

Office of Internal Audit



Program Review

**GUIDELINES FOR OUTSIDE ACTIVITIES
REPORTING**

March 2000

SCOPE OF REVIEW

The Office of Internal Audit reviewed UW System compliance with the outside activity and interest reporting requirement. The reporting requirement is outlined in s. 8.025 UWS, Wis. Adm. Code, “Guidelines for Reporting Outside Activities”. The primary focus of the review was to determine the extent to which institutions have implemented the requirement that faculty and unclassified staff annually report certain outside activities and interests.

We reviewed outside activity reporting policies and procedures at all University of Wisconsin (UW) System institutions, including the UW Colleges and UW System Administration. We made site visits to campuses at Madison, Milwaukee, Eau Claire, Platteville, Stevens Point, and Whitewater. We sent questionnaires to chancellors and deans at the remaining four-year campuses and examined some of the annual reporting forms from those institutions. We also reviewed forms from the UW Colleges and interviewed administrators at UW Extension and UW System Administration.

BACKGROUND

Sections 19.45(11)(b) and 36.23, Wis. Stats., mandate that the Board of Regents establish a code of ethics for unclassified staff employed by the University of Wisconsin System. The Board of Regents established the outside activities and interest reporting requirement as part of the code of ethics, which is outlined in Chapter 8 of the UW System administrative code.

The purpose of the reporting requirement is to help administrators manage and prevent potential conflicts of interest that might result from the outside activities of faculty and staff.

The code of ethics states that the Board of Regents recognizes the right of unclassified staff to engage in outside activities. Institutions also often encourage their staff to pursue outside activities as a valuable means for improving their skills and knowledge. The purpose of the reporting requirement is not to prevent these outside activities, but to help assure that outside activities and interests do not interfere with “staff members’ responsibilities to the University of Wisconsin System, or the institution at which the staff member serves...”¹

The reporting form used to implement the policy collects information describing potential conflicts of interest, such as using a position for financial gain, and conflicts of time.

Conflicts of time occur when the amount of time spent on an outside activity imposes on a staff person's responsibilities to the university.

HISTORY

Faculty and staff have been required to report outside activities since 1975. The reporting requirement was modified in 1986 and 1991.

The University of Wisconsin System has required faculty and academic staff to report outside activities since February 1, 1975, when the Board of Regents adopted ch. UWS 7, Wis. Adm. Code, "Outside Activities". The code of ethics for academic staff was previously outlined in ch. UWS 14. Both chs. UWS 7 and 14 were later repealed and replaced in 1986 with ch. UWS 8, "Unclassified Staff Code of Ethics".

Early in the law's history, there was controversy about the public nature of outside activity reports. In 1978, a Capital Times reporter requested access to outside activity reporting forms filed at the UW Madison. Administrators did not provide the reports, arguing that they were personnel records and therefore not available for public inspection.² After years of litigation, a Dane County circuit court judge issued a ruling in 1983, declaring that the forms were public documents, and ordered UW Madison officials to release the forms.³ Although the ruling only applied to UW Madison, the University of Wisconsin President at that time ordered that all reporting forms throughout the system would be public documents.⁴

Additional questions were raised about the outside activity reporting requirement by newspapers and members of the legislature in the early 1990s. In particular, there was concern that faculty and staff were not filing reports. At that time, only unclassified staff who actually had outside activities or interests were required to report.

The Legislative Audit Bureau found inconsistencies in outside activity reporting.

In 1991, the Legislative Audit Bureau (LAB) reviewed the implementation of outside activity reporting on the UW Madison campus. LAB released a report questioning the accuracy and consistency of the reporting requirement, noting that 13 percent of faculty and staff on the UW Madison campus had filed a report in 1989. LAB also found wide variation in the number of forms filed by different departments and recommended changes to the form and the reporting requirement.⁵

The Board of Regents reconsidered the outside activity reporting requirement in May 1991. The Board approved a revised form and reporting procedures, which are still used.

STATE AND FEDERAL REPORTING REQUIREMENTS

Unclassified staff must file a report each year, whether or not they had outside activities.

Currently, all unclassified staff must file an annual report describing certain outside activities and interests. Staff must file the report before April 30th each year, whether or not they had any outside activities during the year. The report is to describe activities from the previous calendar year and is filed with the staff person's dean, director or other appropriate administrator. Staff are required to update the report if any significant changes occur during the year. A copy of the annual reporting form is attached.

An additional statement must be filed in cases of potential material conflicts of interest.

In addition to the annual reporting requirement, faculty and staff are required to submit a written statement to their dean, director or other appropriate administrator whenever it appears that a material conflict may arise between the personal interests of the staff person and his or her public responsibilities to the university. Within 15 days after receipt of the written statement, the administrative code requires the administrator to advise the staff member in writing that:

- there is no conflict; or
- there may be a conflict and further consultation is necessary prior to reaching a determination; or
- there is a conflict that must be resolved by ceasing either the university duties or the personal interests that result in a conflict.

In addition to the state reporting requirement, faculty who receive certain federal grants are also required to submit a financial disclosure statement to their institution.

Although our review focuses only on state reporting requirements, university researchers must also file a form to meet federal requirements. Any researcher who applies for a federal grant from the National Institutes of Health or the National Science Foundation must file a financial disclosure form with their institution. The form identifies any potential conflicts that may exist between the research project and financial interests held by the researcher, his or her spouse and dependent children. The forms are reviewed and a plan to manage conflicts is developed by the institution's conflicts of interest committee. If a researcher does not file a form, the federal government will not issue their grant. Unlike the state

form, the federal form collects only financial information and does not collect information about the amount of time spent on outside activities.

DISCUSSION AND RECOMMENDATIONS

The goal of the annual reporting requirement is to provide administrators with the information they need to prevent and manage potential conflicts of interest. To determine whether this goal has been met, we reviewed several issues related to the annual reporting form, which is used to collect the information ch. UWS 8 requires staff to report to their administrators.

This review will describe the following:

- the extent to which unclassified faculty and staff are completing the required annual report form;
- the extent to which information reported on the annual form meets ch. UWS 8 guidelines;
- whether administrators were notified of significant changes in outside activities in a timely manner; and
- whether institutions have implemented policies that administrators can use to evaluate the information they receive.

EXTENT TO WHICH UNCLASSIFIED STAFF COMPLETE THE ANNUAL REPORT

Since 1991, all faculty and unclassified staff have been required to complete the outside activity form regardless of whether they had any outside activities and interests or not. The expectation is that 100 percent of full and part-time faculty and staff will complete the form each year.

Compliance with Reporting Requirements

We used several approaches to identify the percentage of unclassified staff at University of Wisconsin institutions who completed the form. For some institutions, we compared completed forms to a master list of faculty and staff. For other institutions, we asked administrators to report the number of forms mailed and returned in 1997.

Institutions achieved a high level of compliance with the reporting requirement.

For most institutions, the total number of forms mailed and returned was reported. However, the information from UW Madison and UW Extension was reported differently and will be discussed below. Another institution reported that it did not have data available for that year. An average of 90.2 percent of the forms mailed to faculty and staff at the other twelve institutions was completed and returned. Three of these institutions reported a return rate in excess of 99 percent.

The specific number of forms mailed and returned was not available for the UW Extension. Administrators at UW Extension reported that 100 percent of faculty and staff completed the form in each of their four units in 1997.

UW Madison's Internal Audit unit routinely reviews the percentage of staff completing outside activity forms in selected departments as part of its routine audits of personnel systems. In 1996, for example, the unit found that one department had a return rate of 91.2 percent and that 78 percent of unclassified staff in another department completed the form.

To determine the return rate for forms submitted at UW Madison in 1997, we interviewed the associate deans from several departments, including the two departments included in UW Madison's 1996 review. The associate deans from these departments reported that all of their faculty and staff completed the form in 1997.

Administrators appear to closely monitor whether faculty and staff complete the required form.

High return rates have been achieved by implementing a rigorous monitoring system to determine whether forms have been completed and returned. At UW Madison, for example, a personnel list and blank forms are sent from the Vice Chancellor's office to the deans at individual schools. Staff in the deans' offices distribute and monitor whether the forms have been completed and returned. Deans follow up with staff who do not complete the form until 100 percent compliance is achieved.

A review of a non-random sample of forms from 11 institutions revealed that 18.3 percent of faculty and staff reported any outside activity.

Extent of Reported Outside Activities

We reviewed 5,364 individual forms submitted by faculty and staff from 11 of the 15 UW institutions. We found 982 faculty and staff members, or 18.3 percent, reported any outside activity or interest.

The relatively small proportion of faculty and staff who reported any outside activity raises the question of whether all unclassified staff should be required to submit an annual report. One option would be to require only those with outside activities to submit a report. This approach was used prior to 1991 but resulted in controversy when the Legislative Audit Bureau noted that a small number of reports were filed. In its 1991 audit, LAB noted that only 13 percent of unclassified staff at the University of Wisconsin Madison had filed an outside activity report in 1989. LAB recommended that all faculty and academic staff submit the form annually to assure more consistent reporting.⁶

In our interviews, we asked several deans and administrators about this requirement. Most of them indicated they felt that requiring all faculty and staff to report made it easier for them to monitor compliance with the requirement and also prompted staff to report items that might otherwise be missed.

The following sections describe the information that is reported, the extent to which the information provided meets ch. UWS 8 requirements, and the level of satisfaction that administrators have with the annual form that is used to meet the reporting requirement.

COMPARISON OF REPORTED INFORMATION TO CH. UWS 8 REQUIREMENTS

Section UWS 8.025, Wis. Adm. Code, requires unclassified staff to report the following activities to their dean, director or other appropriate administrator⁷:

1. Associations with organizations, as defined in ss. UWS 8.02(3) and (12), Wis. Adm. Code, related to staff members' fields of academic interest or specialization.
2. Private remunerative relationships between staff members and non-governmental sponsors of university research for which the staff member is a principal investigator.
3. Remunerative outside activities in a staff member's field of academic interest or specialization, including but not limited to consulting, and whether the staff member earns for such activities \$5,000 or more in a year from a single source.⁸

Faculty and staff are required to report only those outside activities that relate to their professional field of interest.

Faculty and staff are required to report only those activities that relate to their professional field of interest. They are also excluded from having to report certain “ordinary professional activities”. These ordinary professional activities include occasional lectures given at colleges and universities and at meetings of professional societies; preparation of monographs, chapters and editorial services for non-profit educational organizations; service on an advisory committee and evaluation panels for government funding agencies, nonprofit foundations and educational organizations; and leadership positions in professional societies.

Types Of Activities And Interests Reported

Unclassified staff are required to report remunerative relationships, non-government compensation received, office and directorships held and business ownership interests. The table below summarizes the types of activities reported on the forms we reviewed.

Table 1. Categories of Outside Activities and Interests Completed by Full-Time Unclassified Staff at Selected UW Institutions, 1997

Category	Number	Percentage
Remunerative relationship	907	94.8%
Non-government compensation	21	2.2%
Office/directorships	60	6.3%
Ownership interests	92	9.6%

Source: Analysis of forms reporting outside activities from 11 UW institutions.

To identify the types of remunerative activities that were reported by staff, we analyzed forms submitted by staff at UW Madison’s engineering school, UW Whitewater, UW Oshkosh, UW Stevens Point, UW Platteville and UW Eau Claire. Although these forms do not represent a random sample of forms, the results of this analysis should provide some insight into the types of outside activities pursued by faculty and staff. Table 2 presents that data.

We found the types of activities that faculty reported do not all fall within the guidelines established for reporting. For example, many of the writing activities appear to meet the

definition of “ordinary professional activities” that do not need to be reported.

Some reported activities do not fall within the reporting guidelines or pose a low risk of conflict of interest.

In addition, some activities that are required to be reported appear to pose a low risk for presenting a conflict of interest. For example, a few faculty reported that they performed in their church choir. While this activity did relate to their professional field and, in some cases, they received financial compensation from this activity, it would seem that there is limited value in having faculty report these activities. An approach similar to the one used to define and exclude ordinary professional activities could be used for low risk activities. A list of examples of low risk activities that could be excluded from the reporting requirement could be developed and this list could be included on the instruction form.

Table 2. Types of Remunerative Activities Reported by Full-Time Unclassified Staff at Selected Institutions, 1997

Type of Activity	Number of Activities Reported	Percentage
Consulting	199	36.5%
Writing/Book Review	92	16.9%
Teaching	87	16.0%
Medical Practice	37	6.8%
Performer/Artist	27	5.0%
Workshop/Seminar/Speech	23	4.2%
Research	18	3.3%
Expert Witness	15	2.8%
Software Development	11	2.0%
Law Practice	4	.7%
Other Miscellaneous	32	5.9%
Total Activities Reported*	545	100%

*Unclassified staff frequently reported more than one activity. Some staff did not identify any activity.

Source: Analysis of 611 forms with outside activities from selected institutions.

Some activities that may pose conflicts of interest are excluded from the reporting policy.

While the reporting policy requires disclosure of some activities that appear to pose a low risk for conflict of interest, it excludes some other activities that do not relate to a staff person’s professional field that may pose significant conflicts. For example, the time spent working on a business venture that is

unrelated to his or her professional field might conflict with duties to the university. The policy does not require that this type of activity be reported.

The types of activities that are required to be reported could be modified to better reflect those types of activities that might reasonably pose a potential conflict of interest.

The reporting policy could be enhanced if only those activities that can reasonably be assumed to pose a potential conflict of interest or time are required to be reported. This might mean expanding the types of reported activities to include some activities that are not directly related to the staff person's professional field, but it also could mean that more activities that do not pose a risk of conflict of interest could be excluded from the reporting requirement.

Time Spent

We found that the average amount of time spent by full-time staff who reported remunerative relationships was 18.8 days. Table 3 describes the amount of time spent by number of weeks.

Table 3. Amount of Time Spent by Full-Time Unclassified Staff on Professional Outside Activities, Selected Institutions, 1997

Weeks	Number of Staff	Percentage
Less than one	382	42.1%
One to Three	237	26.1%
Three to Five	98	10.8%
Five or More	140	15.4%
No time given	51	5.6%
Total	908	100.0%

Source: Analysis of forms reporting outside activities from 11 institutions.

Which time to report -- In the Legislative Audit Bureau's 1991 review, the Bureau stated that it was "not possible to determine, based on the information collected by the form, whether time spent on outside activities occurred during the respondent's time of appointment".⁹ They noted that "the University is likely to be more concerned about a faculty member engaged in extensive outside activities while courses are in session as opposed to during the summer months when many faculty have no instructional or other university obligations."¹⁰

The manner in which time spent on outside activities is reported does not distinguish between time spent during time periods when faculty and staff have instructional or other university obligations and when they do not.

Although LAB was reviewing information collected on a previous version of the form, the manner in which time spent is recorded was not changed significantly from that form. Staff are asked to list the amount of time spent in days for each remunerative activity. The form does not distinguish between when faculty and staff have instructional or other university obligations and when they do not. In fact, the instructions for the form state that the report should cover activities during the full year, even if the staff person had no university obligations for part of that time. Making a distinction could improve the reporting requirement. For example, a staff person who holds a nine-month academic year contract could identify whether an activity occurred during the summer or while the contract was in effect. The University of Kentucky and the University of Iowa have policies that make these distinctions.

Also, consideration could be given to completely excluding those activities that occur while a staff person is not actively employed by the university. Some administrators argue that these activities should not be excluded from the reporting requirement because they could still pose a potential conflict of interest. However, others suggest that administrators may be able to use routine office communications to assure that these activities do not pose a conflict of interest.

How to calculate time spent -- Our review of the annual reporting form reveals that reports of the amount of time spent have been inconsistent with the instructions on the form. Some staff did not convert the time spent into days, particularly if they spent only a few hours of time on an outside activity. Also, 5.6 percent of faculty and staff with remunerative relationships did not report any time at all.

UW institutions could carefully review the forms to assure that faculty and staff consistently and accurately record the amount of time spent for all remunerative activities reported.

Only a small portion of faculty and staff reported net remuneration in excess of \$5,000 in 1997.

When to count remuneration -- Currently, faculty and staff are required to report if their net remuneration from any single activity exceeds \$5,000. They are not required to report specific amounts of remuneration. As a result, the forms do not allow administrators to discern between a staff person who earns \$5,000 and one who earns \$100,000 on outside activities.

More specificity and a higher financial threshold in reporting remuneration might be useful. The \$5,000 threshold for reporting remuneration has not increased since 1986. As a comparison, the federal government requires researchers receiving federal grants to report financial interests exceeding \$10,000. In addition, the amount of money that a person who is employed or retained in a full-time position with a state agency or authority is allowed to earn in an additional position with any state agency or authority was recently raised to \$12,000.¹¹ Some administrators argue that \$10,000 would be a more reasonable financial threshold.

More specificity in the amount of remuneration received and an increased financial threshold are changes that could be considered. However, the current approach seems adequate for administrators to determine whether potential problems may exist. Most of the deans we interviewed indicated that the \$5,000 amount was an appropriate amount to flag potential conflicts of interest. Also, administrators voiced concerns about whether requiring faculty and staff to more specifically report their outside earnings would result in an unnecessary invasion of privacy.

Satisfaction with the Forms

In general, administrators are satisfied with the form used to report outside activities.

Although we have identified some areas where the type of outside activities information that faculty and staff report could be enhanced, deans and associate deans were generally satisfied that the current reporting form provides them with sufficient information to identify and manage potential conflicts of interest. They reported that they use information from the form as a general indicator of whether a conflict of interest or time has occurred. For example, if a substantial amount of time is reported or if staff have indicated that they earned more than \$5,000, administrators may request additional information from staff. Over 70 percent of the deans and associate deans surveyed and interviewed indicated that they would make no changes to the form.

TIMELY REPORTING

In addition to useful information, it is important for administrators to receive information in a timely manner and to have adequate policies to use as a basis for evaluating this information. If administrators receive information about

The administrative code requires faculty and staff to report information to their administrators before they begin an outside activity that might result in a material conflict of interest.

outside activities in a timely manner, it allows them to identify and prevent potential conflicts of interest before the conflicts become an issue that threatens the institution's credibility or reputation. Two sections of the administrative code address this need for timely information. Section UWS 8.025(2)(c), Wis. Adm. Code, requires that unclassified staff inform their dean, director or other appropriate administrator during the year if any significant change in their reportable outside activities occurs. If a significant change occurs, the staff person should submit an updated annual reporting form and the form should then be placed on file with the staff member's annual statement. Also, Section UWS 8.04, Wis. Adm. Code, requires that faculty and staff report possible conflicts and that the appropriate administrator prepare, within 15 days, a written decision about the appropriateness of the activity.

Some requirements for timely reporting and review may not be consistently met.

Our discussions with deans and associate deans suggest that these requirements may not have been implemented consistently throughout the system. For example, administrators had differing interpretations of what constitutes a "material conflict of interest" requiring prior approval and activities that constitute a "significant change" requiring staff to update the form.

Section UWS 8.025(3), Wis. Adm. Code, requires the UW institutions to develop guidelines, approved by the chancellor, describing the types of activities that may result in a "material conflict of interest". These guidelines could help staff and administrators determine when written decisions from administrators should be requested. Similarly, UW System Administration staff could revise the instructions to the annual reporting form to clarify the types of activities that constitute a "significant change" requiring staff to submit an updated form.

CRITERIA FOR EVALUATING OUTSIDE ACTIVITY AND INTEREST INFORMATION

Institutions could review their policies to assure that they have established clear standards, as required by administrative code, for administrators to use to evaluate the information faculty and staff report.

Finally, administrators need clear policies to provide the basis for evaluating information about outside activities. Our survey and interviews of deans and associate deans suggest that institutions have not consistently established policies guiding outside activities. Without specific policies it is impossible, for example, to determine whether the amount of time spent on outside activities or the amount of remuneration is a potential conflict or not.

Section UWS 8.025(3), Wis. Adm. Code, requires institutions to develop policies related to outside activities. Each institution may want to review its policies related to outside activity reporting to determine if the policies need to be revised to provide administrators with a clearer basis for judging the information they receive from outside activity reports.

CONCLUSION

Our review found that most faculty and staff are completing the annual outside activities reporting form, as required. However, a few institutions could improve their return rate through increased monitoring. Most deans and associate deans reported that they monitor whether the forms are completed, that they review the information on the forms and that the information provided on the forms is sufficient for them to make a preliminary determination about whether or not a conflict of interest or time has occurred. In general, deans and others are satisfied with the reporting requirement and the annual reporting form. We have identified the following issues for further consideration:

- Types of Activities -- The types of activities that are required to be reported could be further refined so that only those activities that might reasonably pose a conflict of interest are reported.
- When the Activities Occur -- The manner in which time spent on outside activities is reported could also be clarified to allow staff to distinguish between time spent while faculty and staff have instructional or other university obligations and when they do not. Consideration might also be given to excluding those activities that occur while a faculty or staff person is not actively employed by the university, if appropriate.
- Timely Reporting -- To assure that outside activity and interest information is submitted in a timely manner as required in the administrative code, institutions could assure that they have implemented ss. UWS 8.04 and 8.025(2)(c), Wis. Adm. Code. These sections require faculty and staff to inform their dean, director or other appropriate administrator during the year if any significant change occurs in their reportable outside activities and interests or when it appears a material conflict may arise. Section UWS 8.04 requires the appropriate administrator to provide a

written opinion within 15 days of receiving a written statement from a staff member describing an activity that might result in a material conflict of interest.

- Definitions -- To assist with implementation of ss. UWS 8.025(2)(c) and 8.04, institutions could assure that they have defined those activities that constitute a "material conflict of interest" as required in s. UWS 8.025(3), Wis. Adm. Code. Also, UW System Administration staff might clarify those activities that constitute a "significant change" in outside activities and interests requiring faculty and staff to submit an updated annual form.
- UW Institution Guidelines -- Institutions could examine the other guidelines and standards they are required to establish under s. UWS 8.025(3), Wis. Adm. Code, and revise them, if necessary, to assure that administrators have an adequate basis for assessing outside activity and interest information.

¹ Section UWS 8.025, Wis. Adm. Code, footnote 2.

² "UW says C-T can't examine staff records", Capital Times, 7/18/78

³ "UW must open outside pay data", Capital Times, 4/12/83

⁴ "UW extends disclosure policy", Capital Times, 6/6/83

⁵ "A Review of the University of Wisconsin Madison's Reporting Requirements for Outside Interests and Activities", Legislative Audit Bureau, February 5, 1991.

⁶ Legislative Audit Bureau, February 5, 1991. Pages 6 and 11.

⁷ Unclassified staff are defined in ch. UWS 8 as faculty, academic staff and limited appointees of the University of Wisconsin System who are not subject to subch. III, ch.19, Stats.

⁸ Section UWS 8.025(2)(a), Wis. Adm. Code

⁹ Legislative Audit Bureau, February 5, 1991. pg. 5

¹⁰ Legislative Audit Bureau, February 5, 1991. pg. 5

¹¹ Section 16.417(2)(a), Wis. Stats.