

The University of Connecticut  
Audit and Management Advisory Services

Report on

Faculty Consulting Activities and University Procedures  
For the Period July 1, 2016 through June 30, 2017

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**BACKGROUND**

The University has implemented a faculty consulting policy (Policy) and associated procedures for the prior approval of consulting activities, including disclosure, review and management of conflicts of interest / commitment relating to any such activity, to comply with the provisions of Connecticut General Statute (CGS) 1-84(r). The Policy and associated procedures have been refined since their inception in September 2007, with the most recent Board of Trustee approved Policy revision dated March 25, 2015.

Faculty consulting requests are submitted and processed through an on-line faculty consulting approval system (OFCAS) used by both UConn and UConn Health faculty. In addition to collecting information, disclosures, and attestations from faculty members for each consulting request, OFCAS electronically routes completed requests to the appropriate department head, dean and Faculty Consulting Office (FCO) for review and approval.

Faculty members are required to confirm, using OFCAS, whether the activity actually took place and to provide corrected reconciliation data when elements such as: dates; number of consulting days; level of compensation and use of University resources differ from the original consulting request. OFCAS provides faculty with functionality to reconcile each approved consulting activity at any time after completion of the activity. Faculty must complete the reconciliation of all consulting activities no later than September 15th following the end of a fiscal year.

**OBJECTIVES AND SCOPE**

Our audit objectives were to confirm the accuracy of the consulting request statistics presented in *The University of Connecticut Consulting Program FY 2017 Annual Report*, (Annual Report) which was prepared by the UConn and UConn Health FCOs and evaluate compliance with the Policy; the annual faculty consulting reconciliation requirement; the effectiveness of the established faculty consulting activity approval and oversight procedures; and the identification and management of potential competition and/or conflicts of interest and commitment for faculty members.

Our review included all “*Request[s] for Approval of Consulting Activities*” submitted through OFCAS, performed during the period, July 1, 2016 through June 30, 2017 (FY 2017). The FY 2017 consulting request data used in the audit was extracted from the OFCAS database tables using queries written by UConn’s University Information Technology Services (UITS).

We conducted interviews with seven judgmentally selected department heads and one dean to assess management’s oversight of faculty consulting activities. Finally, we reviewed the Annual

Report for the status of corrective actions included in management responses to those recommendations made in prior audit reports.

This audit did not include tests of management's corrective actions included in the Faculty Consulting audit report issued in May 2017 regarding OFCAS functionality that allowed department heads and deans to exercise approval authority through the use of a proxy that did not clearly align with the use of delegates expressed in the Policy. These actions will be evaluated in subsequent annual Faculty Consulting audits.

## **GENERAL OBSERVATIONS AND CONCLUSIONS**

Based on our audit fieldwork, we concluded that the Policy and associated procedures for the approval of consulting requests implemented by the FCOs comply with the intent of CGS 1-84(r). The *Consulting by Faculty* website, <http://consulting.uconn.edu/>, provides an abundance of information and links to on-line training materials, policies and procedures, statutes, audit reports, and Consulting Management Committee (CMC) actions and meeting minutes. In addition, the FCOs have written and presented training materials regarding faculty consulting policies and procedures to deans and department heads.

We concluded that the summaries included in the *FY2017 Annual Report on Consulting Activities* regarding the concerns reported in the prior year faculty consulting audit report and management's responses were accurately stated. We recalculated the total requests to consult per School/College/Unit as well as the number of faculty who submitted requests from each area. The number of UConn and UConn Health Requests to Consult in FY 2017 reported in the *FY2017 Annual Report on Consulting Activities* materially agreed with our calculations.

We found that 97.5% and 99.9% of the consulting requests submitted by UConn and UConn Health faculty were submitted in advance of the start date with sufficient time for management review. We also found full compliance with the reconciliation requirement for FY 2017 consulting requests by all UConn and UConn Health faculty who were actively employed as of the September 15<sup>th</sup> deadline.

We continue to observe the FCOs commitment to optimize the faculty consulting program to achieve compliance with the legislative intent of CGS 1-84(r), in particular, the collaborative working relationship between the UConn and UConn Health FCOs promotes a consistent approach to faculty consulting oversight across the University.

Our interviews with UConn and UConn Health department heads and a dean confirmed receipt of training related to the faculty consulting policies and procedures and the oversight responsibilities required by academic department and school/college administration. A majority of those interviewed stated that they believed the faculty consulting process to be effective and that instances of faculty performing consulting activities without approval, as required by the Policy, are uncommon.

We found a number of faculty members who did not submit a request to consult for faculty affiliated entities as required in the most recent Board of Trustee approved revision of the Policy, dated March 25, 2015. We confirmed that the FCOs notified the faculty members of the

consulting request requirement, which, with a number of the faculty-affiliated entities, resulted in the late submission of a request to consult for FY 2017 and, where required, in FY 2018.

We continued to find fulltime management exempt UConn employees with faculty titles who consulted during normal work hours without utilizing accrued vacation for the period specified in the consulting request. The procedure that requires such use of vacation is specific to the UConn management exempt faculty.

We would like to thank the FCOs for their cooperation and input during our review of FY 2017 faculty consulting activities.

## **OBSERVATIONS**

### **1. Non-Compliant Approved Consulting Requests**

The University has established a policy titled, *Sanctions for Non-Compliance with the University's Consulting Policy and Procedures*, which delineates progressive levels of action to be taken “*when a request to consult is submitted late on or after the start date of the activity or submitted before the start date, but without sufficient time to process it (i.e. ordinarily, at least one week).*” First Occurrence sanctions include a “*letter to or phone conversation with the faculty member and his/her superior explaining the implications of late submission.*”

The Annual Report stated, “*The Storrs FCO issued first-offense verbal or written sanctions to 12 faculty members. Of these, all of the “offenses” were for late submissions, unanticipated compensation, or misinterpretation of the consulting policy; all of these requests would have been approved if submitted on time.*” We identified an additional 22 late submissions which were not included in the Sanctions Log provided by the Storrs FCO.

We found one approved UConn Health consulting request that was not submitted with sufficient lead-time to allow for timely approval. The UConn Health FCO did not identify the late approval until the completion of our audit procedures. A formal warning / sanction was not issued to the faculty member in FY 2017.

Consistent with prior years, we identified 16 UConn and three UConn Health faculty members who submitted consulting requests with total consulting days during FY2017 in excess of 52 days. A number of the consulting activities that contributed to the UConn faculty totals were performed in the summer months by 9-month or 10-month UConn faculty; however, not all of the instances identified can be explained by summer consulting. The Storrs FCO also stated that faculty members may request a full consulting day rather than a partial day for a consulting activity performed over a several hour period. This practice may result in significantly overstated consulting days requested. These faculty often fail to correct the actual number of consulting days during the reconciliation of the activity.

Likewise, some of the UConn Health consulting activity were reported as having been conducted outside of the faculty member's normal work day. The UConn Health FCO stated

that the number of days attributed to consulting activities for these UConn Health faculty members did not result in a failure to comply with the current Policy. Specifically, while the faculty consulting procedures state: “*The Storrs and Regional Faculty Consulting Office adheres to the practice that consulting should not exceed an average of one normal work day per week during periods of appointment*”, no such guidance for UConn Health faculty is included. Based on our review of available peer institutions’ consulting policies, we observed that most have established limits for total consulting days during periods of commitment, regardless of when the activity occurs, e.g., one day in seven.

It is important to note that five of the 16 faculty members approved by the Storrs FCO reported total consulting days ranging from 110 to 325 days. One of these instances is attributable to a UConn Health faculty member whose consulting requests are approved by the Storrs FCO, which has no direct knowledge of this individual’s duties.

### **Recommendations**

The FCOs should include an entry in the Sanctions Log to document the action taken by the FCO for all consulting requests that are submitted after the start date of the activity.

The University should consider establishing a reasonable limitation on total consulting days, during periods of commitment to the University, as well as formally defining the number of hours that constitute a “day”.

The FCOs should identify opportunities to inform new faculty members of the provisions of Connecticut General Statute (CGS) 1-84(r), such as new-faculty orientation/training, faculty appointment letters, and the Annual Compliance training.

The FCOs should refer consulting request approval to the Provost for faculty whose total requested days exceeds a predetermined threshold.

### **Management Responses - FCO**

Management agrees to recommendations regarding Sanctions Log, and management will continue the existing activities for training new faculty including standard language in offer letters, employee orientation, and annual compliance training.

Management notes that some faculty have a large number of total consulting days approved, but that the number of days actually used (as reported on reconciliation reports) is considerably less. Further, many of these days take place on nights, weekends, holidays, vacations days, and portions of the year that faculty are not employed. Also, some faculty mistakenly report a whole day is taken when any amount of work is performed on that particular day.

As noted in the observations, the Storrs FCO abides by a limit on consulting during normal work time (39 days or 1 day per week for 9-month faculty) while UConn Health relies on annual reviews to determine the impact of consulting on faculty activity and productivity. In

light of these approaches to implementation, the Faculty Consulting Offices are unaware of any conflict of commitment (i.e., failure of the faculty member to discharge his/her duties) that has occurred as a result of faculty using more than an average of one day per week consulting, regardless of whether or not the consulting took place on normal work time.

With this in mind, management agrees to reconsider the policy that currently applies to Storrs faculty only. Such consideration will include the need to cap the amount of consulting, whether such a cap would apply to total effort or consulting only performed during normal work time, whether a threshold should be set to require review by the Provost, and whether such a revised policy should be extended to UConn Health faculty.

Completion Date: September 1, 2018

## **2. Consulting Activities by Management Exempt Employees with Faculty Titles**

UConn deans, management-exempt, and 12-month term employees with faculty titles are included in the scope of the Consulting Policy. Unlike the majority of UConn faculty members, fulltime 12-month employees with faculty titles accrue 22 paid vacation days annually. *Consulting Process for Management Exempt Employees* dated April 15, 2015, which is specific to Storrs Campus, states, “...if the proposed consulting activity will occur during the University’s normal business hours, management exempt employees must use paid vacation days, personal days, or accrued holiday time.” While UConn Health management exempt employees covered by CGS 1-84(r) accrue unused paid vacation, they are not required to utilize paid vacation time while performing consulting activities.

We identified consulting requests for 18 management exempt employees in the UConn FY 2017 consulting requests. We compared the time and attendance records in the payroll system for these individuals to the dates provided in the consulting requests. We were able to confirm that nine of the 18 management employees appropriately used paid vacation days, personal days, or accrued holiday time on dates corresponding to consulting activities. Our inability to confirm the use of paid vacation days, personal days, or accrued holiday time by management exempt employees was often caused by the use of a broadly defined consulting period in conjunction with no specific consulting date(s) details provided in the request or reconciliation. Failure to track and use vacation days for consulting activities that occur during the University’s normal business hours results in overstated accrued vacation balances, for which the University bears a future financial liability.

### **Recommendations**

The Office of the Provost should work with the Payroll Department to correct the accrued vacation balance of those 12-month and management exempt employees with faculty titles whose payroll records do not agree with the FY 2017 consulting activities performed.

The Office of the Provost should obtain a report of all 12-month and/or management exempt faculty members who accrue vacation leave from the Payroll Department at the beginning of each academic semester to correctly identify individuals who should be reminded of the

obligation to utilize vacation or other accrued leave time associated with consulting activities performed during normal business hours.

The FCOs should evaluate the *Consulting Process for Management Exempt Employees* dated April 15, 2015, for applicability to UConn Health management exempt employees.

### **Management Responses – FCO**

Management agrees that the required use of vacation time for consulting by management exempt faculty at both UConn and UConn Health needs reconsideration. Management takes note that the terms and conditions of employment as well as the scope of duties are significantly different between the management-exempt faculty at UConn and UConn Health. For example, UConn Health management exempt faculty only accrue vacation time and have limited ability to carry over vacation time year to year. A much wider scope of faculty are considered management exempt at UConn Health (ex. department heads.)

Management also takes note that the percentage of effort assigned to ‘managerial’ type tasks varies greatly between the management exempt faculty. For example, some UConn Health department heads have significant effort assigned to providing clinical service, research or educational duties. The origin of the existing requirement to use vacation days was based on the notion that managers need to be physically present to carry out full-time managerial duties.

The Faculty Consulting Offices are unaware that any conflict of commitment or other problems have resulted from management exempt faculty using consulting days during normal work time, whether or not vacation days were used to offset them.

Until and unless the *Consulting Process for Management Exempt Employees* dated April 15, 2015 is revised, management agrees with recommendations to continue to work with the Payroll Department to ensure this policy is appropriately complied with.

Completion Date: September 1, 2018

### **3. Unapproved Consulting Activities**

The consulting policy requires submission of a consulting request by a faculty member who actively works in or manages a company or external entity in which he/she holds an equity / ownership interest regardless of the level of compensation received. We obtained a listing from the Office of the Vice President for Research (OVPR), dated November 28, 2017, that identified 73 entities in which 86 current and/or former UConn and UConn Health faculty members hold ownership interests.

In our review of requests to consult with faculty-affiliated companies, we found consulting requests were not submitted in FY 2017 by 15 UConn and one UConn Health faculty members. We did find that eight of the 15 UConn faculty have submitted consulting requests with the affiliated company in the current fiscal year.

We identified one UConn Health faculty member who requested payment totaling \$63,000 for services rendered to a law practice using the University's email system, indicating that the faculty member engaged in consulting over a 14 month period straddling FY 2016 and 2017. No consulting request was submitted for this activity. The faculty member is currently on paid administrative leave. The UConn Health FCO has committed to seeking a late request and following University policy should the faculty member return.

The University Policy on faculty consulting prohibits fulltime employed faculty from outside practice, including working as a physician outside of your primary practice, referred to as "moonlighting." Employees that are 0.95 or less may engage in outside practice that has been approved through the established faculty consulting approval process.

In the course of interviewing department heads, we identified one fulltime faculty member who worked on the weekend at a Hartford area hospital. No consulting request had been submitted for this activity which was described as initiated in January 2018. The department head reported to the UConn Health FCO that he had verbally approved the activity, though it is not permitted by University policy.

In addition, our UConn Health audit procedures identified two faculty members, assigned to departments that were included in our assessment of management oversight, who had established outside clinical practices. No consulting request had been initiated for these activities. The FCO has solicited a late request for these activities and will issue sanctions according to policy.

We also reviewed the publicly available *Center for Medicare and Medicaid Services (CMS) Open Payments* report for calendar year 2016, which details, by calendar year, payments received by physicians from the medical industry for consulting, grants and travel. We identified payments for two consulting activities by a single faculty member conducted during FY 2017 which had no corresponding consulting request. The FCO is determining whether this faculty member had additional unapproved consulting activities, and will follow the procedures for late submission and sanction.

### **Recommendations**

The FCOs should instruct deans and department heads to encourage faculty members to submit a consulting request regardless of a guarantee of compensation to promote wider compliance with and reduce unintentional violations of the Policy.

The FCOs should continue to promote compliance with the Policy by those faculty members identified as holding an equity interest in and/or management affiliation with an external entity using its current faculty notification/outreach methods.

The UConn Health FCO should investigate possible options to identify potential moonlighting activities of UConn Health faculty prior to beginning an outside practice, as well as evaluate these activities for compliance with the Policy and/or applicable Bylaws.



Consideration should be given to working with the Medical Staff Office to obtain timely information, as well as working with the faculty member to verify that the activity complies with the University requirements for outside practice.

The UConn Health FCO should train department heads and deans on the use of the *CMS Open Payments Report* in the performance of his/her management oversight responsibilities related to faculty consulting.

### **Management Responses – FCO**

Management agrees to continue to remind department heads and faculty regarding the definition of consulting and for which activities they need prior approval. In FY 18, the Office of the Vice President for Research (OVPR) has begun to regularly provide the Faculty Consulting Offices a listing of all faculty affiliated companies to ensure consulting approval has been obtained or sanctions are issued. At UConn Health, in addition to standard language in all offer letters regarding the need to obtain prior approval for consulting, starting in FY 18 the Faculty Consulting Office now writes to each new hire prior their arrival to ensure they know to obtain prior approval as well.

The Faculty Consulting Offices will request each department head on an annual basis to communicate to his/her faculty the need for prior approval for consulting. The need to obtain approval for any work (compensated or not) with a faculty affiliated entity will be emphasized as will the need to obtain approval for “moon-lighting”. Management will also train the clinical department chairs how to access and use the Open Payment’s database which could support their decision making.

The UConn Health Faculty Consulting Office will work the Office of the General Counsel to consider how best to deal with faculty engaging in private clinical practice, whether that be on a part-time or full-time basis. Based on that discussion, enhanced efforts at communicating with the clinical faculty regarding such clinical activities will be implemented.

Completion Date: September 1, 2018.