research unfettered by extra-university dictates, faculties should ensure that any cooperative venture between members

of the faculty and outside agencies, whether public or private, respects the primacy of the university's principal mission, with regard to the choice of subjects of research and the reaching and publication of results.

Faculties should make certain that the pursuit of such joint ventures does not become an end in itself and so introduce distortions into traditional university understandings and arrangements. Private and public agencies have a direct interest in only a few fields of research and in only certain questions within those fields. Accordingly, external interests should not be allowed to shift the balance of academic priorities in a university without thorough debate about the consequences and without the considered judgment of appropriate faculty bodies. So, too, care must be taken to avoid contravening a commitment to fairness by widening disparities—in teaching loads, student supervision, or budgetary allocation—between departments engaged in such outside activity and those not less central to the nature of a university, which have, or can have, no such engagement.

The ability to procure private or government funding may in certain circumstances be an appropriate consideration in making judgments about salaries, tenure, and promotion, but it must be kept in proper proportion and be consistent with criteria established by the faculty. Guidelines concerning intra-university research support should guard against making its availability dependent, solely or predominantly, on the likelihood that the research so supported will result in obtaining outside funding.