

Faculty Effort Certification

Report to the Senate Executive Committee, January 9, 2006

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Q: Why the sudden change in faculty effort reporting practice?

A: Based on the advice of legal counsel, the University of Washington (UW) began Faculty Effort Certification (FEC) Compliance Review during 2004/2005, including review of related organizations and internal practices. Although effort reporting rules have not substantially changed since the early 1980s (A-21, see below), the impetus for review included recent major federal settlements with several large research universities (e.g., \$5.5M with Northwestern University) and increasing scrutiny and stringent interpretation of these rules by auditors. Ross Heath, then Faculty Senate Chair and I met with several high-level members of UW Administration a couple times over the summer of 2005 to discuss proposed modifications of the then current UW FEC policy. Mandatory on-line FEC training was instituted during autumn quarter 2005. The new FEC policy can be found in Grants Information Memoranda (GIM) 35 (<http://www.washington.edu/research/osp/gim/gim35.html>).

Q: What are faculty effort and faculty effort certification reports?

A: Faculty effort is the time that faculty spend on instruction, research, patient care, administration, etc., which is compensated by UW. FEC reports are forms faculty complete to document effort paid from and cost sharing performed on both federally and non-federally sponsored projects, which include grants and contracts.

Q: What are the faculty effort reporting rules?

A: The faculty effort reporting rules given in the Office of Management and Budget (OMB) Circular A-21 (Cost Principles for Educational Institutions; http://www.whitehouse.gov/omb/circulars/a021/a21_2004.html) have been the product of compromise designed to free faculty as much as possible from the trouble and indignity of periodic timekeeping (e.g., punching timecards), while at the same time providing the federal government with some assurance that the faculty effort it is paying grantee institutions is in fact delivered.

Despite the relative liberality of the rules regarding faculty effort, or some would say because of that liberality, the accuracy of faculty effort reporting and the adequacy of its documentation represent a significant continuing compliance problem for research universities. The government states in A-21 that the process cannot be exact and there may be any number of acceptable methods of allocating effort and salary, however, does prescribe "Criteria for Acceptable Methods." This leaves the general details of a faculty effort reporting program up to the grantee institution, as long as they abide by A-21.

Under A-21, the proper base for determining an individual's effort percentages is the total activity for which the individual is compensated by the grantee institution. Requiring *total effort* to be the base for effort reporting purposes also makes it necessary to address the difficult question of what *total effort* is. This leads to anomalous results in some cases. For example, two faculty members receiving equal salaries and expending equal percent effort on a sponsored project (e.g., 50%) may expend very different amounts of effort if their total effort is significantly different (e.g., 80 hours/week versus 40 hours/week), even though they are paid the same for their efforts.

Using a standard 40 hour work week as the base for effort reporting - an approach often erroneously suggested by some program officers and, unfortunately followed - also leads to anomalous results. For instance, a faculty member works 30 hours per week on a sponsored project (e.g., NIH K award) and 30 hours per week covering teaching responsibilities. Under the 'standard' 40 hour work week, this leads to a reporting base of 150%. This is not only a red flag anomaly for auditors, but also an impossibility from a cost accounting standpoint. If alternatively, 75% of the salary were charged to the sponsored project and only 25% allocated to the teaching effort, there would be a disproportionate charge to the granting agency. The expression of research effort based on the standard 40 hour work week will almost always be inconsistent with A-21 if the individual in question works more than 40 hours/week [1]. The UW FEC

webpage Frequently Asked Questions (FAQ) section provides further effort allocation scenarios (<http://www.washington.edu/research/maa/fec/#FAQs>).

Materially inaccurate faculty effort reporting in connection with federal research is an area of great potential danger for universities, especially UW as we receive more federal research funding than any other American public university (\$996 million in calendar year 2005). At best, the process of estimating and reporting effort associated with university research is an inexact process, as there are many different ways of considering what effort is and how it relates to particular sponsored projects.

Effort report forms must account for all effort for which the individual is compensated by the university. This normally would include all effort expended on university-related effort, including sponsored research, administration, instruction and *unsponsored scholarly activity*, clinical activity and other activities. Even where the number of hours of effort the individual expends each week substantially exceeds a 'standard' work week of 40 hours, it is necessary to base effort percentages on actual total effort, not just 'standard' effort [1].

Q: How much of this is University of Washington interpretation of the rules?

A: As stated previously, the government leaves the general details of a faculty effort reporting program up to the grantee institution, as long as they abide by A-21. There are a host of challenging issues that need be considered in any FEC program: definition of the institutional base salary, faculty work week (determined by % federal effort), proposal preparation costs, 9 month faculty, deciding what's 'in' and what's 'out' of the effort calculations, related organizations and their FEC systems, conflicting guidance from sponsors, 100% research faculty and faculty perception of salary allocation. What is considered effort 'in': research, instruction, administration, service, clinical activity and proposal preparation. What is considered effort 'out': outside professional work, volunteer community or public service, interdepartmental consulting ('over and above'), sponsor review panels or other advisory activities for federal sponsors and other activities 'over and above' or separate from assigned University responsibilities.

Taking all these issues into account by and large, UW Administration has worked with its legal counsel Hogan & Hartson LLP in Washington, DC and in consultation with Ross Heath (then Faculty Senate Chair), Brent Stewart (Chair FCR) and the FCR (22 November 2005 and 15 December 2005 meetings) to formulate a training program and policy (see GIM 35) regarding FEC. To minimize risk and ensure that everyone was apprised of and would participate in the new FEC process, a mandatory training program was instituted, required of all FEC faculty, deans, chairs and administrators (<http://depts.washington.edu/fecnon>). Also, an extensive (and growing) FAQ page was created (<http://www.washington.edu/research/maa/fec/#FAQs>). UW policy regarding FEC can be found in Grants Information Memoranda (GIM) 35 (<http://www.washington.edu/research/osp/gim/gim35.html>). GIM 35 also provides UW definitions for faculty effort, institutional base salary, faculty work week, distribution of effort and rules (OMB Circular A-110) regarding changes in level of effort.

Q: What are the major problems?

A: Although nothing has substantially changed in terms of A-21, the more stringent interpretation thereof by auditors has fostered UW to relate current best practices regarding FEC to the faculty, not only to adhere to the new practice, but also to reduce institutional risk and raise consciousness regarding the issues involved. One of the major problems regards faculty not being able to 'volunteer' or 'donate' time to the University for processes such as grant writing or curriculum development. Currently, there is no generally accepted solution to this problem.

A second issue regards 100% research faculty participation in events such as faculty elections, faculty senate and departmental faculty meetings. To the extent such activities are *de minimis* in nature, meaning that in the aggregate their inclusion in or exclusion from total effort would not affect the percentages of effort allocated to sponsored research, separate tracking and funding is not required. However, should such become greater than *de minimis* in nature for any reason, it may be necessary to reflect them in an administrative or other category of total effort. Questions about whether activities come within this guideline may require consultation. You may wish to consult the FEC FAQ webpage

(<http://www.washington.edu/research/maa/fec/#FAQs>). Also, your departmental administrator, Management Accounting and Analysis (Executive Director, 6-1379) and Grant and Contract Accounting (Assistant VP, Research Accounting and Analysis, 3-8951) are available to assist in this consultation as needed.

Thirdly, efforts are underway through Administration, the Deans and department Chairs to address the approximately three hundred 100% research funded faculty's ability to write grants through funding a small amount of their time while writing new and competitive renewal grant or contract applications.

Q: What are our peer institutions doing?

A: Most are in the process of accomplishing what UW has already achieved: clarifying and/or developing policies, developing mandatory or voluntary faculty training programs and implementing new effort reporting systems. A recent anonymous survey of eight peer institutions found that none allowed any administrative, clinical or teaching activity to be considered 'non-university' (volunteered) work. Also, six don't allow any proposal writing (new or competing) to be considered 'non-university' (volunteered) work (the other two were checking but didn't think so). When asked whether research faculty participate in governance, all responded yes, but also stated that the time required to participate was funded through sources other than grants.

Q: What is being done to resolve these problems?

A: All institutions of higher learning in this country are hamstrung and are seeking relief from the consequences of the current state of affairs regarding FEC interpretation which strike at the core of who we are as scholars. Some UW faculty and administration are members of the Council on Governmental Relations (COGR, an association of research universities), the Association of American Medical Colleges (AAMC) and the Association of American Universities' (AAU) Committee on Effort Reporting, which are all actively seeking remedies to these problems with the government, though this is expected to be a long-term process with no quick-fix in sight.

Reference:

[1] Kenney, RJ. Reimbursement of Faculty Compensation under Federal Research Grants. Medical Research Law & Policy Report, 2003; 2(4): 155-161.