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The University of Akron Faculty Senate Chronicle

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## Faculty Senate Chronicle October 28,1999

Heather M. Loughney

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Any comments concerning the contents in The University of Akron Chronicle may be directed to the Secretary, Dr. Gary Oller (+1910).  
FacultySenate@UAkron.Edu



**MINUTES OF THE SPECIAL FACULTY SENATE MEETING  
OF OCTOBER 28, 1999**

The special meeting of the Faculty Senate was called to order by Chair Barbara Heinzerling at 3:02 p.m. on Thursday, October 28, 1999, in Room 201 of the Buckingham Center for Continuing Education.

Forty-two of the sixty-three members of the Faculty Senate were in attendance. Senators Chyi, Filer-Tubaugh, Frank, Gilpatric, Hubble, Monroe, Mormino, Ofobike, and Purdy were absent with notice. Senators Baldwin, Dhinojwala, Foos, Hebert, Li, Louscher, Malek, Midha, Redle, Sakezles, Schwarz, and Stevenson were absent without notice.

**SENATE ACTIONS**

- \* SUBSTITUTED AND REAFFIRMED ITS DECEMBER 3, 1998, CONFLICT OF INTEREST, COMMITMENT, ETC., POLICY FOR THE VERSION WHICH IT HAD BEEN CONSIDERING AT THE PREVIOUS SPECIAL MEETING.**
- \* APPROVED A MOTION TO SEND THE DECEMBER 3 POLICY TO A COMMITTEE CONSISTING OF THREE SENATORS (CHOSEN BY THE EXECUTIVE COMMITTEE) AND THE GENERAL COUNSEL FOR POSSIBLE REVISIONS RELATING TO COMPLIANCE WITH FEDERAL AND STATE LAW. (THEIR FINAL VERSION WOULD BE FORWARDED DIRECTLY TO THE PRESIDENT.)**

The Chair announced that the body had recessed a week ago at this time, and it would now come out of recess back into session. President Luis Proenza had asked to address the body before it began any deliberations. She invited him to report.

The President made the following remarks:

"Thank you, Madame Chair, and thank you, ladies and gentlemen. I wanted to just review a couple of things before we continue in this process and make a couple of suggestions. First of all, I'm no stranger to these particular matters; I've dealt with them at other universities and have visited several others. I can assure you that just as you're finding some of these things difficult to both understand and to deal with, so have your colleagues at every university I've been at and at every university you might imagine, because these are not simple issues. We could indeed spend as much time as you wish, and I certainly do invite your input. I want to tell you a little about how the process has worked to date and suggest a process for us to proceed, because we simply have to proceed.

First of all, let me just recall my own experience with your dealing with these issues, which began even before I was appointed, because several of you raised it during the interview process and it



loomed right in front of us when I accepted the position and attended the first Board of Trustees meeting in December of last year. At that time, I suggested to the Board that we table the particular matter in consideration for several reasons. One, there appeared to be some questions as to whether or not appropriate time for review had taken place; and, secondly, because as I have had a lot of experience with this matter, I wanted to have an opportunity to review it, and moreover, to have someone with extensive and expert experience in the matter have an opportunity to advise us on the matter.

To that end then, when I arrived here in January, some of you recall that we invited Dr. Peter Dunn, Asst. Vice President for Research at my former institution. He met with a number of groups, among them the Executive Committee of the Senate, and was able at that time to answer a number of questions which, because of our relative lack of experience with a number of these issues, we had not been able to address adequately. We then asked that based on that experience and that discussion, that Dr. Dunn assist us in rewriting the document. Regrettably, because of a number of reasons, Dr. Dunn's schedule being one, and indeed the external consulting regulations applicable to Purdue University, the process was delayed. Nevertheless, we received a document which we now needed to review here, and Dr. Wilson asked a committee of the faculty including Dr. Heinzerling from the Senate and four other members of the faculty to review that. I guess they had no major suggestions to make."

Interim Associate Provost G. Edwin Wilson added that all those suggestions were included in the document that had come to the Senate.

The President continued:

"We then advised this body at the Senate's last meeting that we needed to proceed. I had given them significant time pressures that I had to an extension of time so they could review it more adequately. We're now, very simply and candidly, out of time. I did at the last meeting ask for your input, and I have received five messages from you, which does not include the messages I was reading now, although there's some overlap in some issues. Also not included in what you have is the needed review and input from General Counsel's office in order to ensure that we are complying with all aspects of the law, in particular, Ohio law.

So we have all of that input, and I am in the midst of reviewing it and seeing what can be incorporated. There are some obvious things that we have to fix. Believe me, there is no intent in any policy and certainly not from my office, to in any way interfere with your interacting with federal agencies, program directors. I encourage that; that's where you find out what they're proposing to fund, what they're not funding, and whether you're even in the right ball park. I can tell you, however, that you cannot and will not be allowed to negotiate the terms of an award, period. It's not allowed, and it will not be accepted. But I want you to be encouraged to interact with them. Sen. Lillie"?

Senator Tim Lillie wanted to point out that the version that had been passed by the Faculty Senate had also made that extremely clear. There had been no indication by anyone in this body that we wanted to go and negotiate with anyone. This was exactly what we were talking about, clarification.



The President then added:

"Correct, and we need to clarify many other things which have been brought forth which are included in here and many of which are not included in the matters that you are bringing forth. I'll be happy to address all of these matters you have here today, some of which are immediately addressable. They're issues like, why does this exist? Are we all suspect? There's an old saying, 'We know what you are, we're just arguing about the price you're going to charge.' The bottom line is that the disclosure thresholds are defined by federal law, not by the University. So we have to include those as part of the guidelines that we have to abide by.

There are a number of other issues, and then I will take your questions and will discuss as many things as you'd like. There are interaction issues, there are issues of family, the definition each to be clarified. Fundamentally, the law applies to immediate family members, particularly those that are residing in your household or that you should have any reasonable knowledge of. So we need to clarify that a little bit better. For most of you it doesn't apply.

There's another question about whether or not there's any intention of regulating your ability to consult. It does lead to the issues that may bite you, as they have in other places. I can tell you of one case at another university that shall go unnamed, in which the individuals by failing to disclose and have a management protocol agreed upon, found themselves in such conflict of interest and conflict of commitment issues that the person was found to be fundamentally in criminal violation because they were away from campus more than they were on campus and were earning money that was in fact influencing other research they were doing on campus. That, ladies and gentlemen, as you well know, is highly problematic. Do you have some questions"?

The President recognized Senator Jack Braun from whom he had gotten some messages on this issue.

Senator Braun wanted to read something for important notice to presidents of universities and colleges and heads of other national science foundations and organizations - July 13, 1995, which he had found on the net. It read: "Subparagraph b of GPM 510 would be revised to require disclosure to the institution's representative of significant financial interests that would reasonably appear to be affected by activities funded or proposed for funding by NSF." What he was trying to say here and what he had objected to in his letter to the President was that each one of us was a grown-up person and each one of us could not argue that not knowing the law was a mitigating circumstance. Therefore, he thought that while we should have a very clearly delineated policy, it seemed that it went way beyond what was required to say that he would have to disclose activities that had absolutely nothing to do with the University, or his wife's or his children's. If you personally considered that you did not have a conflict of interest, why should you have to disclose it as long as your primary duty at this University was fulfilled?

The President responded that this was a very good question. Senator Braun went on to say that the University of Minnesota after it had lost a huge federal case, had come up with a new conflict of interest and commitment policy which clearly said that if you did not want to disclose anything, so be it. You were obligated to disclose as long as you had NSF or other federal grants, but if you did not disclose, it was at your own peril. Then indeed if you had done something bad, of course the



retribution was going to be much worse because you had not availed yourself of the mitigation or amelioration that had been offered to you.

The President replied that this was correct, and indeed disclosure was intended to provide mitigation or the opportunity for mitigation.

Senator Braun continued that if you looked at what presently existed at Toledo, Ohio State, Cincinnati, and Cleveland State, with the document from upper management and not from the Senate, we were way beyond what, at least to his humble mind, seemed to be required to disclose or do. The Senate had proposed and approved unanimously last year a document that had been done by a committee that had been chosen from the Senate to draft the document. Perhaps the President did not have the knowledge of this. The committee had gone back to the faculty, to the grass roots. There had been meetings in the colleges and that information from them had gone back to the Senate and the committee, which had taken care to actually live within the law of the state. That document was a document that actually provided mitigation, amelioration, disclosure, etc. That document had been completely chucked, and the document which we had in front of us today was pretty much a reproduction of the document that had originally come to the Faculty Senate before the special committee had taken action. Now nobody here was asking to do us favors and let us run wild and do damage to the University or to ourselves. But he thought that there had to be a creative environment here, and it had to be a permissive environment that would entice people and make people love to come to work here. In his opinion, the document that was presently submitted would not achieve that goal.

The President stated that the item which Senator Braun had suggested from Minnesota was something that we could explore.

Senator Harvey Sterns said that he had not communicated with the President by email, but he had raised at the last meeting a question about a statement that was in both documents. It said: "The responsibilities and professional activities that constitute appropriate and primary commitment will differ across colleges, schools, departments, and disciplines and should be based on the understanding among the employee, his or her department chair, dean, or administrative supervisor, and the Provost in accordance with the university policies." How would this difference across colleges, schools, departments, and disciplines be handled?

The President replied that that was a very good question. Obviously, unless there was some understanding on the part of department chairs and of the faculty, it could be handled at one end extremely well and at the other end extremely poorly. It was certainly what universities had tried to do, first to put their responsibility at the department head level. That was the procedure that had been suggested by Dr. Dunn for the body's consideration, because the faculty members were the ones who were the best able to understand what was appropriate for their disciplines regarding things like time commitments for teaching, research, and outreach. It was certainly not his office or Dr. Wilson's. We needed to come up with something that was rational and articulated this and also provided an opportunity for everyone. At Purdue they had set up a framework that allowed for sessions twice a semester on questions and answers regarding due process and procedures as well as what did and what did not constitute a conflict of interest. We could do the same thing here.



Senator Shelley Baranowski had two questions. First, what was the emergency which required us to act immediately? She understood that we were trying to bring our own policy into conformity with the Ohio Ethics Commission, but what sort of constraints and deadlines were we dealing with?

The President answered that the absence of a policy was possibly putting us in danger of being challenged in our ability to receive federal funds. All of this was a bit tricky, but fundamentally that was it. If we did not have a policy in place, at any one of the reviews that the federal government conducted during the annual process or at the end of the process or in any negotiation, we could be ruled in non-compliance and lose our ability to receive federal funds. That was the emergency.

Senator Baranowski's second question was what specific things were found wanting in the document which the Senate had approved last year. The President responded that to be candid he had no idea. If it were given to him, he would be happy to review it.

Senator Helen Qammar told the President that she had received many emails from her colleagues in the College of Engineering who had sent them to her rather than to him because she was their Senator. Given the broad nature of the questions raised in those emails regarding some pretty big flaws in the policy as proposed, could he give the body some sense of whether or not this document which the Senate was supposed to amend and bring to him in a fairly short period of time had really gone through the proper scrutiny before it had come to the Senate?

The President stated that we ought to be prepared to edit the document with the best ability possible and to submit it to the Board for approval as an interim policy. This could be done with the full understanding that we would devote additional time then to iterate the document further and get it hopefully to where we would be happy with it. At Purdue when they were dealing with this with far more heated discussions than the Senate had had over the past year, the President had written a statement which presented the overall philosophy of the University which was to encourage, to facilitate, to promote, etc., and that was made the law of the land under which all of these requirements then began to operate. What happened then was at the first forum dealing with these issues people had come with angry questions only to find that there were rational solutions and approaches. Indeed, nobody had been trying to prevent people from doing anything other than keeping them out of trouble. Perhaps some members knew Pete Kinsinger, a very distinguished analytical chemist who had been at Michigan State and then had gone to Purdue (long before President Proenza had gotten there) and had wanted to start a company. At that time, the Purdue policies were even more restrictive where there was no general management facilitative statement, and yet nothing happened. He had gone through, had gotten his business started and had gotten all of his things done with full disclosure. When his business had started growing, he negotiated with his department chair because he did not think that he could teach that extra course and needed to reduce his commitment to the university by an appropriate percentage. That was signed off on, and everything had gone forward. In other words, it had legitimized something that had happened, but in the context of the now more stringent federal regulations that everybody had found cumbersome. So we could do that.

Senator Lillie joked that because he had been selected to present the comparison between the old Senate document and the new one he had worn a white shirt so that it would show the blood stains easier. However, the President, as had Mr. Mallo last week, reduced a lot of his concerns. He did have some others that had arisen. Had he understood correctly that the President was asking for a copy of the policy that the Senate had passed last December? When the President answered in the



affirmative, he handed him a copy which Secretary Gary Oller then verified for the President was the correct document.

Senator Lillie went on to say that the reason he had suggested last week that the body substitute its past document for the one presently before the Senate was that people had been asking the same questions which the Senate ad hoc committee last year had raised and worked through. For instance, why did we have to have one at all? What the President had told the body today was what the committee had heard last year and worked through. The President had also said a number of other things that really reflected what the committee had discussed and dealt with in trying to fashion a conflict of interest, conflict of commitment, intellectual property, and scholarly misconduct policy. The committee had tried very hard to say that we were not trying to get out of anything; it understood the concerns of the administration. He was glad there were so many administrators here today, and one of them happened to be from Education which he was very proud of. Basically, the idea was that we had looked this thing over and we really were in unity with you. We were not saying that we knew better than you. What we were saying was that the policy that you have sent us could be read in ways that at least confused people and at worst seemed to be punitive. We needed to work together to make sure that these things were clarified. If we could do that, that would be fine, and he would suggest that the document which he had just handed him could be used as an interim document. It had in it a provision for annual review in case it needed to be changed later. While there might need to be some other changes made at a later time, at least we would have something that the faculty could support and which had been undertaken in concert with the administration to try to help it come up with a policy that would be workable. He was prepared to go over a dozen or so places where people thought there were concerns. Perhaps we would not need to do that; he did not know.

The President said that he would be happy to try to address either some of those questions or reflect on them a little. He was not sure that he could address every one of them offhand. In regard to Senator Lillie's proposal, he could take both documents and see what would have to be borrowed from both in order to make us comply with the requirements of federal and state law. Wherever the wording in the original document was sufficient, we would include that.

Senator Lillie said that what he had recommended was taking the Senate's policy and using it as the interim policy with changes to come later. The suggestion which the President was making was to take the two policies and try to put them together.

The President replied that he would do what Senator Lillie was suggesting if it was possible. If it was not, he would have to merge them but with the proviso that this would be an interim policy by definition. He would not submit anything to the Board of Trustees with a suggestion that the Senate had either endorsed it entirely or that it was the final policy. It had to be a working policy as of that date.

Senator Jeff Franks was a little surprised that he was hearing that the President had not seen the Senate document. He wanted to know whether it had not been given to him or whether it had fallen by the wayside. The President apologized and said that he had probably seen 65,000 documents since he had arrived here.



Senator Franks added that he had been on the original committee along with several other of his colleagues, and they had put in over 300 hours going through sentence by sentence, and he did not think that he had ever worked with a more sincere group of people. The spirit of that group was a very cooperative spirit. If this document was not adopted as an interim, he wanted to know why from people who had been here and had not informed him (the President).

The President answered that there were only two people here who had an idea - the Provost, Dr. Wilson - and perhaps also Mr. Sermersheim and Dr. Walton. Was there a particular set of reasons why that document had not been accepted?

The Chair did not want to embarrass anyone, but the Senate's document had been presented originally to the President through the Executive Committee when he was not yet installed. It had been given to him because it was concerned that there had been changes made by Dr. Wilson. That was why the dates at the bottoms of all these documents were so important. December 3 was the original one; December 8 was the one that Dr. Wilson had kind of blended together, and it had gone to the Board of Trustees on January 20. Senator Franks and the rest of the body needed to know that on March 16 the Executive Committee met with President Proenza, who was still new in office, and Dr. Dunn (the consultant from Purdue). At that time, the December 3, December 8 and January 20 documents were all again presented. It was true that there were a lot of documents floating around, but she wanted the Senate to understand that its December 3 document had been taken on three different occasions to the higher administration (once to Ruebel, twice to Proenza). So it had not fallen through the cracks in that way.

President Proenza was confident that it had gotten there, he was just not sure whether he had actually seen it. He did need to know the reason why the (Senate's) document was the not the document presented to the Board.

Dr. Wilson answered that it had been merged with the original (administration's) document. When the President again asked why - what had been the requirement of that merger - Dr. Wilson responded that there had been much that was similar between the original document and the Senate document. The Senate document had been developed without consultation; it had been merged with the original document at the request of the Provost and was provided to him.

Mr. Michael Sermersheim commented that the Board's rules committee had briefly looked at a draft of the proposed conflict of interest policy that had been proposed last year. The rules committee had also received a copy of the Senate's December 3 version, so those two documents had been forwarded to the rules committee of the Board. They had not acted on them.

The President stated that both documents had been pulled at his request so that we could have that consultative process.

Senator Elizabeth Kennedy said it appeared that the two documents (administration's original and the Senate's) had already been blended once, and now we were considering doing the same thing again with the Senate's document and this new one. She also had been on the Senate's ad hoc committee and all of the problems which it had dealt with last year had appeared again in this new version. One of the Senate's concerns last year had been the sudden appearance of the conflict of interest document and the directive that it had to be acted on very quickly. The Senate had gained



some time for the ad hoc committee to do its work. The document had disappeared for a while and now it had come back with another directive that it had to be acted on quickly. From her own colleagues, what she was hearing was that the time frame sounded somewhat artificial. Did we not have a current interim policy on the books?

Mr. Sermersheim answered that we had a scientific misconduct policy. There was a conflict policy, but it did not completely implement all facets of that policy. Some were yet to be implemented and had not been. The President added that it was not one that was fully in compliance with current federal law.

Senator Bill Rich thought that based on what President Proenza had just said, there might just be a slight modification. We had within our grasp a solution that might work for everyone. If we began with the document that clearly enjoyed the support of the Faculty Senate because it had passed this body last year and looked at it to see in what respects, if any, it failed to comply with applicable federal or state law, and if the other document on those points did comply with the law, we could use that language to modify the Faculty Senate document. Those should be the only changes that were really needed to adopt this as an interim policy. If he had understood it correctly, that had been the premise of the point that the President had made earlier.

When the President agreed as long as it was ensured that the applicable laws were being satisfied, Senator Rich said that what needed to be done was that the Faculty Senate's December 3 document needed to be checked carefully to see whether there was any respect in which it failed to comply with applicable law. If there was, that should be fixed. It should then be possible to proceed with that to be adopted as an interim policy and then to have the review that was planned for on an annual basis to fix whatever problems we might think that did not constitute a failure to comply with applicable law.

The President did not want to argue with something that Senator Rich had stated very nicely, but he did note that he, as well as many of the Senators, had received input on this. The General Counsel had five pages of important suggestions that needed to be considered as well. However, perhaps as a restatement of what Senator Rich had just said, he suggested that we move forward to the (Senate's) document that would be proposed as an interim policy. He understood that last week some of the Senators had objected to the suggestion of substituting the Senate's original document because they were new Senators and had not had time to see it. Now we were an institution and had to have some processes; and, indeed, when new people came on, they needed to explore it and suggest changes. He suggested to the Chair that she provide two or three members of the Senate that she felt would be representative to sit down with General Counsel and General Counsel only and iterate a draft that could be submitted as an interim policy, and then we could proceed to sort out anything else during the next few months. Would that be acceptable?

The Chair believed that it would. Were there any other questions for the President?

Senator Braun did not have a question about the document, but he wanted to read something which addressed the spirit of it. This was from a speech given on September 10, 1999, by David Auston, the President of Case. He had failed to make a copy for everybody which was why he wanted to read it. The section read as follows: "The many comments and advice I have received from others reminds me of something the comic strip character, Pogo, once said: 'We are surrounded



by unsurmountable opportunities.' How do we get moving? I cannot claim to have the silver bullet that will suddenly transform our opportunities into realities, but I can offer the following advice: First, university administrators need to be clear about their mission and long-term goals - too much emphasis on immediate revenue generation through tight intellectual policy practices is less effective in my opinion than a longer term objective to develop strong partnerships with industry that can become future sources of support for the university and employers of its students. Bill Hewlett and Dave Packard - who put together a little company in California to make electronic equipment - have done more for Stanford University than any amount of intellectual property revenues could accomplish. The Smiths, founders of the Lubrizol Company, have contributed in the same spirit to Case Western Reserve University."

Senator Braun also had an article from October 27th's New York Times (**Appendix A**) which he wanted people to see. He would have to admit that what this guy had done would not be admissible in today's legal environment - leaving the university and taking with him something which he had developed inside the university for his own profit. A lot of stuff like that happened at Stanford. However, if he had stayed inside Stanford, Stanford would never have gotten the \$150 million out of that.

Senator Braun then continued to read from David Auston's speech as follows: "Second, we need to give our faculty the support and encouragement to become more entrepreneurial, willing to take risks and recognize that a good idea and a patent are only the first steps of a multi-step process required to fully transfer technology into the market place. Filing a patent on every new idea is not the solution - I can speak personally to that issue - I have eight patents and not a single one of them have earned a cent. By encouraging a more entrepreneurial approach, I don't mean that faculty should necessarily become business people and try to direct the commercial application of their research. A few will have both the desire and the ability to start a new company and may even take a leave of absence to nurture it in its early stages of development before returning to the university. Most will need to rely on others..." Senator Braun thought that this speech and the article in the New York Times showed an environment that nurtured people rather than interdicting, actually forcing their creativity and willingness of people to do more for the institution rather than interdicting them and turning them off. He thought that the document which the Senate had in front of it was an interdictive document. He had been born in a dictatorship and knew what interdiction meant.

President Proenza said that he did as well and thought that Senator Braun had spoken very articulately and supportively. David's (President Auston) comments at the City Club a month or so ago had been very telling for a number of reasons. First of all though, he wanted the body to understand the context of them in northeast Ohio. David's board of trustees had gone out to hire a person that hopefully understood the commercialization process because they had seen at Case Western Reserve a major research engine that had not had any results to speak of. David was coming in here and painting the most realistic and positive picture that he could. It was his responsibility to do so, and he applauded him for that because it was important. However, when he had heard him give the talk, he had been taken aback in the thought that insurmountable opportunities only pertained to places like Ohio. When he had come across that phrase, it was not in Pogo but in Alaska. Alaska was so vast and so huge and had so many resources, and every time he had gone out and talked to people all sorts of things were catalyzing and it was a wonderful place to work. But everybody then threw up obstacles and said that you could not do this because we had tried that before when they had



tried to develop the Matanuska Valley into a major agricultural area. So Alaska was the land of insurmountable opportunities.

To the point of the remarks, those were the correct comments to make. What people needed to understand in the reality of things was that the process which he was trying to initiate with them was the kind of dialogue and ultimate good, solid information that would allow us to make collective decisions in sufficiently adequate time to move forward. This was the spirit, and he would happily try to articulate it in a cover document that should guide the interpretation of whatever aid we had to have because of the law and anything else we set off as process and procedures. So he would do that.

Secondly, please understand in this realm of American higher education in which approximately 200 universities played the research game - 488, if one included all that got federal research money, there was a vast difference from one end to the other as to how they approached this business. Some were so bold as to be patently irresponsible in his judgement, and some were so timid that one might ask why they bothered. In that context, one might be interested to know that Stanford University had the most restrictive IP policy on the books. That said, they had interpreted it either fairly loosely in many cases or people had indeed simply left. Indeed, the spirit of what was happening in Silicon Valley was such that one company's intellectual property might be expressed in one day and one product, then the person left and went to another company and wound up expressing that same intellectual property. These were issues that needed to be simply understood. You were absolutely correct that if we were in it for the money, we would be making the biggest mistake in our life. Within that context, however, there was a federal framework that Bob Dole had built, Public Law 96517, that governed that and we should work judiciously in a positive way.

Senator Lillie wanted to say that he was really sensing from the President a serious attempt to listen and try to take into account the Senate's concerns. He really appreciated that. He also had a question coming out of Mr. Mallo's very good educational talk last week. Mr. Mallo had brought up the case of somebody who had been in a conflict of interest problem here at The University of Akron and had described in not a lot of detail how that had been handled and how the person apparently had gotten into some trouble as part of it. That was without this document in place. Therefore, it appeared to him that we did have an interim policy for handling conflicts of interest, and he hoped in light of the suggestion that the President had made and that of Senator Rich that we could again ask respectfully that the conflict of interest policy as written by the Senate be in place as interim policy, period. Then there could be a committee set up to meet with the General Counsel to revise the policy. Those revisions would then be brought to the Senate and passed on to the Board. Would that be acceptable?

The President said that because we had to move forward, the committee ought to work with General Counsel. If it was possible for the Senate's document to meet the law, it could be the interim policy. If it did not, then we would make the changes that would be necessary to meet the law. So let three people work with General Counsel within ten days to get this done. Since there were no other questions, the President thanked the body for its patience and input.

The Chair thanked the President and reminded the body that it still needed to come out of recess, having had some words of wisdom from the President. Senator Lillie's motion to amend by substitution of the Senate's December 3 document was still before the body. If she had understood the advice of this meeting's Parliamentarian (John Bee), the body could move on that motion, and then it



could entertain a motion to have the (Senate's Dec. 3) document referred to a committee working with General Counsel, which was what President Proenza had suggested. Then the Senate had two possible routes before it. The first was to rely on that committee and forward it to the President for use as the interim policy. The other was for that committee, having worked with General Counsel, to bring back the revisions to the Senate for its reactions probably at a special meeting next month since the regular meeting would be next week and that would not give the committee enough time to do what it needed to do.

The Chair went on to say that right now Senator Lillie's motion was on the floor and requested that Senators speak only for or against this motion. She reminded the body that the motion was to **substitute the Senate's December 3 approved policy for the newest draft done in September and October, 1999, and presented to the body at the last meeting.**

Senator Lillie said that he had already given some of the reasons why he was in favor of this motion. He just might add that the version which we were talking about had been published in the Chronicle (December, 1998). Senator Mary Konkel added that the versions were also available in the reserved sections of the Science and Bierce Libraries.

The Chair pointed out that it was also on the web and reminded members to direct their comments either for or against the motion.

Senator Rich was in favor of the motion in substance. Procedurally, this motion would accomplish two things - first, it would mean that the document that had been presented to us most recently would not go forward from this body, and secondly, it would reiterate the Senate's endorsement of the December 3, 1998, document. That in fact had already been passed; it was a piece of legislation that had been forwarded to the President's office. Strictly speaking, it did not need to be passed again. We had sent it there once and it was still there. He supported the motion primarily because it accomplished the two things which he had just mentioned - it made it clear that the Senate still was in favor of the prior document, and it was a sort of reminder that we had actually sent that to the President and would like that to be considered for adoption by the Board of Trustees.

Senator Sue Hanlon was in favor of the motion, but she wondered whether the word "interim" needed to be added to describe the policy.

The Chair answered that we could consider that if we passed the motion to substitute.

President Proenza, in the interest of both time and the sense of the earlier discussion, accepted that this was what the Senate had recommended last year. He also accepted that some members who were new had not seen it and therefore might not be in a good position to respond to the motion in a formal way. Therefore, might he suggest that in the spirit of the way he had responded to his good colleague Harvey Stern's motion about a faculty dining room, that he was prepared to receive this and be guided first and foremost by this with the presence of the body's good colleagues working with General Counsel to arrive at an interim policy that we could present for interim adoption in order to move forward.

The Chair thanked the President for his suggestion, but the Parliamentarian had told her that



we still needed to follow the procedures. If no one still wished to speak on the motion, it was time to vote.

Since there were no further comments, the body voted and unanimously approved the substitution of the December 3 document. That document was now before the body.

The Chair stated that the Parliamentarian had suggested that because of what had transpired with the document from 12/3/98 when it left the Senate floor to its return now, that we did need to affirm it if from the standpoint of time delay let alone the other things that had occurred. If in fact we did have a motion to reaffirm it, we could entertain amendments to the motion to allow for the insertion of words such as "interim" in the document. One other avenue open was to commit it to a committee and we could follow the President's guideline, which would be a committee of three persons appointed by the Chair or elected.

Senator Tim Norfolk moved to refer it to committee as appointed by the Executive Committee of the Senate, and this was seconded by Senator C. Frank Griffin.

Senator Rich had reservations because it should mean that it had to come back to his body. The question which we needed to think about was whether that was the way we wanted it to work and whether we wanted to have whatever meetings were necessary to then approve the document. He had been thinking that it might be better for us to approve it here, and it would be our understanding in accordance with what the President had said, that since the President did not have to do what we recommended, that in fact three of us would meet with General Counsel's office to work out any legal difficulties that might be in the document. They could then present the results of that work to the President, who would take that into account in deciding exactly what to present to the Board. He thought that it would probably be better if we just went ahead and voted favorably upon the motion to adopt the substituted document rather than commit it per se, because that meant it came back.

Senator Lillie wondered whether it would be possible to have in one motion, perhaps by amending the motion on the floor, that the Senate approve this document and send it to a special committee to meet with the General Counsel.

Senator Sterns wanted to point out that this document was of great interest to all the faculty and, of course, there could be determinations made and changes made as a result of interaction with Counsel. However, he knew that our colleagues were greatly interested in this, and if there were some issues that might be borderline, we might want to have the opportunity to discuss them.

Senator Bill Lyons wanted to speak against the motion and in favor of the one that would be made in its place by Senator Rich. This would allow us to act quickly. Secondly, the interim policy included a one-year review, so if we did not like what happened this time around, we would have the opportunity to review it one year from now.

Senator Rich, speaking against the motion, hoped and expected that the committee that met with General Counsel would only make changes that were clearly required to comply with the law and that they would avoid even changes that were debatable as to what the legal requirements were. They should constrain themselves in that way, as should the President, so that the document that would go



forward as an interim policy was exactly what we had passed except where it had to be changed to comply with the law.

Senator Kennedy wanted to argue that the members of that committee meeting with General Counsel should be people who had been working most closely with the current document. She reminded the body that Paul Richert, an attorney, had been a member of the original ad hoc committee and had given guidance in the legal area.

There was confusion in the body regarding what was happening. In order to keep the revised document from coming back to the Senate from the committee, Senator Norfolk amended his motion so that the committee would forward the results of their work directly to the President. Senator Griffin, the seconder of the earlier motion, agreed.

Senator Lillie asked what had happened to the earlier statement about the need to reaffirm the policy. Was that something we needed to do?

Parliamentarian Bee guessed that the body had a choice. If we wanted to reaffirm the policy, we would not want to refer it directly to committee. We would vote on the reaffirmation motion first and then ask it to be taken to a committee for work with General Counsel.

In order to allow this, Senator Norfolk withdrew his referral to committee motion.

Parliamentarian Bee said that there actually was no need for a reaffirmation motion. The motion to adopt the substituted document was already on the floor.

The body then voted its approval with one nay vote.

Senator Norfolk now moved that **the document be committed to a committee to be selected by the Executive Committee of Senate and thence to be forwarded to the President.** This was seconded. The body then voted its approval.

President Proenza wanted to thank the body for its forthright deliberation. As stated earlier, he would develop in consultation with the Chair an appropriate cover memo that would allow us to understand that we were trying to develop a productive, facilitative, encouraging environment in relationship to all aspects of entrepreneurship, etc. However, this was not for everyone, and no one was required to go out and start a business.

In case people had not heard, the President wanted to let the body know that yesterday the Carnegie Commission had announced a new Carnegie classification criteria. What they fundamentally had done was to take out from further consideration in how they "classified" universities, any consideration of the amount of federal dollars in its portfolio, and focused instead only on the number of Ph.D.'s and the number of disciplines in which those Ph.D.'s and doctorates were offered. If he was reading this correctly, we were now a Doctoral Research I institution with considerably different meaning from the previous Research I and/or Doctoral. As many had heard him say, he had long opposed the use of that classificatory scheme to suggest any kind of status or particular standing of a university relative to another. He was not sure that the new classification would achieve that, because he knew America only too well. It would use anything it could to try to confer status. That said, he



believed that we did fit into the top category. Now the immediate question one might ask was what did this change do to our goal to be Research II? The answer was that fundamentally it now turned it into an internal goal that recognized that we had for too long not been garnering sufficient federal funding and/or other funding in support of our research and scholarly work. We would be exploring the exact language of the Carnegie change, but he wanted the Senate to be aware of this.

Senator Braun asked the President to send this information to all the faculty. This was of capital importance especially from the point of retention, tenure, and promotion. Deliberations in these areas had a certain tenor because of stated goals.

The President appreciated that. We needed to understand that in the process of any university becoming increasingly better and better, constant adjustment was necessary, and you needed to be sensitive to what criteria you brought your colleagues under and that you not all of a sudden impose a criteria that was totally unfulfillable by virtue of any requirement.

Senator Lillie asked since we were now a Doctoral I, did that mean that we were indeed the premiere institution? The President said we were the leading institution and did not have to advertize it.

There was a motion to adjourn which was seconded. The body approved and the meeting ended at 4:15 p.m.

(After the meeting, the Executive Committee chose Senators Lillie, Kennedy, and Brant Lee as its representatives to meet with General Counsel.)

*Transcript prepared by Marilyn Quillin*



## APPENDIX A

# Former Professor Gives Stanford \$150 Million

By JOHN MARKOFF

SAN FRANCISCO, Oct. 26 — Stanford University announced today a \$150 million gift from the co-founder of two prominent Silicon Valley companies, that will create a new biotechnology center.

The grant, the largest in Stanford's history, is intended to create a cross-disciplinary biomedical program that will advance the frontiers of biology and several related science and engineering fields.

The donation, by James H. Clark, is the fifth largest in the United States and the largest ever given to a university by a former faculty member. Mr. Clark taught in the electrical engineering department for three years in the early 1980's before leaving to found Silicon Graphics based on research he had done at Stanford. He later was a founder of the Netscape Communications Corporation.

At Stanford, planning has been going on for 18 months for a new program in biomedical engineering and sciences. It is intended to integrate the work of faculty members across disciplines in both basic and applied sciences to develop new therapies and cures for human disease.

Mr. Clark noted that his own academic career had shifted from engineering to physics to computer science. If he were to go back to school, he said, it would be in the biological sciences.

The donation comes at a time when high technology executives like Mr. Clark are under increasing pressure because their world has lagged in philanthropic contributions.

In a telephone interview today



Peter DaSilva for The New York Times

James H. Clark taught at Stanford before leaving for Silicon Valley.

from his home in Florida, Mr. Clark said that he had been motivated in large part by the idea of giving something back to the university where he had experienced great freedom as a faculty member.

Financed by the Defense Advanced Research Projects Agency and the Office of Naval Research, he developed a silicon chip he called the Geometry Engine that vastly accelerated the rendering of three-dimensional graphic images.

In 1982, Mr. Clark took the design and left Stanford to found Silicon

Graphics, which for many years was the world's leading developer of three-dimensional computer work stations.

"Stanford did a lot for me, and I've always felt indebted," Mr. Clark said. "It was a lenient and productive environment."

He said he had begun discussing a donation with the Stanford provost, John Hennessy, after Netscape went public in 1995. Originally he had considered financing a center on bioinformatics, the convergence of information technology and molecular biology, but after discussing the project with Stanford faculty and administrators decided on a broader vision.

"Biology has come of age and become a grounding science for lots of activities," Mr. Hennessy said. "We felt for Stanford this was a really good direction."

The center will be in a new Stanford building to be named the James H. Clark Center for Biomedical Engineering and Sciences. The grant also provide equipment for the center, endow positions for faculty members and pay for fellowships for graduate students.

Mr. Clark has made several smaller donations, including grants to National Public Radio and the Exploratorium, a San Francisco science museum.

He said today that he would make other contributions in the future and felt that he would be most effective by making specific donations rather than contributing in general areas, like helping the poor.

New York Times, Oct 27, 99



**MINUTES OF THE FACULTY SENATE MEETING  
OF NOVEMBER 4, 1999**

The regular meeting of the Faculty Senate was called to order by Chair Barbara Heinzerling at 3:03 p.m. on Thursday, November 4, 1999, in Room 201 of the Buckingham Center for Continuing Education.

Forty-four of the sixty-three members of the Faculty Senate were in attendance. Senators Clark, Gelfand, Griffin, Hanlon, Holz, Kim, and Purdy were absent with notice. Senators Binienda, Frank, Hebert, Isayev, Kendra, Kinion, Marino, Ofobike, Pope, Redle, Stinner, and Weaver were absent without notice.

**SENATE ACTIONS**

- \* APPROVED THE LIST OF CANDIDATES FOR FALL 1999 GRADUATION.**

**I. APPROVAL OF AGENDA** - The Chair said there needed to be one change made to the agenda. The Student Code of Conduct was listed as an item of unfinished business, but the body would not be addressing that today. She asked for a motion to remove it from the agenda. It was moved by Senator Peggy Richards, seconded by Senator David Ritchey, and approved by the body. The amended agenda was then approved.

**II. APPROVAL OF THE MINUTES OF OCTOBER 7, 1999** - Secretary Gary Oller noted that on page 2 in the section listing the various committees, the Executive Committee and the Academic Policies & Calendar Committee were both last year's instead of this year's. This would be corrected in the next Chronicle. Since there were no other corrections, the minutes were approved.

**III. CHAIR'S REMARKS** - The Chair wanted to thank members for appearing yet another week on a Thursday afternoon, which made the third week in a row. She also wanted to thank the President for coming last week because she thought that with his help and the help of the body, we had been able to move the conflict of interest document forward. She especially wanted to thank Senators Jack Braun, Elizabeth Kennedy, and Tim Lillie who had been very important in giving us some real guidance last week on that matter. She understood that the committee had already met with General Counsel Ted Mallo and they were moving forward.

**IV. SPECIAL ANNOUNCEMENTS** - The Chair stated that at this time it was necessary to approve the Fall 1999 commencement candidates. Mrs. Quillin had a copy of that list here today if anyone



wished to see it. There had also been a copy at the Senate office. Senator Richards moved that the list be approved, and this was seconded by Senator Bonnie Filer-Tubaugh. The body then passed the motion.

## V. REPORTS

REMARKS OF THE PRESIDENT OF THE UNIVERSITY - The Chair introduced President Luis Proenza who made the following remarks:

"Thank you, Madame Chair. And indeed, thank you all for your assistance in moving forward. The committee you assigned has begun to meet with General Counsel, and we look forward to bringing you their product as soon as possible. What I would like to do this afternoon is first, apologize for the fact that I'm going to have to leave at 4:30 promptly today, and if that coincides with your adjournment I'll be happy to stay till then. But more importantly, it is to update you on a number of things and make a couple of comments.

First, the Senators who were here last week heard me report to you, as you may have already read in other venues, that the Carnegie Commission has changed the Carnegie classification on an interim basis effective immediately, and they will issue a completely revised approach in 2005. The news release that accompanied that announcement indicated that the Carnegie Commission had grown weary as well as sensitive to the fact that the classification as it had been put forward had been misused to confer status that was never intended. As such, it found to project unnecessary competition, unnecessary lobbying for federal funds, and in short, to not be meeting the kind of desirable qualities that were originally intended. It proposed an interim classificatory scheme in which doctoral and research categories are combined in an interesting way, and it proposes therefore a classification which I believe applies to us of Doctoral/Research I for those institutions that meet the following criteria: at least 50 doctorates awarded each year in at least 15 disciplines. I believe we meet that; we award in excess of 100 doctorates annually, and depending on how you count, we have 14-23 doctoral programs. We have asked our good Dean of the Graduate School, Charlie Dye, to ensure that it's at least 15 from a legitimate way. We're not going to fudge anything, but there are some questions as to whether some degrees are really one or two.

The second classification would apply to those institutions that award at least 20 doctorates, and after that, the number of disciplines in at least three or five. You can see how meaningful I thought that was. I always had real trouble with the original one, because as I may have reflected with you, I know of one university that has about \$30 million in federal funding, but 99 percent of it is from the Department of Education, and I assume that most of that is for doctoral research. To classify an institution as a research institution, in my judgment it is not particularly useful, but be that as it may, I have no doubt that whatever classification the Carnegie Commission eventually comes up with will be interpreted to confer status and we'll be back to square one anyway. The important part of that, however, is for us to be no less committed to improving our federal portfolio of sponsored research and scholarly activity. So I'll be working with the Provost and Vice Provost Wilson and with your deans to redefine the goal of Carnegie Research II to be in keeping with the fact that we simply are large enough to have a much larger support from the federal government than we currently do, and



to walk through the processes in a systematic way as we move forward. But I'm happy to tell you that as best as we know, we will be in the Doctoral/Research I category unless there's some unusual hitch in the history of our programs that I don't know about at this point.

Let me also take a few moments to update you on the various searches we have underway. First, the vice president searches - the committee chaired by Dean Roger Creel and four members of the Provost Search Committee who are here today - has had one weekend and is about to have a second weekend with prospective candidates on the semi-short list. They inform me that the quality is indeed quite good of the first group of three who were deemed potentially acceptable. Obviously, they won't make the final decision until they have seen all of the candidates, and of those three they have asked whether they would be available for interviews perhaps as early as November 15, and all are intending to be with us soon. So I hope by early next week to be able to tell you who will be visiting and begin to outline the schedule of those visits. Is there anything else you think that is important to communicate? The other vice presidential searches are moving along, and the chair of our Information Technology Committee, Jean Blosser, is here and as I understand it they have a short list they will be interviewing."

Associate Provost Jean Blosser replied that the committee would be determining the short list tomorrow, and then it would try to meet with them by video conference.

The President continued:

"As we expected, that pool is indeed smaller - eight, that's even larger than we thought it would be so that's remarkable. Again, some good candidates, at least on paper. You always have to look at the real person; it's amazing what paper can fool you into at times. The other two searches are slated to begin reviewing candidates respectively as of November 1, and for Student Affairs as of November 15, so they're on track and have a pool of candidates they'll begin to review. During the past two or three weeks I've also met with the faculties of the Schools of Education, Engineering, and Fine & Applied Arts to begin the process of their selecting the faculty that will serve on the search committees for those three schools. I've requested of them a list of nominees vis-a-vis students to serve on that committee that I would appoint one from, and I've received in all cases their approval to appoint outside members to the committee in keeping with the bylaws of the faculty. So as soon as I have those lists, I will make those available to the Faculty Senate, and our intent would be to begin those searches early in the new year so that hopefully we have candidates to present shortly after we've broken in a new Provost. Again, the intent is to be sure that both the President and the new Provost have a chance to participate in the selection of the new deans.

Thirdly, a bit of a status report on the Mercer study. As you know, there is a series of legal processes that we needed to walk through including rule filing. That rule has been filed in accordance and in timing with the law. The affected individuals will begin to receive information on how the proposed system will affect them specifically, and general information will begin for the faculty and staff on November 18. Remember, this applies to our staff colleagues, but all of you are welcome to understand how that new classification system will work.

Slightly more general comments - I'm about to begin another series of visits to all of our colleges, schools, and departments, and I want to do this for several reasons. One is that I really valued the opportunity to learn about all of your units in detail, and while I have discovered that there



is far more there than any of us have been led to believe and certainly any of us seem to know, I haven't learned hardly enough.

Secondly, it's very important because the importance of communication cannot be overstated. If we say it once, we have to say it twice, three times, four times, fifteen times before we can really understand that there is no hidden agenda and that there's nothing sinister and that perhaps we probably did mean the same thing when we started to talk about some issues. It is very simply paramount that we communicate with one another; ultimately, that is the purpose of my concept of shared leadership. It has to be supported by a good information system, which is not yet in place, so in the meantime I'll get around to see you, and if I haven't been around to see you, don't hesitate to call or send me email because you must please ask before you assume. If there is something that is potentially a misunderstanding, please, please ask.

Let me tell you why I'm stressing this. I was deeply dismayed about a week ago when after having visited one of the schools and talked and received great enthusiasm about what we're doing in our strategic planning and basic strategies and capital construction campaign, I got this message that said, 'Dr. Proenza, you're communicating the wrong message. We don't want buildings; buildings aren't important - people are.' What do you think I've been saying? If we don't do these things, there aren't going to be any people to get excited about. All of this is about you, ladies and gentlemen, about the University which is never anything but its people. I was depressed for two days. So please help me to communicate and if you have a sense of misunderstanding or if I've just goofed up, don't hesitate to let me know.

Indeed, the University's emphasis is on building our future. The emphasis is without question, our people and our commitment to them. We must, as the Trustees said, be committed to our people, be committed to raising our salaries, but to do that there are some realities that we must walk through. Let me just hit upon a couple of those, because again, we have to have that understanding.

First of all, 93 percent of our budget is derived from things that are linked to enrollment. Tuition revenue goes down when enrollment goes down. If we have one more person, we get about \$3,600 more; add that up and you've got your salary or my salary or Tim's salary. You know what it means on a personal level. Enrollment also dictates the instructional subsidy, and I hate the word subsidy. We're going to work to change it, to think about investment. Ohio has never funded the formula fully; we'll work on that too. But meanwhile, when enrollment goes down, subsidy goes down. When enrollment goes up, subsidy goes up. It's as simple as that. Ninety-three percent of our dollars are derived from those two revenue sources - tuition and subsidy. That doesn't leave us much in discretion. We're working with your Executive Committee to formalize the planning and budgeting process that we talked about a couple of weeks ago. At the moment, one of the things that will be on the table is that in terms of the second biennium, our subsidy is already determined, and it's 2.3 percent in subsidy alone. The first thing you have to remember is that 2.3 percent in subsidy alone cannot in any way, shape or form, even if we allocated all of that 2.3 percent dollars to a salary pool, equal 2.3 percent but approximately 1 percent in terms of our salary pool. What that means is that we've got to put into motion some considerations about fees, tuition, other revenue sources. And we certainly hope that Tom Vukovich will have some success in our enrollment management program by this time next year. So anyway, we'll be working on that and need to communicate actively. If you need any help with regard to the things I've been trying to say, the remarks from the Investiture are available in printed form, and the remarks from the Convocation can also be made available to you.



And if you have some suggestions for me as to how I can better tell the story of this, our University of Akron, believe me, I can always use your help.

The other two things - let me congratulate our colleagues in the School of Law for the July 1999 Ohio Bar exams. The results of our Law School students were to place second highest in the state in all categories - ahead of Case Western Reserve University and of Ohio State, and second only behind Cincinnati. It's a real achievement, the second year when you've been second next to Cincinnati, first time you've been ahead of Case. The difference is small, but it's a testament to what you all have been doing. The statewide pass rate for first-time takers was 75 percent; for University of Akron law students, 85 percent. I congratulate the graduates, the faculty and staff most earnestly; in fact, so earnestly that I'm happy to report to you one of the most critical figures in Ohio about our Law School sent our good dean a basket of fruit and flowers with a congratulatory note saying, 'Please communicate my delight; you are the best.' They also had another great success in the Law School - the trial advocacy group was fifth in the nation, and these are kids who have never even gone to trial advocacy competitions, first-time advocates. This says a lot about what you do with students, and it's something that in our strategic planning retreat was identified as a core competency?

This University empowers students in very important ways and it shows, and I'll tell you one other thing and then I'll shut up and sit down. Engineering - as chapters of the Society of Automotive Engineers which compete in two kinds of automobile building and racing, one kind of fuel efficiency and a design of an airplane that has to fly for a certain amount of time and lift a certain amount of weight. Our chapters have been in existence for less than ten years. In ten years, ladies and gentlemen, our chapters as a society of automotive engineers have won more awards than any other chapter in history of those competitions. And what is more, they have won more awards than all other Ohio universities combined. What is more still, and this is a wild statement, three of those awards have been first places in the last three years in an area that we don't even teach - aeronautical engineering. Thank you."

Senator Dolli Markovich, in regard to the Mercer Study, asked about a public hearing along with the rule filing, etc. Was one scheduled? The President believed that was so and asked Vice President Mallo for information. Mr. Mallo said that there would be one but the dates had not been scheduled. There would be multiple dates for public hearings.

EXECUTIVE COMMITTEE - Secretary Oller reported that the Committee had met on October 12 to deal with a variety of issues, including setting the agenda for today's Senate meeting. At that meeting it had looked at the data received from Human Resources relating to the makeup of the Senate membership for its first six years. This was in relation to a request by a faculty member that the body exercise its option as set out in Senate Bylaw VII.C to add members to achieve diversity. The data showed the Senate membership had closely mirrored the diversity makeup of the campus as a whole, and the Committee concluded that nothing further be done except to reiterate the statement in Bylaw VII.C., that "All reasonable efforts should be made by the various electing units to elect women and minorities to the Senate." Secretary Oller had that data if anyone would like to see it, and it would go into the next Chronicle (Appendix A).

The Executive Committee also met on October 25 with Senate committee chairs to get acquainted and to discuss the purviews of the respective committees, as well as procedures and any problems or questions they might have. Chair Heinzerling suggested that the committees be proactive



where possible, and the ways the committees would coordinate their efforts where necessary was also a topic of discussion. Finally, the Committee had met with President Proenza and Presidential Assistants Hernnstein and Walton on November 5 to discuss issues of mutual interest, which included the role of the Planning and Budgeting Committee and its effectiveness.

CURRICULUM REVIEW COMMITTEE - Associate Provost Blosser, the Chair, stated that a written report outlining proposals that were already in the system had been submitted (**Appendix B**).

CAMPUS FACILITIES PLANNING - Senator Harvey Sterns, the Chair, reported that because of the intensive meeting of the Senate, the Committee which normally met on Thursdays had been unable to meet, but it planned to meet on the 11th. In relation to his role as a liaison to the Board of Trustees, he wanted to emphasize again what he had said at the last regular meeting about arranging a presentation of the campus plan for this body. He also wanted to mention that it had been his privilege when the Board had met on the Orrville campus last week to also see some of the plans for the new recreation center. These were very exciting and very important presentations. He realized that these could not be repeated over and over and were principally for the Board of Trustees, but if members of the Senate were to see some of the latest renderings, they would find them very exciting. It was important in the spirit of what President Proenza had been saying that the Senate as a body be brought up to date on these exciting projects to see what was happening. He had been very much taken with many of the comments of the Board of Trustees on the recreation center. He thought that we were seeing a great deal of synergy, and he hoped that there were mechanisms that could be developed so that we could have more interaction.

The President asked whether the presentation could be scheduled for the next meeting of the Senate. The Chair said that if they would like, that would be fine.

FACULTY RESEARCH COMMITTEE - See **Appendix C** for Internal Grants.

PLANNING AND BUDGETING COMMITTEE - Senator David Louscher, the Vice-Chair, reported that the Committee had met several times. Initially, it had held hearings to get all the new members oriented to the process and the problems. The Committee had decided to embark on two foci as its agenda. The first was a commitment to the budgetary and planning process as it now existed, and the Committee looked forward to reports from colleges and departments concerning their budgets. The second was that the Committee intended to consider through reading and presentations alternative budgeting and planning instruments and processes so that it might make recommendations that would lead to a more timely, more efficient budgetary process in the long term. It would also lead to recommendations that might be useful as a response to some of the North Central criticism. The Committee was embarking on both of these agenda items.

GENERAL EDUCATION ADVISORY COMMITTEE - Associate Provost Blosser reported on behalf of the Chair, Dr. Eric Birdsall, who had been elected at the only meeting which the Committee had had so far. At that meeting, the Provost had addressed the Committee and brainstormed directions that the GEAC might want to consider this year. Right now the Committee was heading in two directions. One would be to try to identify ways that the general education curriculum could better prepare students for their disciplines and for their futures. The second would be to review the general education curriculum that we currently had to see how we could integrate technology and globalization into it.



REPORT OF THE REPRESENTATIVE TO THE OHIO FACULTY COUNCIL - Mr. Robert Huff thanked the body for electing him. It was quite an honor to represent the University. As far as he could tell, this was a position where he had to bring information back to the University from the Board of Regents, and where he tried to represent the University's position and interests to the Ohio Faculty Council and supply them with information. He might need to contact people from time to time. His email address was [rjhuff@uakron.edu](mailto:rjhuff@uakron.edu) and his phone exchange was 5966.

The Council had met on October 8th, and Louis Wright from Ohio University had reported on a meeting of the Ohio Board of Regents in Athens. There were some regional meetings that occurred, and an issue that had come up there was the relationship that faculty had to its Board of Trustees. The Ohio Board of Regents had been under the assumption that there was very open access, that faculty could attend and participate in Board meetings, and that they had direct access to Board members. When they found out that this was not a common situation, the OFC was asked to report back on what the relationship was. It seemed that only at the University of Cincinnati was there a more open system than what we experienced here.

There was a report from the OBR concerning the survey that had been done last January of all full-time faculty. The information was still being compiled but was not available yet. There would be a survey of part-time faculty this coming January, and those would alternate every other year. There was also being developed a survey to explain more about our professional leaves and the benefits to our University or our fields, and it was explained that this information was something they wanted to gather so they could defend these programs in the Ohio legislature. An old piece of business that was continuing, and this was something which we had missed out on by not having a representative in September, was the issue of domestic partners. The question of the level of support in universities throughout Ohio for domestic partners had come up. Were they recognized? Were there insurance benefits or any other kind of benefits extended? The question of the status of this issue had been put out to all of the universities. Several schools were able to report that there seemed to be a great deal of sympathy for the concept, but very few schools had actually gone forward and made any kind of formal commitment. It was pointed out that this could be anything like library privileges, parking privileges, and not necessarily full health care benefits. It was Ohio University that seemed to be the most progressive on this issue and did recognize and record who domestic partners might be and allowed sick leave for taking care of someone who might need it.

The Chancellor of the OBR also addressed the Council and presented a document of which he had made copies for the Senate (**Appendix D**). He apologized for its size; it was the way that Council members had received it, and it was hard to read from the beginning. The Chancellor also had explained that it had originally been color-coded so that we could interpret which committee of the Board would deal with which of the issues. Therefore, the Council members did not get all the information to start with. This was a mission statement and vision that had been developed by the OBR last summer at a retreat; the six goals across here were outlined as ways to address the mission. The Chancellor had been very candid in his comments about the first three. There were several references to things being accomplished within a three-year time limit, and that was related directly to political considerations of when the next Board members would be appointed by the Governor. It had been the Chancellor's idea that the Board needed to set very specific goals and show a way that they were going to address those in order to be able to show some positive contributions and accomplishments before the next round of appointments occurred so that they could convince the Governor that we needed very competent, public-service oriented people as opposed to any other kinds



of appointments that might be made. The Chancellor was a very colorful speaker; he made his points very clear. He also believed that the Board should be held accountable for its performance, just as he thought the University should be held accountable for its performance. If you could make out the last column on the sheet, that was what the sixth goal was supposed to address.

Senator Bill Lyons wondered whether there was a reason why only the last goal of measuring the operations of the OBR had no specific measures.

Mr. Huff was sure that there was. In all fairness, the Chancellor had introduced this as a work in progress, not a final document. It was still being refined and revised, and there would be something more permanent in the future.

**VI. UNFINISHED BUSINESS** - There was none.

**VII. NEW BUSINESS** - There was none.

**VIII. GOOD OF THE ORDER** - No one had anything to present.

**IX. ADJOURNMENT** - There was a motion to adjourn which was seconded. The body voted its approval, and the meeting ended at 3:38 p.m.

*Transcript prepared by Marilyn Quillin*



APPENDIX AFACULTY SENATE MEMBERSHIP: Diversity Make-Up  
July 15, 1999

Race:	A - 5	Gender:	M - 36
	B - 1		F - 27
	<u>W - 57</u>		<u>63</u>
	63		

Percentage Make-up

Race:	Gender:
W .904	M .593
M .095	F .407

Total unfilled positions as of October 12, 1999 - 0

FACULTY SENATE MEMBERSHIP: Diversity Make-Up  
October 1, 1998

Race:	A - 8	Gender:	M - 40
	B - 1		F - 24
	<u>W - 55</u>		<u>64</u>
	64		

W .860	M .625
M .140	F .375

Total unfilled positions as of October 1, 1998 - 0

FACULTY SENATE MEMBERSHIP: Diversity Make-Up  
October 8, 1997

Race:	A - 6	Gender:	M - 41
	B - 2		F - 22
	<u>W - 55</u>		<u>63</u>
	63		

W .873	M .650
M .127	F .350

Total unfilled positions as of October 8, 1997 - 1

FACULTY SENATE MEMBERSHIP: Diversity Make-Up  
October 30, 1996

Race:	A - 5	Gender:	M - 44
	B - 2		F - 24
	<u>W - 61</u>		<u>68</u>
	68		

W .897	M .647
M .103	F .353

Total unfilled positions as of October 8, 1996 - 1

FACULTY SENATE MEMBERSHIP: Diversity Make-Up  
October 17, 1995

Race:	A - 2	Gender:	M - 33
	B - 2		F - 22
	<u>W - 51</u>		<u>55</u>
	55		

W .927	M .600
M .073	F .400

Total unfilled positions as of October 17, 1995 - 1

FACULTY SENATE MEMBERSHIP: Diversity Make-Up  
October 25, 1994

Race:	A - 2	Gender:	M - 35
	B - 2		F - 19
	<u>W - 50</u>		<u>54</u>
	54		

W .926	M .648
M .074	F .352

Total unfilled positions as of October 25, 1994 - 2



University Employees By Gender and Race  
As Of October 1, 1998

Full-Time Employees			Part-Time Employees		
		%			%
Female	1016	.486	Female	626	.570
Male	1074	.514	Male	471	.430
White	1721	.823	White	1021	.930
Minority	369	.174	Minority	76	.070

Total By Gender

Female	1642	.516
Male	1545	.484

Total By Race

White	2742	.860
Minority	445	.140

Numbers Supplied By Institutional Research



APPENDIX B

Office of the Senior Vice President and Provost

Akron, OH 44325-4703

(330) 972-7593 Office

(330) 972-8699 Fax

**CURRICULUM REVIEW COMMITTEE****SUMMARY REPORT TO FACULTY SENATE****NOVEMBER 4, 1999**

Following is a summary of the proposals that have been submitted to date. They may be accessed for review via the University of Akron home page. Go to the index, find Curriculum Proposal System or go to the following address:  
[[www.uakron.edu/provost/proposal](http://www.uakron.edu/provost/proposal)].

Hard copies of the proposals will be located in the Reserve Section of Bierce Library.

**Proposals Approved for University wide Review****Business Administration**

<u>BA-00-02</u>	Marketing	Minor in Global Selling
<u>BA-00-05</u>	Marketing	Change Sales Management Major- Add Global Selling as elective
<u>BA-00-13</u>	Marketing	Consumer Marketing Minor
<u>BA-00-28</u>	Finance	Minor in Financial Services for Non-Bus Major - new electives
<u>BA-00-31</u>	Marketing	Joint IB/Chemical Engineering Program Change
<u>BA-00-34</u>	Management	International Business Major Program Revision

**Community & Technical**

<u>CT-00-08</u>	Eng. & Sci.	Surv. & Cost. Engin. Tech. AAS (E&S Tech.)
<u>CT-00-11</u>	Eng. & Sci.	Certificate in Surveying Technology ( E&S Tech.)
<u>CT-00-26</u>	Publ	General Option (Criminal Justice Technology)
<u>CT-00-27</u>	Publ Svc Tech.	Security Administration Option (Criminal Justice Technology)
<u>CT-00-29</u>	Publ Svc Tech.	Public Service Technology (Criminal Justice)



**Fine & Applied Arts**

FAA-00-11A	Art	Deletions to restructure studio course offerings
FAA-00-13	Communi	Media History Minor
FAA-00-14	Communi	News Minor
FAA-00-15	Communi	Mass Media Production Minor
FAA-00-16	Communi	Mass Communication Minor
FAA-00-20	Communi	Interpersonal and Group Communication Minor
FAA-00-21	Communi	Organizational Communication Minor
FAA-00-22	Communi	Public Relations Minor
FAA-00-23	Communi	Public Communication Minor
FAA-00-24	Communi	Change in Entrance Requirements/School of Communication

**Collegiate Status: Passed by college faculty**  
**Community & Technical**

CT-00-09	Eng. & Sci. Tech	B.S. Degree in Surveying & Mapping Technology (BSSMT)
CT-00-10	Eng. & Sci.	BS, Construction Engineering Technology ,Eng. & Sci. Tech. Dept
CT-00-12	Eng. & Sci. Tech	General Technology (Eng. & Sci. Tech.)
CT-00-13	Eng. & Sci	AAS Electronic Engineering Technology
CT-00-15	Eng. & Sci. Tech	B.S. Automated Manufacturing Engineering Technology
CT-00-20	Publ	Current Topics in Criminal Justice

**Collegiate Status: Approved in COE**  
**Education**

ED-00-01	Ed Foun & L	Change of 5100:801 Listing
ED-00-02	Ed Foun & L	Change in Degree Requirement
ED-00-03	Ed Foun & L	Change in Degree Requirement
ED-00-06	Curric & IS	Master's With Licensure
ED-00-07	Curric & IS	Changes Graduate C&I Studies
ED-00-09	Curric & IS	M.S. Technical Education
ED-00-10	Curric & IS	B.S. Technical Education
ED-00-12	Phys & HE	Change in Admission Requirement



<u>BA-00-43</u>	Management	6500:641 Data Mgmt. & Comm.
<u>BA-00-45</u>	Management	MSM Program Change
<u>BA-00-46</u>	Management	BSIM (IS Mgmt) Program Change
<u>BA-00-47</u>	Management	BSIM (Production/Operations Mgmt) Program Change
<u>BA-00-48</u>	Management	BSIM (Materials Mgmt) Program Change
<u>BA-00-49</u>	Management	BSIM (Human Resources Mgmt) Program Change
<u>BA-00-50</u>	Management	BSIM (Industrial Accounting) Program Change
<u>BA-00-51</u>	Management	6500:302 Organizational Behavior
<u>BA-00-52</u>	Management	6500:412
<u>BA-00-53</u>	Management	6500:455

### Fine & Applied Arts

<u>FAA-00-01</u>	Art	Deletion to restructure assessment of level of student work
<u>FAA-00-02</u>	Art	Crafts Portfolio Review- Deletion
<u>FAA-00-03</u>	HEFE	Studies in Fiber Arts
<u>FAA-00-17</u>	Art	Museology
<u>FAA-00-18</u>	Art	Introduction to Sculpture New Prereq to 7100:131

### Nursing

<u>NU-00-01</u>	Nursing	International Nursing course name change
<u>NU-00-02</u>	Nursing	International Nursing course name change

### Wayne College

<u>WC-00-01</u>	Wayne	Computer Service and Network Technology
<u>WC-00-02</u>	Wayne	Personal Computer Repair Certificate
<u>WC-00-03</u>	Wayne	Computer Service and Network Technology
<u>WC-00-04</u>	Wayne	Business Management Technology-Data Management Option: Networking Emphasis
<u>WC-00-05</u>	Wayne	Business Management Technology - Data Management Option: Software Emphasis
<u>WC-00-06</u>	Wayne	Network Management Specialist Certificate
<u>WC-00-07</u>	Wayne	Information Processing Specialist Certificate
<u>WC-00-08</u>	Wayne	Health Care Office Management
<u>WC-00-09</u>	Wayne	Business Management Technology – General Option
<u>WC-00-01</u>	Wayne	Business Management Technology – Accounting Option
<u>WC-00-11</u>	Wayne	Business Management Technology – Sales and Services Option
<u>WC-00-12</u>	Wayne	Office Administration - Health Care Administrative Assistant Option



## Proposals Collegiate Status Approved

### **Business Administration**

<u>BA-00-01</u>	Marketing	Certificate in Global Sales Management
<u>BA-00-03</u>	Marketing	Certificate in Global Sales Management
<u>BA-00-04</u>	Marketing	MBA Program change- Concentration in Global Sales Management
<u>BA-00-06</u>	Marketing	Sales Management 6600-580 prerequisite change
<u>BA-00-07</u>	Marketing	Professional Selling Certificate - Add elective
<u>BA-00-08</u>	Marketing	Sales Management Minor - add elective
<u>BA-00-09</u>	Marketing	International Business Minor - Add elective
<u>BA-00-10</u>	Marketing	International Business Certificate - Add elective
<u>BA-00-11</u>	Marketing	Retail Marketing Certificate
<u>BA-00-12</u>	Marketing	Marketing Management Major
<u>BA-00-14</u>	Marketing	6600:390 - Supply Chain Mgmt (previously Marketing Channels)
<u>BA-00-15</u>	Marketing	6600:440 Product and Brand Mgmt (previously: Product Planning)
<u>BA-00-16</u>	Marketing	6600:350 Integrated Marketing Communications (old: Advertising)
<u>BA-00-17</u>	Marketing	6600:540 - Product and Brand Management (Old: Product planning)
<u>BA-00-18</u>	Management	6500:651 Productivity & Quality of Work Life
<u>BA-00-19</u>	Accounting	6200:250 Computer Applications
<u>BA-00-20</u>	Accounting	6200:301 Costing Accounting
<u>BA-00-21</u>	Accounting	6200:320 Accounting Cycles and Financial Statements
<u>BA-00-23</u>	Management	6300:330 Financing New Ventures
<u>BA-00-24</u>	Management	Business Plan Development
<u>BA-00-26</u>	Finance	Corporate Financial Management Program - new course
<u>BA-00-27</u>	Finance	Financial Services Program - new course
<u>BA-00-29</u>	Management	6500:435 Quality Mgmt and Control
<u>BA-00-30</u>	Marketing	Joint IB/Mechanical Engineering Program Change
<u>BA-00-35</u>	Finance	6400:633 Name Change: Mgmt of Financial Institutions
<u>BA-00-36</u>	Finance	6400:647 Name Change: Derivatives
<u>BA-00-37</u>	Management	Minor in Entrepreneurship - Program Change
<u>BA-00-38</u>	Accounting	6200:530 - Taxation I (course change)
<u>BA-00-39</u>	Accounting	6200:670 Cost Concepts & Control (course change)
<u>BA-00-41</u>	Management	6500:645 Adv. Mgmt. Info Systems
<u>BA-00-42</u>	Management	6500:644 Managerial Decision Support & Expert Systems



<u>CT-00-24-</u>	Publ Svc Tech.	NEW Certificate Program name: ADDICTION SERVICES
<u>CT-00-25</u>	Publ Svc Tech.	In Minor Areas of Study, add Addiction Services
<u>CT-00-30</u>	Asse Studies	Introduction to Technical Math
<u>CT-00-32</u>	Bus Tech	Office Administration - Medical Secretarial Option
<u>CT-00-33</u>	Bus Tech	Office Administration - General Office Assistant
<u>CT-00-34</u>	Bus Tech	Business Management Accounting Specialist Certificate
<u>CT-00-35</u>	Bus Tech	Business Management General Business Certificate

### Engineering

<u>EN-00-01</u>	EE	Master of Science in Computer Engineering
<u>EN-00-02</u>	EE	BS in Computer Engineering change in course numbers, titles & bulletin descriptions for two courses.
<u>EN-00-03</u>	Chem	Doctor or Philosophy in Engineering
<u>EN-00-04</u>	Chem	Biotechnology Specialization Certificate
<u>EN-00-05</u>	BE	BME Curriculum Changes
<u>EN-00-06</u>	Chem	Course Addition: Renewable Resources for Environmentally Benign ChE Production
<u>EN-00-07</u>	Chem	Course Addition: Advanced Biocatalysis and Biotransformations.
<u>EN-00-08</u>	Chem E	Program Change: Master of Science in Chemical Engineering
<u>EN-00-10</u>	BE	Special Topics in Biomedical Engineering
<u>EN-00-11</u>	BE	Biomedical Engineering - Biomechanics Track
<u>EN-00-12</u>	EE	Prerequisite changes
<u>EN-00-13</u>	Chem	Course Addition: Physical Properties of Structural Biopolymers
<u>EN-00-14</u>	CE	Course Addition: Aquatic Chemistry
<u>EN-00-15</u>	CE	Course Addition: Advanced Chemical Oxidation Processes
<u>EN-00-16</u>	EE	Course Deletion: Fault Tolerant Computing
<u>EN-00-17</u>	Chem	Course Addition: Colloids-Principles & Practice
<u>EN-00-18</u>	Chem	Course Change: Process Design II (was Plant Design)
<u>EN-00-19</u>	Chem	Course Change: Process Design I (was Process Design)
<u>EN-00-20</u>	Chem	Master's of Science in Chemical Engineering

### University College

<u>UC-00-01</u>	Dev Prog	Tutor Training II
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<u>AS-00-42</u>	Geography	Environmental Planning (415/515)
<u>AS-00-43</u>	Geography	History of Urban Design and Planning
<u>AS-00-44</u>	Geography	Development of American Planning
<u>AS-00-45</u>	Geography	Methods of Planning Analysis I
<u>AS-00-46</u>	Geography	Methods of Planning Analysis II
<u>AS-00-47</u>	Biology	Field Ecology
<u>AS-00-48</u>	Poli. Sci.	Addition of Law and Society Course to undergraduate contract
<u>AS-00-49</u>	Poli Sci	Addition to Certificate in Applied Politics Electives List
<u>AS-00-50</u>	Sociology	
<u>AS-00-51</u>	English	New Minor in Popular Literature and Film
<u>AS-00-52</u>	English	M.A. in English Composition
<u>AS-00-53</u>	English	Autobiography as Literature
<u>AS-00-54</u>	English	Autobiographical Writing
<u>AS-00-55</u>	Canad	Independent Study in Canadian Studies
<u>AS-00-56</u>	Geography	Introduction to Planning
<u>AS-00-58</u>	Geography	Master of Arts in Geography (Nonthesis Option)
<u>AS-00-59</u>	Geography	Master of Science in Geography (Thesis Option)
<u>AS-00-60</u>	Geography	Master of Arts in Geography/Urban Planning (Thesis Option)

### Business Administration

<u>BA-00-22</u>	Management	6300:301 Entrepreneurial Management and Operations
<u>BA-00-25</u>	Management	MBA - Concentration in E-Business
<u>BA-00-32</u>	Management	MBA Program Revision
<u>BA-00-33</u>	Management	Graduate Certificate in E-Business
<u>BA-00-54</u>	Finance	MBA Concentration in International Finance
<u>BA-00-55</u>	Finance	MBA Concentration in Finance - add elective

### Community & Technical

<u>CT-00-01</u>	Bus Tech	Computer Information Systems Programming Specialist Option
<u>CT-00-02</u>	Bus Tech	Computer Information Systems Microcomputer Specialist Option
<u>CT-00-03</u>	Bus Tech	Computer Information Systems Programming Specialist with a Pre-Business Option
<u>CT-00-04</u>	Bus Tech	Computer Information Systems Microcomputer Specialist with a Pre-Business Option
<u>CT-00-05</u>	Bus Tech	Hospitality Management Restaurant Management Option
<u>CT-00-06</u>	Bus	Hospitality Management Hotel/Motel Management Option
<u>CT-00-07</u>	Bus Tech	Hospitality Management Culinary Arts Option
<u>CT-00-16</u>	Bus	Office Administration - International Secretarial Option
<u>CT-00-17</u>	Bus Tech	Office Administration - Administrative Assistant Option
<u>CT-00-23</u>	Publ Svc Tech.	Community Services Technology: Alcohol Services Option



## Proposals Available for Collegiate Review

### **Arts & Science**

AS-00-01	Sociology	
AS-00-04	Chemistry	B. S. in Chemistry with Polymer Option
AS-00-05	Sociology	Sociology Ph.D Program change
AS-00-06	Sociology	Sociology Ph.D Program change
AS-00-07	Sociology	Proseminar in Sociology
AS-00-08	History	3400:301 , Revolutionary China
AS-00-09	History	Imperialism in East Asia, 19 <sup>th</sup> and 20 <sup>th</sup> centuries
AS-00-10	History	3400:392, Internships in History
AS-00-11	Chemistry	Change in the Requirements for the Bachelor of Science and Bachelor of Arts Degree program
AS-00-12	Sociology	Sociology Ph.D Program Change
AS-00-13	Deans	Change department course number for Women's Studies Program
AS-00-14	Deans	Change department course number for Pan-African Studies Program
AS-00-15	Chemistry	Revision of the Requirements for the Bachelor of Arts Program in Chemistry
AS-00-16	Chemistry	Ph.D. in Chemistry: Interdisciplinary Option in Chemical Physics
AS-00-17	Biology	Biology-Ecology/Evolution specialization
AS-00-18	Biology	BA in Biology
AS-00-19	Biology	Freshwater Ecology, plus Laboratory
AS-00-20	Biology	Immunology 3100:437
AS-00-21	Biology	Applied Aquatic Ecology, 3100:426/526
AS-00-22	Biology	Advanced Ecology
AS-00-23	Biology	Aquatic Ecology
AS-00-24	Biology	Community/Ecosystem Ecology
AS-00-25	Biology	Advanced Immunology
AS-00-26	Biology	Herpetology
AS-00-27	Biology	Principles of Systematics
AS-00-28	Poli. Sci.	Political Science MA Program Change
AS-00-29	Poli. Sci.	Addition to MAP electives
AS-00-30	Math	Program Change for Computer Science
AS-00-31	Math	Delete Business Option (Computer Science, Option II)
AS-00-32	Math	Computer Science Course Additions
AS-00-33	Math	Course Description Change - Applied Systems Programming
AS-00-34	Math	Applied Mathematics Master of Science Program
AS-00-35	Mod	
AS-00-36	Mod Lang	German major
AS-00-37	Geology	Caves and Reefs
AS-00-38	Envir	Field/Lab Studies in Environmental Science
AS-00-39	Geography	Master of Arts in Geography (Thesis Option)
AS-00-40	Geography	Master of Science in Geography (Nonthesis Option)
AS-00-41	Geography	Master of Arts in Geography/Urban Planning (Nonthesis Option)



FAA-00-28a	Communi	Feature Writing
FAA-00-29a	Communi	Magazine Writing
FAA-00-29b	Communi	Magazine Writing (Grad)
FAA-00-29c	Communi	Commercial Electronic Publishing
FAA-00-29d	Communi	Commercial Electronic Publishing (grad)
FAA-00-30	Music	Change in Course Name
FAA-00-32	Music	Master of Music Choral Option
FAA-00-33	Dance	Dance Minor elective addition
FAA-00-34	Dance	BFA, change in admission
FAA-00-35	Dance	Dance BA, change in admission requirements
FAA-00-36	Dance	BFA - Musical Theatre, change in admission requirements
FAA-00-40	Music	Bulletin Description Change
FAA-00-41	Music	Bulletin Description Change
FAA-00-42	Anth	Bulletin Description Change
FAA-00-43	Music	Bulletin Description Change
FAA-00-46	Music	Musical Theatre N.A.S.M.
FAA-00-48	Soc Work	7750:664 Single System Design
FAA-00-49	Soc Work	7750:673 Introduction to Community Organization and Planning
FAA-0038	Music	Course Title Change
FAA-0039	Music	Graduate Recital Credit Limitations
FAA00-47	HEFE	
FAA00-50	HEFE	
FAA00-51	HEFE	
FAA00-52	HEFE	
FAA00-53	HEFE	
FAA00-54	HEFE	

### Provost Office

PR-00-01	Women Stds.	Minor in Women's Studies
PR-00-02	Women Stds.	Revision to Women's Studies Certificate Program



**Education**

<u>ED-00-04</u>	Curric	Create Undergraduate 5500: Curricular & Instructional Studies number
<u>ED-00-05</u>	Curric & IS	Early Childhood Program
<u>ED-00-08</u>	Curric & IS	Integrated Language Arts AYA
<u>ED-00-11</u>	Curric & IS	Middle Childhood Level Program Changes
<u>ED-00-13</u>	Ed Foun & L	Early Adolescent Course
<u>ED-00-14</u>	Couns & SE	Course Addition 5600:725
<u>ED-00-15</u>	Phys & HE	Change in School Health Education Program
<u>ED-00-16</u>	Couns & SE	Bulletin Description for Master's in Special Education
<u>ED-00-17</u>	Couns & SE	PhD in Counselor Education and Supervision
<u>ED-00-18</u>	Couns & SE	Change in admission requirements for Ph.D. in Counseling Psychology/Education track
<u>ED-00-19</u>	Phys & HE	Motor Development of Young Children
<u>ED-00-20</u>	Couns & SE	School Counseling
<u>ED-00-21</u>	Couns & SE	Special Education Programming: Early Child. Moderate/Intensive
<u>ED-00-22</u>	Couns & SE	Special Ed Programming: Early Childhood Mod/Inten.
<u>ED-00-23</u>	Couns & SE	Special Education Assessment/Evaluation in Early Childhood
<u>ED-00-24</u>	Couns & SE	Special Educ Assessment/Evaluation in Early Childhood
<u>ED-00-25</u>	Couns & SE	Issues in Sexuality for Counselors
<u>ED-00-26</u>	Phys & HE	Exercise & Sport Science/Pedagogy Concentrations (26 hrs. ea)
<u>ED-00-27A</u>	Phys & HE	Changes in School Nurse Program
<u>ED-00-27B</u>	Phys & HE	Changes in School Nurse Program - Option 2
<u>ED-00-28</u>	Couns & SE	Community Counseling - 60 Hour Degree Program
<u>ED-00-29</u>	Phys & HE	School Nurse Option 2
<u>ED-00-32</u>	Phys & HE	5540:206, Orienteering
<u>ED-00-33</u>	Phys & HE	5540:207, Intro: Rock Climbing
<u>ED-00-34</u>	Phys & HE	5540:208, Backpacking
<u>ED-00-35</u>	Phys & HE	5540:209, Flatwater Canoe Tripping

**Fine & Applied Arts**

<u>FAA-00-04</u>	Dance	Dance course title and description changes
<u>FAA-00-05</u>	Dance	Dance Title Changes
<u>FAA-00-06</u>	Dance	Dance Course Addition 7900:150
<u>FAA-00-07</u>	Dance	Theatre title and bulletin changes
<u>FAA-00-08</u>	Dance	Dance BFA changes in electives
<u>FAA-00-09</u>	Dance	Dance, BA, Change in electives
<u>FAA-00-10</u>	Dance	Dance, BFA Musical Theatre, change in electives
<u>FAA-00-11</u>	Dance	Theatre BA core realignment
<u>FAA-00-12</u>	Dance	Theatre, BA in Theatre Arts, core realignment
<u>FAA-00-27a</u>	Communi	Health Communication
<u>FAA-00-28</u>	Communi	Newswriting & Feature Writing



**Proposal Under development****Arts & Science**

<b>Proposal Number</b>	<b>Dept.</b>	<b>Proposal Title</b>
AS-00-03	Philosophy	Minor in Bioethics

**Business Administration**

BA-00-56	Management	Management Minor - program change
BA-00-57	Management	Minors in Management - new program
BA-00-58	Management	Management Project

**Community & Technical**

CT-00-22	Publ Svc Tech.	Educational Technology
CT-00-28	Publ	American Sign Language Interpreter Education Program
CT-00-31	All	Surgical Technology Program



APPENDIX CTHE UNIVERSITY OF AKRON  
INTERNAL GRANTS AWARDED BY  
FACULTY RESEARCH COMMITTEE  
FALL, 1999

ACCT.#	FRG#	NAME	TITLE OF PROJECT	AMOUNT
2-07426	1463	Edward Evans Chemical Engr.	Plasma Enhanced Synthesis of Aluminum.	\$ 3,498.00
2-07427	1464	James Holda Biology	Cytokine Requirements for the Production of Nitric Oxide by Natural Suppressor Cells.	3,187.00
2-07428	1465	Chun-Yi Kuo Civil Engr.	Evaluation of Image Analysis Techniques for Measuring Aggregate Geometric Irregularities.	3,500.00
2-07429	1466	Pizhong Qiao Civil Engr.	Development of Engineering Design Formulas and Guidelines for Fiber-Reinforced Polymer (FRP) Highway Bridges.	3,500.00
2-07430	1467	Ganngbing Song Mech. Engr.	Robust Control of a Smart Composite Beam Using Shape Memory Alloy Wire Actuators.	3,500.00
2-07431	1468	Ping Wang Chemical Engr.	Interfacial Biocatalysis for Biotransformations of Organic Compounds.	3,500.00
				<u>\$20,685.00</u>



**SUMMER FELLOWSHIPS**  
**Awarded December 1999**

**Internal Grants Awarded By**  
**The University of Akron's Faculty Research Committee**

ACCT#	FRG.#	NAME	TITLE OF PROJECT	AMOUNT
2-07432	1469	Dr. Rula Abisaab History	"Islam and the Politics of Clerical Leadership In Lebanon and Iran, 1501-1736."	\$ 8,000.00
2-07433	1470	Dr. Jeffrey D. Adler Mathematics and Computer Science	"Germs of Supercuspidal Characters."	8,000.00
2-07434	1471	Dr. Alan S. Ambrisco English	"Pagan Cannibalism, the Eucharist, and the Question of Religious Tolerance in Mandeville's Travels."	8,000.00
2-07435	1472	Dr. Christopher Banks Political Science	"Religious Freedom and the Federal Courts."	8,000.00
2-07436	1473	Dr. Tracey Jean Boisseau History	"May French-Sheldon and the Politics of International Reform in the Congo, 1903-1909."	8,000.00
2-07437	1474	Mr. Andrew Borowiec Art	"The Landscape of American Industry - Part 2: The Great Lakes."	8,000.00
2-07438	1475	Dr. Chien-Chung Chan Math and Computer Science	"Distributed Incremental Data Mining From Very Large Databases."	8,000.00
2-07439	1476	Dr. Julie Drew English	"The Rhetoric of Reform: A Comparative Study in Nationalizing Language."	8,000.00
2-07440	1477	Dr. Robert Joel Duff Biology	"Evolution of Ribosomal DNA Genes in Plant Mitochondria."	8,000.00
2-07441	1478	Dr. Rebecca J. Erickson Sociology	"Specifying the Measurement of and Relationship Between Emotional Labor and Inauthenticity."	8,000.00
2-07442	1479	Dr. Lauchlan Fraser Biology	"Building a Plant-Trait Database: Towards a Wetland Restoration Model."	8,000.00
2-07443	1480	Dr. Jun Hu Chemistry	"Template Polymerization of Self-Assembled Monolayers on Nanoparticles: A New Approach for Sensor Interfaces."	8,000.00



Faculty Research Committee Summer Fellowships  
December 15, 1999  
Page Two

2-07444	1481	Dr. Yu-Kuang Hu Physics	"Theory of Frictional Drag in Coupled Quantum Wells."	8,000.00
2-07445	1482	Dr. Sue Hum English	"Gendered Linguistic Strategies in Online Environments."	8,000.00
2-07446	1483	Dr. Michael J. Levin History	"Good Men Abroad: Spanish Ambassadors in 16th Century Italy."	8,000.00
2-07447	1484	Dr. Stephanie T. Lopina Chemical Engineering	"Targeted Drug Delivery System."	8,000.00
2-07448	1485	Dr. Jutta Luettmer- Strathmann, Physics	"Exploring Segmental Mobility of Polymers Near the Glass Transition."	8,000.00
2-07449	1486	Dr. Rex Ramsier Physics	"Attractive Forces Between Molecules at the Atomic Scale: A Fundamental Approach to Understanding the Properties of Surfaces."	8,000.00
2-07450	1487	Dr. David Raskin Art	"Donald Judd's Skepticism."	8,000.00
2-07451	1488	Dr. David N. Steer Geology	"The Puzzling Urals: A Search for Orogenic Collapse in an Ancient Mountain Belt."	8,000.00
2-07452	1489	Ms. Heather White Art	"Research at the Hermitage and an Artist's Residence in Vilnius, Lithuania."	8,000.00

**TOTAL OF 21 SUMMER FELLOWSHIPS AWARDED**

**\$168,00.00**



The Ohio Board of Regents will analyze its impact on the economy through studies of education and research systems that are responsive to societal and economic needs.

ED0000081

The Ohio Board of Regents leads, advocates, and coordinates the process of on-going transformation of higher education to societal needs, quality learning opportunities resulting in individual successes and an improved intellectual, social and economic life for all Ohioans.

GOALS:	Institutional Focus				OER External Focus	
	I. Challenge Ohio's institutions of higher education to improve their effectiveness in educating students to become competent and successful throughout their years as a student, into their chosen fields of endeavor and throughout their lives.	II. Increase the percent of Ohio residents who participate successfully in post-secondary education within the next three years.	III. Within the next three years, Ohio shall become a national leader in economic development using the research and workforce development strategies of our colleges and universities to connect with business needs.	IV. Eliminate barriers to the provision of educational services.	V. Generate and disseminate information to the public and institutions about the efficiency and effectiveness of institutions and the higher education system.	VI. Measure the operations of the Ohio Board of Regents to ensure in continuous assessment and improvement of internal processes.
MEASURES:	Annual surveys (Family project, Results of Quality Audit project, Student Engagement Survey (New Project) as measure of good practices. Trends in OER, LSAT, GRE, MCAT scores.	Number of and trends in degrees awarded, by level. Number of and trends in credit hours successfully completed, by level.	Change in productivity (gross state product per worker) relative to U.S. Change in average wage relative to U.S. Change in per capita income relative to U.S. Change in Ohio's share of OER or employment in high tech industries. Change on Ohio's share of research sponsored by government and by industry.	Cost consensus from Regents on degree duplication issues.	Per capita costs of educating a student in Ohio, compared to other institutions, other states Percent of the costs the student bear. Number of students in programs that are not accredited. Number of programs that are accredited in each school.	
PROJECTS TO:	Define Student Success including the skills needed and the competencies learned while achieving student success. A team of OER staff, colleges and university personnel, faculty and students will collaborate to define the meaning of student success. Short-term project.	Review, select, and develop measurements that best reflect the baseline percentage of Ohioans who participate successfully in post-secondary education. Performance Committee Short-term project.	Draft what it means to be a national leader in Research. What measurements will be used to assess Ohio's progress? Institute Committee Short-term project.	Review institutional workload and publishing requirements imposed at branch, community colleges and technical colleges. Performance Committee Intermediate-term project.		Develop HED database to calculate and support the institutional quality formula calculation. Research Committee Intermediate term project.
		Survey, select, and develop measurements to reflect Ohio Higher Education's progress in increasing the percentage of Ohioans who participate successfully in post-secondary education. Performance Committee Short-term project.	Survey Ohio's industry leaders to determine how they perceive university research efforts existing in Ohio and what industry would recommend for future research projects. Communications Committee Intermediate-term project.			
		Survey students, parents, and businesses regarding attitudes toward post-secondary education. Communications Committee Intermediate-term project.				
PROJECTS TO:	Assess what institutions of higher education can and should do to ensure students thrive in the future	Determine whether we are maximizing the dollars spent on higher education in Ohio	Convene a research group to assess Ohio's status in meeting research needs and innovative research	Review list of projects generated by the Regents and Two-Year Association for Total Inroads	Periodic health measurement for Ohio's institutions. Example SBI	Reduce the monthly reporting process for all funds administered by the Ohio Board of Regents. Review of



	Compare admissions standards, corresponding drop-out rates, and continuing programs to gather indicators of student success.	Assess teacher preparation. Students taught by well-prepared teachers are more likely to attend post-secondary education. Initiatives Committee Intermediate-term project.	Assess Ohio's industry culture to determine if and how industry research fits into these efforts. Initiatives Committee Short-term project.	Assess Agricultural/Technology education's impact on students within the state. Subcommittee—Education Committee Short-term project.	Establish an institutional audit. See also Report on Value for Money: Improving Higher Education. Performance Committee Short-term project.	Develop HED database to calculate, support and establish SO3 determinants to individualize and institutionalize SO3 and HED staff. Short-term project.
	Assess what campuses are doing to enhance critical thinking approaches to teaching students. Initiatives Committee Long-term project.	Create Higher Education Policy Institute to tap expertise on our campuses on various issues of state concern, beginning with issues related to the successful movement of students from secondary to higher education. Performance Committee Intermediate-term project.		Research educational campus issues including issues of Articulation and Transfer review. While these classes are broader, they may not satisfy degree requirements. Initiatives Committee Intermediate-term project.	Compare the established performance measurements of state supported institutions with private institutions to determine ability to respond to market driven needs. Performance Committee Long-term project.	Develop Web base inquiries for SO3 topics and questions generated by the Institute or by individual SO3 and HED staff. Short-term project.
				Assess variation in levels of classes provided by post-secondary institutions via the Articulation and Transfer review. While these classes are broader, they may not satisfy degree requirements. Initiatives Committee Intermediate-term project.	Review Web site for improvements, updating and additional Division of Operations Short-term project.	
				Explore and assess student implications of institutions on campus across and degree offerings (Data, link, off-campus offering). Initiatives Committee Short-term project.		
PROJECTS TO:	Create a pilot project at a selected college or university using Alternative learning methods. Assess new learning styles from Dukenwald's idea the faculty need to become teachers. Move from teacher-centered to learner-centered. Include the concept of classrooms/institutions becoming learning communities or virtual or distributed learning environments. Initiatives Committee Long-term project. (See also Goal IV)	Work with the Department of Human Services and Bureau of Employment Services and subsequently formed Department of Jobs and Family Services to develop a continuous integrated learning strategy for all Ohioans who are seeking services from these departments. OGB staff to be designated and Initiatives Committee Long-term project.	Design Governor's Special Assistant for Technology Issues, Ohio Bureau and the Department of Development to replicate an Ohio effort to become a knowledge and technology driven economy. Chancellor Chen and Vice Chancellor Wilkins Short-term project.	Create a pilot project at a selected college or university using Alternative learning methods. Assess new learning styles from Dukenwald's idea the faculty need to become teachers. Move from teacher-centered to learner-centered. Including the concept of classrooms are becoming learning communities or virtual or distributed learning environments. Initiatives Committee Long-term project. (See also Goal IV)	Create monthly "bulletin" publication that details various measurements of Ohio's higher education's efficiency and effectiveness.	Place Institutional study process and data on Web for ease of access by campus and interested public. Resources Committee Short-term project.
				Market the ability of Ohio's higher education institutions to conduct cutting edge research and their ability to transfer the same to the private sector for commercial use. Communications Committee Intermediate-term project.		
				Help to develop the "Business context" to improve communication with business and to ensure business needs in the workforce development arena. Initiatives and Communications Committee Intermediate-term project.		
					Disseminate information regarding the value of higher education in Ohio and marketing higher education in Ohio. Communications Committee Long-term project.	
PROJECTS TO:		Rapid development of One-Up programs. Initiatives Committee Short-term project.	Identify and participate in Department of Development cluster projects. Initiatives Committee and Workforce Development Staff Intermediate-term project.		Prepare and publish an annual report of the Ohio Board of Regents.	
Subject/ make-up improvement initiatives						



**THE UNIVERSITY OF AKRON  
1999-2000**

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OK

1999-2000, No. 3

October 21, 1999

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Any comments concerning the contents in The University of Akron  
Chronicle may be directed to the Secretary, Dr. Gary Oller (+1910).  
FacultySenate@UAkron.Edu



## **MINUTES FOR THE SPECIAL FACULTY SENATE MEETING OF OCTOBER 21, 1999**

The special meeting of the Faculty Senate was called to order by Chair Barbara Heinzerling at 3:00 p.m. on Thursday, October 21, 1999, in Room 201 of the Buckingham Center for Continuing Education.

Forty-one of the sixty-three members of the Faculty Senate were in attendance. Senators Fisher, Foos, Gelfand, Hajjafar, Kim, Malek, Markovich, Purdy, Rich, and Turek were absent with notice. Senators Baldwin, Dhinojwala, Franks, Griffin, Hanlon, Hebert, Mormino, Ofobike, Ozanich, Redle, Sakezles, and Weaver were absent without notice.

### **SENATE ACTIONS**

- \* RECESSED UNTIL THURSDAY, OCTOBER 28, WITHOUT  
TAKING ANY FINAL ACTION REGARDING A CONFLICT  
OF INTEREST, COMMITMENT, SCIENTIFIC MISCONDUCT  
POLICY**

The Chair thanked the members for taking time out of their busy schedules to convene today and noted that the room had been reserved for next Thursday as well in the event the body did not finish its business today. She also asked the body for its indulgence because we were not going to start quite right away with the conflict of interest document. Since approximately one-third of the Senate was new to the body this year and had not had the benefit of the discussion, etc., which had taken place last year, she had asked Vice Chair Dan Sheffer to take members through what had happened to the conflict of interest document from its passage in the Senate last year on December 3 to where we were today. She had also asked Vice President and General Counsel Ted Mallo to speak to the body for a few minutes so that the Senate would have some working knowledge of the Ohio Ethics Commission laws and the other laws that influenced any conflict of interest, scholarly misconduct, or conflict of commitment that one might have. Finally, she had asked Dr. John Bee, who had consented to be the body's Parliamentarian today and next Thursday in Dr. Don R. Gerlach's absence, to say a few words. She had discussed options for procedure on the document with him, and there was one that they thought would be appropriate given the length of the document. Dr. Bee would take a few minutes to educate the body on what that parliamentary procedure might be. Then we would get to the merits of the discussion. This seemed the fairest way to help our new colleagues who had not had the benefit of the past history and background. She then asked Senator Sheffer to begin.

Senator Sheffer began by stating that last year the body had received a document outlining the procedures for conflict of interest, conflict of commitment, intellectual property and misconduct policies from the Associate Provost's Office of Research. At that time, the Faculty Senate had chosen to make a response to that original document and had formed a subcommittee that had been headed by Dr. Frank Falk. The subcommittee put together its own policy or revision of the policy - pretty much a new policy of its own - and had brought it to the Senate which then approved it on December 3, 1998. That document was forwarded to President Marion Ruebel, and about five days later Associate Provost Edwin Wilson took the original version which he had produced and the version from the



Senate and generated a revised version which was also sent to President Ruebel. He had both Dr. Wilson's revised version and the Senate's version, and the one that was given to the Board of Trustees on January 20, 1999 was the exact copy of the Dr. Wilson's revised version. So parts of the Senate's version had been included in the revised document, but the Board never saw the Senate's version in its entirety. This was still the document before the Board.

When President Luis Proenza met with the Senate's Executive Committee, the Committee asked him to take some time and look at the Senate's version and see the differences between it and the one that was before the Board, and he asked the Board to table the policy until he could give it further study. In March, the President asked for a meeting of the Senate's Executive Committee. Also attending that meeting were Associate Provost Wilson, Vice President Mallo and Dr. Peter Dunn, a consultant who had been brought in from Purdue. The differences between the policies were again discussed, and President Proenza asked Dr. Dunn to take these policies and try to develop yet another policy addressing conflict of interest, conflict of interest, etc.

In July the Executive Committee asked the President where the document was and whether faculty were going to have an opportunity to see it again. The document finally appeared in late September when Dr. Wilson received the report from Dr. Dunn. Dr. Wilson at that time called together an ad hoc committee to look at Dr. Dunn's revision and to make any changes that were still necessary. That ad hoc committee had consisted of Deans Roger Creel and Frank Kelley, Professor Richard Stephens, Professor Heinzerling, and himself. That committee had met on September 27 and had been asked to have a document back to the President by October 1. After working for three hours on September 27, the committee had gotten through only 13 pages. Dean Creel had a meeting later in the day with the President and had asked him whether this could be put off so that the committee would have the time to revise it. They were given another month (until Nov. 1) to have this document revised and to the President. The committee did meet again and finished its revisions with some questions that it wanted Vice President Mallo to answer regarding certain things that were in the document because of law. The document which the Senate would be considering today was the ad hoc committee's revised version - the one that had appeared on the web last Friday for study by the whole university community with the opportunity to make comments directly to the President or to their Senators for today's meeting. It had in it the areas that the members of the ad hoc committee had asked Vice President Mallo to address at some point. Senator Sheffer believed that Vice President Mallo would be telling the body about some legal issues that were involved in this document. That was the history of the document up to this date.

Senator Helen Qammar asked whether Senator Sheffer could give one or two significant things that were different about the new revised version and the one that was tabled with the Board of Trustees.

Senator Sheffer replied that he thought that the one tabled with the Board and the one sent back by Dr. Dunn were very similar. There were some things in them that the ad hoc committee members had issues with and were still asking questions about; for example, the definition of the family, the definition of the work week, the composition of some of the committees that would examine problems to make sure that there was faculty representation. There were a significant number of changes which they had made in their document (the ad hoc committee's version now before the body) from Dr. Dunn's, and theirs was the one that they wanted the President to see. Now the Senate had a chance to comment on it as well.



Senator Mary Konkel wondered whether it was correct that some members of the ad hoc committee described by Senator Sheffer were also members of the Senate. If so, then some Senators had been involved in the creation of the present document. It was just that they had not been members of the Senate's subcommittee last year which had put together the Senate's Dec. 3rd version.

Senator Sheffer said that this was correct. He and Chair Heinzerling had been asked to serve because they were members of the Executive Committee.

The Chair wanted to add that a page and a half document had been prepared by the Senate's subcommittee last year comparing the Senate's December 3rd version and the December 8th Wilson revision. Copies of all three - the Senate's, Wilson's and the comparison - had been given to President Proenza during his January meeting with the Executive Committee. Therefore, he had had access to all of the documents so far.

Since there were no further questions for Senator Sheffer, the Chair asked the body's permission to invite Vice President Mallo to come to the floor and make his presentation. It was granted, and she asked him to begin.

Vice President Mallo began by describing the handouts which he had distributed to the body. The first was an Ohio Ethics Commission handout (**Appendix A-1**) dated September 23, 1999, which had been provided to our deans and senior administrative staff when the Executive Director of the Ohio Ethics Commission had been on campus and addressed for several hours the vice presidents, deans, and other senior administrative staff on issues involving Ohio's Ethics Law. A number of the things that Senate members might have specific questions about - definitions of things like nepotism - were contained in that memo. The second was a list of subjects and citations which were illustrative of the kinds of laws, both federal and state, that had an impact on conflicts of interest and ethics generally, including scientific misconduct and research fraud, as well as a number of criminal statutes at the state and federal level (**Appendix A-2**). The third document was from the web of the Ohio Ethics Commission which listed penalties for violations of Ohio's ethics laws (**Appendix A-3**). The fourth was a press release from OEC from 1997 which referred to a former Wright State University dean who had been convicted and sentenced to six months in jail for violating Ohio's ethics laws (**Appendix A-4**). The last was the current Board of Trustees policy, "Full Time Service" last revised in 1996 (**Appendix A-5**).

Vice President Mallo then continued his presentation projecting computer-generated information on the overhead screen as follows:

"The Ohio Ethics Law was enacted a year after Watergate. The federal laws regarding scientific misconduct, and research fraud had been evolving over the last 10 to 15 years. Just this past week new regulations were issued with regard to new procedures for investigating scientific misconduct. This is an example and I'm going to run through these very quickly. The kinds of encounters we experience across higher education in Ohio and elsewhere - we have state and federal ethics laws, conflicts of interest laws, scientific misconduct, indirect cost fraud issues, legislative lobbying issues, charitable fundraising issues, computer misconduct issues. By the way, in regard to computer misconduct, as you'll see on the handout, there are some new laws out in the Federal Telecommunications Act of 96 that have some application, but for the most part, most computer misconduct issues are handled internally at the various campuses. The scope of the policies there goes



from A to Z. Whistleblower laws, again on that list you'll see those at the federal level as well as in Ohio, we have them statutorily in Ohio as well. Under Ohio statute the implementation of whistleblower laws are quite specific. Academic misconduct, research fraud, inspector general investigations - in case you're not aware of it, the Ohio Attorney General ruled about three years ago that the Ohio Inspector General has the authority and jurisdiction to conduct investigations on state universities, and in fact, that is something we've been involved in in the past. Reporting criminal behavior - and again there are laws on the books in Ohio and at the federal level requiring reporting certain kinds of criminal behavior. Disclosure reporting requirements - animal research, right to no laws, suspension rules - you're all familiar with the Stanford Research debacle. Human subjects and research, athletics issues, IRS state audits, price-fixing antitrusts, more with private than public. Conflict of commitment, confidentiality of official information, regulations that continue to evolve - they're about the size of an old-time encyclopedia set. Procurement of goods and services - all of our purchasing areas and related business activities using university equipment and facilities, licensing technology, contract research agreements, faculty consulting, faculty ownership of private business, faculty authorship, intellectual property interest.

Hopefully, I'm giving you enough to give you the flavor, that this is not a simple issue. Policies involving conflicts of interest ethics are policies that I think most universities across the country have really struggled with for the past few years. In 1987-89 the National Science Foundation initialed regulations requiring investigations into research fraud, and it took about a year before the first federal conviction occurred involving a professor at the University of Pittsburgh, who plead guilty to two counts of false grant applications. I could probably pull off the web dozens of articles like this one of May 1990, illustrating nationally what's occurring with regard to universities struggling with conflict of interest issues. The Columbus Dispatch in 95 reported on a tenured professor at Wright State University that was removed regarding the kind of moonlighting he was involved in. You may recall the articles that appeared in the Columbus Dispatch on Ohio State University, where The Ohio State University was taken to task in a series of a dozen articles because they had failed to properly give disclosures and also consent forms as well as financial disclosure statements involving faculty researchers and professors on their campus. This was again part of that series of articles. This is the Dayton Daily News in 97 - again, I gave you the press release on this just to show you that Ohio's ethics laws have teeth; they're serious; they come right into the academic arena. I'm flying through here, so stop me if you need to, but I'm going to focus right now because of the breadth of this issue.

If you look at the sheet I handed out where I listed the subjects, the laws, and the citations, I'm only going to be dealing with the first block, Ohio Ethics Laws. I'm not going to attempt to start going through the federal issues. The definition under Ohio law - public official or employee would appear not to include any of you, but in fact the issue was raised to me early on that this is what the statute in Ohio says and why we should even be concerned about it. As with most things in law, the devil is in the details, and the details are Advisory Opinion 93017 of the Ohio Ethics Commission, that professors are subject to the restrictions and certain provisions of the ethics law, as well as the criminal provisions of the ethics law regardless of whether the position involves a performance of or authority to perform administrative or supervisory functions. Educators - they have an academic department establishing the curriculum, teaching activities or other matters of the department as a teacher whose position involves the performance of administrative duties. An instructor who acts as an athletic coach and also supervises the activities of assistant coaches is an educator whose position involves the performance of supervisory duties.



Finally, although some educators do not fall within the definition of public official or employee, many of the provisions of the ethics law and related statutes apply to them. That's why there are numerous sections throughout the proposed policy that mirror language that you will find precisely in the Ohio Ethics Law. The general rule in the criminal statutes under Ohio ethics laws are that whenever you have personal, financial, or fiduciary interest of a public official or employee involved in a situation before the official or employee, there is an ethics issue. If I have a relative that has a company that's doing computer work and that company does business with The University of Akron, I may have a disclosure requirement and I may have a potential ethics issue if in fact I'm involved in either influencing or having the ability to influence the decision on whether or not to use that company.

Every year the Trustees, for example, have to file a disclosure statement with the Ohio Ethics Commission listing all of their business associates, activities, holdings, stocks, interest at banks, etc., much more extensive than what this policy requires. For example, our purchasing department then generates a vendor list of every entity in the state of Ohio or elsewhere that The University of Akron has done business with or cut a check to. That list goes to the Ohio Ethics Commission, and the Ohio Ethics Commission matches the list against the financial disclosure of our trustees. And if in fact we have had business with a utility and that trustee has stock with that utility, it shows up on the screen and we have to deal with it whether or not there is an ethical problem or conflict of interest.

The specific penalties for violations of Ohio ethics laws are listed on the handouts. This section of the law says that no public official or employee shall use the authority or influence of office to secure a thing of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties. Shortly after the Ohio Ethics Law was enacted, I had the occasion to ask for an advisory opinion where we had a department head that was involved in bringing a company on campus to conduct some CLE-type activity, I think a CPA course, and that company was going to turn around and hire the department head and some of the faculty in the department to actually do the instruction. Of course, the advisory opinion was that that was a violation of the ethics law because that faculty member serving as the department head had the authority and ability to influence the hiring of that firm - therefore, a conflict."

Senator Tim Lillie pointed out that this conflict had been stopped with the already-existing rules and regulations. Vice President Mallo replied that this was correct, but the key, of course, was disclosure up front.

Vice President Mallo continued as follows:

"The law prohibits the active use of one's authority; it does not require quid pro quo. Anything of value includes money, goods, chattel, future employment, interest in realty. Again, you'll see this concept throughout the ethics laws as to whatever it is you're accepting or giving which manifests substantial or improper misconduct. To determine substantial, the Ethics Commission looks to the value of the things, that something is substantial if it's not nominal, and the Ethics Commission has concluded that season basketball tickets are substantial. In some instances they've concluded that meals are substantial. When we met with the chairman of the Ethics Commission several weeks ago, one of the things they were looking at was a substantial dinner that involved three people and it was \$1,000. Of course, they concluded that was substantial. To determine improper influence, you look



to the source of the thing of value, improper sources of doing or seeking to do business with the University. I don't know how many times we get offers from vendors at the University offering to take people to their state or their business to show them their product or their service, offering to take them out to dinner - those kinds of things are things that have an improper influence upon you with respect to your duties if you're in that position of authority or influence to make the decision. So even something as simple as the meal could be an improper influence. No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties. Let me just point out here, that 'shall promise or give.' One of the things I'm looking at right now, and I don't think the Beacon is here today, is an issue involving a faculty member who paid another faculty member for teaching his or her course. Does that violate the statute? Well, under construction of the Ohio Ethics Law, if The University of Akron pays you to do a job, then the taxpayers have every right to expect you to do the job, not for you to subcontract. This could be a potential violation."

Senator Wieslaw Binienda asked whether or not you could have a substitute. Vice President Mallo replied that you could, but this had been an under-the-table arrangement.

Senator Lynn Chyi wondered whether we could still accept free textbooks, because textbooks could run a couple of hundred dollars or more.

Vice President Mallo answered that he had seen an advisory opinion on that issue, and this was something that had not been seen as a thing of value. When the laughter stopped, he added that there had been situations in the past where certain professors might have required texts of which they were the authors in their classes. That did present a problem because they would be getting royalties from the texts.

Senator Jack Braun understood what Mr. Mallo was talking about. However did this mean that if you wrote an extremely good book, the students would not be allowed to buy the book at the university where you were teaching?

Vice President Mallo answered that you could use it as long as you made arrangements so that you did not recover a profit or benefit from your students. In response to Senator Braun's next query about having to put in an exclusionary clause that you did not recover anything from the book sold at your university, Mr. Mallo said that you could do that or as had been done in some instances in the past, arrangements could be made for those royalties to go into a scholarship. They could be actually paid but not go to the author directly. In that case you would get the benefit of a charitable deduction.

Senator Bill Lyons wanted to follow up on the earlier question about free textbooks. Were we in violation if we sold them to the booksellers who came to our door?

Vice President Mallo thought that you would be in violation of the agreement reached with the company on accepting that free textbook, which was not for resale. Whatever action they might take against you would probably be civil, but he did not think that you would be in violation of the ethics law. He then continued as follows:



"In the criminal statutes, a public official or employee shall not authorize or use their authority of the office to secure a public contract for himself, a family member, or a business associate and is prohibited from authorizing investments, using authority to secure investments of public funds in any security if he, a member of his family, or any of his business associates either has an interest in, is an underwriter, or receives any brokerage, origination, or servicing fees. You might wonder what is the big deal about some of this stuff, why does it apply to you, but I think you have to keep in mind that this policy you're looking at covers several thousand employees of which less than half are faculty. So the provisions here, for example - we just underwent a \$200 million financing for a major capital campaign, and \$135 million of it was bonded indebtedness. To obtain that bonded indebtedness we had to have underwriters. Some of the precautions that our Board has required in this kind of instance for people like myself even, is to submit affidavits that we have not been involved in any of these prohibited activities along with everybody on the team."

Senator Braun asked if Mr. Mallo could define what a public contract was. Vice President Mallo answered that it would be any contract involving a public entity which was any agency of state government or political subdivision of state government or any entity that had a quasi-public responsibility. This could be at both the state or federal level. For example, in some instances certain private entities had been held for certain purposes to take on public attributes. There had been a case involving a private hospital that had taken on certain responsibilities of a public entity. It argued that its records were there as private records, but the Ohio Supreme Court had ruled that since it had been performing a public function, for the purposes of public records, it was a public agency.

Vice President Mallo continued that the answer to Senator Braun's question was not that simple. If he had a company and wanted to contract with The University of Akron to provide legal services, this would have to be by competitive bidding. However, if it involved more than \$150, there were other issues that had to apply. It had to be necessary supplies or services unobtainable elsewhere for the same or lower cost, and he had to make sure that he gave his university equal or preferential treatment. The transaction was at arm's length, with full disclosure, and if he had a position where he could influence it, he could not participate in that influence. One of the prohibitions in Ohio's ethics laws was this - using himself as an example, there was a flat prohibition against him providing legal services to The University of Akron on a contract basis unless it had been competitively bid. He also mentioned the example of a trustee who used to be on our Board who had a car dealership. While he could not sell cars to the University of Akron, he was the major dealer who supplied cars to other state universities. So he had to file a 10204D statement to do that.

Senator Chyi asked whether this part covered selling Girl Scout cookies and other fundraising like that on campus. Was this a problem?

Vice President Mallo responded that you were getting into other issues involving solicitations on campus. At the moment, the University had not really established a no-solicitation policy. But that did present potential problems - it might interfere with the work place, but it was not necessarily against the law.

Mr. Mallo went on to elaborate on Senator Braun's earlier question about the definition of a public contract. He said that it included employment as well as any other properties or services, design, construction, alteration, repair and maintenance of any public property, purchases, personal property, or real property. A public contract was about as broad as possible in terms of its definitions



under Ohio law. Turning to nepotism, Mr. Mallo said that it was defined in the Ohio Ethics Law as follows: "parents and grandparents, children and grandchildren, spouse, siblings, or any other person related by blood or marriage, and residing in the same household." That was the Ohio Ethics Law definition, and he assured the body that in any policy that eventually would get to the Board of Trustees, he would advise them to adopt that definition. The last thing that he would want to do as counsel for the University was to have a different definition and have to establish its validity through litigation.

Senator Harvey Sterns raised the issue of husband-wife teams working on federal grants. This happened all the time in other states, but it had not been allowed at this university. When Mr. Mallo said that he was unaware of this, Senator Sterns noted that he could think of at least two occasions when he had been instructed that he and his wife could not work together. Mr. Mallo wondered whether the question was whether or not he hired her or she hired him. Senator Sterns replied that there was full disclosure of the marital relationship when the grant was submitted in the beginning. He knew that this was not a problem at the federal level, because he was aware of at least three husband-wife teams at other universities that engaged in research together.

Mr. Mallo thought that the interpretation was that under state law, you could not hire your wife if she was a member of your family under this statute.

Senator Sterns added that when you submitted the grant you were not hiring and that he was just pointing out that this was not considered an ethical violation on other campuses and seemed to be allowed by federal law. Associate Provost Wilson asked for permission to speak and it was granted. He said that he could cite at least one case where he knew there was a husband-wife team who had applied as co-applicants. It was nothing that was prevented on this campus. Senator Sterns said that he would be happy to discuss the two times in his career here when he had been told he could not do this.

Senator Chyi noted that following this, if two people were not legally married and officially not in the same household, they could be very close and be allowed to be co-applicants.

Vice President Mallo went on with the Ethics Commission's definition of business associate - a person with whom a public official or employee was engaged in an ongoing business enterprise. This created great difficulty for members of the Board of Trustees. One might notice at Board meetings that there were many abstentions. This was related in part to whether or not the individual was a business associate or involved in an ongoing business. One of our trustees was a lawyer who over the years had represented different architectural firms. In areas like architectural firms, people went from one firm to another, not unlike some lawyers going from one law firm to another. This sometimes muddied the waters as to what was an ongoing business enterprise. The Ethics Commission was even sensitive to the issue of frequent flyer miles. If any member of the university community earned them as a result of university travel, it was a violation to use them for private purposes. These were technically to be turned back to the employer. Unfortunately, he knew that our purchasing director for years had tried to make arrangements to have those distributed for university business. The key was that they needed to be used for university business.

Senator Susan Clark asked for clarification. If one were seeking tenure and presenting something at a national conference and paid all the expenses out of one's own pocket, could one keep



them? Mr. Mallo replied that in that case you could do what you wanted with the frequent flyer miles. It was only what the University paid for.

Mr. Mallo went on to discuss honorariums. Initially there had been an absolute bar with regard to honorariums in the state of Ohio. The presidents of the state universities and the boards of trustees had been successful in getting an exception made. What this amounted to now was that only those people who were required to file financial disclosures could not receive honorariums except for the president of the university and a member of the board of trustees. So our president and board members could receive an honorarium even though they filed financial disclosures. Most of the people in the room today would not be affected because they did not have to file a financial disclosure.

This last statement led to some confusion. Senator Clark thought that the policy to be examined today required disclosure of financial interests. Wouldn't we essentially be subject to that disclosure?

Vice President Mallo said that the disclosure he was referring to in this instance was the financial disclosure required by the Ohio Ethics Commission for public officers and employees that were designated by law to file with the Ohio Ethics Commission. For example, the President and the Board filed a separate filing annually with the OEC. He (Mallo) filed every year with the Board, but not with the OEC. The honorarium prohibition only covered those filers that had to file with the OEC (included legislators, judges, etc.).

Senator Lillie stated that he was now totally confused because in an earlier slide it had said that even though we might not be public officials, according to that advisory opinion we still might be subject to this.

Mr. Mallo answered that there was a specific statute governing honorariums. This was because a couple of years ago there had been a big public discourse about certain legislators receiving honorariums and then voting on matters involving public business and people from whom they had received the honorariums. However, this did not negate what he had said previously with regard to public employees, public officers generally under the Ohio Ethics Law. But faculty were excluded from this particular statute because they did not have to file with the OEC. If you did, then this would apply to you. He added that any time there was a real concern as to whether something was legitimate or not under the Ohio Ethics Law, one could ask for an opinion. If you got it and it said that you could do something and you did it, you would be insulated from any kind of criminal or civil action. It was a very unique, very neat protection under Ohio law.

Senator David Louscher said that what he still did not understand was that if we had these Ohio statutes and there was a Board of Ethics that also set up rules for standards of conduct, what would this document created at our University do that extended the code beyond what was already required by statute or by the Board of Regents in terms of university employment. What was the special relevance of the effort of The University of Akron to create this document?

Vice President Mallo said that he would try to give a couple of different responses, and perhaps Dr. Wilson could explain further. Not too many years ago, Congress required that we have regulations in place with regard to scientific misconduct. The University rushed to get an emergency



rule filed so that we would have a policy in place, because without that policy we would not be entitled to receive any federal funds for research. Without a conflict of interest policy as required by the National Institute of Health and the National Institute of Science, none of our faculty could apply for a grant under those programs. We had to have procedures in place for those policies that met certain requirements of federal law in order for us to receive federal funds for research.

Senator Braun did not mean to interrupt, but what he thought Senator Louscher had meant was that there were certain entities in this document which went way beyond what federal or state law required. He believed the Senator's question had been what had prompted this document. Since we were state employees, what would prompt this document to go beyond what the state law required?

Mr. Mallo said that he would try to answer that without sounding flippant. In part, the Board of Trustees was requiring it. If one looked at the full-time service policy that was already on the books, the requirement had been there for many years with regard to things like getting permission before outside activities were engaged in, etc. He had to file a disclosure form with the Board, yet there was nothing in the law that our Board had to require it. To address Senator Braun's restatement of Senator Louscher's question, he would have to deal with specifics. In many cases there were things in the proposed policy that simply recodified for this University what was already outlined in state law. For example, the definition of family - if we were going to enforce an ethics standard on the campus, by what policy were we going to do it?

Senator Braun replied that since Mr. Mallo had brought this up, he wanted to briefly say something about it. The definition of family was in the context of nepotism. He had looked it up and the definition of family was not the same in the context of nepotism and the context of financial disclosure. They were different, and if that was the case, why would this University take a definition that was put into a certain part of the Ohio Revised Code and use it in another part where it had not been meant to apply? If the state had meant it to apply there, it would have used it. He would be happy to give this information to Mr. Mallo.

Mr. Mallo was not sure which provision Senator Braun was talking about, but he thought that it might have to do with a situation in which one's wife was in a business doing business with The University of Akron. There might be a financial disclosure requirement. Senator Braun had no trouble with that but what if his wife was in a business that had nothing to do with The University of Akron. Why should he have to disclose what she made, etc? When Mr. Mallo replied that he was not sure that he needed to, Senator Braun noted that this was specifically written into the document which the Senate would be examining (section IV.(3)(e)). Mr. Mallo said that it might be a matter of how the language appeared in the policy.

The Chair stated that if members had questions for Vice President Mallo about his presentation, it was perfectly appropriate to ask them at this time. What was not appropriate yet was to go to the document which the body would be discussing later, because it had not yet been placed before the body.

Senator Lillie wanted to thank Mr. Mallo for his presentation. He wished that the body heard it a year ago. It had been a tremendous help in setting forth what the law said. Having been on the Senate's conflict of interest committee last year, he wanted to react to something somebody had said earlier. The statement had been made that the committee had come up with its own policy, but it had



not. It had tried to come up with something that it understood had been required by the Board of Trustees and was needed by the University. While this was a wonderful presentation, we all knew last year that we needed a conflict of interest policy. No one was saying that we did not need one; the question was how it was written and applied. He wanted to make sure that Vice President Mallo was clear that we were all on the same page as far as the need for a conflict of interest policy. His particular concern was not so much conflict of interest but conflict of commitment, because the way that it was described in the document was extremely vague and this needed to be looked at very carefully before it went forward. Part of the concern also was that in some places there was confusion over when we were working for the University and when we might have a private life. This was not a matter of our being entitled to use university time for private purposes; it was knowing when we were doing one and then the other.

Vice President Mallo asked whether he could address this before Senator Lillie continued. He wanted to do it by an illustration, because sometimes what he and the Board saw were the egregious situations which for 99% of the faculty would not be an issue. Would Senator Lillie consider it a conflict of commitment if a full-time faculty member had another full-time job working for the county? Senator Lillie said that he would, but was there anything that could be done about this under the current law? When Mr. Mallo said that there was, he noted that this led him to his final point. Why was this necessary, if you could already handle these things under current law?

Mr. Mallo answered that we really did not have a procedure in place to deal with that. What about a faculty member who took a faculty improvement leave to work on a project and during that particular leave had been re-employed by the University full-time on another job? There were lots of these issues that required rules and processes for investigative committees, etc.

Senator Lillie stated that we all agreed that we needed a conflict of interest policy. We needed to know what it was and when such potential conflicts might exist. It sounded to him like we needed more education than a new policy because much of the information which Mr. Mallo had provided made perfect sense to him and to everyone at the meeting. The examples which Mr. Mallo had given had everyone agreeing that they were conflicts of interest. Why couldn't the policy be as clear? That was all that we were asking for.

The Chair reiterated that she wanted no discussion yet on the document. It was not yet before the body, but despite that there were references to it. This discussion had to focus strictly on the presentation.

Senator Bonnie Filer-Tubaugh asked whether there was a distinction between full-time employees and part-time faculty in the law. Vice President Mallo answered that as far as ethics were concerned, there was none whatsoever. She then asked whether part-time faculty would be expected to fill out the same type of forms as the full-time faculty. When Mr. Mallo said that he thought they would, she wondered whether it was going to be considered a conflict when they might work at two state universities. He said that it might if they were working full-time. What about someone teaching part-time and working part-time for a company that did business with or a service for the University? Mr. Mallo said that they might have to disclose, and someone would have to make a determination whether there was or was not a need. In most cases there was not going to be a conflict, because in most cases, the person was not going to be in a position to influence the contractual arrangements.



In light of the supposed need because of NSF reporting requirements, Senator Qammar wondered whether there was something in the policy that we had in place now that did not satisfy that entity. Was there something in particular that we had to pay attention to and make certain was there?

Mr. Mallo answered that what was missing was a detailed procedure for enforcement of the policy. For example, OSU had a procedure for disclosure, but it had not been collecting the forms and going through the procedure for making a determination whether there was a conflict, etc. That was what they had been taken to task for in the paper, and they had not shored that up. We had not yet really put out a form that would be used across campus, and those kinds of things were really needed.

Senator Qammar also wanted to know what the significance of having this done by November 1 was. The Chair responded this was when the President wanted it. In fairness to him, last January he had pulled the document that President Ruebel had presented to the Board of Trustees. Then when she had heard nothing regarding Peter Dunn, who had received the document in March, she had sent a letter in July to the President who had responded that she would absolutely get the document. But the document had not come from Peter Dunn until September, and it was to have been presented on October 1. When the President gave Dean Creel and ad hoc committee an extension, it had been for one month. She believed that it had to go to the Board.

Vice President Mallo added that there was going to be a policy sooner or later, either with or without further input. The Board was waiting and continually asked where it was. Senator Qammar noted that it was a tad unfair that the consultant had gotten six months and the university community had gotten one week.

Senator Braun said that Mr. Mallo had given an extremely informative presentation. Could he have the text emailed to him? Mr. Mallo replied that Mr. Mike Sermersheim did most of the web work in his office, and he would be putting all of this up on the web.

Since there were no further questions, the Chair thanked Mr. Mallo for taking the time to educate the body. She then said that Senator Sheffer had a motion to make regarding the document which they were about to discuss.

In order to get the document (**Appendix B**) on the floor for discussion, Senator Sheffer moved **that the Senate approve the document on conflict of interest, etc., for recommendation to the President and that the sections of the document be considered seriatim by their roman numeral citations.** This was seconded.

The Chair asked Dr. Bee to explain the procedure. Dr. Bee cited Roberts Rules of Order, section 28, regarding consideration of a motion seriatim as something that applied when one had a complex document with many parts. Another possibility had been to divide the question, but for a variety of reasons that he and the Chair and Senator Sheffer had discussed, seriatim seemed like it would work best. He then read the pertinent section as follows: "A report or a long motion consisting of a series of resolutions, paragraphs, articles, or sections that are not totally separate questions can be considered by opening the different parts to debate and amendment separately without a division of the question. If the chair does not follow such a course of his own accord and the assembly wishes to do



so, the procedure can be ordered by adopting the motion." What Senator Sheffer had done in making the motion to consider seriatim, was to move to consider it by section divided by roman numerals. Within each section, the Senate might discuss anything within that section and might also amend it. There would be no final vote taken on any section as discussed, until all the sections had been gone through. After all those sections had been gone through for initial discussion, the entire document would be open to further discussion and amendment. After the document had been considered, any section that the Senate objected to could be amended by deletion, or any section that the Senate wished to add to the document could be added. Then following that, there would be a final vote on the document. This was why it was thought that the use of seriatim consideration would be the most orderly and appropriate way to deal with the complexities of what the Senate was facing. To approve Senator Sheffer's motion required a simple majority. If the body did not like the way the proposed division was going to take place by roman numeral, that was something that could be discussed and amended. If the body thought there was a better way to do it, that could happen.

Senator Sterns wondered whether when an amendment was proposed during discussion, the vote on that amendment would take place as the body went through the document. Dr. Bee answered that all amendments would be voted on as they arose. It was just that there was no final vote on the document as a whole and no section could be entirely deleted or added to.

The Chair called for a vote on the procedure, and the body approved the motion of Senator Sheffer. The Chair then pointed out that there were six areas marked by roman numerals. Following the procedure, the first area of discussion would focus on "I. Introduction and Principles." Would anyone care to raise an issue in that section? Since no one did, the body moved on to "II. University policies regarding potential and/or actual conflicts of interest."

Senator Isaac Isayev wanted to discuss section II.B.(2.) "Conflicts Regarding Research Projects." which read as follows: "University employees must not independently submit or negotiate proposals or contracts for any externally sponsored research or other sponsored programs. Proposals, and any subsequent negotiations, awards, other agreements, or changes are to be processed through and require the prior written authorization of the University at the appropriate level through the Director of Research Services and Sponsored Programs." His understanding of this paragraph was that any professor at this University could not go to specific funding agencies and do any negotiating with them before going through the University's procedure. Anybody who had submitted proposals to agencies or particular companies for funding knew that sometimes you first talked with them and they found the parameters under which you would conduct research, and then you would go to the official procedure. This paragraph would not allow that. First, everything would have to be submitted in a proposal to the University before submitting a proposal to the agency. This paragraph would not allow a professor to go and negotiate with a funding agency before submitting a proposal.

Senator Qammar suggested a solution might be to amend the paragraph by deleting "or negotiate." Senator Isayev thought that this was acceptable, and she moved it. This was seconded by Senator Kennedy.

Senator Lillie asked what the result of an affirmative vote on this amendment would mean. If no other part of the document were changed, would the document go to the President with this amendment? Would it go through some other filter before it got to the President? Were we making the final decisions here? If we were, then he had some thoughts on that also.



The Chair answered that it was her understanding that this document, if passed by the Senate, would go on through Secretary Oller to the President like any other piece of the body's legislation.

Senator Qammar wondered whether we could actually find out what was meant by "negotiate" in this section. The body was interpreting it to mean discussing potential proposals. Maybe legally, "negotiate" had some other legal contractual meaning.

The Chair asked Mr. Mallo whether, with the body's indulgence, he could answer this question. He guessed that if one applied commercial law, negotiate was nothing more than transmitting. He did not know whether that was what was meant or whether it was an actual negotiation.

To further clarify this, Senator Sterns asked to direct a question to Vice President Mallo. Was the intention of this that faculty under no conditions could submit grants? Was the language only referring to their role here at The University of Akron, or was this saying that in any private contracts, no proposals could be developed? He thought that the intention of this was that no faculty members should enter into any negotiation or contract on behalf of the University. This could be read also as to restrict all work outside of the University. Was that this intention?

Mr. Mallo answered that his understanding was that this referred to the University itself, within the University or through an external agency through the University, so if it was not connected with the University, he was not sure that this was intended to apply.

Senator Sterns added that there were many faculty on this campus who were engaged in consulting activities where contracts were negotiated separately outside of the University. This read as though you would not be allowed to do that.

Associate Provost Wilson responded that this was intended for externally sponsored research and sponsored programs. Whether or not one could negotiate the contract that Senator Sterns was speaking of would be a matter that Vice President Mallo would have to deal with.

Senator Sterns stated that this was one of the problems faculty were having with the document because things like this were not clear. People wished to comply, but when they had had consulting practices for 30 years and had carried out activities which had always been allowed until this moment, they saw language which seemed to preclude to them what looked to them like ongoing activities. This was the biggest issue and concern that most faculty he had talked with had. They had read much more into this than what might have been intended. That was why it was important that we make sure these were clear.

Vice President Mallo thought that what this was intended to address was a situation in which a year after the fact, the University would find out that it had a "contract" with another university or with a university hospital that involved externally funded research that the University did not know about. The intent here was to bring externally funded or sponsored research through the University so that it would be aware of these external obligations.



Senator Sterns replied that some of the faculty who had years of experience with these things would never think of doing such a thing. Mr. Mallo answered that it had happened. Senator Sterns continued that it was important to go over all of these language problems in order to make clarifications to allay faculty concerns. He reminded the body that we were still discussing biblical passages 5,000 years later. He hoped that this discussion would be constructive, and he was not raising these to split hairs. They were issues that concerned colleagues had brought to him.

Senator Elizabeth Kinion wanted further clarification regarding the meaning of "negotiate." If she wanted to go to talk with the Kellogg Foundation about possible funding opportunities, could she talk to them, hear what they would like her to do, and then go to the research office and say that this was what she wanted to do? Or could she not talk to the Kellogg Foundation until she talked to the University?

Associate Provost Wilson said that as he looked at it, the words "or negotiate" could be taken out and would not materially change anything.

Since there were no other comments, the body passed the motion to delete "or negotiate" from the section.

Senator Charlene Reed directed the body's attention to II. A.(4) which read: "On April 30 each University employee will submit a report (Annual Report of Outside Activities) to her or his immediate supervisor." She was concerned here with the part-time faculty. Part of her position involved processing part-time appointment forms on which there was a general disclaimer saying that they agreed to abide by the University rules, etc. This rule as written seemed to include them as well as full-time employees. While she could see where there could be occasional conflicts, she did not think that we should ask all of our part-time employees to file these reports. When we were paying someone \$1,600 to teach a class, they would not be inclined to give us a full financial disclosure. If this language was not intended to refer to part-time faculty, then she wanted to move to insert "full-time" between each and employee. She so moved and this was seconded.

Senator Sterns asked for a point of clarification. We had at this University full-time employees who were 9-month faculty, 12-month faculty, those who chose to work in summer school and those who did not. Would permission be required in the summer term? Usually, if one were not teaching in the summer months, it would be seen as the discretion of the individual. If he were reading this correctly, you would have to secure the same permission even if you did not have summer assignments. Was that correct?

Mr. Mallo responded that even though you were a 9-month faculty member, you were still an employee of The University of Akron during the summer. That was why you received benefits, why sick leave accrued, etc. The answer to the question was the same disclosure. Senator Sterns replied that this might have always been the case, but he thought that there were a heck of a lot of people around this place who would be surprised by that statement.

Senator David Louscher wanted to raise a question for the Parliamentarian. The body had made the decision to do this seriatim. It seemed to him that there ought to be a procedure by which we could do the sections within each roman numeral seriatim as well. Moving around from one part of the section to another out of order was quite confusing. Amending one section without seeing it in



proper context and how the change would affect what came before and after could be a problem. He would like to see the body move from paragraph to paragraph. This would allow us to move more quickly; there would be less confusion and would create a better document.

The Chair responded that the body could take up Senator Louscher's suggestion after it had dealt with the amendment which was presently on the floor.

Senator Konkel wanted to know from where we would be getting the annual report of outside activities and what it was going to look like. The Chair replied that we had to stay on the discussion of Senator Reed's amendment. Senator Konkel thought that perhaps where the document was coming from could be added to the amendment.

Senator Kennedy asked whether or not Vice President Mallo had already said during his presentation that this document would apply to part-time faculty. Senator Reed answered that he had, but this would also apply to student assistants, but they were not required to submit the disclosure. As far as the part-time faculty were concerned, she thought that it would be very difficult if not impossible to get compliance on this from all part-time faculty.

Senator Richards wanted to speak in support of the motion. When this was discussed last year, the Senate's ad hoc committee on conflict of interest under Dr. Falk's direction had recommended that part-time faculty, staff, and employees who worked less than 1/2 time for the University be exempted from the annual review form mentioned in the document, and the Senate had supported that recommendation.

The body then voted on the amendment and the motion carried. The Chair said that from now on the body would go through II. paragraph by paragraph in order.

Senator Lillie said that he wanted to present an amendment but first wanted to take a minute to explain it. What the body was doing here was very reminiscent of what the members of the Senate's ad hoc committee on conflict of interest had gone through last year. Last year in September, this body had asked that representatives from every college be elected to look over the conflict of interest policy, to make comments on it, and present it back to the Senate within three months. As had been pointed out by someone else, outside persons had six months. The Committee had spent a lot of time going over it. Some of the questions now being asked and issues being raised were things that they had addressed in depth and detail. He knew that some people were saying that this document before us today was not the best, but we were going to have a conflict of interest policy whether we liked it or not and we might as well have some input into this one. The fact was that this document was just as bad as the one which the Senate had rejected last year. He now moved to amend the main motion to read **that we substitute for transmittal to President Proenza, since it had not been transmitted by this body to him, the conflict of interest policy that was adopted by this body on December 3, 1998, in lieu of consideration of the rest of this document.**

The Chair said that this motion at this time was out of order, and she asked the Parliamentarian to address it.

Dr. Bee said that the body had to finish what it was now doing; namely, to consider the document seriatim. This could be done very rapidly; nobody needed to make any further suggestions



or motions to amend or discuss any other part of this. Once we finish that, when we got to the point of discussing the document as a whole, it would be in order at that time to move to amend by substitution the entire original document.

Senator Brant Lee said that it was hard to know while going through the document seriatim whether we would be wasting all that time and energy considering individual paragraphs when at the end of it, the Senate would decide to set aside the entire document. Was there a parliamentary way to set aside the seriatim procedure in order to consider Senator Lillie's proposed motion?

Dr. Bee said that a motion to reconsider the motion already adopted could be employed. It would be a little complicated, but basically what the Senate would have to say was that it really did not mean it when it voted to consider it seriatim.

Senator Sheryl Stevenson moved to **reconsider the seriatim motion**. This was seconded by Senator Kennedy.

The Chair stated that the motion was not debatable. She called for a vote, and the motion to reconsider was passed by a vote of 25 to 6.

What was before the body now was the question to consider the document seriatim. This also was not debatable. An "aye" vote would be a reaffirmation of the seriatim procedure; a negative vote would take the body back to the original motion to approve the document. Senator Isayev asked whether there was still a quorum, and the Chair said that there were still 30 members which was the required number.

The body then re-voted on seriatim motion which failed by a vote 9 to 21.

The Chair stated that the body was now back to the main motion. Senator Lillie now moved to **amend the conflict of interest document that was on the web with that document which had been prepared by a Faculty Senate committee and approved virtually unanimously by this body on Dec. 3, 1998, and then transmitted to the President on December 4, 1998, with some minor corrections that had been made at that time, in lieu of this current document**. This was seconded.

Senator Richards wanted to know from the Chair and Senator Sheffer, who had both sat on this year's ad hoc committee, whether they had taken notes regarding major discrepancies between what the Faculty Senate had recommended last year and the document that had come back from Dr. Dunn. Before she voted, she would like to have that information.

Senator Sheffer responded that they had not made a list of discrepancies. All that they had done was work on revising or changing the document that had come back from Dr. Dunn.

Senator Qammar said that since the body was considering substituting its previous document and the President and upper administration had had access to that plus Dr. Wilson's document, could somebody explain why the President had not used the Faculty Senate's recommended document to bring to the Board of Trustees?



Senator Lillie replied that it was his understanding that the document which the Senate had passed had been officially given to President Ruebel, but not President Proenza officially. It seemed to him that if this was the document that the Senate had approved last year, and if members wanted to look at it again and approve it again or not approve it again, it was fine. That would be the thinking of the present Senate. But we had, as Senator Malhotra had pointed out last year, a responsibility to tell the administration what we thought.

Senator Norfolk said that as much as he liked the idea of doing it again, it had already been ignored once. There was a grave danger that if we sent the old document forward, it would be completely ignored, and this year's document would become the law of the University. There were a number of things in the current document which he did not like. As a simple example, just one phrase here implied that all of us would have to work on a Sunday every 11 years. That was a little thing, but there were big things. There was a grave danger that these things would not be caught at the upper level.

Senator Kennedy wanted to support what both Senators Lillie and Norfolk had said. Having been on the Senate's conflict of interest committee last year, she knew that it had spent hours doing this. All of the questions and issues raised today had been addressed in great detail last year, and even if the Senate continued doing this until November 1, it was not feasible that it could address all of the questions. Perhaps it would make more sense to reconvene the original committee, take the document from the web and the document which the Senate had passed last December and ask them to see where the differences were. Then they could make up something that everyone on the Senate would have access to and could vote on.

Senator Sue Frank said that as a new Senator it would hard to vote on this since she had not seen the December 3 document. Senator Konkell echoed the same concerns. She also was leery that if the December 3 document went forward once again, we might be cutting our own throats. There would be no opportunity to change today's document that might be the one ultimately to go forward. We had tried the December 3 document once, and it had not worked. She agreed that sitting here all day trying to amend the document was not a good idea. It might be better to get another committee to look at it for a week.

Senator Sterns said that there were some general guidelines that we might consider if we did send it back to committee. If one looked at II.A(3)(ii), it read as follows: "The responsibilities and professional activities that constitute an appropriate and primary commitment will differ across colleges, schools, department, and disciplines, but should be based on an understanding among the employee, his/her Department Chair, Dean or administrative supervisor(s), and the Provost, and in accord with University policies." He found it very difficult to understand how we could have a policy which allowed for this much variation. If we were going have an application of standard, why was it to be allowed in one college and not in another? Why would behaviors be acceptable in one situation and not acceptable for other faculty in the same institution? There had been many inequities across colleges over the years in employment and other things, but we did not have to be a party to passing a policy that said there was differential compliance so that what was allowable at one college was not acceptable in another. He failed to see how this was acceptable in any form.

Senator Lillie appreciated the concern that a few people had, that if we did not go along, we would not have any input at all. However, he wanted to reiterate that last year we had sat down and given our best input. We did not think that we should have a conflict of interest policy the way it had



been presented to us. We understood that a policy was a necessity, but we wanted to have a chance to put in our two cents and influence the outcome. Instead of dividing the document into three, which had been suggested elsewhere - conflict of interest, conflict of commitment, and intellectual property - we had gone along with the insistence that it was necessary to keep them together. We had taken the policy that had been given and had tried to the extent possible to respect and honor it. So we had already given our best input. He knew that the President and the Board had the legal authority to do a vast number of things, and if they wanted to do them, they would. It seemed to him that we ought to be saying that this was our opinion - the opinion of the faculty. We had met in a body and created a committee. That committee had done its work and reported its recommendation to us; we then had approved that policy. It seemed to him that we ought to be in that kind of mode vis-a-vis the President. We should not be sitting here trying to get an "or negotiate" scratched out. We should say that the policy which we passed last year made sense as a workable one to the faculty, and it was as close as possible to what we had been asked to do. It was a cooperative effort and should not be a confrontational one. He was afraid that the policy that we had been looking at today set us up for confrontation.

Since there were people who had not read what the Senate had passed last year and since other objections had been made, Senator Stevenson asked whether it would be possible to consider what Senator Kennedy had suggested as an alternative amendment. The Senate could ask its committee from last year to meet with the Chair and Senator Sheffer to see what the differences were and to come up with something that showed what the discrepancies were and to create something that could be acceptable. That would be better than the Senate trying to do the whole thing here which seemed impossible.

Dr. Bee replied that the body could just recess with a request that the committee re-form to make a report when the Senate met again next Thursday.

Senator Norfolk wanted to clarify that he was in favor of the current motion. If we did pass today's document, he estimated that about 80 percent of the faculty would be in violation of it as it was written. So let them use it instead of ours, as it would not make any difference; this policy would not work.

The Chair noted that the answer to Senator Stevenson's question was that a motion to recess would be in order and that would allow the prior committee to meet and study the documents and then present a list of differences to the full body next Thursday if that was what was desired.

Senator Qammar moved to recess so that the prior committee plus interested parties in the current Faculty Senate might meet and discuss the differences between the web page document and the document passed December 3 so that the Faculty Senate could reconvene to deal with (Senator Lillie's) motion on the floor. This was seconded.

The Chair said that this motion was not debatable. In answer to some questions of clarification, she said that the December 3rd Senate document was to be found in the December 3, 1998 issue of the Chronicle. If the body approved this motion to recess, the motion to substitute would still be on the floor and would be the business of the body when it reconvened next Thursday.

She called for a vote, and the motion to recess was approved. The meeting ended at 5:15 p.m.



**OHIO ETHICS COMMISSION**



**Santiago Feliciano, Jr.**  
*Commission Chair*

**David E. Freel**  
*Executive Director*

**8 East Long Street, 10<sup>th</sup> Floor**  
**Columbus, Ohio 43215**  
**Telephone: (614) 466-7090**  
**Fax: (614) 466-8368**

**Website: <http://www.ethics.state.oh.us>**

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**University of Akron**  
**September 23, 1999**  
**David E. Freel, Executive Director**  
**Jennifer Hardin, Chief Advisory Attorney**

**Executive Summary**

The Ohio Ethics Commission

Members of the Ohio Ethics Commission

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  - Supplemental Compensation
  - Honoraria

**FOR FURTHER INFORMATION, CALL THE ETHICS COMMISSION—(614) 466-7090**  
**Check us out on the Web at <http://www.ethics.state.oh.us>**



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**September 23, 1999**

**David E. Freel, Executive Director**  
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**What is the Ohio Ethics Commission?**

- Created as part of Ohio's Ethics Law by the Ohio General Assembly in 1973, following the Watergate scandal
- Administers the Ethics Law, which governs conflicts of interest in public servants
- One of three ethics bodies that oversees all public servants in Ohio
- 1999 is the 25<sup>th</sup> Anniversary of the Ethics Commission

**Who are the Members of the Ohio Ethics Commission?**

The Commission is a bipartisan body comprised of six members who are appointed by the Governor and confirmed by the Ohio Senate. The Commission meets every 4-6 weeks and is compensated \$75 per meeting, to a maximum of \$1800 per year. The members, who serve staggered, six-year terms, are:

- *Santiago Feliciano, Jr., Chair, Cleveland - Term expires: 12-18-2002*  
Mr. Feliciano is Legal Counsel for the Roman Catholic Diocese of Cleveland
- *Merom Brachman, Vice-Chair, Bexley - Term expires: 1-01-2004*  
Mr. Brachman is a private businessman and has served with the commission at various times since 1974
- *Dr. Herb Asher, Columbus - Term expires: 12-18-2003*  
Dr. Asher is a professor emeritus of political science at The Ohio State University
- *Sarah Brown, Alliance - Term expires: 12-18-2001*  
Ms. Brown is the newest member of the Commission and a former Alliance City Council member and former Alliance City School Board member
- *Sister Mary Andrew Matesich, Columbus - Term expires: 12-18-1999*  
Sister Mary Andrew is the President of Ohio Dominican College and served as the immediate past Chair of the Commission
- *vacancy*

The Ethics Commission employs an Executive Director who supervises a staff of 22, all located in Columbus, that carries out the duties of administering the Ethics Law on a day-to-day basis.

**What is the Authority of the Ohio Ethics Commission?**

- Administer the Ethics Law and related statutes (R.C. Chapter 102. and R.C. 2921.42 and 2921.43) for most public officials and employees at the state and local levels of government
- The Commission's jurisdiction extends to an estimated 16,000 elected officials and 500,000+ public officials and employees at the state and local levels
- Jurisdiction includes private parties who do business with public servants
- State legislators and their employees, and judges and their employees, are governed by the other two state ethics agencies



**What is Ohio's Ethics Law?**

- The Ethics Law, effective January 1, 1974, created new ethical standards for public officials and employees by:
  - Requiring personal financial disclosure,
  - Creating new restrictions upon unethical conduct with *criminal* sanctions, and
  - Establishing uniform review of ethics issues by statewide commissions of the three branches of government.

**Why do we have an Ethics Law?**

- To protect the public from the personal conflicts of interest of a public servant
  - The conflicts of interest restrictions are generally financial, family, or business related
- To assure that a public servant remains impartial in deciding what is in the public's interest—They can't discuss or vote on conflicts
- To bolster the public's confidence in its public officials and employees

**What does the Ohio Ethics Commission do?**

The Commission has five major responsibilities under Ohio's Ethics Law: public information, advice, investigation, financial disclosure, and legislative recommendation.

**Public Information**

- Provide free ethics education and informational materials relating to ethics, conflicts of interest, and financial disclosure
- In 1998, for example, with only 3 staff members, the Commission delivered 113 educational presentations throughout the State of Ohio in 1998: all were extremely well-received
- Have a website where much of its informational materials, including formal advisory opinions, can be found—[www.ethics.state.oh.us](http://www.ethics.state.oh.us)

**Advice**

- Possess the unique authority to interpret and provide advice regarding the Ohio Ethics Law
- Issue written advisory opinions on ethics statutes to public servants before they act
- Since 1974, have issued almost 300 general advisory opinions on novel questions or questions of statewide interest which are available on the website
- Have given thousands of informal opinions in response to more routine and specific questions that follow existing Commission precedent
- Opinions provide full immunity to the person making the request, and others similarly situated, if they comply with the opinion before they act
- This immunity protects those who comply with written responses from criminal prosecution, civil actions, and actions for removal from office based on the facts presented
- Have four staff attorneys available to provide assistance to those in need—Attorneys receive hundreds of calls requesting general guidance and direction
- *Everyone* is encouraged to call the Commission if they have *any* questions about the Ethics Law

**Investigation**

- Investigate complaints and charges of alleged violations under the Ohio Ethics Law
- Five investigators for statewide jurisdiction—Often work jointly with other agencies
- The prosecution brought against the former Chief of Staff of Governor Voinovich in 1997 is an example of the application of the Commission's investigative authority
- The Ethics Law requires this process to be **confidential**—Commission's role is similar to that of a grand jury
- At the conclusion of an investigation, the Commission may refer the matter for prosecution to the appropriate prosecuting authority or may settle or compromise a charge with the accused person
- Settlement methods include mediation, restitution, rescission of affected contracts, and other options
- The Commission has no authority to prosecute public officials or employees independently (proposed to do so in 1994)



**Financial Disclosure**

- The law requires most elected state and local officials, candidates for office, and many high-ranking state officials and employees to file financial disclosure statements
- These statements disclose their previous year's finances in order to remind them, and inform the public, of potential conflicts of interest
- Most forms filed with the Commission are available for public review—Uncompensated state board members file confidential forms, subject to review
- Approximately 10,500 forms are filed with the Commission annually
  - 10,633 in 1997; 9,835 in 1998
- The general filing deadline is April 15—Some forms are due earlier due to primaries or other deadlines
- State agencies pay filing fees for non-elected filers—Late fees are assessed, up to \$100

**Legislation**

- Recommend legislation related to ethics, conflicts of interest, and financial disclosure
  - H.B. 285 in 1994; H.B. 300 in 1986

**General Protections to the Public Contained in the Ethics Law**

The Ohio Ethics Law contains *criminal* provisions that protect against conflicts of interest, restrict personal, family, and business interests in contracts, prohibit nepotism, include post-employment restrictions, and other protections against a public official using his position for personal benefit, and influence peddling. These common sense provisions are largely linked to economic, family, or business interests of the public official. The general restrictions are summarized below.

**General Rule:** Whenever your personal financial interests, or those of your family, or business associates are involved in a situation before you, there is an ethics issue.

- **Conflict of Interest – R.C. 102.03(D), (E), (F)**  
 No public official or employee shall solicit, accept, or use the authority or influence of office to secure a thing of value if the thing of value has a substantial and improper influence upon the public official or employee in the performance of his duties
  - To determine "substantial," look to the value of the thing of value
  - To determine "improper," look to the source of the thing of value. "Improper" sources of things of value include parties doing or seeking to do business with, regulated by, or interested in matters before public agency
  - **Things of value** include money, property, gifts, loans, consulting fees, travel, meals, and lodging expenses
  - Restriction upon voting, approving, discussing, deliberating, lobbying, formally or informally, on the conflict, as well as mere solicitation or acceptance
  - No required showing of quid pro quo

No person shall promise or give a public official or employee anything of value if the thing of value has a substantial and improper influence upon the public official or employee in the performance of his duties

- Applies to private parties

- **Public Contract Restraints – R.C. 2921.42; R.C. 102.04**  
 Five different prohibitions, the three most common state that a public official is prohibited from:
  - *authorizing* or using his authority to secure a public contract for himself, a family member, or a business associate
  - *having an interest* in profits or benefits of a public contract entered into by a public agency he is "connected with"
  - *profiting* from a public contract he approved or that was authorized by a body of which he was a member unless the contract was competitively bid and awarded to the lowest and best bidder



- **Public contract** includes the purchase or acquisition of any property or services, *including* employment, and any design, construction, alteration, repair, or maintenance of any public property
- **Interest** in a public contract must be definite and direct, may be either pecuniary or fiduciary
- **Family member** includes two groups: 1) spouse, siblings, parents, grandparents, children and grandchildren; and 2) any other person related by blood or marriage *and* residing in the same household

**Exemptions:**

Stockholding below 5%; affidavit

Four-part exemption—All four must exist—Burden on official to demonstrate:

- Necessary supplies or services
- Unobtainable elsewhere for the same or lower cost or continuing course of dealing
- Equal or preferential treatment given agency
- Arm's length, full disclosure, no participation

**Presents a Bar to Nepotism:**

A public official is prohibited from authorizing employment, or using authority to secure employment, or employment benefits, for any member of his family

- This prohibition often includes promotions or other specific financial benefits

**Prohibition upon Investing Public Funds – R.C. 2921.42(A)(2)**

A public official is prohibited from authorizing investments, or employing authority to secure investments of public funds in any security, if he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees

**Selling Goods or Services to Other State Agencies – R.C. 102.04(B)**

A public official is prohibited from selling goods or services, except where competitively bid, to any state entity, including own—Exception under 102.04(D)

- **Post-Employment Restrictions:**

**General Revolving Door – R.C. 102.03(A), (B)**

A public official is prohibited, during public service and for one year thereafter, from representing anyone on any matter in which he personally participated while he was a public official

- **Matter** includes any case, proceeding, application, determination, issue, or question
- **Personal participation** includes decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion
- **Representation** is formal or informal appearance before, or any written or oral communication with, *any* public agency

**Special Revolving Door provisions:**

PUCO commissioners and attorney examiners are prohibited, for two years, from representing any public utility before any state board, commission, or agency

Officials and employees who personally participated in matters are prohibited, for two years, from representing any person who is an owner or operator of a facility, or an applicant to become an owner or operator of a facility, on any matter in which he personally participated

**Confidentiality – R.C. 102.03(B)**

*Lifetime* prohibition on disclosure of confidential information both during and after leaving public position—Exception for appropriate authorization—No financial gain is required



**Representation - Influence peddling – R.C. 102.04(A) and (D)**

Prohibition on state *and* local officials against receipt of compensation directly or indirectly other than from public agency for any service rendered personally on any case, application, or other matter before any public agency – Exception in R.C. 102.04(D)

- **Other Restrictions:**

**Supplemental Compensation – R.C. 2921.43**

A public official cannot accept supplemental compensation from any party for the performance of public duties

A public official cannot coerce campaign contributions

**Honoraria – R.C. 102.03(H)**

Public officials and employees are generally prohibited from receiving "honoraria"

**Rate-Making – R.C. 102.03(C)**

Public officials and employees are generally prohibited from participating in any license or rate-making proceeding that directly affects the public official or employee or their immediate family

**Additional considerations – R.C. 102.99**

All public officials and employees must receive a copy of the Ethics Law within fifteen days of hire, election, or appointment

Please note that this information summarizes the Ohio Ethics Law and related statutes in Chapter 102 and Sections 2921.42, 2921.421, and 2921.43. For guidance, please call our office or refer to the specific provisions of the Ethics Law and related statutes. These laws are criminal statutes designed to protect the public from decisions that could be influenced by improper conflicts of interest for those who serve the public interest. Although the majority of public officials and employees meet or exceed these standards, these provisions serve to assist in deterring or sanctioning the conduct of the few who do not. Your careful consideration of the prohibitions is appreciated.

The Ohio Ethics Commission is an independent agency of state government charged with interpreting and administering the Ohio Ethics Law for many state and local public officials and employees. The Commission has been serving the public, and state and local government, since its formation as part of the Ohio Ethics Law in 1973. If you have any questions about how these restrictions apply to you, or for more information about the Ethics Law in general, please contact the Ohio Ethics Commission at (614) 466-7090.

This material was prepared by the Ohio Ethics Commission for informational purposes only. It is not intended as a substitute for the laws referenced or Ethics Commission advisory opinions construing those provisions.

**WHEN IN DOUBT, CALL THE ETHICS COMMISSION—(614) 466-7090**

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**OHIO ETHICS COMMISSION**8 East Long Street, 10<sup>th</sup> Floor

Columbus, Ohio 43215

Telephone: (614) 466-7090

Fax: (614) 466-8368

Website: <http://www.ethics.state.oh.us>**GENERAL INFORMATION FACT SHEET**

**History:** In 1973, the Ohio General Assembly created the Ohio Ethics Commission as part of the Ethics Law. The law, effective January 1, 1974, created new ethical standards for public officials and employees by: requiring personal financial disclosure; creating new restrictions upon unethical conduct with criminal sanctions; and, establishing uniform review of ethics issues by state-wide commissions of the three branches of government.

**Authority:** The Ohio Ethics Commission administers the Ohio Ethics Law and related statutes for all public officials and employees at the state and local levels of government, except for state legislators and their employees, and judges and their employees. For legislators and their employees, the law is administered by the Joint Legislative Ethics Committee. For judges and their employees, the law is administered by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court.

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- Sarah Brown, Alliance - Term expires: 12-18-2001
- Sister Mary Andrew Matesich, Columbus - Term expires: 12-18-1999
- Janis Purdy, Cleveland - Term expires: 12-18-2000

**Duties:** The Commission has four major responsibilities: public information; advisory opinions; investigations and referrals for prosecution; and financial disclosure.

**Public Information** The Commission provides free ethics education and informational materials, and recommends legislation relating to ethics, conflicts of interest, and financial disclosure.

**Advisory Opinions** The Commission possesses the unique authority to interpret the Ohio Ethics Law and related statutes, which are found in Chapter 102. and Sections 2921.42, 2921.421, and 2921.43 of the Ohio Revised Code. The Commission issues both formal and staff advisory opinions on ethics statutes. Formal opinions are issued on novel questions or questions of statewide interest. Staff opinions are responses to more routine questions, and follow Commission precedent. Both formal and staff opinions fully insulate the person making the request, and others similarly situated, if they comply with the opinion before they act, from criminal prosecution, civil actions, and actions for removal from office based on the facts presented. The Commission is also available by telephone to provide assistance.



**Investigations** The Commission confidentially investigates complaints and may investigate charges of alleged violations under the Ohio Ethics Law. The Commission's authority is analogous to the role of a grand jury. At the conclusion of an investigation, the Commission may refer the matter for prosecution to the appropriate prosecuting authority or may settle or compromise a charge with the accused person. The settlement methods used may include: mediation; restitution; rescission of affected contracts; forfeiture of any benefits resulting from a violation of the law; and resignation of the accused. The Commission has no authority to prosecute public officials or employees independently. The Commission has discretion to publicly comment that a complaint has been referred to a prosecutor if no action has been taken on the complaint within 90 days of the referral.

**Financial Disclosure** The law requires elected state, county, and city officials, candidates for these offices, and certain high-ranking state officials and employees to file financial disclosure statements about their previous year's finances in order to remind them and inform the public of potential conflicts of interest. The law also requires school board members and candidates for school board member in school districts with more than 12,000 students, and superintendents, treasurers, and business managers in all school districts to file. The general filing deadline is April 15, although some forms are due before then. Most forms filed with the Commission are available for public inspection. For more details about the requirements of financial disclosure, please refer to the "Financial Disclosure Fact Sheet," available from the Commission.

**General prohibitions:** The Ohio Ethics Law contains provisions restricting conflicts of interest that involve nepotism, post-employment, representation, influence-peddling, confidentiality, and supplemental compensation. Among other restrictions, the law provides that each public official and employee is prohibited from:

- Authorizing, or using his position to secure authorization of, a contract, for himself, a family member, or a business associate;
- Authorizing, or using her position to secure the authorization of, the investment of public funds in any kind of security to benefit herself, a family member, or a business associate;
- Receiving any benefit from a contract entered into by his public entity;
- Hiring or securing any contract benefits for her spouse, parents, grandparents, children, grandchildren, or siblings, or any other relatives living with her;
- Soliciting or accepting substantial and improper things of value, including gifts, or travel, meals, and lodging;
- Participating in matters where something of value will result for the public official or employee himself, his family, his business associates, or others with whom the public servant has a close tie that could impair his objectivity;
- Disclosing or using information deemed confidential by law;
- Representing parties, before any public agency, in a matter in which she was involved as a public servant, both during and for one year after leaving public service.

The Commission provides free advice and assistance to public officials and employees, and to the public and press, in the state of Ohio. If you have any questions about this information sheet, or about the Ethics Law in general, please contact us.





## FINANCIAL DISCLOSURE FACT SHEET

### What is a financial disclosure statement?

A financial disclosure statement (FDS) is a disclosure filed by many public officials and employees. The filer reports sources of income, investments, real estate holdings, and other financial interests.

### Where are financial disclosure statements filed?

- Legislators file with the Joint Legislative Ethics Committee;
- Judges file with the Board of Commissioners on Grievances and Discipline of the Supreme Court; and
- All others file with the Ohio Ethics Commission.

### Who is required to file a disclosure statement?

- Elected officials at the state, county, and city levels;
- Candidates for state, county, and city elective offices;
- School board members and candidates for school board in school districts with more than 12,000 students;
- Superintendents, treasurers, and business managers for all school districts;
- Upper-level state employees, including university presidents; and
- Members of sovereign power state boards and commissions.

### What is the purpose of a financial disclosure statement?

This disclosure:

- Reminds public officials of those financial interests that might impair their judgment on behalf of the public;
- Informs the public of those interests; and
- Assists in instilling confidence in the actions of public officials.

### What must be disclosed on the statement?

Most filers must disclose:

- All sources of income of any amount;
- Names of clients as sources of income and individual items of income if the clients are legislative agents (except where confidentiality is protected by a code of ethics);
- Source and amount of income received from any person if the filer knows or has reason to know the person is doing or seeking to do business with filer's public agency;
- All sources of gifts over \$75 (excluding most family members);
- All investments, debtors, and creditors over \$1000;
- Most ownership and leasehold interests in real property;
- Source and amount of every payment of travel expenses for travel inside or outside of the state incurred in connection with filer's official duties;
- Source of payment of meals, food, and beverage expenses paid in connection with filer's official duties that exceed \$100 aggregated per calendar year; and
- Any nondisputed information contained in a statement received, by the filer, from a legislative agent.



**Disclosure requirements (continued)**

University trustees, and persons serving with political subdivisions who are paid less than \$16,000 per calendar year for their public service, are required to make a different disclosure. They disclose:

- Sources of income of over \$500;
- Sources of gifts over \$500 (excluding most family members);
- Investments, debtors, and creditors over \$1000; and
- Most ownership and leasehold interests in real property.

There are also different filing requirements and disclosure statements for those who file with other ethics agencies.

- Contact the **Joint Legislative Ethics Committee** at (614) 728-5100 for information regarding legislators, their employees, and candidates for member of the General Assembly.
- Contact the **Supreme Court** at (614) 644-5800 for information regarding judges and judicial candidates.

**Are statements filed with the Ethics Commission public record?**

Most are, and copies are provided free of charge. However, the Ethics Law provides that some forms are not public record. **Confidential** statements are those filed by:

- Uncompensated members of state boards and commissions; and
- School district superintendents, treasurers, and business managers.

Each **confidential** form is reviewed by the Commission for possible conflicts of interest. Any portions of the form that show possible conflicts are public record.

**What are the financial disclosure filing deadlines?**

- April 15 of each year for many statements;
- Appointees to unexpired elective office: 15 days after qualification for office;
- New appointees/employees (appointed or employed between January 1 and April 15): April 15;
- New appointees/employees (appointed or employed after April 15): 90 days after employment or appointment;
- Candidates (including incumbents who are candidates): 30 days prior to first election at which candidacy will be voted upon; and
- Write-in candidates (including incumbents who are candidates): 20 days prior to first election at which candidacy will be voted upon.

**What are the penalties for failure to comply?**

- **Failure to file:** Fourth-degree misdemeanor; maximum 30-day sentence, \$250 fine.
- **False filing:** First-degree misdemeanor; maximum six-month sentence, \$1000 fine.
- **Late filing:** Fees will be assessed for each day the statement is late, up to a total late fee of \$100.



APPENDIX A-2

Subject	Citation
State Ethics Laws	Ohio Ethics Laws - O.R.C. Chapter 102 (§§ 102.03 & 102.04) O.R.C. §§ 2921.42 & 2921.43 18 U.S.C. § 215 - Receipt of gifts for procuring laws
Federal Ethics Laws	Misconduct in Science 42 C.F.R. Pt. 50 False Claims Act 31 U.S.C. § 3729
Indirect Cost Fraud	31 U.S.C. § 3729
Ohio Legislative Lobbying	O.R.C. § 101.70 et seq.
Federal Lobbying Regulations	Byrd Amendment 31 U.S.C. § 1352 2 U.S.C. § 1605
Charitable Fundraising	O.R.C. Fund Raising Counsel § 1716.05
Research Fraud	1) False Claims Act - 18 U.S.C. § 287 2) False Statements Act - 18 U.S.C. § 1001 3) OSHA Whistleblower Protection 29 U.S.C. § 660(C)
Whistleblowers	1) O.R.C. §§ 4113.51 - 4113.53 2) Protection under False Claims Act - 31 U.S.C. § 3730(h)
Human Subject Research	1) Hatch Amendment 20 U.S.C.A. § 1232h 2) 34 C.F.R. Pt. 98
Audits by IRS	O.R.C. 1170.10
NCAA Athletic Violations	The NCAA is an unincorporated association. Members consent to NCAA "legislation" and agree to abide by the NCAA's Bylaws. <i>NCAA v. Tarkanian</i> , 488 U.S. 179 (1988).
Price-Fixing Antitrust	Sherman Act 15 U.S.C. § 1
Animal Research	42 U.S.C. § 289 Animal Welfare Act 7 U.S.C. § 2131 Animal Cancer Research 7 U.S.C. § 3901
Computer Misconduct	1) Electronic Communication Privacy Act 18 U.S.C. § 2510 2) Family Educational Rights & Privacy Act 20 U.S.C. § 1232(g) 3) Most universities and colleges control from within. 4) Telecommunications Act of 1996 47 U.S.C. § 230
Debarment and Suspension	52 Fed. Reg. §§ 20360-20369
Federal Acquisition Regulations (FAR)	48 C.F.R. Pt. 3.101-1
Confidentiality of Official Information	O.R.C. § 102.03
Reporting Knowledge of Criminal Behavior	O.R.C. §§ 2921.11, 2151.421





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## Penalties

### I. Financial Disclosure

Failing to file a financial disclosure statement in violation of R.C. section 102.02(C) is a fourth-degree misdemeanor criminal offense, punishable by a fine of up to \$250 and/or a maximum of 30 days in jail. See R.C. sections 102.99(A); 2929.21. In addition, the Ethics Commission is required to assess a late filing fee equal to one-half of the filing fee, per day, up to a maximum late fee of \$100. See R.C. section 102.02(F).

Filing a false financial disclosure statement in violation of R.C. section 102.02(D) is a first-degree misdemeanor criminal offense, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail. See R.C. sections 102.99(A); 2929.21.

### II. Conflict of Interest

Violations of R.C. sections 102.03, 102.04 and 102.07 are first-degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail. See R.C. sections 102.99(B); 2929.21.

### III. Unlawful Interest in a Public Contract

Violations of R.C. sections 2921.42(A)(1) and 2921.42(A)(2) are fourth-degree felony criminal offenses, punishable by a fine of up to \$5000 and/or a maximum of 18 months in prison. See R.C. sections 2921.42(E); 2929.14; 2929.18.

Violations of R.C. sections 2921.42(A)(3) through (A)(5) are first degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail. See R.C. sections 2921.42(E); 2929.21.



#### **IV. Soliciting or Receiving Improper Compensation**

Violations of R.C. section 2921.43 are first-degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail. See R.C. sections 2921.43(D); 2929.21.

In addition, a public servant who is convicted of a violation of R.C. section 2921.43 is disqualified from holding any public office, employment, or position of trust in this state for a period of seven years from the date of conviction. See R.C. section 2921.43(E).

*last revised on 10/23/97*



APPENDIX A-4

For More Information, Contact:  
David E. Freel, Executive Director  
Ohio Ethics Commission  
(614) 466-7090

FOR IMMEDIATE RELEASE:

**ETHICS COMMISSION INVESTIGATION LEADS TO  
CONVICTION OF FORMER WRIGHT STATE DEAN**

Frederick J. Gies, a former Dean at the College of Education and Human Services at Wright State University, pleaded guilty today in the Greene County Court of Common Pleas to one count of Engaging in a Pattern of Corrupt Activities, in violation of R.C. section 2923.32(A)(1). Engaging in a Pattern of Corrupt Activities is a felony of the first degree punishable by up to a \$10,000 fine and 25 years imprisonment. Judge Thomas M. Rose of the Greene County Common Pleas Court ordered that a presentence investigation be conducted and the Court set the case for sentencing on June 17, 1997 at 2:00 p.m.

"This plea is the result of criminal charges that have been pending for several months and that were produced by a joint investigation with the Ohio Ethics Commission, the Ohio Highway Patrol, and the Greene County Prosecutor's Office," stated David E. Freel, Executive Director, Ohio Ethics Commission. "This plea shows the problems that can arise when a public servant "double dips" and allows his private interests to supersede his public duties," Freel continued. "The case emphasizes that criminal ethics provisions designed to protect the public apply equally to all public servants, even those in public colleges and universities."

Gies admitted in court that from August 26, 1993 through July 31, 1995, while employed by Wright State University and at the same time associated with a private enterprise, Leadership Services International, Inc., he did engage in a pattern of corrupt activities involving multiple offenses of having an unlawful interest in a public contract and soliciting improper compensation. Specifically, Gies knowingly authorized a series of public contracts in which he had a financial interest regarding an educational journal known as the Record in Educational Leadership. This financial interest consisted of subscription fees which were paid to Gies' corporation, Leadership Services International, Inc., rather than to Wright State University, which paid the publication costs of this journal. Also, Gies knowingly accepted consulting fees other than allowed by law from William Kritsonis, while Kritsonis was a vendor doing business with Wright State University in his capacity as the owner of the National Forum educational journals. These journals were partially financially supported by Wright State University as the

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result of an agreement entered into with Gies, in Gies' capacity as Dean of the college. According to the plea agreement, Gies also agreed to pay \$43,558.66 as restitution for the criminal conduct charged in this case, and he also agreed to terminate his employment with Wright State University.

Previously, on August 6, 1996, Phillip E. Messner, a former professor at the College of Education and Human Services at Wright State University, was found guilty in Fairborn Municipal Court of one count of having a conflict of interest, in violation of R.C. section 102.03(E), a first degree misdemeanor punishable by up to a \$1000 fine and/or six months in jail. Judge Catherine Barber of the Fairborn Municipal Court sentenced Messner to pay the maximum fine of \$1000 and to pay all court costs for his receipt of compensation from Gies' corporation, Leadership Services International, Inc., for work that Messner performed on the Record in Educational Leadership journal.

Also, on January 7, 1997, William Kritsonis pleaded guilty in Fairborn Municipal Court to one count of giving an improper thing of value to Gies, an ethics law violation of R.C. section 102.03(F) which is a first degree misdemeanor punishable by up to a \$1000 fine and/or six months in jail. Judge Catherine Barber sentenced Kritsonis to pay the maximum fine of \$1000 and to pay all court costs for his payments of consulting fees to Gies while Wright State University was financially supporting two academic journals owned by Kritsonis. Gies, in his capacity as Dean of the College of Education and Human Services, entered into this agreement with Kritsonis to financially support these journals.

The Ohio Ethics Commission is an independent agency of state government charged with interpreting and administering the Ohio Ethics Law for many state and local public officials and employees. The Commission has been serving the public, and state and local governments, since its formation as part of the Ohio Ethics Law in 1973.



APPENDIX A-53359-09-03 Full-time service.

Faculty and administrative appointments, unless specifically indicated otherwise in the contract of employment, should be regarded as full-time employment responsibilities to the university. All outside activities, whether for compensation or otherwise, must not be performed at the expense of the individual's primary responsibilities to the university. Moreover, such outside activities shall not be undertaken which violate Ohio's ethics laws governing public employees. For purposes of this provision, outside activities shall include activities not connected with employment for the university of Akron, including, but not limited to those activities which separately involve a source of income such as from private employment, other public employment, consulting, teaching, research, memberships on corporate boards, etc.

- (A) Such outside activities should only be undertaken with the full understanding and prior written approval of the dean of the college, in the case of faculty members, or the administrative superior, in the case of contract professionals or other employees.
- (B) The president of the university of Akron, its vice presidents and deans, shall obtain prior approval of the board of trustees with regard to outside activities as defined in this section. Any vice president and dean of the university shall first obtain prior written approval of the president with regard to such outside activities; and upon recommendation of the president, the board shall consider the request of such officer.
- (C) The board of trustees shall consider requests to engage in outside activities in executive session, unless otherwise requested as provided in division (G)(1) of section 121.22 of the Revised Code.
- (D) The president, vice presidents, deans and other officers as may be designated by the board of trustees from time to time, shall submit on forms required by the board of trustees an annual disclosure of any memberships on any corporate boards, partnerships or associations held by such officers. Such disclosures shall also identify any office or fiduciary relationship on a not-for-profit corporation or public board or agency.
- (E) Violation of Ohio ethics laws governing public employees shall be deemed sufficient cause for discipline, up to and including termination from employment.

Effective: August 9, 1996

Certification:

\_\_\_\_\_  
Secretary  
Board of Trustees



APPENDIX B**3359-11-13 CONFLICT OF INTEREST, CONFLICT OF COMMITMENT, SCHOLARLY MISCONDUCT AND ETHICAL CONDUCT POLICIES AND PROCEDURES****I. Introduction and Principles.**

The University of Akron expects that the professional expertise of faculty and professional and scientific staff will be devoted principally to the performance of their teaching, research, and service obligations to the University. Historic custom and practice, however, within this and other universities have shown that it is beneficial to the University, the employee, and the external community for employees to devote some of their professional expertise to outside activities.

The University of Akron recognizes that such outside activities can advance its ability to provide high quality research and educational experiences for students. Outside activities congruent with the professional expertise of the faculty or staff member and consistent with the mission of the corresponding department enhance the individual's professional development and enrich the learning community as a whole. In addition, activities such as technology transfer, consulting and business start-ups are critical to meeting society's needs.

At the same time, all members of the University must be committed to conducting themselves in accordance with the highest standards of integrity and ethics. When employees engage in outside activities unavoidable conflicts of interest may arise. Transactions involving related parties, especially, cannot be presumed to be carried out on an arms length basis because conditions of competitive free-market dealings may not exist. When these conflicts emerge they need to be disclosed and managed to assure that the employee's integrity and objectivity in the performance of University responsibilities are not compromised and that their conflict of commitment does not unduly interfere with the time they devote to their University obligations. These principles are not intended to eliminate all conflicts of interest but to set forth the guidelines and procedures for proper disclosure and management of these situations.

Conflicts of interest and commitment need to be resolved fairly and expeditiously through disclosure and management at the lowest level of supervision consistent with the level of activity. Disclosure, discussion, and oversight will most often be sufficient to manage what would otherwise be an unacceptable conflict of interest or commitment. The process begins with disclosure. Disclosure is the fundamental principle of resolution. Disclosure is used to bring resolution not impose sanctions. Conflicts will be resolved in the least invasive way. Disclosure and participation in a resolution process protect the employee from sanctions. Failure to disclose conflicts of commitment or interest leaves the employee open to sanctions and possible legal action.

Specific activities noted within this document are not intended to be inclusive and serve only to illustrate the nature of situations that can give rise to conflicts of commitment and interest.



These situations call for interpretation and review with the immediate supervisor within the context of the faculty or staff member's professional area, and the extent, nature, and consequences of involvement in specific outside activities.

Some activities are routinely allowable without approval but with timely notice to the immediate supervisor because they are (a) accepted practices and (b) generally minimal in their personal financial impact and impact on the University. Examples of such activities include: public service in community service agencies, royalties for published scholarly works or institutional royalty sharing, honoraria, prizes and awards for professional recognition, or routine activities for professional organizations and associations.

Activities not routinely allowable must be reported to the immediate supervisor (e.g., department chair or supervisor) in written form with simple statements of what is being done, for whom, and at what level of compensation. Approval is required prior to engaging in any such activity.

Should a request be denied and the employee disagrees, the matter will be referred to the Compliance Committee. This committee may suggest appropriate oversight or management procedures to ensure no conflict of interest or commitment or may recommend other forms of amelioration.

Each University employee must review and comply with the following University policies and procedures by promptly taking whatever steps are required to avoid, eliminate, remediate or manage real conflicts of interest, conflicts of commitment, and the appearances of such conflicts whether the conflict is personal or one encountered as part of official duties.

## II. University Policies Regarding Potential and/or Actual Conflicts of Interest and/or Commitment

### A. General Policies

- (1) Full-time academic year or calendar year University employees owe their primary professional allegiance to the University, and their primary professional commitment of time, effort, and intellectual energies should be in the education, research, scholarship, and supporting programs of the University.
- (2.) University employees must promptly disclose to the University any potential or real conflict of interest or conflict of commitment. Therefore, all University employees who engage in external activities are to disclose those activities as they



are encountered in accordance with the following guidelines. Disclosures will be reviewed as described in the Procedure for review of Conflict of Interest or Conflict of Commitment disclosures and Annual Report of Outside Activities.

- (a) Some activities are routinely, allowable without permission, with timely notice to the immediate supervisor because they are:
  - (i.) accepted practices and
  - (ii.) generally minimal in their personal financial impact and impact on the University.

Examples of such activities include: public service in community service agencies, one-time consulting activities with a duration no greater than two days and routine activities for professional organizations and associations.

- (b) Activities, which do not fit the above category, are to be reported to the employee's immediate supervisor. Disclosure reports are to be made in written form with simple statements of what is being done, for whom, and at what level of compensation (e.g., less than \$10,000). Approval is required prior to an employee engaging in any such activity.

(3.) Outside activities of University employees:

- (a) Outside professional association activities contribute to the growth of an employee in his or her field and contribute to public service. Such activities may also afford the University legitimate and desirable recognition. Therefore, University employees are encouraged to participate in outside professional association activities to an extent that does not impair their ability to fulfill their primary University obligations.
- (b) Outside consulting activities of full-time faculty will be governed by the following:
  - (i.) The maximum allowable time permitted for outside consulting activities is one day per workweek on average during the University academic-year or calendar year contract. Particular circumstances, including but not limited to teaching assignments or other scheduled University duties and/or the terms and conditions of support of University grants or contracts, will be taken into account in approving such arrangements.
  - (ii.) The responsibilities and professional activities that constitute an appropriate and primary commitment will differ across colleges, schools, departments, and disciplines, but should be based on an understanding among the employee, his/her Department Chair, Dean or administrative supervisor(s), and the Provost, and in accord with University policies.



- (iii.) University facilities and material, except in a purely trivial and incidental way, may not be used for any purpose that is unrelated to the mission of the University and neither for outside consulting nor for private gain. University students and staff must not be employed for such activities.
  - (iv.) University employees on full-time academic year or calendar year salary basis must not actively solicit or advertise for outside consulting activities without prior approval;
  - (v.) Approval for deans to engage in outside consulting shall require written approval of the Provost.
  - (vi.) The President of The University of Akron, and Vice Presidents shall obtain prior approval of the Board of Trustees for any outside consulting activities. Requests for approval for Vice Presidents shall be considered by the Board of Trustees only upon recommendation of the President. The Board of Trustees shall consider in executive session requests to engage in outside consulting activities, unless otherwise requested as provided in division (g)(1) of section 121.22 of the Revised Code;
- (4.) On April 30 each University employee will submit a report (Annual Report of Outside Activities) to her or his immediate supervisor.
  - (5.) Written disclosure to the immediate supervisor is required during the university employment contract year when additional outside consulting activities arise.
  - (6.) Failure to disclose and manage conflicts of interest and/or commitment may leave the employee open to sanctions including termination and possible legal actions.
  - (7.) Outside activities in violation of state or federal laws or regulations are subject to discipline, up to and including termination of employment by the University ["Objectivity in Research Rules, 42 C.F.R. sec. 50.601 - 50.607 and 45 C.F.R. sec. 94.1 - 94.6"; "National Science Foundation Investigator Financial Disclosure Policy, 59 Fed. Reg. 33,308 (1994) and 60 FR 35,820 (1995), 60 FR 35810, 59 FR 33308, Ohio Ethics Law chapter 102 of the Ohio Revised Code),] and subsequent additions to these.
  - (8.) No University employee may use or attempt to use his or her public position or State property, including property leased by the State, to secure or attempt to



secure anything of substantial value for his or her private gain, for private gain of his or her family members, or for any organization unrelated to the University with which the employee or the family member(s) is/are associated.

- (9.) No University employee may solicit or accept from any person or organization anything of value when it might be construed that his or her conduct of University business might be influenced thereby. Further, no University employee may accept anything of value that may substantially or improperly influence him or her with respect to his or her professional duties.
- (10.) No University employee may intentionally use or disclose confidential or proprietary University information and/or intellectual property in a way that could harm the University or result in private gain for him/herself, for his/her family member, or for any other person or organization with which the University employee is associated.
- (11.) No University employee may receive private gain arising from the sale of textbooks, courseware or other materials used in a course in which the employee is an instructor. When the employee as instructor believes that such textbook or material is appropriate for the benefit of the students, the employee must arrange either to (a) waive royalties or other type of private gain, or (b) designate the University or a recognized professional organization or honorary to receive such royalties or gain in a manner in which there will be no potential for future personal gain by the employee from this classroom use, or (c) develop a mechanism to return royalties to each individual student in the class. A proposed plan is to be submitted to the University for prior approval through the Department Chair.
- (12.) Inventions, computer software, and patent rights of University employees :
  - (a) Inventions and patent rights of University employees belong to the University unless otherwise stipulated in a specific written University patent rights agreement signed by an authorized University official delegated such authority by the University Board of Trustees. Computer software developed by University employees using or derived from University resources is the property of the University;
  - (b) Inventions or discoveries made using any University facilities or other resources belong to the University even if the inventors are not University employees, unless waived by the Board of Trustees or otherwise stipulated in a specific written University patent rights agreement signed by an authorized University official delegated such authority by the University Board of Trustees;



- (c) University intellectual property, including inventions and computer software, are managed under the Research, Copyright, and Patent Policies and Procedures. The University shares with inventors and software authors any net royalties or royalty-type income that may be gained as a direct result of licensing or attempting to license the intellectual property;
  - (d) University employees must disclose in a timely manner to the University, on appropriate forms through the Director of Research Services and Sponsored Programs, their own creation or discovery of inventions and computer software, regardless of sponsorship that used University resources;
  - (e) University employees must report the existence of inventions of any others associated with them that used any University resources;
  - (f) Discoveries and inventions resulting from a University employee's participation in sponsored research or other sponsored programs, in activities of an outside commercial enterprise, including any University employee-owned or employee-managed company, must be disclosed to the University through the Director of Research Services;
  - (g) University employees must not provide confidential or proprietary information, including information regarding inventions or other intellectual property, to a company or other entity or its agents without prior disclosure to the University and specific written permission by the University.
- (13.) The University seal, logo, trademarks, and all other University intellectual property may not be used by any person, including any University employee outside his or her scope of employment; nor by any firm, corporation, or other entity without the express written permission of the President or the President's designee.
- (14.) The University's name may not be used in advertising, or in relation to activities outside the scope of employment of the University employee, without written permission of the President or the President's designee.
- (15.) Maintaining the University as a community of scholars requires the free and open exchange of ideas and the results of scholarly activities. To this end:
- (a) Faculty and other University employees are obliged to maintain an atmosphere free from unwarranted external influences;



- (b) University students and scholars involved in research must be able to pursue topics of interest, have access to available information and facilities, and to communicate the results of their work;
  - (c) University employees with outside business or outside consulting activities must ensure that the activities of University students, staff, postdoctorals or visiting scholars, and other University employees are neither exploited nor influenced by those outside interests and activities;
  - (d) All University employees should be informed of the source(s) of funding that support their work;
- (16.) Employee pursuit of further education at the University that requires released time, budgetary adjustments, and/or in which an appearance of conflict of interest or conflict of commitment could reasonably be thought to exist requires prior approval by the employee's supervisor.
- (17.) All equipment, apparatus, museum materials, scientific collections, books, and other University property are in the immediate care of the University employees of the respective departments to which such materials belong, subject to the control of appropriate administrative authorities. University employees are expected to use good stewardship practices in use and care of University property.
- (18.) Nepotism is an impermissible conflict of interest.
  - (a) No University employee may participate, formally or informally, in the decision to hire, retain, grant tenure to, promote, determine salary of, discipline, renew, modify or terminate a family member's individual employment with the University, or to renew, modify, or terminate any other condition of employment;
  - (b) No University employee may give preferential or favored treatment in the supervision or management of another University employee who is a family member;
  - (c) No University employee may authorize or use his or her authority, formally or informally, to secure authorization of any public contract in which he or she or a family member has an interest.
- (19.) Service as an expert witness in any civil or criminal case can be undertaken only when there is no conflict of interest or conflict of commitment. Approval is required, as provided for in Number 3.



- (20.) No University employee may exploit persons such as students, supervisees, and clients over whom they have supervisory, evaluative, or other authority.
- (21.) Service as advisor or consultant or in any other capacity with a public or private agency that grants money or decides policy for grants or contracts that could adversely affect the University's eligibility to receive funds from that agency or related organizations is prohibited.
- (22.) Responsibilities of the Department Chair or equivalent are:
  - (a) to be fully aware of all University activities, outside professional association activities, and outside consulting activities and related issues involving the University employees under his/her direction;
  - (b) to act in good faith to assist the University in implementation of this policy and to aid in remediation as necessary;
  - (c) to collect, review, and maintain records for certifications and disclosures and related documents of his or her department or school;
  - (d) to convey promptly to the Dean or administrative supervisor his/her concerns or those raised by others related to matters covered by this policy;
  - (e) to review and forward to the Dean and Senior Research Officer with his or her comments any case that appears to have a potential conflict of interest or conflict of commitment or is otherwise required to be forwarded. Such comments should include actions recommended by the Chair to manage or remediate the conflict(s).
- (23.) Responsibilities of the Dean or other administrative supervisor are:
  - (a) to be fully aware of all University activities, outside professional association activities, and outside consulting activities and related issues involving the University employees under his/her direction;
  - (b) to act in good faith to assist the University in implementation of this policy and to aid in remediation as necessary;
  - (c) to be aware of and maintain a record of all University activities, outside professional association activities, and outside consulting activities and related issues of University employees in his or her college or division;



- (d) to convey promptly to the appropriate vice president his/her concerns or those raised by others related to matters covered by this policy;
- (e) to review and forward with his or her comments to the appropriate vice president any case that appears to have a potential conflict of interest or conflict of commitment or is otherwise required to be forwarded. Such comments are to include actions recommended by the Dean or administrative supervisor to manage or remediate any and all conflict(s).

**B. Conflicts Regarding Research Projects**

- (1.) University employees who wish to propose or are involved in sponsored research or other sponsored programs must follow all University policies, procedures, and obligations related to proposing, managing, reporting of results, and other aspects of such projects.
- (2.) University employees must not independently submit or negotiate proposals or contracts for any externally sponsored research or other sponsored programs. Proposals, and any subsequent negotiations, awards, other agreements, or changes are to be processed through and require the prior written authorization of the University at the appropriate level through the Director of Research Services and Sponsored Programs;
- (3.) All University employee proposals for sponsored research or other programs at other institutions must be approved by submission date through the Office of Research Services and Sponsored Programs.
- (4.) Investigators must disclose to the University's Director of Research Services and Sponsored Programs and through that Director to the external sponsor potential conflicts of interest that are not financial. Such disclosures must be made prior to the submission of a proposal for funding. If a new conflict of interest arises at any time during the period after submission of the proposal through the period of the award, the filing of a disclosure and immediate action toward remediation is required. Each investigator must disclose all significant financial interests and any other potential conflicts of interest:
  - (i.) that would reasonably appear to directly and significantly affect the research or educational activities funded, or proposed for funding, by an



external sponsor; or

- (ii.) in entities whose financial interests would reasonably appear to be directly and significantly affected by such activities.
- (5.) A University employee must inform students and other workers engaged in research or other sponsored programs to be conducted under his or her supervision of details about the project and policies and procedures that are needed to perform his/her role.
- (6.) It is the responsibility of each University employee promptly to disclose to the college dean any situation or proposal in which the objectivity of a University employee or participant in a research project could reasonably be questioned.

### C. Conflicts Involving University Contracts

- (1.) University employees are prohibited from negotiating or entering into contracts or other agreements that appear or purport to involve the University, unless such actions are a part of their official duties to the University within the scope of their employment and for which they have been specifically delegated in writing by the Board of Trustees and President such signatory authority to commit the University contractually;
- (2.) University employees are prohibited from knowingly using their University employment to secure authorization of a contract with the University in which the faculty member, family member or business associate has an interest. Therefore, it is the duty of each University employee to disclose promptly any such proposed contract, lease, or similar relationship or agreement to the University through the Department Chair.

### III. University Principles for the Conduct of Research and Sponsored Programs

The University is obliged to avoid institutional conflicts of interest and to maintain legal and ethical relationships with all of its sponsors and contractual partners. These principles provide the basis for agreements in research and sponsored programs.

- (1) The University shall deal legally and ethically with external sponsors of research and sponsored programs in ways that avoid institutional conflicts of interest. The same is expected of project personnel and sponsors.
- (2) The University shall not enter into agreements contrary to its *mission*.



- (3) The University will not accept an award for a project that is unacceptable to the principal investigator. Once the University accepts an award, all parties are expected to act dutifully and in good faith to fulfill their respective obligations under that agreement.
- (4) In the case of research sponsored by commercial enterprises, the University shall retain the right to use all data from research and other sponsored programs for further research and educational purposes, and to publish results in scholarly publications in accord with University policies. A delay of no more than one year may be mutually agreed upon.
- (5) Publication restrictions that prohibit submission to the University Graduate School of student theses or dissertations related to sponsored research projects can inhibit academic progress and graduation of participating students, and they are, therefore, not acceptable. To restrict from public access for up to one year a written request must be submitted to the Dean of the Graduate School along with the final draft. The Dean of the Graduate School shall then forward all copies of the thesis or dissertation to the University Archivist with a request to withhold it from public access and the open library shelves for up to one year.
- (6) In all cases, and at a minimum, the University shall retain a perpetual, irrevocable, royalty-free right to practice and use patents, copyrights, all other intellectual property, information and/or materials resulting from or related to any sponsored project for research, testing, and educational purposes only.
- (7) The University shall not enter into activities or agreements that could jeopardize its nonprofit tax-exempt status or conflict with its required State of Ohio or federal cost principles and/or accounting methods, including OMB Circular A-21 federal cost principles for educational institutions and related administrative or subsequent applicable governing regulations;
- (8) The University shall not enter into activities or agreements that could jeopardize its eligibility to receive federal or State funds;
- (9) The University shall not enter into contracts that are not to be governed or construed under Ohio law;
- (10) The University shall not accept contractual terms that require the University to indemnify or hold harmless other parties;
- (11) Title to intellectual property rights resulting from sponsored projects is to vest with the University. Any transfer of these rights to non-governmental entities is subject to specific approval by the Board of Trustees of the University. An option or a license may be negotiated in good faith and under reasonable terms



and rates to share rights through a license with the sponsor, on a non-exclusive, exclusive-by-field-of-use, or similarly limited basis;

- (12) The University shall not enter into agreements in which the names of the parties cannot be revealed.
- (13) The University shall not make any warranties, express or implied, including but not limited to, implied warranties of merchantability and fitness for a particular purpose.
- (14) The University prohibits use of its name or marks or intellectual property by another without its specific prior written permission.
- (15) The University shall take title to all equipment and supplies acquired under any sponsored agreement, unless covered under a specific and separate written agreement executed by an authorized representative of the University and that sponsor.
- (16) The University routinely utilizes the personal services of University employees, visiting professionals, students and others who may not be United States citizens or permanent resident aliens of the USA. Sponsoring or collaborating agencies must assume responsibility for compliance and/or waivers, before entering into any agreement with the University, under the Federal Export Administration Regulations, International Traffic in Arms Regulations, and/or similar or subsequent regulations concerning participation in research by or dissemination of data to foreign nationals.

#### IV. Procedures Regarding Outside Activities and Potential Conflicts of Interest and Commitment

##### A. Procedure for annual disclosure of outside activities

- (1.) All University employees are to disclose annually involvement in outside activities by completing the Annual Report of Outside Activities on or before the thirtieth of April. Reports from academic employees disclosing outside activities will be reviewed successively by administrators including the Senior Research Officer. Reports from non-academic employees will be reviewed successively by administrators up to and including the appropriate vice president. Potential conflicts of interest and commitment will be managed, reduced or eliminated through the Procedure for resolution of Conflicts of Interest and Conflicts of Commitment (see IV. C. below). Copies of all reports will be kept on file in the Office of General Counsel.
- (2.) Outside activity reports shall be filed as follows:



- (a) Members of the Board of Trustees shall submit annual financial reports to the State of Ohio.
  - (b) The President shall submit an annual financial statement to the State of Ohio.
  - (c) Vice Presidents shall submit the Annual Report of Outside Activities to the President.
  - (d) Deans shall submit the Annual Report of Outside Activities to the Provost.
  - (e) Department chairs shall submit the Annual Report of Outside Activities to the appropriate academic dean.
  - (f) Faculty members and other employees of academic units shall submit the Annual Report of Outside Activities to the department chair.
  - (g) Non-academic employees shall submit the Annual Report of Outside Activities to their supervisor.
- (3.) In completing the Annual Report of Outside Activities, the employee is expected to:
- (a) Certify compliance with all policies related to ethical conduct, including the conflict of interest and conflict of commitment policy.
  - (b) Disclose the nature and extent of outside consulting activities and financial interests in outside organizations and which of those outside organizations also support his/her University research or other programs.
  - (c) Disclose outside consulting activities and other compensated outside activities with organizations other than professional societies related to the University employee's fields of academic interest or specialization and whether compensation exceeds \$10,000 per year from that entity;
  - (d) Disclose private remunerative relationships or significant financial interest of the University employee, the employee's family member(s), and/or the employee's business associate(s) with sponsors of University research projects or other sponsored programs, contractual partners, or vendors of the University;
  - (e) Disclose aggregated equity interest exceeding \$10,000 and 5 percent in any single entity by the employee and the employee's family members;



(f) Disclose management roles or control in outside organizations where management refers to persons having traditional titles and also persons without formal titles who may be members of management;

(g) Disclose employment, outside consulting activities and/or financial interests of family members in organizations, that support his/her University activities;

- (4.) University student assistant employees on hourly pay appointments must comply with the University's ethical employee conduct, conflict of interest, and related policies, but are exempt from submitting the Annual Report of Outside Activities. Any questions or concerns of University student assistants on these matters regarding their own conduct or potential conflicts should be referred to their Department Chair.

**B. Procedure for Review of Conflict of Interest or Conflict of Commitment Disclosures and the Annual Report of Outside Activities**

- (1.) An employee contemplating an activity that might produce a conflict of interest or conflict of commitment should disclose it in writing with pertinent details to her/his immediate supervisor and request approval. An example of such an activity might be a proposed consulting arrangement with a company sponsoring his or her research. If the review procedure reveals no conflict, the Senior Research Officer or General Counsel, as appropriate, will so notify the employee and supervisors.
- (2.) Disclosures will be considered first by the immediate supervisor for possible conflict of interest or conflict of commitment with review by succeeding levels of supervision as described below. If a conflict is considered to exist, it will be resolved by the Procedure for Resolution of Conflicts of Interest and Conflicts of Commitment.
- (3.) For employees in non-academic units, the order of review is the immediate supervisor, foreman, department manager, etc., the highest official below the President, and the General Counsel.
- (4.) For employees in academic units, the order of review is the department chair, academic dean, and Senior Research Officer.

**C. Procedures for Resolution of Conflicts of Interest and Conflicts of Commitment**

- (1.) A memorandum of understanding signed by the employee and an authorized



University official is the mechanism for resolution of conflicts of interest and conflicts of commitment. For academic employees, the authorized University official is the Senior Research Officer. For non-academic employees, the authorized official is the General Counsel.

- (2.) A memorandum of understanding to resolve a conflict may be drafted by any administrator in the supervisory chain of the employee for whom a conflict may exist or who desires to know how to avoid a conflict situation. The memorandum of understanding must receive the approval of each successive supervisory level and be signed by both the authorized University official and the employee.
- (3.) If a conflict reaches the office of the Senior Research Officer unresolved, it is referred to the Compliance Committee for a recommendation for resolution and, in consultation with the employee and any others as necessary, preparation of a draft memo of understanding for signatures.
- (4.) The Compliance Committee is a standing committee reporting to the Senior Research Officer and is comprised of three vice presidents or their designated compliance officers, two faculty members and a staff member to be appointed by the Executive Committee of the Faculty Senate. It considers conflict situations that require management or oversight and recommends same to the Senior Research Officer. It also investigates reports of alleged conflict of commitment and conflict of interest. The Provost will designate compliance officers for any area not reporting to a vice president.
- (5.) The procedure for consideration by the Compliance Committee is as follows:
  - (a) The Senior Research Officer or the Compliance Committee collects relevant documentary materials, and thereafter, in a timely manner, meets with all relevant individuals;
  - (b) After consultation with the Office of General Counsel and any others, the Senior Research Officer may, with approval of the President, refer a matter to the Ohio Ethics Commission for a determination of whether a conflict does or could exist;
  - (c) The Senior Research Officer gives the results of any review comments from the Ohio Ethics Commission or other appropriate body in writing to the party with the real or potential conflict and to other responsible University administrators as the Senior Research Officer deems appropriate.
  - (d) The Compliance Committee develops a memorandum of understanding to



with the real or potential conflict and to other responsible University administrators as the Senior Research Officer deems appropriate.

- (d) The Compliance Committee develops a memorandum of understanding to resolve or manage the conflict in a manner acceptable to both the employee and the University.
- (e) If an acceptable resolution or management formula cannot be found, the Compliance Committee may recommend that the activity that produces the conflict be disallowed.
- (f) The Senior Research Officer submits to the Provost or appropriate vice president a summary of any case examined by the Compliance Committee and a copy of the signed memorandum of understanding that resolves or manages the conflict.

#### D. Procedure for Investigation of Alleged Conflict of Interest or Conflict of Commitment

- (1.) Investigations of allegations of conflict of commitment or conflict of *interest* are carried out by the Senior Research Officer or designee, the Compliance Committee or a subcommittee thereof under oversight of the Senior Research Officer or designee.
  - (a) An investigation is initiated by a written complaint submitted to the Senior Research Officer; however, the Senior Research Officer, Provost, President, or Board of Trustees may initiate an investigation without a written complaint when, in their judgment, there is sufficient concern to warrant investigation.
  - (b) The Senior Research Officer takes appropriate interim actions to protect government funds and assure that the purposes of any governmental financial assistance are being carried out during the review process;
  - (c) The Compliance Committee meets with both the complainant(s) and the subject(s) thereof. Subject(s) of the allegations are told the nature of such allegations and are given full opportunity to respond and to cooperate. They are encouraged to supply any documentary information supportive of their position and are given a reasonable time within which to do so. They are encouraged to supply the names of any individuals or entities that could supply information helpful to their position or to the full and complete investigation of the matter. The subject of the complaint is permitted to be accompanied by private legal counsel whose role is limited to observation and advising his or her client in responding to questions. The subject of the investigation is responsible for all fees or expenses in his/her defense of



allegations;

- (d) The Compliance Committee interviews identified witness(es) and any and all documentation that might have a bearing on the outcome of the investigation is reviewed. Any witnesses so contacted shall keep their statements and involvement strictly confidential;
  - (e) The Senior Research Officer reports to appropriate federal or state agencies and University officials in accordance with federal and State requirements;
  - (f) The Senior Research Officer makes a report to the Provost with a recommendation for any further action.
- (2.) If a University employee is found to have intentionally violated University policy or the terms of a memorandum of understanding or other terms that were required by the University in order to manage or eliminate a potential conflict of interest or conflict of commitment, the Provost, in consultation with the Senior Research Officer, the Dean or administrative supervisor and General Counsel, and other persons the Provost may deem appropriate, may recommend to the President one or more of the following disciplinary sanctions , for action by the University Board of Trustees:
- (a) formal reprimand;
  - (b) suspension from the University for a definite period;
  - (c) dismissal from the University;
  - (d) other remedial, corrective, or other action deemed appropriate.
- (3.) Illegal acts under this policy may also be subject to prosecution by state and/or federal authorities separate from any University disciplinary sanctions.
- (4.) If it becomes apparent during the course of any review, inquiry, or investigation that there are illegal issues and/or that the conduct indicated or complained of may be criminal in nature, the University's General Counsel shall be immediately notified and provided all information and documentation gathered during the investigatory process to date. The decision of how the investigation should proceed, whether the investigation is taken over by the General Counsel, or whether outside authorities, including police or other law enforcement agencies, should be notified and involved, shall be determined by the General Counsel. Notice shall be given to the accused employee of any outside authorities being notified and involved. Criminal investigations, when necessary, take precedence



over normal University academic or advisory reviews. Sequencing of all other reviews, which may be needed, shall be coordinated among the Senior Research Officer, Provost, General Counsel, and President.

- (5.) A University employee may appeal an adverse decision and/or disciplinary sanctions in writing to the President, with a copy to the Provost, within fifteen days of receipt of the notice of the decision. The President may consider the appealed case in consultation with the Compliance Committee; Chair, Dean or administrative supervisor, Senior Research Officer, and/or Provost, as he or she deems appropriate; and with the General Counsel. The President provides a decision on the appeal to the employee appealing, with copy to the Provost and General Counsel.
- (6.) Subject to the approval of the Board of Trustees, the decision of the President is final.
- (7.) In cases of an allegation/accusation of wrongdoing, if as a result of this investigation the allegations are found without merit, the matter is expunged from all personnel records of the subject of the investigation, and the allegation/accusation files is sealed and delivered to the custody of the office of General Counsel. The University reports promptly to those involved the allegations that prove to be unsubstantiated.
- (8.) At the conclusion of the proceedings, the University reports promptly to those involved the allegations that are substantiated.
- (9.) If a violation of this policy involves a collateral proceeding under University policies regarding scholarly misconduct, then the Provost defers a final decision on sanctions until the scholarly misconduct inquiry and/or investigation is completed.
- (10.) The detailed documentation of any allegation/accusation, investigation, and determination shall be maintained by the office of General Counsel of the University for at least three years.
- (11.) Departmental, college, committee, and other University records are to be retained under suitable confidentiality and may not be destroyed without the permission of the University's General Counsel and the University Archivist.
- (12.) Guidelines for whistleblowers are identical to those in V, paragraph B (16).



V. Policies and Procedures Governing Scholarly Misconduct

A. Policies Concerning Scholarly Misconduct.

- (1.) The University of Akron upholds academic principles including freedom of inquiry and the scientific method in the conduct of research, and is unequivocally committed to the ethical conduct of all research by its personnel and students. Scholarly misconduct is harmful to the University's mission and cannot be tolerated.
- (2.) Scholarly misconduct is grounds for disciplinary action up to and including dismissal of the employee, student, or visiting scholar from the University.
- (3.) The intent of investigations is to seek to ensure the integrity of research and publication, the rights and interests of research subjects and the public, and the observance of legal requirements. Any adverse findings may be used as the basis for University disciplinary action.

B. Inquiry and investigation procedures for scholarly misconduct

- (1.) All reports of scholarly misconduct are evaluated under the direction of the Senior Research Officer. Reports of alleged scholarly misconduct are considered when submitted in writing to the Senior Research Officer. However, the Senior Research Officer, Provost, President, or Board of Trustees may initiate an investigation unilaterally and without a written allegation when, in their judgment, there is sufficient concern to warrant it.
- (2.) The Senior Research Officer forms an impartial Inquiry Committee of at least five individuals to investigate the allegations. If the respondent is a faculty member, student, or other academic unit employee, the Inquiry Committee will include two full-time faculty members from the college of primary appointment of the subject of the inquiry and one full-time faculty member from each of three different colleges or universities. If the respondent is not a faculty member, student, or academic unit employee or assignee, the Inquiry Committee will include one member selected by the vice president to whom the subject of the inquiry reports, one member selected by the Senior Research Officer, and three member selected by the Executive Committee of the Faculty Senate.

The Senior Research Officer selects the committee chair, who must be from a unit other than that of the respondent.

The Office of the General Counsel advises the Inquiry Committee.



The members of the Inquiry Committee must have no apparent or potential conflicts of interest with regard to the alleged misconduct, and the necessary background to determine if there is/has been scholarly misconduct. If issues regarding protection of human subjects, ethical animal care and use, radiation safety, biohazards, and/or campus safety are part of the allegations or arise as part of the inquiry regarding the alleged scholarly misconduct, the Inquiry Committee seeks the assistance and advice of the appropriate University compliance committee. Upon request of the Inquiry Committee or at the Senior Research Officer's discretion, a member of each appropriate compliance committee may be added to of the Inquiry Committee.

The respondent may object to the appointment of any individual member of the Inquiry Committee by submitting that objection and the reason for it in writing to the Senior Research Officer. If the member who is challenged is appointed by the Executive Committee of the Faculty Senate, then the Senior Research Officer must seek the approval of the Executive Committee of the Faculty Senate to remove that member. If the member who is challenged is appointed by the vice president, then the Senior Research Officer must seek the approval of the vice president to remove that member.

- (3.) The Inquiry Committee investigates the allegations and prepares a written report for the Senior Research Officer.
- (4.) The following procedural guidelines apply to the conduct of this inquiry:
  - (a) the Senior Research Officer writes a letter to the respondent informing him/her of the nature and substance of the allegation in writing;
  - (b) the Inquiry Committee conducts private and separate fact-finding interviews with the person alleging misconduct, the respondent, and others as appropriate. The respondent may be accompanied by private legal counsel provided that the role of such legal counsel is limited to observation and advising his or her client on responding to questions. The respondent is responsible for all fees or expenses in his/her defense of allegations with merit, otherwise the University pays all documented expenses.
  - (c) within sixty calendar days from receipt of the allegation unless circumstances warrant a longer period, and after assembly, review, and discussion of the factual information, the Inquiry Committee submits a report to the Senior Research Officer with one of two recommendations:
    - (i.) the allegations are without merit and the matter should be expunged from all personnel records of the accused subject of the inquiry, and



the file sealed and delivered to the custody of the office of General Counsel;

- (ii.) the allegations have sufficient substance to warrant an Investigation, and formal charges of misconduct.
- (d) The written report of the Inquiry Committee states what evidence was reviewed, summarizes relevant interviews, and the conclusion of the inquiry including the detailed reasoning supporting the conclusion;
- (e) If the inquiry takes longer than sixty days to complete, the record of the inquiry must document the reasons for exceeding the sixty-day period.
- (5.) The Senior Research Officer provides a copy of the report of the Inquiry committee to both the respondent and the person alleging misconduct, both of whom have the right to provide comments on the proceedings in a timely manner, and their comments are made part of the records;
- (6.) The Senior Research Officer reviews the recommendation(s) of the Inquiry Committee and provides written notification of his/her concurrence or disagreement with their finding. If the Inquiry Committee finds the allegations are without merit and the Senior Research Officer concurs, the inquiry is concluded, the matter is expunged from all personnel records of the respondent, and the file is sealed and delivered into the custody of the Office of General Counsel.
- (7.) If either the Inquiry Committee or the Senior Research Officer deems that further Investigation or action is warranted, the Senior Research Officer informs the Provost and initiates an Investigation.
- (8.) The Investigation is conducted under the following guidelines:
  - (a) The Senior Research Officer and the Executive Committee of the Faculty Senate jointly appoint an Investigation Committee consisting of at least three tenured full professors. If a member who is challenged is appointed by the Executive Committee of the Faculty Senate, then the Senior Research Officer must seek the approval of the Executive Committee of the Faculty Senate to remove that member.

The respondent may object to individual members of the Investigation Committee by submitting that objection and the reason for it in writing to the Senior Research Officer.



- (b) The Senior Research Officer provides written notice to the respondent reasonably detailing any charges of misconduct, disclosing the general nature of evidence supporting such misconduct, and informing her/him of the right to a hearing, the right to confront and cross-examine adverse witnesses, the opportunity to be heard in person and to present witnesses and documentary evidence, and the right to have legal counsel at his/her expense. If disciplinary sanctions are not applied, the University pays all documented expenses.
- (c) The formal investigation must begin within thirty days from the completion of the initial inquiry;
- (d) The Senior Research Officer or designee takes appropriate administrative actions to protect federal funds and ensure that the purposes of any federal financial assistance are being carried out. In addition, if there is any involvement of a federal grant or contract, the Senior Research Officer or designee reports immediately to the Office of Research Integrity, located within the National Institutes of Health of the Public Health Service, or to any Inspector(s) General that may be required, that an Investigation will be conducted;
- (e) The respondent may have private legal counsel, but the role of the subject of the investigation's legal counsel is limited in the same manner as in the initial inquiry;
- (f) The Investigation Committee informs the Senior Research Officer, who promptly notifies the Federal Office of Research Integrity or appropriate Inspector General, if necessary, of:
  - (i.) any reasonable indication of possible criminal violation;
  - (ii.) any developments during the Investigation that disclose facts that may affect current or potential federal funding for the individual(s) under Investigation or facts that the federal agency needs to know to ensure appropriate use of federal funds and otherwise protect the public interest;
- (g) In executive session the Investigation Committee seeks, examines, and evaluates all relevant facts, including but not limited to the charges, considers any written responses to the charges by the subject of the investigation, reports by experts, advice of consultants, meets with both the subject of the investigation and the person who made the complaint, etc. However, the



respondent has the right to request a public hearing or a private hearing before the committee at which time the subject of the investigation has the right to present any explanation or rebuttal, to question any person alleging misconduct, and to question the committee;

- (h) Within ninety calendar days of the start of the Investigation the Inquiry Committee issues a full report to the Senior Research Officer documenting the formal Investigation process and findings. If there is no evidentiary hearing, the report details the examinations and explanation of the information relied upon for discussion. If necessary, the Senior Research Officer or designee forwards a copy of this report within thirty calendar days of receipt by the Senior Research Officer to the federal Office of Research Integrity or any relevant Inspector General.
- (9.) For allegations substantiated by the formal investigation, the Senior Research Officer informs appropriate funding agencies of the allegations and findings regarding the scholarly misconduct;
- (10.) The Senior Research Officer reports the findings and recommends further action to the Provost;
- (11.) The Provost may recommend to the President one or more of the following disciplinary sanctions, for action by the University Board of Trustees:
  - (a) formal reprimand;
  - (b) suspension from the University for a definite period;
  - (c) dismissal from the University;
  - (d) other remedial, corrective, or other action that is deemed appropriate.
- (12.) Illegal acts may also be subject to prosecution by state and/or federal authorities;
- (13.) A University employee may appeal a negative decision and/or disciplinary sanctions in writing to the President, with a copy to the Provost, within fifteen days of receipt of the notice of the decision. The President may consider the case in consultation with the Investigation Committee, Senior Research Officer, Provost, Chair, Dean or administrative supervisor, as he/she deems appropriate; and with the General Counsel. The President provides a decision on the appeal to the subject of the investigation, with copy to the Provost, Senior Research Officer, and the General Counsel, within 30 days of receiving the appeal;



- (14.) Subject to the approval of the Board of Trustees, the decision of the President is final;
- (15.) If as a result of this Investigation the allegations are found without merit:
  - (a) The matter is expunged from all current personnel records of the respondent, and the accusation file is sealed and delivered to the custody of the office of General Counsel.
  - (b) The University reports promptly to those involved the allegations that prove to be unsubstantiated and those allegations that are substantiated.
  - (c) If it becomes apparent during the course of any review, inquiry, or Investigation that there are legal issues and/or that the conduct indicated or complained of may be criminal in nature, the University's General Counsel shall be immediately notified and provided all information and documentation gathered during the investigatory process to date. The decision of how the Investigation shall proceed is determined by the General Counsel. Criminal Investigations take precedence over normal University academic or advisory reviews. Sequencing of any other reviews are coordinated among the Senior Research Officer, Provost, General Counsel, and President. Notice shall be given to the accused employee of any outside authorities being notified.
  - (d) If a violation of this policy involves a collateral proceeding under University policies regarding a conflict of interest or conflict of commitment, then the Senior Research Officer institutes the conflict of interest and/or conflict of commitment investigation(s), but the Provost defers a final decision or sanctions on that matter until the scholarly misconduct inquiry and/or Investigation procedure is completed.
  - (e) The detailed documentation of any allegation, accusation, inquiry, Investigation, and determination are to be maintained by the office of General Counsel of the University for at least three years from the date of determination, date of acceptance of a final report if any from the federal Office of Research Integrity and/or any Inspector(s) General involved, or at least three years from the termination of any related grant or contract, whichever date is later.
  - (f) Departmental, college, committee, and other University records may not be destroyed without the permission of the University's General Counsel and the University Archivist.



- (16.) A whistleblower who raises or wishes to raise an allegation against a University employee of scholarly or scientific misconduct or related wrongdoing must respect the confidentiality of sensitive information and give legitimate institutional structures an opportunity to function in resolution of the matter. Whistleblowers and other witnesses have responsibility to raise their concerns honorably and only with foundation. The University has a duty to undertake review and actions as appropriate and not to tolerate or engage in retaliation against good-faith whistleblowers. This duty includes providing appropriate and timely relief to ameliorate the consequences of actual or threatened reprisals, and holding accountable those who retaliate. Retaliation against a whistleblower is scientific misconduct. Although a whistleblower enjoys a privilege to report allegations of misconduct, the Office of Research Integrity states (Position paper #1, *The Whistleblower's Conditional Privilege to Report Allegations of Scientific Misconduct*, 1993) that abuse of the privilege may leave the Whistleblower liable for defamation.

## VI. Definitions

- (1.) Business Associate: Any person or entity linked with the employee in business contracts, partnerships, firms, enterprises, franchises, trusts, joint ventures, finances, real estate, or in other legal entities or agreements. This includes a person or entity that, directly or indirectly, through one or more intermediaries *controls*, is controlled by, or is under common control of a business associate.
- (2.) Compensation: Money, financial benefit or things of value. *Compensation* does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.
- (3.) Conflict of Commitment: A real or apparent competition of *outside activities* with a University employee's time, energy, intellectual commitment, and/or ability to fulfill his or her specific and primary duties to the University *mission*, such that an independent observer might reasonably question whether the employee's professional actions or decisions are or will be adversely affected by the competing *outside activities* and interests to the detriment of the University and its mission.
- (4.) Conflict of Interest: A real or apparent divergence between a University employee's private interests and his or her professional obligations to the University, such that an independent observer might reasonably question whether the individual's professional actions or decisions are or could be determined by



considerations of private gain rather than by potential benefit to the University mission.

- (5.) Control: The possession of the ability to direct or cause the direction of the management and policies of an entity through ownership, by contract, or otherwise.
- (6.) Family Member: According to the Ohio Revised Code Section 2921.42, the term for the purposes of defining nepotism includes: (1) grandparents; (2) parents; (3) spouse; (4) children, whether dependent or not; (5) grandchildren; (6) brothers and sisters; or (7) a person related by blood or marriage residing in the same household.
- (7.) Financial Interest: Anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stock options or other ownership interests); intellectual property rights (e.g., patents, copyrights, trademarks, trade secrets and royalties from such rights); and any other interest that an employee has in a business enterprise outside the University.
- (8.) Intellectual Property: An all-encompassing term now widely used to designate as a group at least all of the following: patents or patentable inventions, trademarks, copyrights, trade secrets, and the rights of publicity.
- (9.) Invention: A discovery or development that may be patentable (novel, useful, and non-obvious), and certain types of computer software.
- (10.) Investigator: A principal investigator, project director, co-investigator, or any other person at the University who is responsible for the design, conduct, or reporting of research or educational activities funded or proposed for funding by an external sponsor. In cases involving significant financial interest and other conflicts of interest, the investigator also includes the family members of the investigator.
- (11.) License: A permission to use a right to intellectual property under defined conditions.
- (12.) Mission: The University's mission including teaching; research, scholarly, and creative activities; and community and public service.
- (13.) Outside Activities: Outside professional association activities and consulting activities.



- (14.) **Outside Business:** Any commercial endeavor in which the University employee is engaged as an owner or employee.
- (15.) **Outside Consulting Activities:** Activities of University employees, other than their employment obligations to the University, performed for compensation. These do not include outside professional association activities.
- (16.) **Outside Professional Association Activities:** Uncompensated activities such as those involving recognized professional associations and societies or scholarly or advisory bodies related to academic work or disciplines; serving on public commissions or boards of philanthropic organizations; presenting guest lectures or scholarly papers at academic or professional conferences; leading or participating in seminars, workshops, or short courses sponsored by academic, government, or nonprofit organizations; serving on review panels or accreditation teams; visiting colleagues or model programs at other universities or public or nonprofit institutions. Such uncompensated activities are not considered outside consulting activities.
- (17.) **Private Gain:** Acquiring something of value, profiting, receiving payment, or otherwise receiving some form of personal financial or material increase or compensation for self or family member(s).
- (18.) **Provost:** The Senior Vice President and Provost.
- (19.) **Related party transaction:** A transaction among the University and business associates or family members of the employee in which the employee can directly or indirectly control or influence one of the entities from independently pursuing its own separate interests.
- (20.) **Scholarly Misconduct:** Academic and/or scientific misconduct broadly construed to encompass misconduct in the physical sciences, natural sciences, health sciences, social sciences, humanities, professions, fine arts, applied arts, in artistic expression and in all other academic fields within the University. Terms and categories of misconduct have those meanings and interpretations reflected in their common usage and understanding in an academic and research community. Scholarly misconduct is intended to include within it but not limited to the definitions of the American Association of Universities' broad categories of classification of scientific misconduct and the federal definitions as published by the National Institutes of Health of the U. S. Public Health Service, U. S. Department of Health and Human Services, and of the National Science Foundation, as amended. Scholarly misconduct includes:



- (a) Plagiarism;
  - (b) Falsification of discovery;
  - (c) Theft of another's discoveries, scholarly work, or creations;
  - (d) Violation of accepted scientific procedures in making discoveries;
  - (e) Falsification of data;
  - (f) Abuse of confidentiality;
  - (g) Deliberate violation of regulations applicable to research;
  - (h) Practices that seriously deviate from those that are commonly accepted within the scientific or academic community or discipline for proposing, conducting, or reporting research (not including honest error or honest differences in interpretations or judgments of data) or in publication;
  - (i) Material failure to comply with federal requirements, including protection of researchers, human subjects, and the public; and/or to ensure the welfare and ethical care and use of laboratory animals;
  - (j) Failure to meet other material legal requirements governing research or sponsored programs.
- (20.) Scientific Misconduct: An element of scholarly misconduct involving the sciences.
- (21.) Senior Research Officer: The University administrator named by the University to represent the University at the Ohio Board of Regents as chief Research Officer.
- (22.) Significant Financial Interest: A financial interest beyond the following:
- (a) Royalties or royalty-type income/remuneration from the University itself;
  - (b) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  - (c) Income from service on advisory committees or review panels for public or nonprofit entities;



- (d) An equity interest that, when aggregated for the employee and the employee's family members, meets both of the following tests: It does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent (5%) ownership interest in any single entity;
- (e) Salary, royalties, or other payments that, when aggregated for the employee and the employee's family members, do not exceed \$10,000.

(23.) State: State of Ohio.

(24.) Technology Transfer: Conveyance from one party to another of knowledge, methods and/or materials used to apply science, especially to industrial or commercial objectives; and/or conveyance of intellectual property, whether through license or otherwise.

(25.) University: The University of Akron.

Whistleblower: A University employee or student who refuses to engage in and/or reports illegal or wrongful activities of the University and/or its employees.



