



August 28, 1995

Dr. Virginia Davis-Nordin, President  
Dr. Jean G. Pival, Co-Chair, Committee A  
Dr. Jesse Weil, Co-Chair, Committee A  
AAUP, University of Kentucky Chapter  
Box 730 University Station  
University of Kentucky  
CAMPUS

Dear Professors Davis-Nordin, Pival, and Weil:

I am writing in response to your letter of July 17, 1995 concerning our Administrative Regulations on Consulting and Other Overload Employment. I appreciate knowing of your concerns about these regulations, although I do not share your beliefs that they threaten academic freedom and the institution's reputation.

At the outset, I should say that I do not believe it would serve any useful purpose for me to attempt interpretations of our rules against "hypothetical scenarios." Aside from the inherent difficulty of dealing hypothetically with "conflicts of interest" and "academic freedom" issues, AR II-1.1-1 clearly contemplates that interpretations as to conflicts of interest should be given by the President only in real cases with specific facts, what the Regulation describes as "particular factual situations." Thus, in lieu of trying to answer your "hypothetical scenarios," I will attempt to react helpfully to what I perceive to be your general concerns about conflicts of interest and external consulting and other overload activities.

First, I offer some general observations. As you may know, all research universities are confronting increased outside concern about conflicts of interest matters, especially with respect to research activities. New regulations from NSF and NIH require universities to adopt tighter policies on conflicts of interest in order to obtain research funds from those agencies; efforts to satisfy this new requirement have been underway here since last fall. Additionally, it is to be expected that the public's demand for general ethics codes will extend beyond state and local governments and reach institutions of higher education; several universities have already undertaken to adopt such codes and I am sure that we will have to move on this front as soon as time and circumstances permit. A revision of current regulations on conflicts of interest and overload is likely to be an offshoot of such efforts.

Secondly, I offer some observations about specific matters raised in your letter:

1. Prior Approval: Prior approval of consulting is clearly required during assignment periods. While the regulations are open to an interpretation that prior approval need not be obtained during non-assignment periods, it is important to note that the regulations prohibit conflicts of interest at all times. To protect both the institution and faculty members from conflicts of interest situations, it would be wise (even if not required) to have all external consulting arrangements approved in advance. To the extent doubt exists on this point, we should and will undertake to clarify our regulations.

2. "Competition With University": I am not sure I can offer anything helpful on this topic without more specifics than I can fathom from your letter. I think of faculty members as fundamental components of the institution, an essential part of it rather than in competition with it. The University, however, does employ faculty members full-time and in doing so obtains a claim on their full-time professional services as faculty members. AR II-1.1-1 bestows certain privileges on faculty to engage in consulting as "overload" activities, partly to enhance their professional competence and partly to serve a public interest. However, the Regulation seems clearly to contemplate that broader university interests will prevail when in conflict with overload requests. I find the following provision significant to my thinking in this regard:

"The dean . . . has the authority to limit external consulting and other overload employment for faculty in that college to less than the maximum extent when such limitation is necessary to meet the college's commitment to instruction, research, and service."

I can see situations arising in which the University would have a responsibility to accomplish objectives within its mission and would not be willing to have faculty members working to meet that objective for extra compensation. It would not serve the University's interest to grant approval for such activities.

3. Seminars, Summer School, Etc.: The University is not in "competition" with other institutions in trying to provide needed educational opportunities. Consequently, while I would want to reserve judgment for what might be termed "highly unusual situations," I do not see conflicts of interest problems when faculty members undertake to engage in seminars, lectures, or summer teaching assignments at other institutions. However, it would not be appropriate for faculty members to take on substantial teaching assignments elsewhere while at the same time being engaged in full-time

assignments in our institution.

4. Particular Factual Situation: Your fourth inquiry is a specific one, with a faculty member working on sponsored research for a private company and at the same time holding a consulting contract with that company. It seems to me that the potential for conflicts of interest is so obvious in this situation that no faculty member should want to be involved in such an arrangement. It is not difficult to imagine that the private company might want the sponsored research to produce a given result (e.g., that a product is safe for use) and that the objectivity of the research might be questioned because of the personal financial interests of the researcher. I am under the impression that Medical Center officials, including the Chancellor, are disapproving consulting arrangements of this type and I fully concur with their position in that regard.

5. Established Channels: It is my experience that faculty members generally understand that decisions by department chairs are appealed to deans, decisions by deans are taken to chancellors, and decisions by chancellors are reviewed by the president. I do not believe that there is need for clarification on this point but I would not be adverse to making this clearer, should broader revision of AR II-1.1-1 become advisable and necessary.

Finally, I should conclude by saying that as the University deals with NSF and NIH requirements on conflicts of interest and considers its broader need for a general code of ethics, it is likely that AR II-1.1-1 will have to be reviewed carefully and perhaps modified or overhauled. Hopefully, the end result of this process will be an improved set of regulations on these important subjects.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles T. Wethington, Jr.", with a stylized flourish at the end.

Charles T. Wethington, Jr.  
President