

**The University of Connecticut  
Office of Audit, Compliance, and Ethics  
Report on  
Faculty Consulting Activities and University Procedures**

**BACKGROUND**

Connecticut State Public Act (PA) 07-166, approved on June 19, 2007, provides legislative relief in relation to the State Ethics Laws as they pertain to faculty or a member of a faculty bargaining unit of a constituent unit of the state system of higher education. The legislation allows a faculty member to enter into a consulting agreement with a public or private entity, “provided such agreement or project does not conflict with the member's employment with the constituent unit, as determined by policies established by the board of trustees for such constituent unit.”

PA 07-166 charges the University with establishing a faculty consulting policy, including procedures for the disclosure, review and management of conflicts of interest relating to any such activity and requires the performance of a semiannual audit to assess compliance with faculty consulting policies. This audit is the fourth semiannual audit of the University’s faculty consulting activity and includes a review of the departmental level approval process.

Section 5.b of the University’s Board of Trustee (BOT) approved “Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit” (the Policy) establishes the conditions that must be satisfied before permission to consult may be granted to a faculty member. By granting approval to a consulting request, a Department Head is certifying that “to the best of my knowledge, when added to other activities already approved, it will not exceed an average of one day per week during normal work time; it is an appropriate professional activity for this individual; and, the faculty member is currently, fully performing his/her State duties. I also attest to the best of my knowledge that the faculty member is not competing with the University for work that may be perceived as being work the University would choose to perform.”

**OBJECTIVES AND SCOPE**

Our audit objectives and scope were:

- To determine whether or not Management’s Corrective Actions per the prior Faculty Consulting Audit have been implemented and are functioning effectively
- To evaluate the effectiveness of the established faculty consulting activity approval and oversight procedures
- To evaluate the faculty consulting approval procedures implemented by Department Heads to ensure that the five conditions specified in Section 5.b of the Policy are met.

This audit did not include tests of management's corrective actions with a completion date later than July 1, 2009. These actions will be evaluated in subsequent Faculty Consulting audits. Our review included all "Request for Approval of Consulting Activities" forms submitted during the period, July 1, 2009 to December 31, 2009. The number of consulting request forms submitted to the Storrs and the University of Connecticut Health Center (UCHC) Faculty Consulting Offices (FCOs) for this time period was 742 and 501 respectively. The corresponding number of faculty members submitting consulting requests to the Storrs and UCHC FCOs during this time period was 351 and 141 respectively.

## **GENERAL OBSERVATIONS AND CONCLUSIONS**

The University faculty consulting policies, procedures and revisions implemented in January, 2009 address the need to acquire sufficient disclosure information from faculty members to fulfill the management oversight requirement of PA-166. These policies are implemented through review and oversight procedures executed within each academic department and by the FCOs as delegated by the Office of the Provost.

The FCOs have been responsive to audit recommendations relating to policy and procedural clarifications and process improvements. University management continues to refine and enhance the faculty consulting policies and procedures and has achieved substantial compliance with PA 07-166. We noted implementation of the following corrective actions during our review:

- Modification of the consulting request form to gather additional information related to existing grants, contracts and equity relationships between the consulting entity and the faculty member
- Improvement in the level of detail included in the descriptions of the consulting activity
- Increased FCO oversight in the form of e-mail correspondence requesting additional information
- Implementation of procedures to forward the names of faculty members who work on a University grant or contract funded by the consulting entity to the Conflict of Interest Committee once the consulting income reaches or exceeds the threshold designated by the federal government
- Non-approval of consulting requests submitted to the FCOs after the start date of the activity with formal written notifications of non-approval and sanctions policy for noncompliance.

The language of PA-166 prohibits an interest in the consulting activity that interferes with the proper discharge of the faculty member's employment with the constituent unit and specifically requires the University to "establish procedures for the disclosure, review and management of conflicts of interest relating to any such agreement or project." Participation in consulting activities by faculty members for personal remuneration from external entities must be evaluated not only for the amount of time and effort that can appropriately be devoted to such pursuits, but also for the potential loss of sponsored research and/or educational opportunities to the University. This evaluation process often requires consideration of complex and unclear issues that potentially extend beyond the department level. As a result, we have reached the conclusion that the University should clarify the responsibilities of deans, department heads and other

relevant University offices in evaluating the appropriateness of an activity as private consulting rather than as research or educational work that should be performed through the University.

## **OBSERVATIONS & RECOMMENDATIONS**

### **1. Faculty Consulting Office Review**

We performed an analytical review of the consulting data records provided by the Storrs and UCHC FCOs. Based on our analysis, we judgmentally selected a sample for additional testing, comprised of 67 Storrs faculty members with 152 consulting requests and 14 UCHC faculty members with 65 consulting requests, to ensure compliance with consulting policies and procedures.

While we identified a small number of requests that were not received by the Storrs FCO in a timely fashion during our review, we conclude that the Storrs and UCHC faculty, department and deans' offices are complying with the prior approval requirement of the Faculty Consulting Policy. The FCO is denying approval to appropriate late requests and providing notification letters to the requestors per the Sanctions Policy. We observed several Storrs consulting requests that were approved even though the requests did not reach the FCO prior to the start date of the activity. These occurrences were caused by administrative delays at the department and/or dean's level and approved as legitimate exceptions to the requirement.

We observed a Storrs consulting request submitted by a faculty member on May 20, 2009. Effective August 19, 2009, this faculty member became a Managerial Confidential Employee, no longer protected by the legislative carve out and subject to the State Ethics Regulations. The consulting procedures do not contain guidelines relating to promotions or other positional changes that cause an employee to lose his/her affiliation with the faculty bargaining unit.

Additionally, we noted one Storrs consulting request data record with a mismatch between the requestor's name and employee id; two Storrs consulting request data records and one UCHC consulting request form in which the number of days requested exceeded the number of days in the start/end date range; five UCHC consulting requests in which it appears that the total number of days during normal work hours and the total number of days were reversed. In addition, one UCHC faculty member out of 14 selected for review did not list an ongoing grant with the contracting entity on the consulting request form.

### **Recommendations**

1. University procedures should be revised to include formal notification to former faculty members when consulting activities with prior approval are no longer exempt from State Ethics Regulations.
2. Consideration should be given to process improvements that streamline the movement of consulting request forms between the departmental, deans' and Faculty Consulting offices to ensure timely review and approval prior to the start of the activity.

3. FCO staff should review the accuracy of the data entered into the Storrs Faculty Consulting Database against the actual consulting request forms and correct any errors identified prior to filing the requests.
4. In addition, faculty members should report all grants and contracts with the consulting entity. This information should be verified by the FCOs.

### **Management Responses**

1. Agreed. The FCO will ask the Deans Offices and Human Resources Departments to notify the FCO when those covered by the Faculty Consulting Programs (members of the Storrs AAUP collective bargaining unit or UCHC faculty) change their employment status and are no longer in a faculty/AAUP unit. Upon notification, the FCO will advise those parties that have approved consulting activities that such activities are no longer subject to the carve out provided by PA 07-166. Anticipated date of completion: March 1, 2011.
2. Agreed and in progress. The FCOs are currently developing an on-line consulting request/approval process. This process should facilitate the approval process and provide up to date and complete tracking information regarding the status of requests. Anticipated date of completion: Phase I: July 1, 2011.
3. Agreed and in progress. Per the response to item 2 above, the on-line system will have automatic checks on many of the data items entered on the form to be sure they are consistent and within acceptable ranges.
4. Partial agreement. While management agrees in principal with this recommendation, management recognizes there are many situations when current grant information is not relevant to the decision whether to approve the request to consult. For example, when the consulting is to serve on a Federal agency grant review committee, it doesn't matter if the faculty member has Federal grants since we do not perceive the risk of a conflict of interest.

Currently, at UCHC, whenever the federal CoI in Research threshold is reached (\$10,000), an independent check of all grants with the contracting entity is conducted by the FCO. Under the CoI in Research Policies, faculty at both campuses are required to report their financial interests in companies they are conducting research on as a State employee.

Management therefore agrees that it will encourage that all relevant data fields of the request form be filled out completely by requester, but that it will continue to verify grant activity itself, rather than rely solely on self-report by the faculty member, but only when it is relevant to the decision whether to approve the request to consult or not.

## **2. Management Review for Conflict of Interest and Competition with the University**

Department Heads are responsible for providing the first level of review for consulting requests submitted by faculty members. When a consulting request is approved, the Department Head must certify that the consulting will not exceed an average of one day per week; it is an appropriate professional activity for the faculty member; the faculty member is currently fully performing his/her State duties and is not competing with the University.

We traced the consulting requests in the sample population to the consulting request forms on file in the Storrs and UCHC FCOs and reviewed the documentation for evidence of management oversight in the approval process. In addition, we interviewed three UCHC and five Storrs Department Heads to gain an understanding of the factors considered during the approval process and to discuss specific approved requests.

One out of three UCHC and two out of five Storrs Department Heads interviewed do not have a process in place to monitor faculty consulting requests. However, both the FCOs have procedures in place to monitor requests and notify Department Heads when faculty members are approaching the threshold limits on consulting days during normal work hours.

During our detailed review of the Storrs sample population, we discovered faculty members who requested approval to perform a variety of consulting activities that contain the potential for competition with the University and/or a conflict of interest. We identified:

- Nine faculty consulting for private companies in which they held an ownership interest
- Three faculty performing consulting activities in the context of a private clinical practice
- Four faculty teaching at another college or university
- Eighteen faculty performing consulting activities on sponsored research projects at other colleges or universities with significant days and levels of compensation that marks the activity as a potential University grant or subcontract
- Ten faculty performing consulting activities during periods in which they received University summer salary from externally funded research projects
- Eight faculty performing consulting activities in which the total number of consulting days brings into question the ability to perform his/her University duties.

The Department Heads interviewed evaluate the impact of a consulting request on the faculty member's University responsibilities and on its relevance to the faculty member's area of expertise. However, none of the Storrs Department Heads interviewed consider whether the research described in consulting requests, performed for other colleges and universities, could be performed as a University subgrant/ subcontract rather than as private consulting. The Storrs Department Heads expressed the opinion that the role of deciding what is and is not an activity that competes with the University does not belong solely at his/her level.

## **Recommendations**

1. Department Heads should have a process or procedures in place to adequately monitor faculty consulting requests and specifically, the days, if any, the faculty member will not be at work due to a consulting engagement.
2. The FCOs should consider emphasizing the importance of monitoring faculty consulting requests to Department Heads. Additionally, the FCOs should consider holding education seminars to develop best practices and sharing of information, i.e. faculty consulting spreadsheets.
3. The Office of the Provost, the Vice President for Research and Deans of the various Colleges and Schools within the University should form a working group to clarify the responsibilities of deans, department heads and other relevant University offices in evaluating consulting requests for conflicts of interest and/or competition with the University.

### **Management Responses**

1. Agreed. The on-line consulting request/approval system will be a tool to the Department Heads to list all consulting requests submitted and to summarize the total approved consulting activity during normal work time. Anticipated completion date: July 1, 2011.
2. Agreed. Anticipated completion date: July 1, 2011.
3. Agreed. Anticipated completion date: July 1, 2011.

### 3. **Noncompliance with Consulting Policy**

Section 4 of the *Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit*, dated April 21, 2010 defines “consulting” as “providing services, advice and similar activities for compensation, based on a faculty member’s professional expertise or prominence in his or her field, while not acting as a State employee.” OACE could not locate an approved consulting request form for a Storrs faculty member who has been performing activities that appear to meet this definition. To our knowledge, this faculty member has not received notification of noncompliance and potential disciplinary actions as required by the consulting policy.

### **Recommendation**

1. The FCOs should develop a procedure to address faculty members who are performing activities defined as consulting without requesting approval to do so as required by University policy.

### **Management Response**

1. Agreed. Once aware of potential non-compliance, the FCO will develop a methodology for determining if non-compliance actually took place and then to appropriately deal with such situations. In addition, the FCO will publish annual reminders that approval is needed to consult and the Provost will require that all offer letters developed by the Schools include standard wording to alert incoming faculty of

the requirement to obtain prior approval to consult and include a link to the consulting web site ([consulting.uconn.edu](http://consulting.uconn.edu)). Anticipated date of completion: March 1, 2011.