JOURNAL OF THE FACULTY SENATE

The University of Oklahoma (Norman campus)
Regular session - April 10, 1995 - 3:30 p.m.
Jacobson Faculty Hall 102

The Faculty Senate was called to order by Professor Tom W. Boyd, Chair.

PRESENT: Anderson, Badiru, Boyd, Bremer, Burnett, R.C. Davis, Dillon, Erdener, Fiedler, Friedrich, Fung, Genova, Greene, Gutierrez, Havener, Holmes, Horrell, Hutchison, Kincade, Koger, Laird, Landes, F. Lee, Loving, R. Miller, Mock, D. Morgan, Mouser, Nelson, Ogilvie, Patterson, Pauketat, Ragep, Reeder, Rhodes, Roegiers, Sankowski, Stock, Sullivan, Tepker, Tiab, Van Gundy, Wallach, Watson, Weaver-Meyers, Wenk

PSA representatives: Barth, Iselin, Marshall, Spencer

ABSENT: Baker, L. Hill, Kukreti, Sutton, Tiab, Van Gundy, Wallach, Watson, Weinel, Wiegand, Williams

---

TABLE OF CONTENTS

APPROVAL OF JOURNAL

The Senate Journal for the regular session of March 20, 1995, was approved.

ANNOUNCEMENTS

The faculty awards luncheon is scheduled for Tuesday, April 18, at 11:30 a.m. in the Union ballroom.

The Spring General Faculty meeting will be held at 3:30 on Thursday, May 4, in Adams Hall 150. Retirement issues will be discussed by President David Boren, Faculty Welfare Committee Chair Trent Gabert, and Vice President for Administrative Affairs Jerry Farley.

DISPOSITION BY THE ADMINISTRATION OF SENATE ACTIONS

The Academic Reprieve Policy and Procedures (12/94 Journal, page 4) will become effective with the Summer 1995 term. The administration incorporated the Senate's suggestions and added a section stating that the decision of one college to grant or deny an academic reprieve shall be honored by all other colleges. A copy has been sent to the deans, directors, and chairs and is available from the Senate office.

The OU Regents took action to approve the Professors of Excellence Program at about the same time the Senate was debating the program (3/95 Journal, page 5). However, Interim Provost Mergler is working with the Senate Executive Committee to address the Senate's concerns (see below).

Due to a death in the family, Dr. James Pappas' remarks were postponed until the May 8 meeting.

SENATE COMMITTEE ON COMMITTEES' NOMINATIONS FOR COMMITTEE VACANCIES

A preliminary list of nominations for end-of-the-year vacancies on councils/committees/boards (available from the Senate office) was distributed at the meeting and will be voted on at the May meeting. Nominations can be made from the floor, but the permission of the nominee must be obtained.

FACULTY SENATE CHAIR'S REPORT, by Prof. Tom Boyd

Even as the Faculty Senate voted at the last meeting on the Professors of Excellence Program, the OU regents were approving the program. Their vote, however, was on the principle and idea. The details are still up for discussion. Interim Provost Nancy Mergler and Mr. Joe Harroz, the president's assistant, met with the Executive Committee last week about the concerns. As a result, Provost Mergler has requested that a task force be formed to work out the details. A few senators volunteered to be on the task force.

Vice President Jerry Farley was not able to attend today's meeting because of a joint meeting of the state House and Senate committees to discuss the Oklahoma Teachers' Retirement System (OTRS) problem. In response to Prof. Stock's question last month, State Representative Laura Boyd reported that the options the legislature has considered to offer relief to employees, while keeping OTRS solvent, are to lengthen the amortization period, allow earlier vesting, cut the 1% annual increase paid by the University to 1/2%, remove TIAA-CREF from the total compensation formula on which OTRS is paid, allow higher education to opt out of OTRS, allow the two comprehensive universities to opt out of OTRS, allow employees to opt out but require the institution to continue to pay, reduce the level of OTRS funding from 100% to 75%-80%, allow three years of employment before joining OTRS. Any changes will have to be made by legislative action, because OTRS wants to keep things as they are.

Representative Boyd also reported that the appropriations bill approved by the governor makes the $28 million in one-time money a permanent part of the budget. The legislature is looking at an 8% tuition increase for one year. It will be difficult to get a multi-year plan approved. Prof. Boyd thanked Representative Boyd for working for our interests.

Prof. Trent Gabert, Faculty Welfare Committee Chair, discussed the internal implications of the retirement issues. He said things have slowed down, and recent meetings on retirement have been cancelled. The administration has been slow to respond to proposals. Perhaps that is because the administration is waiting to see what will happen with the legislature. Faculty Senate representatives are still pressing for the 80% wage replacement proposal paid by the University. They have been offering suggestions about how to achieve that while taking into account the OTRS costs. In a proposal suggested by the Faculty Senate representatives, the individual would pay 3.5% of OTRS, and the University would pay 3.5%, with a corresponding reduction in TIAA-CREF. Individuals could use that money for current salary or to buy more TIAA-CREF. Dr. Farley suggested that the University pay half of the decrease in take-home pay. However, an individual who is below $40,000 in salary and chose a $40,000 cap will have no decrease in take-home pay. Is that fair for everyone? Representative Larry Roberts, Chair of the House retirement committee, issued a press release asking why the state is supporting two retirement plans (TIAA-CREF and OTRS) for the University. Prof. Dillon commented that the Oklahoma Observer also made that same point--that Oklahoma is putting millions of dollars into a retirement plan other than OTRS, and that it serves as an incentive for people to leave the state because they can take retirement with them. Prof. Gabert noted that retirement would be one of the topics the Executive Committee would discuss with the OSU Faculty Council at a meeting on Thursday. He said the Senate should keep pressing for a good portion of TIAA-CREF and some relief for the OTRS costs.

Prof. Mock suggested that the Senate point out that we cannot attract the best talent if they cannot bring their retirement packages with them. Prof. Boyd said some legislators think we should have only Oklahomans teaching our students anyway. Prof. Weaver-Meyers said the recruitment issue has been presented to legislators.

Prof. Gabert said the 80% proposal depends on the cost to the University. If the cost to the University is gradual, then the drop down to the 80% level should be gradual as well. This should be considered one year at a time. Prof. Holmes asked for more information about the 80% proposal. Prof. Gabert said the 80% wage replacement proposal would provide an employee retirement benefit, excluding Social Security, of 80% of salary.

Prof. Weaver-Meyers asked the senators about the opinions they had heard from their colleagues. Prof. Bremer said her colleagues wanted to maintain TIAA-CREF. Prof. Gabert asked whether that would still hold true if that meant a reduction in take-home pay. Prof. Bremer said she was not sure how far they were willing to go. Prof. Nelson asked whether there was any hope of getting the money back that was transferred from OTRS to other retirement plans. Prof. Gabert said Representative Roberts thinks the probability is quite small. Prof. Nelson commented that if those other retirement plans are in good shape, they might be willing to share some funds. Prof. Holmes said higher education is not viewed as an impoverished child because TIAA-CREF is a supplemental retirement plan to OTRS. The school teachers are the only ones who can garner any sympathy, and they do not have a supplemental plan. Moreover, salaries at OU are higher than those of the average state employee. Prof. Weaver-Meyers explained that at OU, the individual pays for OTRS, and state funds pay for TIAA-CREF. At OSU, state funds pay for OTRS, so it is easier for them to say that state funds are not going into a private retirement system. Prof. Holmes noted that the state's 4-year colleges went to TIAA-CREF a few years ago. They will carry more legislative weight, so we should garner their political support. Prof.

Gabert said several of those colleges indicated they wanted to be part of any special plan for OU and OSU.

Prof. Roegiers claimed that OU has been hiring under a certain retirement plan, and that plan should be honored. A survey should be done to determine who is going to leave because of the retirement problem. Prof. Stock said many faculty do not know that TIAA-CREF is at risk. The administration ought to circulate some scenarios about what is going to happen to TIAA-CREF. Prof. Boyd announced that the General Faculty meeting on retirement issues would be held on May 4. President Boren expects more information about what the legislature plans to do to be available by that time. Prof. Stock said the fact that the legislature treats this late in May when faculty are gone seems suspicious. Prof. Boyd said that is how the system has operated consistently.

Prof. Weaver-Meyers asked the senators for their views on the scenarios presented. Prof. Roegiers said his preference would be the grandfather clause. Prof. Stock said the University is implicitly breaking a contract with regard to TIAA-CREF. Prof. Gabert said the University could claim that the OTRS contract has been broken. Prof. Hutchison said the Faculty Senate is responsible for future faculty members. We should fight for anything that will give us additional TIAA-CREF. But, the fact that we have faculty retiring at 120% of salary does not fly well when other state employees are retiring at 60% of salary. During a discussion of in-state and out-of-state faculty, Prof. Gabert said the University argues that a much higher percentage of faculty are hired from out of state at OU and OSU than at the other state institutions, and that is why TIAA-CREF is offered. Prof. Loving suggested that the students, who come from all parts of the state, could be effective in convincing legislators that their professors might leave because of the retirement problem.

PROPOSED INTERIM CONFLICT OF INTEREST POLICY

Prof. Linda Wallace (Botany and Microbiology), a member of the conflict of interest committee, reiterated her remark from last month's meeting (3/95 Journal, page 3) that the committee was interested in suggestions but not approval of the draft policy regarding conflicts of interest and commitment (Appendix I). Prof. Hutchison said Prof. Hill had asked him to suggest that all sections referring to conflict of commitment be omitted since that was not in the original request by NSF. Prof. Loving, noting that the policy will also be covered by conflict of interest laws, said more should be included about administrators and contracts. Prof. Richard Mallinson (CEMS), a member of the committee, replied that the policy would apply to all employees of the University and would provide for disclosure or management approval. Prof. Wenk agreed that conflict of commitment should be omitted because it was vague and could be used against an individual. Prof. Wallace said the committee planned to make changes the Faculty Senate suggested and add examples. She encouraged the senators to forward any comments to any member of the committee. The policy has to be approved by the OU regents in June to meet the June 28 deadline. Prof. Holmes asked whether the policy would apply to the HSC. Prof. Wallace said it would apply to all campuses, including Cameron.

STAFF SENATE PROPOSAL FOR SUPERVISORY REVIEW

Ms. LaDonna Sullivan, chair of the Staff Senate ad hoc committee, explained that the Staff Senate wanted to make sure the University had a formal program whereby anyone who supervises other employees goes through some training on how to be a better supervisor and more communication will take place between the supervisor and employees. The proposal (Appendix II) calls for a two-day training period, which could be two- or four-hour segments spread over a period of time to accommodate faculty schedules. Forms for conducting employee management reviews could be developed by Personnel Services or departments. Completed forms would stay in the department. A summary form completed by the person above the supervisor would summarize the process and be part of the supervisor's annual evaluation. The intent is to determine whether the supervisor is communicating with the employees and doing something productive with the information. Ms. Sullivan said she hoped the Faculty Senate could support the proposal and she welcomed suggestions.

Prof. Mock asked what constituted staff and supervisor. Ms. Sullivan said some faculty act as supervisors to other employees, who may be staff. Principal investigators would be considered supervisors. Prof. Mock asked whether someone who hired one Work-Study student would be required to attend two days of training. Ms. Sullivan said she would have to look into that. Prof. Patterson asked whether this would apply to faculty who supervise GAs. Ms. Sullivan said another process would handle that situation. Ms. Terri Moyer, Staff Senate Chair, said this would be for faculty who supervise continuous employees. Prof. Roegiers questioned whether a supervisor who receives a good evaluation should be required to go through training. Ms. Sullivan responded that new concepts are continually being developed that can be of benefit. This is aimed at the people who have not been required to have any kind of training or do anything to improve their skills. Ms. Moyer noted that faculty have been exempt from training in the past. The main target will be chairs, deans and faculty who are supervising full-time or part-time continuous staff. Prof. Bremer commented that since raises come so infrequently, it is a bit draconian to say a supervisor cannot have a pay raise for failing to complete the training. Ms. Sullivan responded that the policy needed some teeth. Prof. Holmes asked whether an associate professor could be denied a promotion to full professor because s/he did not have the training. Ms. Moyer said the usual way to handle that situation is to try to get the individual to attend the next session. Prof. Stock asked what the minimum amount of training would be. Ms. Sullivan said some people might not have to go through a full 16 hours of training if they have recently completed other training.

Prof. Holmes noted that the document presented to the Senate was a summary version. Ms. Sullivan explained that the complete version contained some additional narrative that described the process the Staff Senate went through to get to this point. Prof. Holmes asked whether any definition of terms was included in the full version. Ms. Sullivan said there was not. Ms. Moyer said the Staff Senate was really asking the Faculty Senate for support of the principle. Ms. Sullivan said faculty could be on the advisory committee that will implement the proposal (point 3). Prof. Nelson reported that at Purdue University, chairs and deans were required to take such a course before they took office. It was not required for individuals who had soft money or who supervised TAs. She said she thought a course would be a very good idea. Ms. Moyer said the Staff Senate is focusing on procedures and improving communication. Prof. Holmes moved to table the proposal so that definitions clarifying the exemptions (e.g. TAs, GAs, part-time, temporary, soft money) could be added. The motion to table was approved on a voice vote.

COPYRIGHT COMMITTEE PROPOSAL FOR A COPYRIGHT OFFICE

A proposal submitted by the copyright committee (available from the Faculty Senate office) will be discussed by the Faculty Senate at the May meeting. This proposal is to open an office with two employees to cover all matters related to copyright--protecting faculty from losing copyrights and getting permission from copyright holders. The committee will send a survey to faculty to determine the extent of copyright problems. Prof. Loving, who serves as advisor to the committee, pointed out that federal law says state employees, state institutions, and states themselves are not exempt from copyright statutes. Congress will be significantly revising the copyright statutes within the next three years to focus on the information super highway. A central copyright office could help put the federal statutes into simple language.

Prof. Stock asked whether Vice President Farley could be invited to the next Faculty Senate meeting. Prof. Boyd said Dr. Farley will discuss retirement at the General Faculty meeting the week before the Senate meeting.

Prof. Weaver-Meyers said some resource allocation board meetings will be coming up, and it would be helpful to take to the meetings the Senate's preferences for solutions to the retirement problem. The cost of this retirement problem is about $3.5 million. One possible solution is to apply funds to the take-home loss due to OTRS increases. Senators should contact her with suggestions.

ADJOURNMENT

The meeting adjourned at 4:40 p.m. The next regular session of the Senate will be held at 3:30 p.m. on Monday, May 8, 1995, in Jacobson Faculty Hall 102.

Sonya Fallgatter
Sonya Fallgatter
Administrative Coordinator

Connie Dillon
Connie Dillon
Secretary

Norman Campus Faculty Senate
Jacobson Faculty Hall 206
phone: 325-6789 FAX: 325-6782
e-mail: facsen@uoknor.edu

4/95 (Appendix I)

The University of Oklahoma
OFFICE OF RESEARCH ADMINISTRATION

March 6, 1995

To the Faculty Senates of the Norman Campus and Health Sciences Center:

This draft Policy Regarding Conflicts of Interest and Commitment is presented for your review and comment. It was our intent in developing this policy that it provide broad, comprehensive guidance for faculty, staff and senior administrators when they address the impact of employees' activities on the University. This draft policy identifies the types of activity that create a conflict, or a potential for conflict, with an employee's primary commitment to the University and offers specific procedures for the employee and administrators to follow for review and management of a conflict.

This committee was formed last fall at the request of former Provost James Kimpel with the charge to develop a new policy regarding conflict of interest. This action was precipitated by an increased emphasis on the transfer of University technology to the marketplace and, more specifically, by new federal regulations which require disclosure and management of outside financial interests of personnel funded by the National Science Foundation (NSF) and the National Institutes of Health (NIH). The NSF regulations take effect June 28, 1995, and require all applicants for NSF funding to be in compliance with the regulations before a proposal will be considered for funding. The NIH regulations, which are similar to those NSF has put into effect, are in draft form.

In preparing this draft, the committee reviewed the University's existing policy, federal regulations, state laws passed by the legislature, State Ethics Commission rules, and existing and draft policies from a representative group of universities (a complete list of these universities is enclosed). Based on the information gathered from this review, it was the decision of the committee that a policy regarding conflicts of interest and commitment must include all University employees. Therefore, although this draft policy meets the requirements set by the federal agencies, its application extends beyond faculty researchers seeking funding from these agencies to include all University faculty, staff and administrators on all campuses.

It should be noted that the appendices included with the policy are intended to enable and clarify the policy. They are supplemental materials which are not considered to be approved as a part of the policy.

The committee realized that it would be difficult to develop such a comprehensive policy, receive recommendations and suggestions from faculty and staff governing entities, University vice presidents, administrative officers and deans, and present a final policy to the University Regents for review and approval so the policy could take effect before the June 28 NSF deadline. Rather, we have focussed on preparing the draft policy presented with this letter, which specifically satisfies federal requirements. This draft includes a clause limiting the term of its effect to twelve months from the date of approval by the University Regents. During that twelve-month period, the committee will consider the comments and suggestions for revision made by reviewers as we prepare a final policy for Regents' approval.

We welcome your comments and suggestions. To give you background information, we have placed a reading file in the Faculty Senate office which includes copies of the NSF final regulations, NIH proposed rule, pertinent Oklahoma laws, and a number of policies (some of which are still in draft form) from other universities that we found to be most helpful to us in preparing this draft. As you read through this material, if you have any questions, please feel free to contact any member of the committee listed below.

THE CONFLICT OF INTEREST/CONFLICT OF COMMITMENT POLICY REVIEW COMMITTEE:

Dr. O. Ray Kling (271-2085)
Dean, Graduate College, Health Sciences Center

Dr. Richard G. Mallinson (325-5811)
Associate Professor, Chemical Engineering & Materials Science

Mr. Kurt Ockershauser (325-4124)
Associate University Legal Counsel

Ms. Karen Petry, Chair (325-4757)
Director, Office of Research Administration, Norman Campus

Ms. Jan Trice (271-2090)
Director, Office of Research Administration, Health Sciences Center

Dr. Linda Wallace (325-4321)
Professor, Department of Botany and Microbiology

Materials Reviewed by the Committee

Policies or draft policies from the following institutions:

Iowa State University
University of Florida
University of Minnesota
Stanford University
University of Washington
University of Utah
University of Pittsburgh
University of Houston

Guidelines for Dealing with Faculty Conflicts of Commitment and Conflict of Interest in Research
Adopted by the Executive Council of the Association of American Medical Colleges
February 22, 1990

"Conflicts of Interest in Academic Health Centers"
A Report by the AHC Task Force on Science Policy
Association of Academic Health Centers

Investigator Financial Disclosure Policy
National Science Foundation

Objectivity in Research, Notice of Proposed Rulemaking
Public Health Service and Office of the Secretary, U.S. Department of Health and Human Services

Chapter 62 of 74 OS Supp. 1994, Section 4201 *et seq.*, and the appendix thereto

DRAFT

UNIVERSITY OF OKLAHOMA
POLICY REGARDING
CONFLICTS OF INTEREST AND COMMITMENT

I. STATEMENT OF GENERAL POLICY

The University of Oklahoma is a public agency committed to the mission of teaching, research and service to the community at large, including transfer of University technology for the benefit of society. To these ends, the University encourages employee interaction with public and private sectors as an important component of this mission. Consulting arrangements and other professional associations between University employees and outside entities help the University provide a richer educational experience for students. However, these interactions must be consistent with their role as "public" employees who have their primary commitment to the University. It is the purpose of this policy to set forth the principles for identifying apparent, actual and potential conflicts of interest and of commitment and assuring that they do not improperly affect the activities or professional conduct of the University or its employees.

II. DEFINITIONS

Appropriate Vice President: The appropriate vice president giving oversight of the management protocols depends on the activity generating the potential conflict of interest. If an employee is engaged in research activities, the Vice President for Research will provide oversight, regardless of where the individual is employed within the University. If the activity is not research-related, the vice president in whom authority resides over the particular unit in which the individual is employed will provide oversight.

Business: Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit.

Compensation: All remuneration or other things of value received in payment for services rendered is considered to be compensation. This can include salary or other forms of payment including gifts, stocks or other items of financial value.

Conflict of Commitment: A conflict of commitment relates to an individual employee's distribution of effort between obligations to official University duties (e.g., teaching, administration, externally directed service, including patient care) and obligations to one's "outside activities" (e.g., consulting, pro bono work, operating a private business). The conflict arises when the outside activities interfere with the primary obligations to the University, students and colleagues, such as failure to accept or meet assigned classes or committee appointments, failure to complete work assignments or impairment of the quality of primary University employment responsibilities.

Conflict of Interest: A conflict of interest refers to situations in which financial or other personal considerations may compromise, or have the appearance of compromising, an employee's professional judgment in carrying out University responsibilities such as teaching, research, contract administration, purchasing and the like.

Consultant: Any advice given by an employee of the University to an outside group for compensation is considered to be consulting. Consultants could also provide services in terms of the creation of intellectual properties or products.

Employee: Any person possessing either a full-time or part-time faculty or staff appointment at the University who receives a salary or wage for their defined responsibilities. This definition does not include temporary employees hired thirty (30) days or less.

Executive position: Any position that includes responsibilities for a significant segment of the operation or management of a business.

Family: The family of an employee includes both immediate family and extended family. The employee's immediate family includes the employee's spouse, domestic partner and children who are claimed as dependents on tax returns. The extended family of an employee includes children who do not qualify as dependents for tax purposes, parents, and siblings.

Gift: Anything of value to the extent that adequate consideration is not received. The definition of gift included in State law appears in Appendix A to this Policy.

Outside Activity: Outside activities include all of the consulting activities described under the definition for consultant above as well as pro bono activities such as governmental service, outside employment or contractual agreements unrelated to the employee's University responsibilities.

Substantial Financial interest: Anything of monetary value, including, but not limited to, salary or other payment for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options, dividends or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include financial interests in business enterprises or entities if the value of such interests does not exceed five thousand dollars ($5,000.00) per year or represent a five per cent (five per cent) or greater ownership interest for any one business enterprise or entity when aggregated for the employee and his/her immediate family, or an interest in a business enterprise or entity from which dividends of less than one thousand dollars ($1,000.00) were derived during the preceding calendar year.

University Resources: All University facilities, personnel, equipment, materials or confidential information constitute University resources.

III. GUIDELINES

It is not possible to completely eliminate the potential for conflict of interest because there are certain rewards that are inherent in the structure of a University enterprise. For example, positive research results *per se* may contribute to opportunities for publication, promotion, tenure, grant renewals, and so forth. Such conflicts become detrimental when the potential rewards, financial or otherwise, cause deviation from absolute objectivity in, among other things, the design, interpretation, and publication of research; setting University policies; managing contracts; selecting equipment and supplies; involving students in sponsored projects; or having other administrative roles in which objectivity and integrity are paramount. Furthermore, since reports of conflicts based on appearances can undermine public trust in ways that may not be adequately restored even when mitigating facts of a situation are brought to light, apparent conflicts should be evaluated and managed with the same vigor as known conflicts.

Any activity which presents the potential for conflict of interest or conflict of commitment should be reviewed before the employee becomes involved in the activity. The University has established the following guidelines to assist - the employee, his/her supervisor and others who may be involved in the review process in reaching a decision as to whether or not an activity would present a conflict of interest or commitment and if so, under what circumstances, if any, it could be allowed.

A. PRESENCE ON CAMPUS

A full-time appointment at the University of Oklahoma obligates an employee to be accessible to students and staff, and to be available to interact with university colleagues throughout the academic or calendar year, unless the appropriate authorized University official has granted specific prior approval for extended or frequent absences from campus. Since professional requirements for absence from campus may differ across the University, colleges and departments should define and determine what qualifies as appropriate absence from campus.

B. OUTSIDE ACTIVITY

It is an appropriate role for the University to facilitate the transfer of the knowledge gained through academic research to applications which can benefit society. Moreover, experience gained by employees in the course of outside professional activities can enhance the effectiveness of their work within the University. However, when outside activities detract from the conduct of University duties, a conflict of commitment results. Activities such as pro bono work, government service in the public interest, and any outside employment may not take precedence over an employee's commitment to the University.

Outside professional activities can also generate conflicts of interest regardless of the time involved. For example, direction of a program of research or scholarship at another institution that could be conducted appropriately at the University as part of the employee's normal duties can deprive University students and colleagues of the benefits

of the employee's expertise and the University's ability to review and reward their contributions. Accordingly, employees normally should not serve as principal investigators on sponsored projects submitted and managed through other organizations. This stipulation is not intended to limit employees from participating in multi-site training or research programs; nor is it intended to apply to circumstances in which the investigator's research requires access to facilities not available here.

Significant management roles (those that involve direct supervision of the work of others and/or day-to-day responsibility for operating decisions) in private business typically are demanding both in terms of time and energy. Because employees are expected to devote their primary energies and professional interests to their University obligations, they may not accept significant managerial responsibilities as part of their outside activities.

C. DISCLOSURE AND OWNERSHIP OF INTELLECTUAL PROPERTY

University policy requires that all discoveries or inventions, whether patentable or unpatentable, which are made or conceived by a University employee, either in the course of employment by the University or substantially through the use of University facilities or funds provided by or through the University be disclosed to the University on a timely basis. Inventions made by an employee serving under contract as a consultant which arise in whole or in part from the employee's University responsibilities may be subject to these same requirements. If there is a question in this regard, the employee should disclose the relationship as provided elsewhere in this policy.

A copyrightable work created by an employee in the course and scope of his/her employment shall be governed by the terms and conditions of the federal copyright law and prevailing University copyright policy.

D. USE OF UNIVERSITY RESOURCES, INCLUDING FACILITIES, PERSONNEL, EQUIPMENT AND INFORMATION.

1. Physical Resources.

University facilities and equipment, are maintained to carry out the education, research and public service missions of the University. Except for trivial use, an employee may not use University resources for personal or private purposes, including, without limitation, outside consulting activities, unless approved and a formal written agreement made with the University before initiating such use.

2. Human Resources.

Students and post-doctoral associates can be placed in particularly vulnerable positions by their participation in sponsored research projects. It is the responsibility of their faculty supervisors to ensure that their progress and academic standing are not compromised because of their participation in these projects. In addition, the terms of employment, including disposition of proprietary information and publication rights, for a student or postdoctoral associate employed on a research contract should be clearly described in writing and agreed to in advance by both such employee and faculty supervisor.

Some inappropriate uses of University resources by an employee include the following:

1. Assigning tasks to one's students or subordinates for the purposes of potential or real personal financial gain rather than the advancement of the University's academic mission.

2. Involving one's students or subordinates in one's outside consulting or business activities without prior approval of the appropriate authorized University official.

3. Granting external entities access to University proprietary data, technology, resources or services without proper authority or for purposes outside the University's missions.

4. Providing preferential access to research results, materials or products generated from University teaching or research activities to an outside entity for personal financial gain. (This would not preclude appropriate licensing arrangements for inventions, or consulting on the basis of sponsored project results where there is significant additional work or expertise involved.)

E. EMPLOYEE INVOLVEMENT IN OUTSIDE ENTITIES WHICH HAVE RELATIONS WITH THE UNIVERSITY OF OKLAHOMA

Gifts, procurements, sponsored projects, or technology licensing arrangements between the University and outside entities in which the employee(s) or members of the employee's family have substantial financial interests raise particular questions of potential or apparent conflicts of interest.

Any of the arrangements listed below could present a conflict of interest or conflict of commitment and should be disclosed by the employee under these procedures to ensure separation of the employee's role as a University employee from that of his/her role in the company.

1. gifts of cash or property which will be under the control, or will directly support the teaching, research or other University employment activities of an employee from an entity in which that employee or members of his/her family have an employment or consulting arrangement and/or substantial financial interests;

2. sponsored project proposals in which any of the involved investigators (or members of their families) have employment or consulting arrangements and/or significant financial interests in the proposed sponsor, subcontractor, vendor or collaborator with the proposed project;

3. University technology licensing arrangements with companies for which the inventor (or members of inventor's family) has employment or consulting arrangements and/or substantial financial interests; and

4. procurements of materials or services from an outside entity in which the employee (or members of the employee's family) has employment or consulting arrangements and/or substantial financial interests.

The following arrangements are not considered to constitute a "substantial financial interest" and do not require disclosure or review under this policy:

1. income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;

2. income from service on advisory committees or review panels for public or nonprofit entities; or

3. financial interests in or gain from public or nonprofit entities, business enterprises or entities, or service on advisory committees which do not meet the definition of financial interest given above.

F. FREE AND OPEN EXCHANGE OF RESEARCH RESULTS

The integrity of the University as a community of scholars requires the free and open exchange of ideas and the results of scholarly activities. Faculty are obligated to maintain an atmosphere free from unwarranted external influences. Students and collaborators must be able to pursue topics of interest, have access to available information and facilities, and be able to communicate the results of their work to other scholars and the public. Therefore, faculty must ensure that:

1. the results of research or scholarship undertaken at the University are disseminated on an open and timely basis to the broader scholarly community and public in keeping with the Academic Freedom and Responsibility Policy of the University of Oklahoma;

2. the activities of students and post-doctoral scholars are free from the personal commercial interests of the faculty member; and

3. the works of students, staff, post-doctoral scholars and collaborators are not exploited in the course of a faculty member's outside obligations. To this end, faculty members should be open about their involvements with and obligations to

outside third parties who could benefit from the work or ideas of their students, staff, and colleagues. Similarly, students, associates, and staff should have access to information about the sources of funds that support their research.

G. CONFLICT OF INTEREST LAWS

In addition to this policy, the state has imposed laws and rules governing conflicts of interest in state employment. (Title 74 of the Oklahoma Statutes [Ch. 62 & its Appendix], Section 4201 *et seq*). This Policy overlaps with but does not supplant University employees' responsibilities under state or federal law, which in some instances will include additional prohibitions and reporting duties. Laws of particular importance to University employees are briefly summarized in Appendix "A", with full text available at the Office of Legal Counsel.

Federal conflicts of interest laws also may be applicable to those who receive federal grants/contracts or to those employed partly by federal agencies. Further information in this regard is available at the Office of Research Administration.

By reference thereto, this policy includes all requirements relating to conflicts of interest to which the University and/or its employees are subject under state or federal law.

IV. DISCLOSURE, REVIEW AND MANAGEMENT OF POTENTIAL CONFLICTS OF INTEREST AND COMMITMENT

It is imperative that apparent, actual and potential conflicts of interest be disclosed to the University prior to initiation of actions that might constitute such conflicts. The University may then determine whether the conflict is negligible/nonexistent and thus acceptable with change, is material but acceptable with proper University oversight, or is irremediable and prohibited. This disclosure, review and management process provides protection from legal and ethical criticism for the employee(s) involved as well as for the University.

While management of apparent, actual or potential conflicts of interest is the joint responsibility of the University and the individuals involved, employees are responsible for initial disclosure and are urged to seek clarification and guidance from appropriate institutional officials when needed.

Administrators normally in the best position to place conflict situations in context and provide a common sense basis for management are unit heads and deans. They are included in the first steps in the review and management process described below.

1. Employee completes a conflict of interest disclosure form and submits it to his/her unit head or supervisor.

2. Unit head or supervisor examines the form and forwards a written recommendation to the appropriate dean or vice president, indicating a course of action following a discussion

of his/her recommendation with the employee. The Vice President for Research (or their equivalent) will deal with all research-related forms and the Vice President for Administrative Affairs (or their equivalent) will deal with nonresearch-related issues.

3. The dean or appropriate vice president will review the unit head's recommendation and will notify the unit head or supervisor of his/her decision which could be one of three recommendations.

   a. concurrence with the unit head
   b. an alternative proposal for conflict resolution or management
   c. request for further review by the Conflict of Interest Advisory Committee

4. A case may be referred to the Conflict of Interest Advisory Committee for review and recommendation. This Committee shall consist of the following membership and shall serve as an advisory body to the appropriate vice president.

   a. <u>ex officio</u> members from the Office of Research Administration (one person) and the Office of Legal Counsel (one person)
   b. one faculty member from Research Council
   c. three faculty members from the campus at-large
   d. one staff member nominated by Staff Senate

   The Committee can seek advice from any experts it deems necessary and shall consider each case confidentially. The Committee will forward their recommendations to the appropriate vice president.

5. The final decisions on potential conflicts of interest will be given by the appropriate vice president who will notify the employee in writing of his/her decision including requirements for immediate action and plans for continued monitoring of potential conflicts.

6. Management options include but are not limited to:

   a. public disclosure of all relevant information regarding the conflict of interest and how it is related to the situation under review;
   b. modification of the activity and/or agreement to minimize any negative effects of the conflict of interest;
   c. designation of an appropriate supervisor to have immediate oversight responsibility over the management plan;
   d. divestiture of relevant personal interests of the employee or his/her immediate family to the extent that the conflict is nullified;
   e. termination or reduction of involvement in the activity by the employee to minimize or eliminate the effects of any conflict that may exist;
   f. termination of student involvement in project.

7. After development of an acceptable management plan, and work commences, the appropriate individuals with oversight responsibility will report regularly (not less frequently than annually) to the appropriate vice president on the effectiveness of the plan. If, during the conduct of the work, the appropriate vice president determines that the conflict has become unmanageable, they will then determine if the work will cease, require further modification, or employee divestment of the conflict.

8. If outside agencies require notification of conflict resolution and management, they will be so notified in accordance with their requirements.

V. SANCTIONS

Disclosure of conflicts of interest, apparent, potential and actual, is mandatory and is the responsibility of all persons who engage in activities that may involve such conflicts. Failure to fully disclose conflicting relationships and/or interests is a serious breach of Regent policy which itself may be considered an act of ethical misconduct and/or professional dishonesty. Allegations of a breach of this policy by a member of the faculty should be made by a confidential writing to the Provost and, in the case of staff, to the executive officer in whose area the alleged transgressor is employed.

Persons who violate this policy shall be subject to and processed in accordance with the Conflict of Interest Administrative Directives and applicable University policies relating to misconduct by faculty and staff. University sanctions may include, without restriction, reprimand, restitution, loss of pay, suspension or dismissal. Furthermore, persons who violate this policy also may be subject to civil and criminal penalties for violations of law, e.g., civil penalties for willful violations of state law may reach $50,000.00 per violation.

VI. EFFECTIVE PERIOD

The effective period of this Policy Regarding Conflicts of Interest and Commitment shall begin when duly approved by The Board of Regents of the University of Oklahoma at a regular or special meeting and shall end three-hundred Sixty-five (365) days thereafter unless extended or reduced by action of the Board at a regular or special meeting within said Three-hundred Sixty-five (365) day period.

LIST OF APPENDICES

1. Appendix A Conflict of Interest Laws

A summary of Oklahoma laws and rules that address the issue of conflicts of interest and commitment for state employees.

3. Appendix B Administrative Directives

An outline of the directives to be followed if an employee violates the Conflict of Interest and Commitment Policy. Again, these directives may differ for the three campuses. The draft given applies to the Norman Campus.

4. Appendix C Examples

Brief examples illustrating activities which present conflicts of interest/commitment and how they might be resolved will be presented to help University employees understand how the process works and how it might apply to their own activities. Examples given may differ among the three campuses so they pertain to employees' outside interests.

5. Appendix D Forms

To standardize the administration of this policy, University forms will be developed and/or revised. These will include:

1. Research/Technology Transfer Conflict of Interest Disclosure Form (Employees participating in sponsored research or technology transfer activities will complete this form and submit it for review before the activity begins.)

2. Non-University Activity Disclosure Form (Employees will disclose non-university activities that pose potential conflicts of interest as they do currently. The form will be revised to address additional elements required under federal regulations and state law.)

APPENDIX A
CONFLICT OF INTEREST LAWS

It is the declared policy of this state that all public officers and employees are agents of the people and hold their positions for the benefit of the people. As state employees, we must observe high ethical standards regardless of personal considerations, grounded in the belief that promoting the public interest and maintaining public trust are primary elements of our contract with the people. State laws of particular importance to University employees are summarized below.

1. **Accountability.** All state employees shall obey the law of the land. No state employee may knowingly receive anything of value for performing or foregoing performance of official duties.

2. **Misuse of Position.** No state employee may use his/her official position to solicit or secure special privileges or exemptions for himself/ herself or others.

3. **Use of Information.** No state employee may disclose or offer to disclose confidential information acquired by reason of his/her official position to others who are not entitled to receive that information nor may he/she use that information for personal gain or benefit.

4. **Other Compensation or Employment.** No state employee may accept, solicit or receive employment or compensation that would impair his/her independence of judgment in the performance of his/her public duties.

5. **Influence of Official Acts.** No state employee may directly or indirectly solicit or accept any gifts, loans, favors, or services given for the purpose of influencing such employee in the discharge of his/her official responsibilities.

6. **Doing Business with the State.** No state employee, either as an individual or through any business enterprise in which he/she holds a substantial financial interest, may sell goods, services, buildings or property to any state agency except as specifically provided by law.

7. **Use of Public Resources to Influence Elections.** No state employee may use or authorize the use of public resources in the organization of a campaign fund raiser a candidate for state office or a ballot measure or to produce, publish or otherwise disseminate material to influence the results of an election for state office or a ballot measure except as provided by law or ethics rules. State employees may not print or distribute at public expense a promotional mailing on behalf of an elective officer nor, in a facility ordinarily used for the conduct of state government business, solicit a contribution from a state employee, distribute, post

or publish a communication designed to influence the outcome of an election for state office or a ballot measure, except as permitted by law or ethics rules.

8. **Regent Actions.** No regent may participate in, vote on or attempt to influence an official University action if he/she, or a member of his/her family or a business with which she or a family member is associated (i.e., where he/she or an immediate family member is a director, officer or agent or owns or controls, in the aggregate, at least two percent or a value of five thousand dollars of the outstanding equity of the business) has a reasonably foreseeable benefit from the matter under consideration by the University unless the benefit is incidental to his/her public position or accrues as a member of a profession, occupation or large class, to no significantly greater degree than other members of such group.

9. **Disqualification from Participating in Matters Affecting Prospective Employer.** University officers and employees who are required to file financial disclosure statements must disqualify themselves prior to recommending or taking any official action in a matter affecting a person with whom he/she is negotiating for employment.

10. **Representation Before the University.** No state employee may represent another person before the governmental entity he/she serves except, among other things, as to purely ministerial matters or in the course of the employee's official duties.

11. **Definition of Gift.** To the extent that consideration of equal or greater value is not received in exchange therefor,

a. the following things of value shall be considered "gifts" under state law:
(1) a pecuniary item, including money, or a bank bill or note;
(2) a promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
(3) a contract, agreement, promise, or other obligation or an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
(4) a stock, bond, note, or other investment interest in an entity;
(5) a receipt given for the payment of money or other property;
(6) a right in action;
(7) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel, except as provided in subparagraphs (3), (4), and (14) of paragraph b below;
(8) a loan or forgiveness of indebtedness, except as otherwise provided in subparagraph (9) of paragraph b below;
(9) a work of art, antique, or collectible;
(10) an automobile or other means of personal transportation;
(11) real property or an interest in real property, including title to realty,

(11) real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested in realty, a leasehold interest, or other beneficial interest in realty;
(12) an honorarium or compensation for services, except as otherwise provided in subparagraph (13) of paragraph b below;
(13) a rebate or discount in the price of anything of value or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public, except as provided in subparagraph (10) of paragraph b below;
(14) a promise or offer of employment;
(15) transportation or entertainment; or
(16) any other thing of value not excluded by paragraph b below.

b. the following things of value shall not be considered "gifts" under state law:

(1) a campaign contribution properly received and reported;
(2) any books, written materials, audio tapes, videotapes, or other informational promotional material related to the performance of a state officer's or state employee's official duties;
(3) a gift that:
(i) is not used, and
(ii) no later than thirty days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
(4) a gift, devise, or inheritance from an individual's spouse, child, step-child, parent, step-parent, grandparent, step-grandparent, sibling, step-sibling, parent-in-law, sibling-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not acting as the agent or intermediary for someone other than a person covered by this subparagraph;
(5) a plaque or trophy with a value that does not exceed two hundred dollars;
(6) modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal;
(7) food and beverage consumed on the occasion when participating in a charitable, civic, or community event which bears a relationship to the state officer's or state employee's office and the officer or employee is attending in an official capacity;
(8) greeting cards and items with little intrinsic value, such as certificates, which are intended solely for presentation;
(9) loans from banks and other financial institutions on terms generally available to the public;
(10) opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all state government employees, whether or not restricted on the basis of geographic consideration;
(11) rewards and prizes given to competitors in contests or events, including random drawings, which are open to the public; rewards and prizes from contests of events which are not open to the public are also excepted if the state officer's or state employee's entry into the contest is required as part of his official duties;
(12) pension and other benefits resulting from participation in a retirement plan offered by an employer or former employer of a state officer or state employee;
(13) anything which is paid for by the state government or secured by the state government under state government contract;
(14) any gift accepted by the state or governmental entity under specific statutory authority;
(15) anything for which market value is paid by the state officer or state employee;
(16) transportation furnished to a state officer or state employee to assist the officer or employee in the performance of the officer's or employee's official duties and from which the officer or employee receives no personal benefit;
(17) food, transportation or entertainment provided by a governmental agency or governmental enterprise of a foreign nation as a gesture of hospitality;
(18) prescription drugs or similar items given to the recipient for distribution to patients in need of treatment which are not used by the recipient;
(19) a meal or other food served at a meeting at which the state officer or state employee is an invited guest; and
(20) any gratuity provided at a meeting, conference or seminar by sponsors, exhibitors etc., the cost of which is not borne by a registrant to such meeting, conference or seminar.

11. **Definition of State Employee.** Under state law, a state employee is defined as:
a. an elective or appointed officer or an employee of any governmental entity, except members of the House of Representatives or State Senate; and
b. an employee, other than an adjunct professor, in the service of an institution of higher education comprising the Oklahoma State System of Higher Education.

This definition does not include a public member.

12. **Restraints on Gifts.** No state employee may seek or accept things of value in a calendar year which, in the aggregate, are valued at more than three hundred dollars, from a person or entity who the employee knows or should know is a lobbyist, is seeking to do business or doing business with the University or has a

substantial financial interest in matters before or affecting the University.

13. **Disclosure of Gifts.** When state employees who determine policy or make final spending decisions, or their immediate families or businesses with which they are associated (i.e., where they or immediate family members are directors, officers or agents or own or control, in the aggregate, at least two percent or a value of five thousand dollars of the outstanding equity of the business), receive things of value from persons they know or should know: are lobbyists, are seeking to or are doing business with the University or who have substantial financial interests in matters before or affecting the University; they must report monthly the source, recipient, type, date, and exact amount or retail value of things received in a calendar year valued from fifty dollars to three hundred dollars per year in the aggregate. The term "things of value" does not include, among other things: written material related to the performance of one's official duties; gifts that are not used and are returned to the donor, or delivered [not donated] to a charitable organization, within thirty days; modest items of food or refreshment such as soft drinks and donuts; benefits or opportunities available to the public or to a class consisting of all state government employees; gratuities provided at a meeting or conference by sponsors, exhibitors, etc., the cost of which is not borne by a registrant.

The penalties that may be imposed under state law against a state employee for infractions of these ethics laws and rules include, among other provisions, civil penalties of up to two thousand dollars per violation for inadvertent violations and up to twenty-five thousand dollars per violation for willful violations, censure, suspension, forfeiture of benefits received because of the violation and dismissal from employment.

APPENDIX B

ADMINISTRATIVE DIRECTIVES

A. Faculty

1. Discovery of alleged breach.
2. Confidential letter sent to the Provost within thirty (30) University business days of discovery of alleged breach.*
3. Provost will designate an appropriate officer to investigate the allegations.
4. Officer investigates and reports, with recommendations, to the Provost.
5. If a minor breach is reported, the Provost may impose minor sanctions, e.g., verbal warning, letter of reprimand, ____________________.
6. If a major breach is reported, the Provost will recommend severe sanctions to the President who, if (s)he concurs, will initiate the Faculty Appeals Board process for imposition of severe sanctions.

B. Staff

1. Discovery of alleged breach.
2. Confidential letter sent to the executive officer in whose area the alleged transgressor is employed within thirty (30) University business days of discovery of alleged breach.*
3. The executive officer will refer the matter to the appropriate administrative officer to investigate the allegations.
4. The administrative officer will investigate and implement appropriate sanctions subject to prevailing disciplinary and grievance procedures.

*Nothing herein shall preclude the University from taking any action for violations of this policy where the Provost or appropriate executive officers are not given written notice of the alleged violations in accordance with these Directives.

APPENDIX C - EXAMPLES

APPENDIX D - FORMS

(to be developed)

4/95 (Appendix II)

The University of Oklahoma

ATHLETIC DEPARTMENT

TO: Tom Boyd, Faculty Senate

FROM: Terri Moyer, Staff Senate Terri Moyer

RE: Supervisory Reviews

DATE: March 3, 1995

Attached is a "Proposal for Supervisory Review" that the Staff Senate accepted at our February meeting. Because so many staff are employed in academic areas and supervised by faculty, the Staff Senate would like to make sure that the Faculty Senate supports our recommendation to the administration.

Please let me know if you have any questions.

[illegible] 180 W. Brooks, Room 250, Norman, Oklahoma [illegible] PHONE: (405) [illegible] FAX: (405) [illegible]
Academic Advising (405) [illegible] Athletic Housing Complex (405) 325-6403 Computer Center (405) 325-[illegible] Writing Center (405) [illegible]

In 1992 a survey of staff at the University of Oklahoma, conducted by the Personnel Policies Committee of Staff Senate, revealed a high level of interest in establishing some form of supervisory evaluation. The committee then designed an evaluation form and procedure that were subsequently found to be unsatisfactory.

This year Staff Senate appointed an ad hoc committee to take another look at supervisory evaluation and make further recommendations. The committee identified two major concerns: strengthening the performance of the individual supervisor and improving the overall management culture on campus. While seeking to address these two major issues, the ad hoc committee explored alternatives with potential for gaining wide acceptance.

The final proposal from the ad hoc committee, summarized below, was approved by Staff Senate at the February 1995 meeting. Because approximately one-third of staff are employed in academic areas supervised by faculty or faculty administrators, Staff Senate recognizes the importance of faculty support for such a proposal.

PROPOSAL FOR SUPERVISORY REVIEW

(1) All supervisors would attend a short (two days maximum) management seminar every three years.
- Coordinated by Personnel Services, the seminar would focus on topics such as ethics in management, interpersonal communication skills, resolution of performance problems, and management styles and techniques.
- No supervisor would be exempt from this training.
- Failure to complete the training would make the supervisor ineligible for pay raises and for promotions.

(2) Personnel Services would train supervisors to conduct successfully an employee management review.
- The supervisor would be instructed in and encouraged to use methods of communication to solicit feedback on his/her own performance throughout the year and utilize that input from employees to continually enhance supervision.
- Sample forms would be made available to individual departments to conduct employee management reviews. It is anticipated that some departments might want to develop their own forms for this purpose.
- The forms completed by the individual employees would be reviewed by the person above the supervisor and would remain in the department.
- A summary form of the employee management review would be completed by the person above the supervisor to summarize the progress being made by the supervisor in soliciting feedback on his/her performance from employees and utilizing that information to improve his/her own performance.
- This summary form would be a component of the supervisor's overall performance evaluation. At a minimum, the form would be completed during the supervisor's annual performance review, but it could be done more often in order to obtain more immediate feedback.

(3) A Staff Senate advisory committee would review the final plans for both the short management course and the forms for employee management review prior to their implementation.