

RESEARCH OPPORTUNITY?

I

Western Tech is anxious to upgrade its status as a first-rate research institution. So, the Office of Research has just announced a summer faculty fellowship program. Faculty may now submit proposals for research projects they wish to undertake. Fellowship awards are \$6000 for two months of research in the summer.

You teach in the department of Engineering Technology at Western Tech. Although you are well known nationally for your research, your heavy teaching load has prevented you from undertaking a major project you have been interested in for some time. So, you begin working on a proposal.

As you are working on the proposal in your office, the phone rings. It is David Jackson, Vice-President for Research at Western Tech. He says: "I'm calling to ask you to serve on the review panel for our new faculty fellowship program. It's important to have people on the panel who are highly respected and know good research when they see it. So, I'd really like you to be on the panel."

How do you respond?

II

You explain to Vice-President Jackson that you are working on a research proposal yourself. He replies, "Since this is a new program, we haven't worked out all the wrinkles yet. But it doesn't seem fair that our best people--the ones we want on the panel--should not have a chance at the fellowships. You can still apply. All we require is that you not be involved in evaluating your own proposal. Just leave the room when your proposal is being considered. The other panelists will rank your proposal in your absence, and you won't know where yours ranks until the entire process is complete."

Does this solve the problem? What is the problem?

COMMENTARIES

Lea P. Stewart

The job of a college faculty member in any discipline is a complex, involving multiple tasks and sometimes conflicting responsibilities. Most faculty members are expected to participate in three general activities: teaching, research, and service. This means that a faculty member must facilitate students' learning through activities such as classroom teaching, laboratory supervision, and student advising. A faculty member must also conduct a program of independent research that results in articles published in academic journals or, perhaps, books. In addition, a faculty member is expected to provide service to the educational institution by serving on various decision-making or policy-setting committees. In some schools, the balance of these activities may differ--some schools emphasize the primary importance of teaching while others require more research activity. Nevertheless, it is the faculty member's professional responsibility to the academic profession to carry out these duties.

Although this may not sound like a very complex situation, in reality performing effectively in these three areas may be a difficult juggling act. There are only so many hours in the day, and faculty members must allocate their time wisely to meet these three responsibilities. In addition, some faculty members are more talented in one area

or in another. For example, some people are truly gifted teachers, others are innovative researchers, and others are highly effective participants in university service activities. Schools could not function without faculty members who contribute to these three important areas of academic life.

In this case, you find yourself in a situation that emphasizes the sometimes conflicting nature of the professional responsibilities you assumed when becoming a faculty member at Western Tech. You have been required to assume a heavy teaching load that has prevented you from conducting the research you would like. You see the summer faculty fellowship program as a welcome chance to pursue some research that you have neglected during the academic year. It is also clear that you are valued for the service you have given to your institution since David Jackson, Vice-President for Research, has asked you to serve on the review panel for the faculty fellowship program. In this instance, your responsibility for faculty service conflicts with your desire to pursue a research project which was delayed due to your heavy teaching load.

How do you balance these competing demands on your time and potential conflict of interest? In this case, you agreed to serve on the faculty panel even though it will be considering your application for a summer fellowship. Vice-President Jackson has stipulated the guidelines for your participation, and you decide that you can serve under these conditions. Happily, the panel awards you a summer fellowship.

This case should lead you to think very seriously about your own definition of conflict of interest. You may feel that your participation on the committee was ethical because you received an invitation from Vice-President Jackson, and you followed the procedures he established for reviewing proposals. But does following someone else's procedures absolve you from ethical conflicts?

Obviously the time to have thought about all of these issues was when the Vice-President first invited you to join the committee. He asked you to "leave the room" when your proposal was being considered. Although you can physically leave the room, can you ever leave the room in the minds of the other committee members? Imagine judging the proposal submitted by the colleague sitting next to you at the table even though she has left the room. Does your impression of her as a committee member affect your judgment? Does the fact that she will soon reenter the room affect your decision? Do you feel that you can make an objective decision about someone else's proposal if he or she is on the committee? Could you expect other committee members to make an objective decision about your proposal?

Of course, you have to balance your sense of potential conflict of interest in this situation with your duty to serve on university committees when asked. You need to be a good university citizen without compromising your ethical standards. In this case, how might you have contributed to the summer faculty fellowship program without actually serving on the committee that considered your proposal?

There is an exercise called the "nine dot problem" in which you are given a picture of nine dots arranged in three rows of three dots. You are asked to connect all the dots with four straight lines without lifting your pen from the paper. Most people who try to solve this puzzle draw an imaginary box around the dots and never think of going outside of this line. The problem is impossible to solve, however, without drawing lines that go beyond the boundaries of the nine dots. In the same way, when we are asked to do something we often think that our only options are to do what is asked or not to do it. But often there are more than two options in a situation. This case provides a clear example in which the initial choice became either serving on the committee or not serving on the committee. Alternative options might have been available if someone had explored them.

The balance between teaching, research, and service is a complex one. Faculty members face conflicts in these

areas every day. In fact, this case reminds me a situation that occurred at my university. The chair of a department was appointed to a committee to review proposals for special grants for projects to improve teaching at the university. One of the proposals was from a faculty member in the chair's department. The chair felt it was inappropriate to review a proposal that would, in effect, bring money into his department so he did not rank this particular proposal. Others on the committee did not perceive a similar conflict of interest and ranked proposals from their departments highly. When the voting was concluded, the proposal from the chair's department did not get enough votes to be funded. Many of the other proposals did. What did the chair learn from this experience? One conclusion, of course, is to vote for his department's proposals. But the lesson that he learned was to make sure that the criteria for making a decision are agreed upon in advance by the people who are making a decision. If the committee had decided on criteria before voting, the chair could have expressed his concerns about conflict of interest and at least made sure that everyone was playing by the same set of rules.

Sometimes we play by rules that benefit us, and sometimes we don't. But remember, you must live by the rules you play by. Conflict of interest is a serious issue that is prohibited by the NSPE Code of Ethics for Engineers. Deciding what constitutes a conflict of interest, however, is often a complicated matter that requires an individual ethical judgment.

Michael Davis

This is a case about conflict of interest in two professions, engineering and university teaching. Until recently, only a few professions, most notably law and public accounting, paid much attention to conflict of interest. Engineering codes of ethics did not include a general provision on conflict of interest until the mid-1970s. The NSPE's code still relies heavily on the older language, grouping most (but not all) conflict of interest provisions under Rule 3's "[acting] for each client or employer as faithful agents and trustees." Colleges and universities only began to worry much about conflict of interest in the mid-1980s. Even now they seem to worry about it far less than they should.

The first question, then, is which profession's standards apply to "you." Will you be serving on the committee (primarily) as a member of the faculty, as a member of the engineering faculty, or as a member of the National Society of Professional Engineers? The answer, it seems, is that Vice-President Jackson wants you because of your reputation as a researcher, that is, because you have been a good (academic) engineer. He probably does not know, and would not care if he did know, that you are a member of the NSPE. So, it seems, you must respond to him as an engineer, using the NSPE code or some other engineering code) as a guide to understanding what your profession requires of you in these circumstances.

The essence of conflict of interest is the undermining of independent judgment. Your training and experience as an engineer give powers of judgment others lack. Part of being a professional is exercising those powers in a certain way, that is, according to the (morally permissible) standards your profession sets. So, for example, people ask engineers to do certain jobs because they want such jobs done in the way engineers characteristically do them.

An engineer can fail to meet professional standards either by failing in competence or by failing in independence. An engineer fails in competence when she acts without knowing what members of her profession expect each other to know when they take on a job of that sort. An engineer fails in independence if, while competent for the job, she is subject to pressures, loyalties, commitments, or the like that make her less likely than otherwise to do the job as a competent member of the profession would. A conflict of interest makes an engineer less reliable than she would otherwise be.

Since their usefulness to employer, client, and public depends in part on their being reliable agents, engineers should generally avoid conflicts of interest. Sometimes, however, the conflict is not serious enough and costs of avoidance are high enough that avoiding the conflict may not make sense for client, employer, or public. When that is so, you need not avoid the conflict--provided you meet two conditions.

First, you must have the informed consent of your employer or client. Part of being a faithful agent is warning your principal when your judgment is not as reliable as it would normally be. Your principal can then decide whether he prefers to avoid the conflict by replacing you or accept the conflict, taking the necessary precautions and hoping for the best. That decision is his, not yours.

Second, you must be satisfied that you can do what is asked of you in a way that will not bring you or your profession in disrepute. (Cf. NSPE Code III.3.) Appearances can be as important as reality. The consent of your employer or client is part, but only part, of maintaining appearances. The rest is your responsibility, not your employer's or client's.

You warned the VP of your conflict of interest. He understood the problem well enough to offer a common means of avoiding it: don't participate in any decision that directly affects you. He still wants you to serve on the committee. Should you? You have much to consider.

One thing you need to consider is whether you can take the VP's consent as that of your employer, the university. You also need to decide whether you have a client as well as an employer (for example, the academic community). For brevity, let's just assume that you have no client here (the academic community being more like the public than a client) and that the VP's consent is your employer's consent (though, in a any large organization, that assumption is by no means safe).

Next you must consider whether that consent is sufficiently well informed. Information can seldom be complete. You have, however, not done all a faithful agent or trustee reasonably could do under the circumstances. You have not tried to bring home to the VP all the problems inherent in what he is asking of you. In particular, you have not pointed out two conflict problems and one appearance problem his response ignores. These problems are also reasons for you to reject serving on the committee even with the VP's informed consent.

One problem you have not pointed out concerns your ability to judge the proposals competing with yours. Since you are doling from a limited pot, you have some incentive to judge other proposals more harshly than you would otherwise. Not only do you stand to benefit from so judging them, but you may also compare them to your own, giving your own the benefit of the doubt while not doing the same for others. We all tend to favor our own work. You may well not do it deliberately or even knowingly. You may do it nonetheless. Or you may try to compensate for that tendency. You may then "bend over backward to be fair" and, by so doing, judge other proposals less harshly than you would otherwise. The problem of conflict of interest is not that you will necessarily serve yourself at the expense of those you are supposed to serve. Even you cannot know whose interest you will in fact serve.

Your presence on the committee may produce a similar problem for other committee members. Leaving the room when your proposal is discussed reminds everyone else who proposal it is (or, if reviewing is blind, actually tells them.) Since people generally favor people they know over people they do not know, those with whom they work over strangers, and so on, leaving the room avoids the effect of discussing the proposal with you present by generating another (though somewhat less serious) tendency to favor you (or to bend over backward not to favor you). Has the VP weighed these effects before pressing you to serve?

That leaves the problem of appearances. The appearance of wrongdoing is itself something to be avoided. For those who do not know the truth, the appearance is indistinguishable from the thing itself. The mere appearance can therefore do as much harm to cooperation among members of a profession as real wrongdoing. The message conveyed is that cooperation is falling apart and everyone would do well to serve herself.

An appearance is something that more information would dispel. But if you cannot provide enough information to dispel the appearance before it does harm, you must view serving on the committee (while applying for a grant from it) as including the harm.

I believe it was Charles De Gaulle who remarked, "The indispensable man, the cemeteries are full of them." You might remind the VP of that when you respectfully, but firmly, decline to serve--or give up your plan to submit a proposal.

Ted Lockhart

I

If I accept an appointment to the panel, then it appears that I disqualify myself as an applicant for a fellowship. Obviously, I would not be allowed to, and should not, review my own application. However, assuming that not everyone who applies will receive a fellowship and thus there is competition for awards, even if I review only applications other than my own, it would serve my interests to give unfavorable evaluations to applications that are in competition with my own, particularly those that appear to be strong. Therefore, it appears that for me to serve on the review panel in any capacity would place me in a conflict of interest. Perhaps there can be situations in which conflicts of interest cannot be avoided or in which allowing oneself to have a conflict of interest is justified by other considerations. However, no such considerations are evident in this situation. Thus I must decide whether to accept appointment to the panel or to submit a proposal; I may not do both.

II

This arrangement does not solve the problem for the reasons stated above. There would still be a conflict of interest even if I left the room when my proposal was being discussed, since it would be in my interest to lower my evaluation of other proposals against which I knew that my proposal was competing. Furthermore, my membership on the panel might exert some influence on the other panel members even if I were not present when my proposal was being discussed. If so, this would further distort the reviewing process. There are no factors apparent in the situation that would annul the conflict of interest that would result if I both accepted an appointment to the review panel and submitted a proposal. If I accept the vice-president's argument that it is important that the "best people" serve on the panel for the good of the university and I wish to do so, then I should choose not to submit a proposal. Even if I think that I could be objective about the proposals that I would review as a member of the panel, the conflict of interest would remain. That conflicts of interest should be avoided can perhaps be supported by rule utilitarian considerations--i.e. in the long run more good would result from the general avoidance of conflicts of interest than would result from the general practice of not avoiding them. The conflict of interest consideration seems to be the most important consideration in this case.

Carl O. Hilgarth

I

In my decision to serve or not serve on the review panel for the summer faculty fellowship program I would have to consider the following:

- o Since I am nationally known for my research, any new research I do will almost certainly enhance both my status and that of Western Tech as a research institution.
- o Because of my reputation, my participation on the review panel that will determine the fellowships projects receive funding will also contribute to the desire of Western Tech to upgrade its status as a first-rate research institution.

Since I have had little opportunity to do research due to my teaching load, my response to David Jackson, VicePresident for Research at Western Tech, is to decline the invitation to serve on the review panel and submit my proposal for review. I explain this to the vicepresident.

II

On hearing my decision, VicePresident Jackson explains that while he hasn't worked out all the wrinkles, it doesn't seem fair that the best people at Western Tech--the ones they want on the review panel--should not have a chance at the fellowships. He tells me that I can apply for the fellowship, and also serve on the review panel as long I am not involved in the review of my own proposal inferring that this will preserve the integrity of the research fellowship award process.

I realize that if I were on the panel, my stature and opinions will certainly influence the award process and leave it suspect in the eyes of my peers on the faculty, especially if my proposal receives a fellowship award and another's doesn't. Participation by other faculty could lead to the same result. So to me, this suggestion does not really solve the problem.

I reiterate my interest in the research opportunity and decline to participate on the panel. Any level of my participation on a panel involved in reviewing my proposal and competing proposals could be viewed as a conflict of interest that could cloud the objectivity and integrity of the process to upgrade the research status of the institution. I would suggest to the vicepresident that the review panel might be better, more objective, and more credible if none of the reviewers were from Western Tech or faculty. And since he said that he hasn't worked out all of the wrinkles yet, this is still a very attractive and viable option.

Joseph Ellin

I

You are a professor planning to apply for a research grant when you are asked to serve on the committee that will evaluate grant applications. What can you do? You will have a conflict of interest if you serve on the panel, so either you must refuse to serve or not submit your own proposal. If you're the only one who can serve (in which case your university and its plan to up-grade its research program, are both in big trouble), you might consider withdrawing your application. Otherwise, suggest someone else.

II

VP Jackson has a plan, but it won't work. You'll serve on the committee but won't evaluate your own proposal. But there is still a conflict of interest since the award is competitive. A person with a proposal might talk and vote

against the competition in order to improve his own chances. Even if not, it might seem that way to those who lose.

III

You allow the VP to talk you into serving and you get a fellowship. The question is whether the losing professors should demand, and are entitled to, a review of the committee's decisions. I think they are and they should; the review process ought to be done again. However opening up the process from scratch would be unfair to all the other professors who were awarded grants. So the university is going to have to find a way out of VP Jackson's mistake without taking away the awards from the other winners. This may wind up costing some money, since the fellowships are worth \$6000. Lack of ethics can be expensive.