

To: Richard W. Holder, Deputy Provost

From: Lucie Lapovsky, AGB Consultant

Subject: Policies C130 and 140

Date: January 22, 2008

I commend the University for all of the thought and time put in to reviewing and revising these important policies. I have reviewed the existing policies C130 and C140, the proposed policies by the University Task Force, the approved new policies by the faculty Senate and the notes provided with these policies.

Policy C 130

The Policy Concerning Outside Employment and Conflict of Commitment, C130, discusses the permissibility of outside commitments of full-time University faculty members.

1. All three of the policies encourage faculty participation in outside professional activities which enhance their professional growth and reputation.
2. The current policy includes all faculty while the two proposed policies exclude lecturers from their policies.
3. Limits are placed on these outside activities to ensure that the faculty's primary responsibility is to the University. The current policy restricts all activities beyond those related to the faculty member's full-time University contract, even those at the University, while the two proposals exclude additional University service from outside employment restrictions.
4. The current policy states that outside employment may not exceed one day per week. The Task Force proposal states one day per week and specifies that this is the equivalent of 39 days for nine-month faculty and 52 days for 12 month faculty. The Faculty Senate proposal includes the number of days, 39 and 52, but adds that this is for a five day work week.

Recommendations on Policy 130

It is wise to encourage outside activities that are consonant with a faculty members primary University responsibilities. By the same token, it also is wise to place some limits on these outside activities to ensure both that the faculty member has adequate time to devote to their contractual activities and that it is the primary focus of the faculty member's activities. That being said, it is difficult to understand why Lecturers are excluded from both the proposals. The rationale provided in notes accompanying the information state that lecturers do not have requirements for service or scholarship to the University, only for teaching activities. Lecturers have different job descriptions and an expectation that their time is allocated differently than probationary and tenured faculty but that does not diminish the need for their commitment to their position at the University. The exclusion of Lecturers from this policy treats them in many ways like adjunct faculty who are only expected to do "piece work." I would recommend against

excluding lecturers from the policy. If there are special situations where certain faculty need/want to be able to engage in more outside work than the policy provides, I would recommend that it be individually negotiated in their contracts.

The current policy provides that all work beyond a faculty member's full-time contract be counted against the outside work limits; whereas, the two proposed policies do not count additional compensated work by faculty members at the University against their outside work limits. The distinction between additional work to the University and additional work outside of the University makes sense. Additional work at the University strengthens the commitment and the contribution of full-time faculty to the University. Both proposals continue the requirement included in the existing policy that additional compensated work at the University be approved by the relevant supervisor; this provides adequate controls from faculty becoming overcommitted.

The issue of how the amount of permissible outside work is defined is subtle. All policies provide for either 39 or 52 days of outside work but the approved Faculty Senate policy relates these days to a five day week while the current policy and the Task Force proposal just uses the term week. I am told that the interpretation has always been relative to a seven day week. In many ways the faculty policy is quite ambiguous as to how it would deal with a faculty member who works outside the University more than the specified number of days. I would recommend using the term week in the policy and continuing with the historical University interpretation.

Policy C 140

Policy C 140, The Policy Concerning Extra Compensation Paid by the University, discusses how this work is counted and compensated.

1. The current policy counts compensated work at the University outside of the faculty member's full-time contract against their allowable outside work while both the Task Force and the Senate proposals do not count this work against the workdays allowed for extra work.
2. The existing policy limits the amount of extra compensation a faculty member can make from the University and provides that the extra compensation is calculated as a percent of the faculty's full-time salary. Both new policies provide for a negotiated compensation for the additional work.

Recommendations on Policy C 140

As stated above, not counting additional compensated University work makes sense as it strengthens the commitment of the full-time faculty to the University and there are controls on it as the Department Chairs and Deans have to approve it.

The proposed policies provide a more rational way of establishing compensation for additional University work than the existing policy. Additional work should be compensated at "fair market value" which may have little relationship to the full-time salary of that faculty member.

Policy C130

Approved by the Faculty Senate on 11/27/07

POLICY CONCERNING OUTSIDE EMPLOYMENT AND CONFLICTS OF COMMITMENT

Employment as a full time, tenured, probationary, or clinician educator faculty member at the University of New Mexico in Albuquerque requires an individual's full time professional commitment and expertise. Notwithstanding this, and subject to certain restrictions, full time faculty members subject to this policy (Lecturers of all ranks are exempt from the provisions of this policy) are encouraged to engage in appropriate outside professional activities that will enhance their professional growth and reputation. Outside activities such as writing, consulting, lecturing, and similar outside endeavors contribute to the quality of both instruction and the scholarly or creative work of the faculty, bring great credit to the University and may contribute to the economic development of the state.

Conflict of Commitment

The University of New Mexico has adopted in the Faculty Handbook (Section B, Appendix V) the *Statement on Professional Ethics* of the American Association of University Professors, which includes the statement "Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it." In particular, a "conflict of commitment" exists when the external professional activities of the faculty member are so extensive and demanding of time and attention as to interfere with the individual's responsibilities to the unit to which the faculty member is assigned by contract, to students, or to the University. In particular, the time spent in outside employment may not exceed the equivalent of one workday per five day work week during the contract period. For faculty members with nine-month contracts this is the equivalent of 39 work days, and for faculty members with twelve-month contracts this is the equivalent of 52 work days per contract period.

Outside Consulting

In outside employment faculty members are paid directly by the outside entity and the University is not concerned with the amount of earnings. However, a faculty member should charge fees similar to those charged by firms or individuals doing comparable work, except when advice or services are given free in the public interest.

Prohibited Activities

Faculty members should not provide consulting or other services to an outside entity when those services would conflict or be in competition with services offered by the University itself. In undertaking outside employment the faculty member may not make use of University facilities, equipment, or personnel without prior written approval from the head of the unit responsible for the facilities or personnel. When necessary the Associate Vice President of Business/Comptroller shall determine to what extent the University shall be reimbursed for such use. Work of a routine or repetitive nature such as tests, assays, chemical analyses, bacteriological examinations, etc. which involve use of University property is prohibited except where it is considered in the public interest and where facilities or personnel for doing such work exist only at the University.

University titles, offices, addresses, and telephone numbers may not be used in city directories or similar publications for the purpose of publicizing non-University interests. Consultants must make it clear to outside employers that the work to be undertaken has no official connection with the University. The University cannot assume any responsibility for private consulting activities provided by members of the faculty.

Exceptions for Remunerated Scholarship

It is not the intent of the University to restrict expected scholarly activities of faculty members. In some disciplines, such as the performing arts, professional activity may be remunerated. In many disciplines scholarly service activities such as reviewing, colloquia presentations, etc., are compensated by small honoraria beyond expenses. Such activities, referred to as "remunerated scholarship" generally relate to research or creative work that is expected in a faculty member's discipline. Teaching outside the contracted department for compensation [see **Policy C140**] is not considered to be remunerated scholarship. Such activities would normally be added to a c.v. and be considered in promotion, tenure, merit pay, etc. Activities of remunerated scholarship need not be reported and the hours so spent do not count against the 39 or 52 workday limit unless the Chair or Director finds the extent of such activities threatens a faculty member's ability to carry out his/her regular University duties. In this case approval to continue this activity should be sought.

Reference: See also Regents Policy Manual 5.5

COMPLIANCE

Intentional failure to comply with the provisions of this policy will be considered a violation of university policy and may lead to appropriate corrective action which can include censure, warning, disciplinary probation, or dismissal, as set forth in the *Faculty Handbook*.

PROCEDURES REGARDING OUTSIDE EMPLOYMENT

In consultation with the academic units the offices of the Provost and the Executive Vice President for Health Sciences will be responsible for developing and communicating procedures for this policy. The procedures should address at least the following requirements:

- Notification of outside employment
- Chair/Director/Dean monitoring, reporting, and enforcement responsibilities
- Process for Exceptions to this policy
- Faculty reporting
- Written approval
- Records and supporting documentation maintenance
- Documentation supporting appeals
- Calculations used to monitor the 39/52 day rule
- Practical definitions and guidelines regarding Remunerated Scholarship developed with faculty input.

Policy C140

Approved by the Faculty Senate on 11/27/07

POLICY CONCERNING EXTRA COMPENSATION PAID BY THE UNIVERSITY

The interests of the University may be well served by professional activities conducted by faculty members outside of their normal departmental duties. With approvals specified in this policy, faculty members performing such activities may receive extra compensation from the University. Such activities may not replace or diminish the ability of the faculty member to fulfill his/her normal contractual responsibilities. Prior approval of such activities for extra compensation will be contingent on determinations by cognizant supervisors that the activities are in the best interests of the University.

- 1 Full time regular faculty members may receive extra compensation from the University for additional work done in connection with University-related activities provided that:
 - a) The faculty member wishes to pursue the opportunity for extra compensation;
 - b) Advance approval in writing is given by the Chair of the faculty member's contract department and the Dean or Director of the College or School that houses that department;
 - c) The work done for extra compensation does not in the opinion of the approving authorities:
 - i) Conflict in time with regular University duties and assignments;
 - ii) Constitute a "conflict of interest" situation for the faculty member;
 - iii) Come within the scope of the faculty member's regular responsibilities for which compensation is already being paid.
- 2 The work for extra compensation does not count against the workdays allowed for outside employment. (See Policy C130).
- 3 Extra compensation using funds from research grants or contracts must conform to research policies.
- 4 Extra compensation for teaching beyond the scope of the faculty member's regular teaching responsibilities shall be paid through a STC (Special Teaching Component) on the regular faculty contract. Requests for contracts that include STC's shall be made prior to engaging in the activity by way of a Contract Memorandum that has the approval of the faculty member's chair or director and dean, the administrator of the department for which the special teaching is being done, and the Deputy Provost or the Executive Vice President for Health Sciences.
- 5 Other kinds of special assignments shall be paid on an Extra Compensation Form. The rate of extra compensation will be proposed by the head of the requesting unit.

Reference: See also Regents Policy Manual 5.6

COMPLIANCE

Intentional failure to comply with the provisions of this policy will be considered a violation of university policy and may lead to appropriate corrective action which can include censure, warning, disciplinary probation, or dismissal, as set forth in the *Faculty Handbook*.

PROCEDURES REGARDING EXTRA COMPENSATION

In consultation with the academic units, the Offices of the Provost and Executive Vice President for the Health Sciences will be responsible for developing procedures for compliance with this policy. The procedures should include the following items, but may be more stringent for effective monitoring of the policy.

- Requirements for approval by the approving authority (Advance written approval is not required for periods of activity consisting of two days or less per semester)
- Requirements for STC approvals and payments
- Faculty reporting and compliance responsibilities
- Required signatory approvals
- Deans/Directors monitoring and enforcement responsibilities
- Maintenance of Records and supporting documentation