

Ethical Principles and Code of Conduct Opinion

Opinion Number: 1003-12

Issued: April 8, 2012

Issue

Whether or not the dean of a college may restrict a faculty employee who works off site from consulting during the limited times the faculty employee is on campus?

Facts

Dr. Scott McLeod received an appointment as an Associate Professor with tenure in the Regular Title Series in the Department of Education Leadership Studies in the College of Education. He began his employment on August 16, 2011. Dean Mary John O'Hair of the College of Education approved Dr. McLeod's proposal to be a "remote worker." Pursuant to that agreement, Dr. McLeod must visit Lexington or other locations on behalf of the COE at least once a month for three to five days per visit. Dr. McLeod's consulting business is CASTLE. At issue is whether or not Dean O'Hair may restrict Dr. McLeod's CASTLE consulting when he visits Kentucky once each month.

Applicable Regulations

Administrative Regulation 3:9 Consulting and Other Overload Employment

In recognizing that University faculty may "...transfer knowledge from the University into the general community", AR 3:9 notes that faculty employees may perform "...limited consulting activity." The regulation states that "...consulting activities...should not interfere with the fundamental responsibility of a faculty member to meet regularly assigned duties and obligations to teaching, research and service, including being regularly available to students and colleagues, which are normally expected of a full-time faculty member and for which the faculty member receives compensation from the University." The Regulation further provides that the "...dean...has the authority to limit external consulting...to less than the maximum extent when such limitation is necessary to meet the college's commitments to instruction, research, and service."

Under heading B. Approval Procedure, the regulation continues, "The variety of outside consulting...demand a standard procedure for review and approval....When desiring to engage in such activities, a faculty member must make a formal proposal in writing to the concerned department or division chairperson using a copy of Form F....Since approval shall not be granted for blanket authorization to consult..., a proposal should be specific. Such a proposal shall indicate the nature of the work to be performed, the estimated amount of time involved, the duration of the assignment, and the scale of compensation if any." Procedurally, the department chair's recommendation is forwarded to the dean whose recommendation is forwarded to the Provost.

Discussion and Recommendations

Based on the facts and Administrative Regulation 3:9, the Ethics Committee believes that the Dean may inform the faculty employee in advance that she does not plan to approve any consulting services during normal faculty hours during the three to five days per month that the faculty employee is in Kentucky. If

the Dean believes that the limited amount of the faculty employee's time in Kentucky must be committed totally to the mission of the College, it is reasonable to notify the faculty employee of this belief in advance instead of rejecting proposals when they arrive. Of course, if the faculty employee stays longer than the required three to five days or stays through a weekend, the faculty employee could submit a proposal for consulting during the extra days, after hours, or weekend time.

Members of the Ethics Committee

Dr. Jeannine Blackwell, Dean, The Graduate School

Dr. Jeff Bieber, Professor, College of Education and University Senate Representative

David Melanson, Public Relations Office & Staff Senate Representative

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