

Chapter XIV.

Trustees' Center for Education and Research With Industry Interim Operating Policy and Guidelines

Revised May 29, 1984; approved by the West Virginia Board of Regents, July 10, 1984. The following comment by Chancellor Leon H. Ginsberg (memo 7/10/84) is pertinent: "The guidelines are just that; guidelines which are acceptable to the Board. They are not mandated by the Board. Each college and university is responsible for developing its own policies."

1. Purposes

The principles and purposes of the CERI are specified in the attached Board of Trustees' resolution of March 8, 1983. CERI is intended as an information clearinghouse and facilitator of mutually-beneficial partnerships between public and private sectors. Arrangements for research or instructional services are made directly between the institutions of higher education and the corporations, and should be conducted within the structure of the faculty member's institution. Since each institution manages such projects differently, institutional guidelines should be followed. The following are intended to guide policy development at public colleges and universities in refining their own policies.

2. Collaborative Research, Service, and Instruction

Collaboration with business and industry in basic and applied research, service, and instructional programs is to be encouraged. It contributes to the development of the people of West Virginia, improves the competitiveness of private sector enterprises, fosters technology transfer and information flow, and these lead to advancing the economic development of the State. New and varied experiences contribute to the development of faculty and programs. Collaborative efforts enrich the educational experience of students, and encourage new clientele to become students. The following policies are intended to advance the above goals. They are also intended to ensure that State statutes and regulations are followed, that academic principles are not compromised, that the well-being of the institutions is enhanced, and that the academic, professional and financial interests of faculty and students are protected. This is the foundation for a productive partnership.

3. Acceptance of Grants and External Funds

Acceptance of grants and funds from sources external to State appropriations to the Board of Trustees is subject to the conditions and review process specified in Board of Trustees' Policy Bulletin No. 28.

4. Management of Funds

Grant or contract funds from any source become subject to all of the Board of Trustees' expending and reporting procedures upon acceptance by the institution, and must be handled as required by State law.

The policies and regulations which apply to all awards accepted by the institution are those set forth in institutional policies or Board of Trustees' regulations. Thus,

appointment procedures, expenditure of funds, employment conditions, travel, use of consultants, and related matters fall under the normal policies, rules, and regulations by which the institution operates. All payments in compensation of activity arranged through CERI must be to the institution or to the Board of Trustees.

As a State Agency, the Board of Trustees and the institutions in its system of higher education shall comply with all State and Federal laws and regulations. As State employees, faculty and staff shall not enter into arrangements which violate State laws or regulations.

5. Conflict of Interest

It will be deemed a conflict of interest for any full-time employee of the institution (or for a corporation or association of which such an employee, or his or her spouse, or child under twenty-one years of age, or any combination thereof, who owns or own a majority of the stock of interest) to furnish to the institution any goods, services, or any other thing, and to receive therefor any remuneration other than the employees' contracted salary or wages, except as may be approved by the president of the institution. (Nothing in this policy is to be construed to apply to (1) any work written, or thing invented independently by such employee; (2) services performed for external sponsors by such an employee within the institution's consulting time policy where the funds to pay for such services are not provided to the institution through a grant form, or a contract or other arrangement with, some outside agency.) When accepting funding for research, consulting or other activities, information of any equity holdings, administrative position, patents or other rights, or favored position must be disclosed. With regard to government-sponsored research, the joint statement of the Council of the American Association of University Professors and the American Council on Education, "On Preventing Conflicts of Interest in Government-Sponsored Research at Universities," should be used as guidance.

6. Indirect Costs

An equitable and appropriate overhead rate should be charged on all externally sponsored research, services, consulting or instructional activity. The exact rates and procedures followed shall normally be those established by institutional policy, and are often identical with those negotiated with appropriate Federal agencies. The rates may be increased by mutual consent among the parties to accommodate institutional costs that are difficult to establish by direct costing methods. All identifiable direct costs must be recovered from external sponsors except where, by written agreement, direct costs are paid as part of cooperative research efforts.

7. Responsibility for Results

Individual faculty members hold ultimate responsibility for the results of their research. Use of the institution's

name should be for identification purposes only. The findings or recommendations of research should not be identified as the position of the institution, of the Board of Trustees, or of the State of West Virginia, but solely that of the author or investigator.

8. Consulting Through Personal Services Agreements

Individuals are not precluded from entering directly into individual consulting agreements, which were independently arranged, subject to conditions specified by institutional policy and Policy Bulletin No. 36, Section 3.

One working day per week (within a 5-day week) may normally be used for consulting for organizations other than the institution, unless such activities interfere with the adequate performance of academic duties. The administrators of each institution shall establish a program of periodic review of outside services of appointees to guide faculty members. Use of institutional equipment or other resources requires prior approval by the institution and reimbursement for associated direct costs. Faculty are encouraged to perform such work under institutional auspices.

9. Patent Policy for CERI Projects

Patent Policy will be governed by practices established at each institution, or for inter-institutional efforts, by the policies of one of the parties, or by mutual agreement, may be those of West Virginia University. All patents derived from inventions conceived or reduced to practice by personnel at the institutions shall belong to the respective institution and not to the Board of Trustees. Corporate sponsors may be given nonexclusive royalty-free rights to patents developed from research if substantial financial support is provided by them. In each case, a patent agreement must be negotiated with each sponsor which does not conflict with State and Federal law, and recognizes the relative proportion of investment by each sponsor in a discovery. Requests for an exclusive license or shared ownership of patents must be approved by the Board of Trustees. If one or more corporate sponsor(s) request that a patent be secured, the sponsor must pay all associated costs to secure and protect the patent, and may then be provided an exclusive license and pay fair royalties to the institution.

Although the individual faculty or staff member has an equity in any patentable discovery or invention, regardless of the source of funds supporting the experimental work, those activities undertaken through externally-sponsored grants and contracts may be constrained by the terms and conditions of the agreement with the sponsor. Any invention or patentable discovery made by a faculty or staff member with all or a portion of the time, facilities, and/or resources provided by the institution from any source, gives the institution equity in the invention or discovery. In such cases, the invention or discovery should be used and controlled in ways to produce the greatest benefit to the institution and the public.

A faculty or staff member who makes a discovery or invention outside his or her regular duties, on his or her own time, at his or her own expense, and without the use of institutional facilities, is entitled to full ownership of it. Regardless of the question of equity, the institutions will assist any staff member, so far as possible, in evaluating inventions and discoveries and, if advisable, in patenting

them.

10. Use of Human Subjects

There is an obligation to protect human subjects as part of all research activities, funded or nonfunded. The obligation applies to every member of an institution's faculty, staff, and student body conducting studies which involve human subjects. In case of students (including interns and residents), the supervising faculty or staff member is responsible for seeing that a study is approved or exempted by the appropriate institutional review board for the protection of human subjects before the use of any human subjects in the study, and for supervising the conduct of the research.

The institutional review board for the protection of human subjects provides direction in assuring the rights of individuals serving as research subjects by establishing and maintaining a set of guiding principles designed to elicit the highest professional standards in dealings with subjects, and by independently reviewing projects which involve human subjects in order to ensure that proper standards are met and that procedures do not infringe upon the safety, health, and welfare of the subjects.

11. Protection of Proprietary Information and Publication Rights

Information provided by a for-profit corporation may be protected by development of a written agreement in each case. However, it is important to publish results of research to advance knowledge consistent with the best practices of higher education. Publication of results may be withheld for a maximum period of six months, if required for the filing of a patent application, provided that a sponsoring company makes a written request for such a delay within thirty (30) days of mailing to the company. Researchers are responsible for determining in advance whether any patent or commercial product mentioned in a publication requires prior consent by the sponsoring corporation. In addition, the right of prior review and comment by the sponsor may be required in a written contract. Protection of proprietary information is the primary responsibility of the faculty, staff, and students involved, and they must be party to, and sign concurrence with, any such agreement.

12. Contractual Training and Development Programs

(a) Faculty. Participation of faculty members and staff as teachers in externally-funded programs on or off campus may be arranged as part of their regular full-time workload. Where faculty members do not have available time, assignments may be on an overload basis, and are made first to regularly employed faculty members of the host or other higher education institutions, and then to other qualified personnel.

(b) Credits. Every provision shall be made to ensure that the quality of off-campus classes offered for credit is commensurate with the quality of those offered on campus. Furthermore, the policies for such credit work are to be compatible with standards and policies of the

North Central Association of Colleges and the accrediting agencies for the professions.

(c) Television Teaching. Board of Trustees' Policy Bulletin No. 48, adopted January 4, 1977, summarizes the

rights and responsibilities of those involved in television instruction.

13. Compensation of Full-Time Faculty from Non-State Sponsors if Arranged by CERI

(a) Policies of each college or university regarding release-time for research, consulting, public service, and other related matters are set by the president of the institution within guidelines established by the Board of Trustees.

If outside employment or service interferes with the performance of the regular institutional duties of the appointee (faculty member, administrator, or staff), the institution has the right to make such adjustments in the compensation paid to such appointee as are warranted by the services lost to the institution.

(b) When Federal sponsorship is involved, compliance with various Federal regulations, such as OMB A-21 and other related guidelines, is reaffirmed.

(c) Faculty may request release from a course on a term-by-term basis to devote additional effort to research, consulting, or public service. As a minimum, the replacement cost of part-time faculty (or overload to others) must be met by external sources. Approval by the president is required.

(d) Faculty may request overload (6th day) payment from external sources consistent with existing policy on a term-by-term basis, subject to approval of the funding agency and president. The overload payment should represent at least 20% of weekly salary of the faculty member for a full sixth day of work.

(e) At times the development of an externally-funded course (on—or off-campus) requires new and unusual efforts in its preparation, and it is clear that these efforts will not bear a direct or long-term relationship to the regular instructional program of the college involved.

With approval by the president concerning the relationship and rates, the faculty involved in the development may be compensated accordingly from contract funds for course development work.

(f) Base academic year salary rates for faculty may be influenced by success in research and public service and by a continuing pattern of external support; when feasible, an appropriate portion of salary should be supported by external sources, not solely by the institution.

(g) Faculty may be compensated at no less than their calendar daily rate for short-term consulting work funded from external sources at rates approved by the president of his or her institution.

(h) Any special compensation to the faculty may not be less than the daily rate charged to a Federal agency. It may, however, be more, if approved by the president of the institution.

(i) Faculty may be compensated through their institution for summer research or public service efforts at a weekly rate of at least 1/36 of the base academic year salary, not to exceed two and a half months of full-time income for the summer.

(j) Ordinarily, faculty who accept leaves yet remain on campus for research or public service purposes are encouraged to teach one course to sustain the quality of the university's instructional programs.

(k) Faculty will be expected to seek means to involve

students in research efforts, both to contribute to the education and experience of the student, and to provide financial support for students. The integrity of the academic process and protection of the interests of the students must be assured.

(l) Recipients of research support who are on nine-month contracts may be compensated from external sources during the summer months. Recipients on twelve-month contracts and, during a regular semester, recipients on nine-months contracts are permitted to undertake such research by an appropriate adjustment of their contractual duties to the institution. Salary increments from grant or contract funds are not permitted without approval by the president.

14. Other Conditions

(a) In arranging consulting agreements with business and industry, institutions are encouraged to charge rates that are comparable with those charged by private organizations that provide similar services.

(b) Institutions and the Board of Trustees expressly disclaim any warranties, express or implied, as to the conduct of the research project or its findings, or as to the accuracy of the results or their utility, merchantability, or fitness for any purpose.

(c) In the case of any inventions licensed to the sponsor as a result of the research, the burden is placed on the sponsor to indemnify and hold harmless the institution, or the Board of Trustees, and officers, agents, and employees from any liability arising out of the manufacture, use, or sale of products covered by the license(s) and suffered by the sponsor or by users of purchasers of such projects.

(d) There will be a clear contractual understanding concerning any limitations on use of the name, trademark, logo, or other identifying marks of the institution or the Board of Trustees, and of the names of researchers, students, or staff, for advertising or promotional purposes.