

Memorandum



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May 29, 1990

OFFICE OF THE
PRESIDENT

TO: David P. Roselle
President

FROM: Linda S. Gottfredson *lg*
Department of Educational Studies

RE: Request for AAUP Grievance Hearing

*Enclaps -
Maxine Colm
will supply a DRAFT
reply
DPR
6/7/90*

I would like to request a grievance hearing with you as soon as possible. This grievance is brought under Article 16.1 (Maintenance of Practices) of the Collective bargaining Agreement, which recognizes Section III-B-1 (Academic Freedom) of the Faculty Handbook as part of my contract with the University.

President Trabant's April 30 press release stated that it is now the University's policy to refuse to process grant applications to the Pioneer Fund and to refuse all grants or gifts from the Pioneer Fund to this University. While you have not expressed yourself on this policy, it is necessary nonetheless for me to grieve against the Office of the President.

The ban on Pioneer monies effectively cripples my research program and therefore violates my contractual right as a faculty member at the University to "full freedom in research." That program involves research, its dissemination to other academics and related professionals, and related scholarly activities. Because these activities are expensive, I cannot continue them without Pioneer Fund support. To the best of my knowledge, all other sources of support for scholarship like mine have dried up because of current political sensitivities about researching the nature, causes, and consequences of group differences in mental abilities.

The relief I seek is that you immediately rescind the University ban on seeking and receiving Pioneer Fund monies. The longer the ban is in effect, the greater the irreparable damage it will do to my research program and my ability to "speak out as the fruits of [my] research and scholarship dictate."

cc: Maxine Colm
George Cicala
Gordon DiRenzo
Frank Murray
Victor Martuza
Steve Jenkins

see attached

CONSERVE ENERGY SO ENERGY CAN SERVE YOU



cc: Rod

U.D. TAKES ACTION ON PIONEER FUND

The University of Delaware will neither seek nor accept further financial support from the Pioneer Fund Inc. of New York City, President E. A. Trabant announced today.

In accepting a report on the Pioneer Fund by the Faculty Senate Committee on Research, Trabant said the action is in effect so long as the fund remains committed to the intent of its original charter and to a pattern of activities incompatible with the University's mission.

In November, Trabant asked the Faculty Senate Committee on Research to review information on the fund in response to questions raised about its \$174,000 gift to the University in support of research on the implications of ability difference for education and employment policy.

The senate committee, chaired by Lawrence P. Nees Jr., professor of art history, made its report to Trabant last week.

According to the report, "Academic freedom does not require that the University approve and forward every application for external funding generated by members of the faculty. The University has a right to set its own priorities for support of scholarly activity.

"The University's commitment to racial and cultural diversity is an essential part of, not a rival principle in conflict with, the University's commitment to the right of all people to participate in an environment of free and open inquiry," the report said.

DF: Employee Relations
Pioneer Notebook
-JX #15



Vice President
for Employee
Relations

Newark, DE 19716 (302) 451-2769

June 13, 1990

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JUN 14 1990

OFFICE OF THE
PRESIDENT

Dr. Linda S. Gottfredson
Department of Educational Studies

Dear Dr. Gottfredson:

President Roselle has referred to my attention your memorandum of May 29, 1990, in which you seek a hearing with him concerning an alleged violation of your academic freedom. This complaint has been described by you as a grievance under the collective bargaining agreement between the University of Delaware and the American Association of University Professors (AAUP).

First, requesting a hearing directly with the President of the University is not consistent with the Grievance Procedure as set forth in Article VIII of the collective bargaining agreement. Second, the matter you have raised does not appear to be encompassed under Section 16.1, Article XVI, Maintenance of Practices, and, as such, is not grievance. It can, however, be processed as a complaint through Steps 1 and 2 of the Grievance Procedure as specified in Section 8.1:

"Complaints or problems related to terms or conditions of employment which are not grievances as defined above may be processed through Steps 1 and 2 of this Grievance Procedure. If the complaint is not resolved after Step 2, it may be appealed to the University Senate Review Committee. This Committee is advisory to the Vice President for Academic Affairs whose decision in such cases is final and binding."

As quoted above, complaints or problems which are not grievances should be processed commencing at Step 1 of the Grievance Procedure. Even if this matter were construed to be a grievance, and assuming that your grievance arises out of the action of President Trabant, the grievance would have to be initiated at Steps 3 or 4 within the time limits set forth in Section 8.1. Under any circumstances requesting a hearing directly with the President is not consistent with the grievance procedure set forth in article VIII.

If I can provide further clarification, please let me know.

Sincerely,

Maxine Colm
Vice President for Employee Relations

MC/k1

- cc: ✓ David P. Roselle
- George Cicala
- Gordon DiRenzo
- Frank Murray
- Victor Martuza
- Steve Jenkins

Memorandum



DATE:

June 20, 1990

TO: Maxine Colm
Vice President for Employee Relations

FROM: Linda S. Gottfredson *lg*
Educational Studies

RE: My Grievance Against the President

Thank you for your letter of June 13 in which you clarify the route by which I can pursue my grievance/complaint regarding the University's ban of Pioneer monies. I appreciate your help because I know of only one case in which a grievance hearing with the President was requested, but I am unsure about the disposition of that case.

You are quite correct that the AAUP Bargaining Agreement states that grievances against the President should begin at Steps 3 or 4, but neither of those steps seems appropriate. It did not seem to make much sense for me to begin at Step 3, for the person being grieved (the President) is higher in the administration than the person asked to act on the grievance (the VP for Employee Relations). Typically, the grievance procedure begins at the level of the person whose actions are being grieved. However, proceeding directly to Step 4 (binding arbitration) is not consistent with the requirement in the Bargaining Agreement that grievances be resolved at the lowest possible level--which in this case would be the President.

In fact, President Roselle kindly offered to meet with me to discuss administrative conditions at the University, and I am making an appointment with him.

While it is possible that I am in error, I believe that the matter I raised--violation of academic freedom by a University policy--is encompassed under Section 16.1, Article XVI, Maintenance of Practices. Section 16.2, which defines "practices," specifically refers to the Faculty Handbook as containing the University-wide policies enumerated in Section 16.1. The "Personnel Policies for Faculty" section of the Handbook devotes Section III.B to "Academic Freedom."

cc: David P. Roselle
George Cicala
Gordon DiRenzo
Frank Murray
Victor Martuza



Memorandum



June 6, 1990

DATE:

TO: Dr. Robert Varrin
Associate Provost for Research

FROM: Linda S. Gottfredson *lg*
Educational Studies

RE: Outside Employment as an Alternative to On-Campus Pioneer-Funded Research

I said that I would put in writing my understanding of what you described to me yesterday as the University's policy on outside employment. Please let me know if this account is accurate, and, if not, what the inaccuracies are.

My attempt at clarification is prompted, as you know, by the Research Committee's suggestion that I take Pioneer monies as an individual now that the University will no longer accept faculty-solicited Pioneer funds. You said that the Faculty Handbook contains the University's written policy on outside employment, but it really provides no specific guidance. Hence my call to you and this memo.

Permission for Outside Employment

There are three classes of outside employment: consulting as an individual, incorporating as a non-profit, and incorporating as a profit-making organization. The President's permission is required to incorporate as either a non-profit or a profit-making organization, but not to do consulting. To obtain permission to incorporate, I would have to outline in writing how the outside employment would not interfere with the performance of my University duties. With regard to consulting, I must keep my chair and dean fully informed of all my consulting activities. The chair has responsibility for monitoring my consulting. Please clarify for me, however, specifically what he is to monitor.

All other rules governing the three modes of outside employment are identical. The rules govern the disposition of my time during the workweek, my use of University facilities, and the use of my University affiliation. You said that the rules do not govern the content of outside employment.

I am still not clear, however, about the meaning of the statement in the Faculty Handbook that outside employment should not come "into conflict with the interests of the University." President Trabant's reason for banning Pioneer monies was precisely because he thought that the mission and activities of



the Pioneer Fund conflicted with one of the University's "commitments." What is the difference between "interests" on the one hand and a "mission" or "commitment" on the other?

Relation to Workload

The University allows faculty to do consulting on University time with the proviso that it be limited to no more than one workday per week, non-cumulative. These eight hours (20% time) can be spread over the work week in any way that does not interfere with University duties, but cannot be carried forward to any following week. The total limit on outside employment during the 9-month academic year is 36 University workdays.

The University also allows one month's vacation during the summer. I presume that these 20 University workdays, which can be devoted to outside employment, can be spread over the summer in any way. I also assume that there is a total limit on outside employment of 28 University workdays during the summer--20 vacation days and 8 workdays. Accordingly, I would be allowed to work on Pioneer-funded research only these 28 weekdays during the summer, and, because all faculty are required to be on campus during the summer, I would have to remain on campus the remaining workdays of the summer, carrying out only University-supported activities.

There is no limit on outside employment during evenings, holidays, or weekends.

Any time I spend consulting for other employers would reduce by the same number of days the time I could spend on Pioneer-funded activities, and vice versa.

Even though 20% University time may be spent on outside employment, this time and the activities carried out during it would not count toward fulfilling University workload requirements. For example, if I spent the maximum permissible (20%) University time on Pioneer-funded scholarship, none of it would count toward fulfilling my department's requirement that I spend 25% of my time on research.

Because the University is paying me to do research 25% of the time, I must be able to demonstrate that I am devoting that 25% time to work that is demonstrably not funded by the Pioneer Fund. If I spend the full 20% time on Pioneer-funded research, then I must work the equivalent of 120% time to meet my minimum University obligations. That extra 20% would not count toward promotion (moot for me but not necessarily for other faculty) or toward yearly evaluations and merit raises.

My entire program of scholarship during the last four years

has been funded by the Pioneer Fund. This means that if I wish to continue with all of those activities and at the same level of effort (using 25% time as a minimum), I will have to reclassify them all as outside employment, do at least 5% of that work during evenings and weekends (since there is a 20% cap on outside employment during the workweek), and establish another program of research that not only does not require Pioneer funding but which I must also be able to document satisfies 25% of my workload and is demonstrably different from my Pioneer-funded activities. In your words, I must establish a clear "wall" between my Pioneer-funded and my University-funded research. Although they may address exactly the same topic, I must clearly "segregate" the two sets of activities.

Use of University Facilities

In considering my use of University facilities, I shall make what you refer to as the conservative but not unreasonable assumption that I could do no Pioneer-funded work whatsoever on campus. Accordingly, I would not be allowed to use campus facilities for Pioneer-funded research. This includes everything from my office to University services such as Quick Copy and Mail Services. I could not use the mainframe computer, consultants at the Microcomputer Resource Center, or similar University support services for any Pioneer-funded scholarship. I could not use my University address for my Pioneer-funded activities, nor advertise my UD phone number for those activities, nor regularly use my office to confer with individuals who work with me on Pioneer-funded activities. Nor would I be allowed to employ workers on campus if they were paid with Pioneer monies.

Also, I could not support a graduate student to do Pioneer-funded research with me, unless it were off-campus, and I would have to make clear to the student that I am only an employer, not his or her professor, during that time. I could not continue to use a Pioneer-funded secretary or research assistant on campus.

Would I be able to pay for personal use of my office telephone for long-distance calls, the department's xerox machine, and any other University facilities or services? Or could such use be construed as evidence of conducting Pioneer-funded activity on campus and thus of violating the President's ban on Pioneer-funded research on campus?

Early in our conversation we discussed the possibility of my paying for University facilities to do some Pioneer-related work on campus, because the Faculty Handbook states that campus facilities can be used for "outside consulting activity" after obtaining written approval from University administrators and after settling on the fees to be paid by the "consultant's employer" for the use of those facilities. Originally, you said

that the department would be responsible for setting a schedule of fees. Later, however, you seemed to conclude that I could not use University facilities at all, because I could not carry out any Pioneer-funded activities on campus.

If I were able to employ a worker on campus, would that worker be covered by the University's liability insurance, or would I have to obtain my own insurance? You stated that any employee of mine would have to have some official UD affiliation, either being a UD student or part-time UD employee, in order to work for me on campus. In addition, I understood you to say that a Pioneer-funded employee working on campus would not be allowed to communicate with University personnel (say, Graphic Communications) to obtain University Services. Not only would that employee be limited in his or her dealings with University personnel (precisely the dealings for which I hired a secretary last fall), but I myself would be limited in my dealings with my employee for I could spend no more than 8 hours during the workweek on Pioneer-funded activities (and by definition, any employee of mine would be working entirely on Pioneer-funded activities).

Use of University Affiliation

I forgot to ask you about the use of my UD affiliation. The Faculty Handbook says that "it must be made clear to any employer that the work has no official connection with the University." Does this lack of connection also have to be made clear to the audiences for my scholarship?

For example, I presume that I could not continue to use my current Project for the Study of Intelligence and Society letterhead paper, which gives my UD affiliation, for future Pioneer-sponsored activities. Could I continue to use my current Project letterhead paper for non-funded activities?

What would the rules be when I present my research at conventions or in other public venues? Would I give my University affiliation for research not supported by the Pioneer Fund but have to refrain from doing so when I present Pioneer-funded research?

If I have omitted anything important, please add it. For obvious reasons, I need you to get back to me quickly on this.

Thank you for your assistance.

Memorandum

JX #18



June 15, 1990

TO: Linda S. Gottfredson
Educational Studies

FROM: Robert D. Varrin *RDV*
Associate Provost for Research

SUBJECT: Outside Employment by University of Delaware Employees

*How can you
say that's okay?*

In your memorandum of June 6, 1990, you have accurately represented the sense of our June 5 telephone conversation on outside employment by University of Delaware employees.

To the additional questions you raise in your memorandum, I offer the following:

1. Your department chair is responsible for monitoring your consulting activities to ensure that you are meeting your time commitments to the university.
2. The Faculty Handbook's statement that outside employment should not conflict with University of Delaware interests means, for example, that a university investigator should not undertake outside research as an individual that would normally be funded through the university. Because the Pioneer Fund is not acceptable to the university as a source of funding, your employment by Pioneer would not conflict with university interests.
3. University facilities and services like long-distance telephone and photocopying should be available for your personal use on the same basis as for everyone else in your department. Any use for which you are reimbursed by another individual or organization, however, would not be considered by the university to be personal use.
4. It is important that the university be connected only with work it supports. Therefore, for Pioneer Fund-sponsored research you should refrain from using the Project for the Study of Intelligence and Society letterhead, and you should not directly exhibit your university affiliation when presenting Pioneer research. For example, a publication based on work supported by Pioneer should show your home or other business address, not your university address.

I hope this clarifies the university's policy on outside employment. Please let me know if you need additional information.