

CALIFORNIA STATE UNIVERSITY, LONG BEACH
SOCIETY FOR THE ADVANCEMENT OF BUSINESS
RESEARCH AND EDUCATION

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Joint Legislative Audit Committee

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VINCENT THOMAS
CHAIRMAN

ROOM 4126, STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 445-7906

MERRILL E. TOMPKINS, C.P.A., COORDINATOR
(916) 445-1890

EVE OSTOJA, OFFICE MANAGER
(916) 445-7908

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October 23, 1973

The Honorable President of the Senate
The Honorable Speaker of the Assembly
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members:

Transmitted herewith is a report on a review of the operations of the Society for the Advancement of Business Research and Education (SABRE) at the California State University, Long Beach (CSULB) from its inception in October 1969 to May 31, 1973. A critical report on SABRE by a faculty review committee occasioned this study which includes a review of related administrative policies and actions.

SABRE operated independent of CSULB from October 1969 until September 1972 when it became a part of the CSULB Foundation. The independent operation occurred even though Section 24054 et seq. of the Education Code requires auxiliary organizations to be operated subject to the control of the university administration.

Some transactions occurring while SABRE operated independently are of questionable propriety. A question exists as to whether the following SABRE projects are within the educational mission of the State University and Colleges as defined in Section 22606 of the Education Code.

- The then Dean of the School of Business Administration was engaged in consulting services using CSULB stationery to conduct correspondence for the Family Health Plan, Inc., a full-service, pre-paid medical plan.
- An associate professor of marketing at CSULB was paid additional compensation (beyond the level authorized by the state for university research) in April, May, and June 1971, to serve as coordinator of a SABRE project.

The Honorable Members of the Senate and the
Assembly of the Legislature of California

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- The reason why time-off from teaching duties (termed "assigned time") was given to CSULB faculty members to act as officers of SABRE is not adequately disclosed as required by a directive from the Office of the Chancellor of the California State Universities.

The issues raised are applicable to the overall California State University and Colleges system.

There is a lack of systemwide and campus rules related to incompatible and outside activities of faculty members, confusion concerning the force of existing policy statements, and a failure to enforce existing policies. Although the trustees inherited from the Superintendent of Public Instruction in 1961 a list of incompatible activities, which is published in the State College Administrative Manual Section 7550, it is not clear that the trustees are enforcing those provisions; and the Board of Trustees has not adopted any new regulations since 1961. Faculty members stated that existing guidelines have been enforced inconsistently.

In order to outline a working framework for future duties and responsibilities of the faculty, it is recommended that:

- The trustees should enforce the guidelines inherited from the Superintendent of Public Instruction. Explicit regulations should be established and enforced which prohibit not only personal financial relationships between a college or university and its faculty members, but prohibit the use of a state university or college facility in promoting a business in which the faculty member either has a financial interest or is directly paid salaries or consulting fees.
- The trustees should develop a statewide policy relative to employment of full-time faculty members as to whether they may be compensated for additional state college and university research beyond the level authorized by the state.
- The Chancellor's office should make a systemwide study to determine the extent of compliance with its directives related to "assigned time".

Respectfully submitted,



VINCENT THOMAS, Chairman
Joint Legislative Audit Committee

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INTRODUCTION

In compliance with a legislative request to determine the facts that led up to a critical audit on the Society for Business Research and Education (SABRE) by a faculty committee, we have reviewed the operations of SABRE from its inception in October 1969 to May 31, 1973. We also reviewed related administrative policies and actions. Many of the issues raised in this report have system-wide applicability.

SABRE is an organization of faculty members of the School of Business Administration at California State University at Long Beach (CSULB). SABRE was an unincorporated association until May 15, 1972 when articles of incorporation were filed. The stated purpose of SABRE is to bridge the gap between the academic community of CSULB and the business community.

From October 1969 to September 1972, SABRE funds were administered by the School of Business Administration. SABRE funds were transferred to the CSULB Foundation on September 18, 1972.

Following is a summary of the receipts and disbursements of SABRE from inception in October 1969 until its transfer to the CSULB Foundation on September 18, 1972.

	<u>Receipts</u>	<u>Transfers</u>	<u>Available</u>	<u>Disbursements</u>	<u>Balance</u>
General purposes	\$ 7,113	\$6,948	\$14,061	\$ 7,971	\$6,090
Accounting Department	4,992	-0-	4,992	4,452	540
Health Care Outreach Project	10,000	(1,352)	8,648	8,648	-0-
Sears Roebuck and Co. Project	2,951	(370)	2,581	2,581	-0-
Orange County Mental Health Project	4,370	(218)	4,152	4,152	-0-
Center for Urban Research and Environmental Studies	3,000	(150)	2,850	2,862	(12)
Health management seminar	<u>10,236</u>	<u>(4,858)</u>	<u>5,378</u>	<u>5,378</u>	<u>-0-</u>
Total	<u>\$42,662</u>	<u>\$ -0-</u>	<u>\$42,662</u>	<u>\$36,044</u>	<u>\$6,618</u>

From September 18, 1972 through May 31, 1973, the CSULB Foundation accounted for receipts of \$11,852 and disbursements of \$8,578 related to SABRE. This left a balance of \$9,892 on May 31, 1973 of which \$5,909 was for general purposes, \$3,796 was for use by the accounting department, and \$187 was for the Orange County Mental Health Project.

On January 29, 1973, the faculty of the School of Business Administration established a committee to review the operations of SABRE. The faculty committee's report on May 7, 1973 entitled, "Review of the Operations of the Society for the Advancement of Business Research and Education (SABRE)", raised questions relative to:

- The administration of SABRE prior to the time it became part of the CSULB Foundation.
- Rules for faculty conduct including:
 - The relationship between the faculty members who were also SABRE officers and Dr. Robert Gumbiner, and Family Health Program, Inc. (FHP).

- Payments to a full-time faculty member from SABRE beyond what was authorized by the state for research.
- The granting of "assigned time" to faculty members who were also SABRE officers and the use of "assigned time" on SABRE projects.

Robert Gumbiner, M.D., is the president, founder and medical director of FHP. He was an adjunct professor in management of health care delivery systems at CSULB until the fall semester 1972. An adjunct professor is paid one dollar per year. In December 1971 he was appointed director of the health management program at CSULB.

Family Health Plan, Inc. (FHP) is a full service pre-paid medical plan, sometimes referred to as a health maintenance organization (HMO).

Dr. Prell is the president and a member of the board of directors of SABRE. He was the dean of the School of Business Administration at CSULB, a position he resigned as of August 10, 1972. He was a member of the faculty of the School of Business Administration at CSULB during the 1972-73 school year. On June 4, 1973, Dr. Prell requested a leave of absence for the 1973-74 academic year. Dr. Prell is a regular consultant and a member of the board of directors of Family Health Plan Inc. (FHP).

Dr. Robert Frye is the vice-president and a member of the board of directors of SABRE. Dr. Frye is an associate Professor of Marketing at CSULB and a regular consultant to FHP.

SUMMARY

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ADMINISTRATION OF SABRE

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Section 24054.5 e(1) of the Education Code defines any entity whose purpose is to receive gifts, property and funds to be used by the University or any person or organization having an official relationship therewith as an auxiliary enterprise. SABRE met this definition. The CSULB administration, however, was indecisive as to whether SABRE should be administered as an auxiliary enterprise or whether it should remain independent of CSULB administration and the constraints of the Education Code and policies of the Board of Trustees. As a consequence, SABRE operated independently until September 1972.

The Trustees and CSULB administration are required to exercise substantial control related to:

- conformance to educational mission
- accounting procedures to be used
- propriety of expenditures
- conflicts of interest.

Some transactions occurring while SABRE operated independently are of questionable propriety. Poor records were kept. A question exists as to whether or not some SABRE projects are within the educational mission of the state university and colleges as defined in Section 22606 of the Education Code.

Prompt and vigorous enforcement of Section 24054 et seq. of the Education Code and Sections 42400 et seq. of Title 5 of California Administrative Code by campus administrators is needed to correct and prevent similar situations from occurring.

RULES FOR FACULTY CONDUCT

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Incompatible Activities

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Sections 23604-5 of the Education Code require the Trustees to adopt rules and regulations for the government of their appointees and employees. The existence and force of rules and regulations related to incompatible activities are in question. At CSULB, incompatible activities were so judged by the president with only general guidelines.

Consulting services and other business relationships of Dr. Prell and FHP and the use of CSULB stationery and prestige to benefit FHP are in our opinion questionable

activities. The president of CSULB has taken no disciplinary action.

The Trustees should:

- Clarify the force of guidelines inherited from the Superintendent of Public Instruction.
- Establish new regulations including those to specifically prohibit personal financial relationships between an employee and his superior and the use of a state university or college to promote a business in which a college or university employee has a financial interest or which pays salaries or consulting fees to the responsible university or college employee, and
- Publish and enforce the guidelines.

COMPENSATION OF FULL-TIME FACULTY MEMBERS BEYOND THE LEVEL AUTHORIZED BY THE STATE FOR COLLEGE OR UNIVERSITY RESEARCH

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The Trustees have no policy related to compensation of full-time faculty members beyond the level authorized by the state for college or university research or other outside activities of faculty members.

The chancellor has delegated authority to the president of each campus.

CSULB policy provides that CSULB faculty members may not receive additional compensation for research during the regular academic year. Dr. Frye received additional compensation in April, May and June 1971 to serve as coordinator of SABRE's health care outreach research project.

The CSULB Foundation and the Vice-President of Academic Affairs should enforce the CSULB policy related to additional compensation for research during the regular academic year. The Trustees should develop statewide policy relative to the outside employment of faculty members including policy to resolve the question of whether faculty members can be compensated beyond the level authorized by the state for full-time faculty for performing state college and university research in addition to teaching full time.

"ASSIGNED TIME"

"Assigned time", sometimes referred to as "released time", is not specifically authorized by the codes or separately accounted for or budgeted. "Assigned time" is authorized time away from teaching. Assigned time is possible

primarily because part-time faculty hired instead of full-time faculty are normally assigned 15 weighted teaching units whereas full-time faculty are normally assigned 12 units and given credit for 3 units for student counseling.

The chancellor's office issued a directive in November 1971 requiring that "assigned time" be authorized in writing, carefully recorded, within legislative restrictions and subject to audit. However, the reasons why "assigned time" was given to officers of SABRE and other faculty at CSULB still are not adequately disclosed.

The chancellor's office should determine systemwide the extent of compliance with its directives related to "assigned time", make revisions if needed to assure compliance, and make data related to state college and university "assigned time" available for budget considerations.

The lack of rules related to incompatible activities and outside activities of faculty members and the failure to enforce existing policies is damaging to the morale of the faculty. Some faculty members feel the existing guidelines have been applied and enforced inconsistently.

ADMINISTRATION OF SABRE

Section 24054 et seq. of the Education Code and Section 42400 et seq. of Title 5 of the California Administrative Code require that SABRE operate as an auxiliary enterprise because:

- SABRE operations were under the auspices of CSULB
- SABRE's purpose was to receive gifts, property and funds to be used for the benefit of CSULB and persons having an official relationship with CSULB.

These regulations provide that the trustees and CSULB exercise substantial control related to:

- conformance to educational mission
- accounting procedures to be used
- propriety of expenditure
- conflicts of interest

SABRE was administered by the CSULB School of Business Administration from October 1969 to September 1972. The university administration was indecisive during most of this period on whether SABRE should be administered as an auxiliary enterprise as required by Section 24054 of the Education Code and Title 5 of the California Administrative Code, or whether it should remain independent of the CSULB administration.

On June 22, 1972, the Vice-President of Academic Affairs at CSULB directed that SABRE become part of the CSULB Foundation. The CSULB Foundation is one of four auxiliary enterprises on the CSULB campus under the control of CSULB.

Some transactions occurring while SABRE operated independently are of questionable propriety. Poor records were kept. Serious question also exists as to whether some SABRE projects were for the purpose of providing essential activities which are an integral part of the educational program of the university, as required by Section 22606 of the Education Code.

Vigorous and timely enforcement of the provisions of Section 24054 et seq. of the Education Code and Sections 42400 et seq. of Title 5 of the California Administrative Code by campus administrators is needed to correct and prevent similar situations from occurring.

DETERMINING WHO SHOULD ADMINISTER SABRE FUNDS

Although SABRE was organized in October 1969, the CSULB administration gave little consideration to the status of SABRE until early 1971. The Vice-President for Academic Affairs at CSULB has advised us that although he assumed this position in September 1969, he did not hear of SABRE until late in the fall of 1970. At that time, he had no reason to question the organization.

In a memorandum of April 23, 1971 to the Vice-President of Academic Affairs of CSULB, Dr. Prell requested:

"... the authorization of the School of Business Administration to participate in SABRE as an interested party and as a recipient of favors grants, etc., that may be within SABRE's power to give us." (Exhibit I.)

In this memorandum, Dr. Prell raised the question, "What procedures must be taken for this organization to be recognized or given credibility in the administration of the college?" SABRE was described as:

"... a link between the business community and the academic community in business and management. It is designed to be dominated by the business community in terms of voting power and to provide a mechanism whereby many funds, services and programs which would be difficult to house within the existing College framework could be housed efficiently and in an accountable manner in a responsible organization."

On May 24, 1971, the Vice-President of Academic Affairs requested a meeting with Dr. Prell, selected members of SABRE and the Executive Vice-President, California State College, Long Beach Foundation, to discuss SABRE. A meeting was held on June 4, 1971.

Dr. Prell desired the advantages of CSULB support, but did not want the disadvantages of foundation control. Dr. Prell particularly objected to a 10 percent administration charge imposed by the CSULB Foundation and restrictions placed upon expenditures such as graduate students, faculty receptions, entertaining businessmen and luncheons.

Based upon the information provided and the desires of Dr. Prell, the administration tentatively concluded on June 4, 1971 that SABRE was an organization outside the University. Still, the administration decided to give further consideration to the proper status of SABRE before finally deciding the course of action. Informal discussions were held for a year to pursue how the CSULB foundation might relate to SABRE.

On June 22, 1972 the administration informed Dr. Prell that the SABRE accounts must be transferred to the CSULB Foundation. An audit of SABRE by the Department of Finance conducted in May 1972 may have given added impetus to the administration's desire to bring SABRE into the CSULB Foundation. The audit report recommending the transfer was dated August 1972.

While the question of who should administer SABRE was being determined (between April 4, 1971 and September 22, 1972) SABRE was from all outward appearances related to CSULB administration. SABRE, however, was administered independently by faculty members of the School of Business Administration. SABRE administrators did not observe provisions of the Education Code and Title 5 of the California Administrative Code. Nearly all of the activities and transactions questioned in this report and by the faculty review committee, which issued the report prompting our review, occurred between April 4, 1971 and September 22, 1972.

RELATIONSHIP OF SABRE PROJECTS TO THE EDUCATIONAL MISSION OF THE STATE UNIVERSITY AND COLLEGES

The accounting records of SABRE categorizes SABRE activities into the following components or accounts:

- General purposes
- Accounting department
- Health care outreach project
- Sears Roebuck and Co. project
- Orange County mental health project
- Center for Urban Research and Environmental Studies
- Health management seminar.

Information on the activities of many of these projects is sparse. For example, documents and reports on the Sears project and the Health Care Outreach project could not be located. Dr. Frye who directed the projects said he had destroyed his copies. Activities conducted can only be constructed from sketchy memorandums, proposals, interviews and other documents indicating the intent of the projects in varying degrees of specificity. Serious questions exist as to whether or not several of the projects are within the educational mission of the campus.

Section 42500 of Title 5 of the California Administrative Code provides:

"The functions to be undertaken by auxiliary organizations are for the purpose of providing essential activities which are an integral part of the educational program."
(emphasis added)

Section 22606 of the Education Code provides as follows:

"The primary function of the state colleges is the provision of instruction ... Faculty research is authorized to the extent that it is consistent with the primary function of the state colleges..."

The Sears Roebuck and Co. project was a study to determine whether, how, when, etc., to enter the market for furnishing systems and furniture which are designed specifically for residences with restricted living space. The Center for Urban Research and Environmental Studies indicates studies to be undertaken in the urban and environmental areas. The Health Maintenance Seminar and Health Care Outreach project promoted acceptance and use of prepaid medical plans.

Desirable as these activities may be to recipients of the studies and the results of these activities and to the faculty members and students receiving compensation for participating in these projects, the relationship to the educational mission of CSULB remains obscure. Students used in carrying out these projects were not necessarily working in an area related to their studies. Health Care Outreach project used minority students because they could more easily communicate with disadvantaged persons.

FACULTY REVIEW COMMITTEE REPORT

The faculty of the School of Business Administration in January 1973 formed a committee to review SABRE's operations. The report contained a section entitled "comments and areas of concern" in which the following headings appeared and were discussed:

- "A. Missing Checks
- B. Dean's Personal Loans
- C. Legitimacy of European Expenses
- D. Extra Reimbursement for European Trip
- E. Personal Club Membership for Dean
- F. Release Time Activities
- G. Lack of Management and Financial Control".

"A. Missing Checks"

Five cancelled checks issued to Dr. Prell totaling \$1,269.78 were reported missing at the time of the faculty review. These checks are now in file.

"B. Dean's Personal Loans"

Dr. Prell borrowed \$400 from SABRE on December 8, 1971. Dr. Prell repaid the loan on July 20, 1972.

Section 42403(c)(2) of Title 5 of the California Administrative Code specifically provides that funds of an auxiliary organization:

"... shall not be used to make personal loans for non-educationally related purposes, except that such loans may be made when specifically authorized by a trust instrument under which the funds were received." (emphasis added.)

The loan was not specifically authorized by the grantor of the funds.

"C. Legitimacy of European Expenses"

Travel expense and per diem was received by Dr. Prell from the federal government for expenses incurred in London, Rome and Paris in the summer of 1971. The review committee questioned the relationship of expenses in these cities to the Yugoslavian project of CSULB.

Dr. Prell advised us that this portion of his European trip was used in an attempt to arrange sabbaticals for school of business administration faculty members and to disseminate literature for the Long Beach Chamber of Commerce. Dr. Prell advised us that he was unable to arrange any sabbatical leaves.

"D. Extra Reimbursement for European Trip"

In addition to receiving per diem from the U.S. State Department, Dr. Prell received \$598.01 from SABRE on August 4, 1971 for expenses normally covered by per diem. At the request of the Vice-President of Academic Affairs, Dr. Prell repaid SABRE on May 31, 1973.

Dr. Prell stated that he is not certain how much he received from the U.S. State Department. He was paid in Yugoslavian dinars. Dr. Prell stated that he thought he was supposed to receive \$22.50 per day for per diem and \$50.00 per day as his fee for five days. Dr. Prell stated that he thought the U.S. State Department payments were for his 5 days in Yugoslavia. The agreement between the U.S. State Department and CSULB, however, specified per diem at \$17.00 per day and contained no allowance for fees.

All expenses charged SABRE except \$16 for the Hotel Metropol in Belgrade, Yugoslavia on June 24, 1971 related to the Rome, Paris and London portion of the trip. Dr. Prell could not recall why he charged this expense to SABRE.

Dr. Prell solicited funds from various business and accounting firms for the 1971 CSULB Yugoslavian project using CSULB stationery. The letters of acknowledgement stated "...these monies will be used to help defray travel costs and per diem expenses for the Dean and the coordinator of the Yugoslavian Project." SABRE receipted and deposited \$700.00. These funds have not been expended. Dr. Prell said the funds were requested for "seed money". He felt the money could be used for general purposes of SABRE. A school

of business administration committee has recently requested the CSULB Foundation to return the \$700 to the donors.

"E. Personal Club Membership for Dean"

Dr. Prell's membership in the International City Club for 1970 and 1971 which cost \$144.00 was paid for by SABRE. Dr. Prell stated that he acquired a temporary membership intending to entertain community businessmen in connection with SABRE business. He found the expense of the club was not justified, therefore, the membership was allowed to expire.

"F. Release Time Activities"

The faculty review committee noted that "assigned time" had been granted to Dr. Prell and Dr. Frye and may have been used on SABRE projects. "Assigned time" is discussed in detail in this report on page 26.

"G. Lack of Management and Financial Control"

The faculty review committee alleged a lack of management and financial controls over SABRE's operations. We found that records were poorly kept and supporting documentation for expenditures were rarely available.

The treasurer of SABRE assigned most duties to his secretaries. Three persons held the position as secretary in succession. The secretaries maintained the records and prepared the checks, and in some instances, signed the treasurer's name on the checks. The secretary who handled the majority of SABRE's transactions had very limited business education and experience.

The provisions of Section 24054 et seq. of the Education Code and Sections 42400 et seq. of Title 5 of the California Administrative Code are sufficient but they were not enforced. SABRE was administered by faculty members and their staff who may not have been familiar with the provisions of the codes and requirements and methods of accounting for trust funds.

The prestige of CSULB and the morale of its faculty have suffered. State college and university administrators should insist that auxiliary enterprise funds be administered by the professional and independent auxiliary enterprise manager available on each campus as required by the code sections.

RECOMMENDATION

- Campus administrators should promptly and vigorously enforce the provisions of Section 24054 et seq. of the Education Code and Section 42400 et seq. of Title 5 of the California Administrative Code.

RULES FOR FACULTY CONDUCT

Section 23604 of the Education Code provides that the trustees shall adopt rules and regulations not inconsistent with the laws of this state for the government of their appointees and employees.

The trustees also inherited from the Superintendent of Public Instruction in 1961 a list of incompatible activities which is published in the State College Administrative Manual, Section 7550. Section 7550 reads as follows:

"INCOMPATIBLE ACTIVITIES

Reference: Government Code, Section 19251

The following list of activities has been determined by the Superintendent of Public Instruction and Director of Education to be inconsistent, incompatible, or in conflict with the duties of an employee or officer under the jurisdiction of the state colleges of the Department of Education:

1. The use of state time, facilities, equipment, or supplies at any time for any purpose (sic.) other than the performance of official business.
2. The performance for compensation other than state salary of any service for any person or public or private agency if such person or agency performs any action which is subject to review, recommendation or approval by the employee or any of his subordinates.
3. The performance for compensation other than state salary at any time of any service which his duties require him to render.
4. The acceptance of any obligations on the part of any officer or employee which would prevent him from carrying the responsibilities for which he is employed, or the acceptance of any responsibilities which would be in conflict with the purposes of the college.
5. The engaging in any activity which is contrary to a policy of the Department of Education or otherwise inimical to its welfare.

6. The willful violation of any law, any regulation of the Department or any directive of the Director of Education respecting his employment or the performance of his duties.

An employee who is engaging in, or plans to engage in, any employment, activity, or enterprise which conceivably might be incompatible, or interfere in any way, with his duties as a state employee, is asked to consult with the chief of his division."

The force of Section 7550 is in question because of its reference to Section 19251 of the Government Code. Section 19251 of the Government Code requires each state employing body to determine those activities which are inconsistent, incompatible or in conflict with the duties of its state employees. Section 19251 of the Government Code, by its terms, is not limited to civil service employees, but there is serious question of whether it applies to non-civil service employees. Although there are no court cases one way or the other, there is an Attorney General's opinion which states the section applies to civil service employees (53 Ops. Atty. Gen. 163, 171). Moreover, the office of the chief counsel for the state colleges takes the position that Section 19251 does not apply to them.

The president of CSULB advised us that he was unaware of the provisions of Section 7550 because they were not distributed to the campuses. Therefore at CSULB, conflicts of interests were judged by the president with only general guidelines such as the American Association of University Professor's statement which places the burden upon each faculty member to act in a professional manner.

INCOMPATIBLE ACTIVITIES

The following activities are, in our opinion, questionable.

- Consulting services Dr. Prell provided FHP, and Dr. Prell's service on the Board of Directors of FHP and other business relationships.
- The use of CSULB stationery and prestige to promote FHP and prepaid health plans.

We did not have access to the personal records of Dr. Prell, Dr. Frye, or Dr. Gumbiner, or to the records of FHP. Therefore, we were unable to make a complete examination.

No disciplinary action has been taken by the president. Dr. Prell, however, resigned from his position as dean in the summer of 1972 for medical reasons and in June 1973 requested a one year leave of absence.

Consulting Services and Other Business Relationships of SABRE Officials

Dr. Prell and Dr. Frye have advised us that they are regular paid consultants to Family Health Plan, Inc., (FHP) and to Dr. Gumbiner, the medical director of FHP. In June 1973, Dr. Prell and Dr. Gumbiner advised us that Dr. Prell had been a consultant to FHP for about one year and on the FHP Board of Directors for one or two years.

Dr. Frye advised us that he has been a regular consultant to FHP since September 1971. Prior to that date, he received \$600 per month from SABRE to act as coordinator of the Health Care Outreach project which was

financed by a grant to SABRE from FHP and which used new enrollments at FHP and the increased use of FHP's facilities as measurements of the success of the project.

Letters in CSULB files dated July 1971 indicate that there may have been other business relationships between Dr. Prell, Dr. Frye and Dr. Gumbiner related to Ski Management, Inc., (Exhibit II). Dr. Gumbiner advised us that Ski Management Inc. is a ski resort that he invested in as a limited partner and he was thinking of offering Dr. Prell and Dr. Frye the opportunity to invest with him.

Dr. Prell appointed Dr. Gumbiner, medical director of FHP, director of the health care management program at CSULB in December 1971 for an interim period from December 1971 until September 1, 1972, and also for the 1972-73 academic year.

In addition to the existing provisions of Section 7550 of the State College Administrative Manual, the trustees should specifically preclude personal financial relationships between a superior and his subordinates.

Use of CSULB Stationery and Prestige
To Promote Prepaid Health Plans

Dr. Prell solicited funds in the name of CSULB for SABRE projects which would primarily benefit FHP. CSULB stationery and prestige were used by Dr. Gumbiner to promote FHP.

The use of CSULB stationery in relationship with the outside consulting activities of faculty members is precluded by a 1963 CSULB memorandum. The CSULB memorandum provides in part that "...no official Long Beach State College stationery or forms shall be used in connection with such work, nor shall the name of the college be used in advertising or in any other way without the expressed consent of the dean of the college."

Dr. Prell was then Dean of the School of Business Administration. The CSULB President should revise the 1963 memorandum to provide that the approval for use of CSULB stationery in relationship to outside activities of faculty and deans resides with a higher and independent authority such as the President's office.

The trustees should specifically preclude the use of a college or university to promote or benefit a business in which a state college or university employee has a financial interest or which pays salaries or consulting fees to the responsible employee.

The following is a more detailed account of the relationship between FHP and Dr. Prell:

- Dr. Prell provided Dr. Gumbiner, the medical director of FHP, with a letter of reference on CSULB stationery on March 23, 1971, (Exhibit III) This letter implied that Dr. Gumbiner was a full professor at CSULB and had the support and endorsement of CSULB to examine the health care delivery systems of Guam, the Philippines, and Japan. An April 11, 1971 news article stated that Dr. Gumbiner had consulted with the Guam Memorial Hospital prepayment medical plan committee to help them set up such a plan for Guam.

- FHP and SABRE organized and presented a health plan maintenance organization seminar. Proceeds of the seminar went to SABRE. The seminar was held at CSULB. CSULB endorsement and sponsorship of prepaid health plans and FHP was implied.

- Dr. Gumbiner sent a letter to the Dean of the School of Medicine at the University of California at Irvine regarding a possible association between FHP and the School of Medicine and CSULB.
(Exhibit IV)

- Dr. Gumbiner sent a letter to the National Center for Health Services to request a research contract and funds on behalf of California State University at Long Beach to demonstrate a concept for bringing the low income population into the mainstream of an established ongoing comprehensive group practice prepayment program.
(Exhibit V)

- Dr. Prell, Dr. Frye and Dr. Gumbiner developed research proposals for studies on the marketing of prepaid health plans. The studies were designed to aid FHP in marketing its services. Dr. Prell, as president of SABRE and dean of the School of Business Administration, requested study grant funds from a private foundation and the United States Department of Health, Education and Welfare. (Exhibit VI) Dr. Prell, using CSULB stationery, sought support from U. S. Senators and Congressmen in obtaining federal funding of the projects. Responses from the federal government, the U.S. Senators and Congressmen clearly showed that all felt they were dealing with a funding request from CSULB.

The projects were described as studies in marketing health maintenance organizations and a study to design effective promotional programs to attract medical doctors to enter health maintenance organizations. The funding requests were not granted. However, while awaiting response to the grant proposal from the United States Department of Health, Education and Welfare, a limited pilot project mentioned in the proposal to the Department of Health, Education and Welfare, and entitled Health Care Outreach project, was carried out using a \$10,000 SABRE grant provided by FHP.

The marketing studies proposed and carried out were limited to the geographical area served by FHP. The results were measured by increased enrollment of members and increased utilization of facilities at FHP. For example, one proposed study stated that the project "concerns communication techniques that will be effective in securing enrollments in, and utilization of, an HMO among welfare recipients, medically needy and the aged". The population is "limited to the area served by Family Health Program because their response to promotional efforts is to be measured by their overt behavior -- enrollment in and utilization of the HMO". The proposal stated that "two kinds of behavior will be used to measure communication effectiveness. One is a direct measurement -- enrollment in Family Health Program...the other is not quite so direct...utilization of the medical facilities..."

RECOMMENDATIONS:

The Trustees should:

- Clarify the force of guidelines inherited from the Superintendent of Public Instruction
- Establish new regulations including those to specifically prohibit personal financial relationships between an employee and his superior and the use of a state university or college to promote a business in which a college or university employee has a financial interest or which pays salaries or consulting fees to the responsible university or college employee, and
- Publish and enforce the guidelines.

COMPENSATION OF FULL -TIME FACULTY MEMBERS
BEYOND THE LEVEL AUTHORIZED BY THE STATE
FOR STATE COLLEGE OR UNIVERSITY RESEARCH

Dr. Frye was paid \$600 per month by SABRE in April, May, June, July, and August 1971 to serve as coordinator of the SABRE Health Care Outreach project. This amount was paid in addition to what he was paid by CSULB as a full-time faculty member.

The Legislative Counsel has provided opinion 14334 dated July 27, 1973 which states that based on the understanding that such employment is not in violation of the rules of CSULB, a full-time state university or college professor may also be a paid employee of a state university or college auxiliary. (Exhibit VII.)

The CSULB faculty handbook includes the following interim policy statement issued by the Vice-President of Academic Affairs on November 4, 1969:

"Faculty members may not receive additional compensation for research during the regular academic year, compensation for research during the summer will normally not exceed two-ninths of the academic year salary."

On March 11, 1970 in a letter to the Academic Senate the Vice-President of Academic Affairs explained the rationale of his November 4, 1969 statement as follows:

"Item 1: Faculty members may not receive additional compensation for research during the regular academic year.

Note: The intent of this statement is directed primarily toward the internal function of the faculty member within the institution. In other words, if a professor were to receive a grant which called for the research to be accomplished on campus, using college facilities, etc., he would not be able to be reimbursed beyond the level of remuneration paid to him by the State of California. Such grant provisos usually include monies for reimbursed released time to allow the professor to carry on the research.

Item 2: Research compensation during the summer will normally not exceed two-ninths of the academic year salary; in unusual circumstances, with advance approval, this may be raised to three-ninths of the academic year's salary.

Note: Statement 2 again refers to the internal function of the professor within the institution relative to grants offered the professor which require the use of campus facilities. This statement is a direct quotation from the federal regulation governing such grants as NIH, NSF, etc."

In a letter to the President of CSULB dated March 15, 1972, the Vice President of Academic Affairs stated "the interim policy issued by my office on November 4, 1969 is the policy of the institution until changed."

Although SABRE was not officially a part of CSULB at that time, it should have been. Therefore, Dr. Frye should refund approximately \$1800 to the CSULB Foundation for payments received from SABRE for coordinating SABRE research on the Health Care Outreach program for April, May and June 1971. Other junior faculty may also be subject to returning money received for SABRE research.

The trustees have no policy related to outside activities of faculty members. The chancellor's office has reportedly been considering system-wide policy statements for some time. The Academic Senate of CSULB also was unable to agree upon a policy statement on outside employment of faculty. The inability of the chancellor's office and the CSULB Academic Senate to set policy may be the reason that the existing CSULB policy was not enforced.

Research at state colleges administered by state college auxiliary enterprise foundations amounts to about \$6 million per year. Expenditures for faculty salaries amount to \$286 million per year. Because of the amount of dollars involved the question of whether full time faculty members can receive compensation beyond the level authorized by the state for state college or university research, should be resolved on a statewide basis and the policy enforced.

RECOMMENDATIONS

- The CSULB Foundation and the Vice-President of Academic Affairs should enforce the CSULB policy related to additional compensation for research during the regular academic year.

- The trustees should develop statewide policy relative to the outside employment of faculty members including policy to resolve the question of whether faculty members can be compensated beyond the level authorized by the state for full time faculty for performing state college and university research in addition to teaching full time.

ASSIGNED TIME

"Assigned time", sometimes referred to as "released time", is not specifically authorized by the Education Code. However, Education Code Sections 23604 and 23605 require the trustees to adopt rules and regulations for the government of their appointees and employees, and gives the trustees power to delegate their powers to any officer, employee, or committee they designate.

The Chancellor of the California State Colleges, in a memorandum dated November 1, 1971, delegated the authority for the proper utilization of faculty and the overall conduct of the educational program at each college to the president of each college. The memorandum entitled "Utilization of Faculty" contained general guidelines on the appropriate utilization of faculty positions and "assigned time".

The memorandum stated:

"...the normal workload for a full-time faculty member consists of 12 weighted teaching units (WTUs) of direct instructional assignments, including classroom and laboratory instruction and instructional supervision (such as student thesis or project and intern supervision) and 3 WTU equivalents of indirect instructional activity such as student advisement, curriculum development and improvements and committee assignments.

In special cases, approved by the President (or a designated Vice President), a faculty member may be given an exceptionally heavy instructionally-related assignment in lieu of up to three of the 12 WTUs of his direct instructional assignment. Such allocation is primarily possible because of the normal assignment of 15 WTUs of direct instruction to part-time faculty, and the related unavailability of part-time faculty to perform instructional activity. However, support for legitimate non-administrative instructional support functions may also be authorized in addition to that derived from the averaging-in of part-time faculty workloads. Each such special assignment must be authorized in writing, carefully recorded, and subject to audit.

Adjustments in these direct instruction and instructionally-related assignments, may be made by the President of each college if in his judgment such adjustments are necessary for the efficient conduct of the academic program."

The memorandum refers to legislative restrictions, such as Item 288 of the Budget Act of 1971 which required that: "...no instructional facility authorized in the Budget Supplement for Education in 1971-72 will be used for general administration, department chairmanships, or non-instructional research."

Faculty activity assignment forms, to set forth the reasons for granting assigned time, were first used at CSULB for the 1972 spring semester. The granting of assigned time has since required the approval of the department chairman, school dean and vice-president for academic affairs. No formal requirement existed prior to that date to set forth reasons for granting "assigned time".

Prior to the 1972-73 school year, authority for granting assigned time was at the discretion of the school deans and department chairmen.

Assigned Time Granted to SABRE Officers

Dr. Prell was granted six units of assigned time for the fall semester of 1972 and six units for the spring semester of 1973. The University President and Vice-President for Academic Affairs advised us that Dr. Prell was given assigned time to "retool" himself to return to teaching. In this case, documentation could not be found to show why assigned time was given.

Dr. Prell said he had been granted the assigned time to develop the following reports and studies on curriculum which he was working on:

- "The New Curriculum -- A Bachelor of Arts in Management"
- "One Dean's View -- Lilliput by the Ocean"
- "Student Capacity to Learn"

The president of CSULB later provided us with copies of these reports.

Dr. Frye has been granted assigned time as follows:

Spring 1970	3 units
Fall 1970	3 units
Spring 1971	6 units
Fall 1971	3 units
Spring 1972	<u>3 units</u>
Total	<u>18 units</u>

Documentation related to Dr. Frye's assigned time is sketchy. The University administration has no documentation to indicate why Dr. Frye was granted assigned time for the spring 1971, the fall 1971, and the spring 1972 semesters. Dr. Frye worked on the Belmont Shore study, a SABRE project, in the fall of 1970. During the spring 1972 semester, he applied for three units of assigned time to work on a study for Sears Roebuck and Company (a SABRE project) and to work on an article resulting from "a study of lifestyle characteristics and their value as inputs for industrial designers".

A December 7, 1971 letter to Dr. Frye from Dr. Prell stated that Dr. Frye was "provided released time to serve in the Business Research Bureau to generate research proposals". Dr. Frye had specific responsibilities for generating research proposals or finding other financing programs for the health care management program.

We believe the Sears project and the health care proposals and project constituted non-instructional research in violation of Item 288 of the Budget Act of 1971. Question also exists as to whether it was proper for Dr. Frye to be given assigned time to solicit research proposals for which he was paid extra money to coordinate beyond the level authorized by the state for full time faculty.

Some faculty members at CSULB feel that assigned time has been frequently granted by deans on a personal rather than professional basis. The administration now requires that statements be submitted by faculty members receiving assigned time. We reviewed the faculty assigned time granted for the spring semester 1973. The information remains so vague that reliance on the judgment of the deans of the schools remains the prime criteria for granting assigned time. Of 151 forms we reviewed, there was no method to assess the use of the assigned time for 106, 19 indicated reports would be submitted, 14 listed supervision of department chairmen and 12 gave other methods of possible assessment.

The total assigned time for the School of Business Administration was 90 units for the fall 1972 semester and 48 units for the spring 1973 semester. Assigned time varied considerably among the schools for the 1972-73 school year, as shown by the following table.

	<u>Fall 1972</u>	<u>Spring 1973</u>
Applied Arts and Sciences	14	82
Business Administration	90	48
Fine Arts	51.5	52.9
Education	0	6
Engineering	34	30
Letters and Science	162.6	156.22
Special Programs	<u>0</u>	<u>25</u>
Totals	<u>352.1</u>	<u>400.12</u>

Assigned time for the fall and spring semesters of 1972-73 accounted for 29-1/3 and 33-1/3 full time faculty positions, respectively, at CSULB. This is about three percent of the instructional faculty positions authorized at CSULB.

ESTIMATED COST OF ASSIGNED TIME SYSTEMWIDE

The budgeted cost of the CSULB instructional faculty salaries for the 1973-74 year is \$17,308,180. Assigned time at CSULB costs the State of California about \$500,000 per year for direct faculty salaries. The cost of assigned time for the total state college and university system may be \$5 million per year. These expenditures are not separately budgeted or accounted for.

RECOMMENDATION

- The Chancellor's office should determine systemwide the extent of compliance with its directives related to "assigned time", make revisions if necessary to assure compliance, and make data related to state college and university use of "assigned time" available for budget considerations.



Walter J. Quinn
Chief Deputy Auditor General

September 27, 1973

Staff:

John E. Finnstrom
Richard I. LaRock
G. Dan Turner

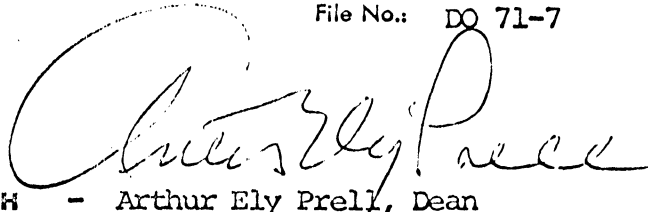
State of California

Memorandum

To : Dr. Leo Goodman-Malamuth
Academic Vice President

Date : April 12, 1971

File No.: DO 71-7



From : CALIFORNIA STATE COLLEGE, LONG BEACH - Arthur Ely Prell, Dean
School of Business Administration

Subject : SABRE and CURES

RECEIVED

APR 13 1971

Academic Vice President
California State College
Long Beach

I. Problem/questions:

1. The School of Business Administration has established an organization known as SABRE (Society for the Advancement of Business Research and Education). This organization is an association which has been granted tax-free status by the State of California and the federal government for the purpose of supporting business research and business education programs.

The organization will provide a link between the business community and the academic community in business and management. It is designed to be dominated by the business community in terms of voting power and to provide a mechanism whereby many funds, services and programs which would be difficult to house within the existing College framework could be housed efficiently and in an accountable manner in a responsible organization.

2. What procedures must be taken for this organization to be recognized or given creditability by the administration of the College?
3. While this organization is designed to complement any function in the whole College, what steps should be taken to prevent any conflict of interests?

II. Facts/data/opinions:

1. SABRE will hold an organizational meeting hopefully in the next 60-90 days attempting to establish a Board of Directors and friends of the association.

Dr. Leo Goodman-Malamuth
D071-7
Page 2
April 12, 1971

2. Under the Dean of the School of Business Administration, a subunit has been created that is known as CURES (Center for Urban Research and Environmental Studies). CURES specifically is interested in dealing with real estate, land use, tax structure and other related areas that effect the economy. CURES will hold an organizational meeting hopefully within 45 days establishing a Board of Directors and friends.
3. In presenting this idea to the State College Deans' meeting this year, it was met with enthusiasm by many campuses. So much so that many are interested in chapters of SABRE to help them establish a working relationship with their business communities.

III. Request for action:

I request that you provide the means to inform those interested, particularly on campus, of the existence of SABRE and of the subunit known as CURES in order that it may complement the interests and programs of other groups.

I request the authorization of the School of Business Administration to participate in SABRE as an interested party and as a recipient of favors, grants, etc., that may be within SABRE's power to give us.

AEP:ms

ROBERT GUMBINER, M. D.
429 WINSLOW AVENUE
LONG BEACH, CALIFORNIA 90814

July 12, 1971

To: All Board of Directors
Ski Management, Inc.
From: Robert Gumbiner
Subject: Meeting of Board of Directors

This is to inform you that there will be a meeting of all proposed new Directors of Ski Management, Inc. to be held on Thursday evening, July 15, 1971, at 2925 North Palo Verde Avenue, Long Beach, California at 7:30 P.M.

Copies to: Joe Shuff
Sid Krems
Robert Hubbell
Gunther Klaus
Robert Gumbiner

Ben Holzman
Robert Frye
Arthur Prell ✓
Seymour Stein

ROBERT GUMBINER, M. D.
429 WINSLOW AVENUE
LONG BEACH, CALIFORNIA 90814

July 26, 1971

Dean Arthur E. Prell
California State College Long Beach
Long Beach, California 90801

Dear Dean Prell:

Since July 10, 1971, I and my staff have been attempting to find a way to rescue Goldmine Ski Associates and Ski Management, Inc., the general partner from bankruptcy. The major part of the last two weeks has been spent in this endeavor, including an examination of the financial affairs by an independent accounting firm, meetings with legal advisors, the Forestry Service, engineering, the holder of the first trust deed and other creditors and potential funding sources.

Numerous severe problems have come to light including the fact that Goldmine Ski Associates will be approximately \$200,000 delinquent in payment on debt service and payables as of August 1, 1971. Severe problems also exist with obtaining adequate water, power, zoning, sewage disposal, conforming to Forestry Service regulations, roads and parking, management and marketing.

On Thursday evening, July 29, 1971 at 7:30 P. M., there will be a meeting at 2925 North Palo Verde Avenue, Long Beach (Palo Verde at Spring Street) in which I and the staff people who have been working on these problems will present the facts and outline to you suggested remedial measures.

It is important that you be there since decisions regarding your investment must be made immediately.

Sincerely yours,


Robert Gumbiner, M.D.

RG:kar

↑
called 7/29
unable to attend
rec'd above letter 7/28



CALIFORNIA STATE COLLEGE, LONG BEACH

90801

MARCH 23, 1971

To Whom it May Concern:

Dr. Robert Gumbiner is Director of the program "Management of Health Care Delivery Systems" and is a Professor of Management in the Department of Business Administration, California State College at Long Beach. This is the largest State College in the California system and the second largest center of higher learning in California. He is also Executive Director of Family Health Program, a Group Practice Prepayment program.

As Program Director of a current project to examine the health care delivery systems of Guam, the Philippines and Japan, he has the full support of the Department of Business Management.

The objective of this study is to examine management techniques used in the private and public sectors in relation to recommendations for improving the health of the target population and consumers in general through implementation of advanced management systems and techniques.

I would appreciate your cooperation with Dr. Gumbiner in this endeavor.

Sincerely,

Arthur E. Prell, Ph.D.
Dean

/mt

FAMILY HEALTH PROGRAM *of Southern California*



2925 NORTH PALO VERDE AVENUE • LONG BEACH, CALIFORNIA 90815 • TELEPHONE HA.19383

April 14, 1972

Warren L. Bostick, M. D.
Dean
University of California
School of Medicine
Irvine, California

Dear Dean Bostick:

A body of health law appears to be developing with the evolvement of the Health Manpower Act of 1971 and various HMO proposals, including the Roy bill HR71728, Senator Kennedy's new bill S3327 and others we are likely to see in the near future.

All of these bills have reference to development of HMO's in the areas of liberal funding for development and training purposes, particularly in the Roy bill which specifically stipulates institutions of higher learning are associated with an independent HMO.

I would like to open preliminary discussions with you and your staff regarding a possible association between FHP, a non profit corporation HMO, and the School of Medicine, University of California at Irvine.

As Adjunct Professor of Management at California State College at Long Beach, I have developed their program for Management of Health Care Delivery Systems in the Graduate School. There may be a possibility of working out something between the medical school, the Graduate School of Management at Cal State, and Family Health Program.

I will call you shortly in regard to an appointment to discuss this matter.

Sincerely yours,

Robert Gumbiner, M. D.
Executive Director

RG:my
See attachment

Group Practice Plan Called Ideal Setting for Teaching

Prepaid group practice plans are a highly desirable form of health system to use as a service model and teaching resource, particularly for physicians whose interests are in community medicine, primary medical care, family practice, etc.

That view was expressed by Dr. Joseph L. Dorsey, Director of Medical Planning of Harvard Community Health Plan, in an address to the American Public Health Association on the prepaid group practice plan in the education of future physicians.

Of 13 established prepaid group practice plans surveyed in a questionnaire, seven reported organized educational programs for medical students and seven had hospitals with interns and residents. Of the seven plans with organized internships and residencies, only three groups had programs involving more than five trainees.

Dr. Dorsey offered three possible explanations for the limited participation in teaching activities:

1. In the early days of the prepaid group practice movement, physicians who joined such programs often found themselves isolated from their colleagues in the medical community and consequently university teaching hospi-

tal staffs did not participate in developing such plans.

2. Prepaid group practice plans have not had the financial means to allocate substantial resources to teaching and have been unable to tap service premiums generated by their limited membership to develop an educational service for the entire community.

3. The orientation of most groups has been almost totally to the service aspects of their programs, reflecting the wishes of enrollees.

"Within recent years several medical schools and their university teaching hospitals have been working seriously on prepaid group practice plans," he said.

"Wishing to respond to the justified social criticism that they have not contributed to an improved health system, seeking a form of health care which could reach a broad cross section of the community and offer a financially viable vehicle on which to establish the service program, and paying heed to experts in the field of medical care, these institutions have taken on responsibility for developing prepaid group practice plans."

He described the formation of the Harvard Community Health Plan,

which has affiliations with four teaching hospitals as a means of fostering teaching programs.

Hospital and medical services are arranged under formal, legal contracts between HCHP and the four hospitals — Beth Israel, Boston Hospital for Women, Children's Hospital Medical Center and the Peter Bent Brigham Hospital. Well established guidelines from existing prepaid group practice plans have been used to determine the numbers and types of physicians in each specialty to be recruited to the HCHP staff at each membership level.

An appointment to the HCHP staff is made jointly by the Plan Medical Director and the chief of the appropriate Hospital Service, Dr. Dorsey said. It includes a faculty appointment at Harvard Medical School and admitting privileges at the hospital.

Current teaching programs include a behavioral science course for first year medical students on the delivery of medical care in the 1970s; elective medical care projects permitting an in-depth exploration of selected topics, including attitudes of physicians toward group and solo practice; clinical rotation for residents.

National Center for Health Services
Research and Development
Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Letters directed to:

Dr. Paul J. Sanazaro, Director
Room 15-05

Dr. Faye Abdellah, Associated Director for
Health Services Development

Miss Evelyn Flook, Director
Office of Inter-Organization Relations

Mr. Robert M. Thorner, Director
Health Care Organization and Resources Division

Dr. Robert L. Eichhorn, Director
Special R & D Projects Division

Dr. Cornelius Askew,
Health Services Evaluation Branch

Dear

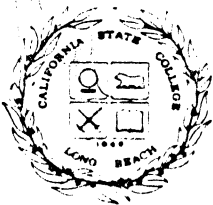
An area of special interest to the Division of Health Care Organization and Resources is the improvement of the level of health of the disadvantaged and the improvement of the delivery of effective health service to this segment of the population.

Our proposed contract would demonstrate a method of improving the health care delivery which will bring the level of health in this population to the level of the more affluent segments of society. This is an innovative technique in the management of outreach, manpower and resources to achieve this goal. The design of the research effort is under the control and guidance of faculty members of a major California teaching institution.

It is believed that this is a concept for the utilization of a new method of bringing the low income population into the mainstream of an established ongoing comprehensive group practice prepayment program. This program is already operating a Medi-Cal/Medicaid pilot project for the State of California as well as contracts for various employer groups. The cooperation of the research efforts of California State College at Long Beach may be exactly what the Department is looking for.

Sincerely yours,

Robert Gumbiner, M. D.
Executive Director



CALIFORNIA STATE COLLEGE, LONG BEACH

90801

May 27, 1971

Office of the Dean
School of Business Administration

Mr. John G. Veneman, Undersecretary
Department of Health, Education and
Welfare
Washington, D. C. 20201

Dear Mr. Veneman:

It is with a great deal of pleasure that we submit two proposals:
A Proposal to Demonstrate that Educational Opportunity Program Students
Can Improve Utilization of Available Health Care by Disadvantaged Persons
and A Proposal to Study Differences among Medical Doctors in Relation to
Their Mode of Practice and Career Stage.

Two years ago we instituted an educational program, in conjunction with our program of Graduate Study in Business Administration, that leads to a Graduate Certificate in Health Care Delivery Systems Management. We believe that the HMO will become the principle delivery vehicle for health care and that HMO's should be managed by persons trained just as well as persons who manage other business enterprises.

Since getting involved, we have come to realize that many problems in HMO management are related to marketing - often overlooked in earlier approaches. Fortunately, we have assembled an outstanding marketing faculty which emphasizes skills in human behavior, communication theory and technology, and quantitative methods of analysis.

For these reasons, we are enthusiastic about both these proposals and feel they are worthy of support. Certainly, my office will support them in every way possible. Finally - and this is not the least of the considerations - we are enthused about demonstrating that EOP students can earn at least part of the money they need to get a good education and make a real contribution to surrounding communities while doing it. This, alone, could revolutionize the concept of supporting disadvantaged young people.

Please feel free to contact me directly if you have any questions about any aspect of these two proposals.

Respectfully,

A large, stylized handwritten signature in cursive script, appearing to read "Arthur Ely Prell".

Arthur Ely Prell
Dean

(43)

BERNARD CZESLA
CHIEF DEPUTY

J. GOULD
OWEN K. KUNS
RAY H. WHITAKER

KENT L. DECHAMBEAU
ERNEST H. KUNZI
STANLEY M. LOURIMORE
SHERWIN C. MACKENZIE, JR.
ANN M. MACKAY
EDWARD F. NOWAK
EDWARD K. PURCELL
PRINCIPAL DEPUTIES

121 STATE CAPITOL
SACRAMENTO 95814

110 STATE BUILDING
LOS ANGELES 90012

(EXHIBIT VII)

Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California
July 27, 1973

GERALD ROSS ADAMS
DAVID D. ALVES
MARTIN L. ANDERSON
CHARLES C. ASBILL
JAMES L. ASHFORD
JERRY L. BASSETT
EDWARD RICHARD COHEN
JOHN CORZINE
BEN E. DALE
CLINTON J. DEWITT
JERALD S. DICK
ROBERT CULLEN DUFFY
LAWRENCE H. FEIN
JOHN FOSSETTE
HARVEY J. FOSTER
ROBERT D. GRONKE
JAMES W. HEINZER
THOMAS R. HEUER
L. DOUGLAS KINNEY
VICTOR KOZIENSKI
DANIEL LOUIS
JAMES A. MARSALA
EUGENE W. MCCABE
PETER F. MELNICOE
MIRKO A. MILICEVICH
TRACY O. POWELL, II
MARGUERITE ROTH
MARY SHAW
ROY K. SIMMONS
RUSSELL L. SPARLING
JOHN T. STUDEBAKER
BRIAN L. WALKUP
THOMAS D. WHELAN
DAVID E. WHITTINGTON
JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

Honorable Vincent Thomas
Assembly Chamber

State University or College Professor: Dual
Employment - #14334

Dear Mr. Thomas:

QUESTION

May a full-time state university or college professor* also be an employee of a state university or college auxiliary organization?

We understand that the auxiliary organization in question is a foundation created for the purpose of providing information and various services of benefit to the business community generally, that the professor acts as the foundation's coordinator, and that he receives payments in the form of compensation from the foundation for acting as such.

We understand also that the dual employment in question is not in violation of any rule or regulation of the particular state university or college at which the professor is employed or of any provision of his employment contract with the university or college. We understand further that the professor's work with the foundation does not prevent him from working full time with the state university or college.

* Such a professor is required to work at least 40 hours per week (see Sec. 42713, Title 5, Cal. Adm. C.).

Honorable Vincent Thomas - p. 2 - #14334

OPINION

Under the assumptions set forth in the question, a full-time state university or college professor may also be an employee of a state university or college auxiliary.

ANALYSIS

There are no constitutional or statutory provisions of general applicability which would prevent an individual from simultaneously holding both positions in question.

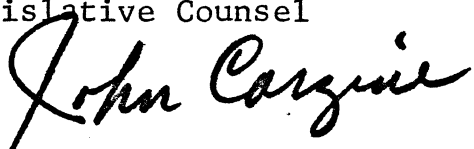
Nor do we believe that there is any incompatibility between these two positions (People v. Thompson (1942), 55 Cal. App. 2d 147; People v. Rapsey (1940), 16 Cal. 2d 636). In order for the common law doctrine prohibiting the holding of incompatible offices to be applicable, both positions must be public offices. In this case, leaving aside the question of whether a state college or university professor is a public officer, in our opinion an employee of a college or university auxiliary organization would not be described as a public officer.

Finally, the statutory provisions and administrative regulations relating to state university and college auxiliary organizations (Art. 5 (commencing with Sec. 24054), Ch. 3, Div. 18, Ed. C.; subch. 6 (commencing with Sec. 42400) Ch. 1, Pt. V, Title 5, Cal. Adm. C.) and to state university and college employees (Ch. 9 (commencing with Sec. 24201), Div. 18, Ed. C.; subch. 7 (commencing with Sec. 42700), Ch. 1, Pt. V, Title 5, Cal. Adm. C.) do not prohibit a full-time professor from also being an employee of an auxiliary organization.

In conclusion, under the assumptions set forth in the question, it is our opinion that a full-time state university or college professor may also be an employee of a state university or college auxiliary.

Very truly yours,

George H. Murphy
Legislative Counsel


By
John Corzine
Deputy Legislative Counsel

JC:dwb