

**REPORT ON THE UNIVERSITY OF CONNECTICUT'S  
COMPLIANCE WITH PUBLIC ACT 07-166 (Section 12)  
FACULTY CONSULTING PROGRAM<sup>1</sup>**

**February 22, 2011**

**Report Issued by the Faculty Consulting Oversight Committee**

**SUMMARY**

Pursuant to a change in the Connecticut State Statutes and action by the University of Connecticut Board of Trustees, new policies and procedures for approving consulting activities for the Faculty and members of the AAUP bargaining unit were implemented in December 2007. The latest revisions to these policies were approved by the Board of Trustees, and the revisions regarding procedures were reviewed by the Board of Trustees in April 2010.

Faculty Consulting Offices (FCOs) were established for Storrs+ and UCHC and have provided an extensive amount of training to those who consult and for those who must participate in the consulting approval process, such as department heads and deans. A University-wide Consulting Management Committee (CMC) was convened to provide recommendations regarding the identification and management of potential Conflicts of Interest arising from consulting activities.

As required by PA 07-166, the Faculty Consulting Oversight Committee was convened including members appointed by the Legislature/Executive branch and from the Citizens' Ethics Advisory Board. This Committee has met four times to review the implementation of the consulting program and to review the semi-annual audits of the program conducted by the University's Office of Audit, Compliance and Ethics.

Implementing this program required development of policies, procedures, forms and databases; identification and training of staff; and awareness and training of faculty, department heads, and deans. The Office of Audit, Compliance and Ethics has carried out semi-annual audits as required and as expected have identified areas in which clarifications and improvements have been recommended. The University is addressing each of the issues raised in a timely and appropriate manner.

The Faculty Consulting Oversight Committee has determined that the University of Connecticut is complying with PA 07-166. The oversight required by the Act, including the Faculty Consulting Oversight Committee itself and the audits, has and should continue to enable ongoing review and improvement of the program.

In the spirit of a continuing quality improvement philosophy, the Oversight Committee has made three recommendations for implementation over the next year. These include more customized, face to face training sessions for department heads, an elaboration of activities eligible for the accelerated approval process, and changing the audit schedule required by PA 07-166.

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<sup>1</sup> The University had developed a consulting web site ([consulting.uconn.edu](http://consulting.uconn.edu)) that includes the University's policy and procedures, training materials, request form, and minutes/actions of the Consulting Management Committee.

To date, the program, its policies, procedures, and implementation have resulted in a system that pro-actively identifies and manages potential conflicts of interest. It should be noted that an individual who does not participate with the program is subject to sanctions by the University and may also be subject to additional sanctions by the Office of State Ethics.

## **BACKGROUND**

Public Act (PA) 07-166 (Section 12), approved on June 19, 2007, created a carve-out from the portion of the State Ethics Code dealing with consulting. Participating in appropriate consulting activities is viewed as being mutually beneficial for the University and its faculty and the intent of the Act is to enable such activities.

This carve-out applies to faculty and members of the faculty bargaining unit (herein fore referenced as “faculty”) of a constituent unit of the State system of higher education. In the context of the Act, “consulting” represents situations in which faculty are compensated for services rendered while not acting as a State employee. The request to consult must be based on the faculty member’s expertise in a field or prominence in such field and not due to the State position held. Faculty must receive prior approval before such consulting begins. It should be noted that no other State agency requires prior approval or any such mandated disclosure of outside employment activities.

The Act transfers final authority for approval of such activities to the University and it allows management plans to be implemented for addressing perceived conflicts of interest. Specifically, the legislation allowed these individuals to enter into a consulting agreement with a public or private entity, provided such agreement or project does not conflict with the individual’s employment as determined by policies established by the Board of Trustees for such constituent unit.

This carve-out from the State Ethics Code is predicated on a set of requirements being met including significant institutional oversight. The University of Connecticut Board of Trustees (BOT) approved the University’s “Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit,” and reviewed the operational procedures for implementation, on September 25, 2007. The Policy and Procedures define a consistent set of rules for consulting for all the faculty of the University. The implementation procedures were subsequently amended on December 4, 2007 and both the policy and procedures revised again in April 2010.

The new consulting system became fully operational on December 15, 2007. Since that time, both the Storrs Campus and the Health Center have each established a Faculty Consulting Office (FCO) with reporting lines and staffing. Usage data systems have been developed by each FCO. Further, both campuses have developed on-line and live training programs.

Requests to consult must be reviewed and approved by each faculty member’s department head, dean, and the provost’s designees (one for each campus). Consulting may not negatively impact the faculty member’s ability to fully and satisfactorily address his/her assigned job duties. At the end of the fiscal year, each faculty member must submit a reconciliation report indicating variances from the requested time spent consulting during the normal work time and confirming any and all appropriate reimbursements for use of University resources, if any.

If a faculty member does not adhere to the provisions described in the Act or the University's Consulting Policy and Procedures, the Office of State Ethics will retain jurisdiction over the activity and have the responsibility for determining whether it complies with the State Code of Ethics and whether sanctions should be imposed. Violations of the University's Consulting Policy and Procedures will in addition be subject to sanctions issued by the University which may result in termination.

### **CONSULTING MANAGEMENT COMMITTEE (CMC)**

As required by the implementation procedures, President Hogan appointed the University's Consulting Management Committee (CMC) on December 10, 2007. The CMC is authorized to review and recommend disposition of certain consulting situations that do not have obvious resolution. The CMC also offers input on unforeseen situations put before it that may arise as a result of consulting activities. To date, the CMC provided advice to the directors of the Faculty Consulting Offices on an ad hoc basis, and also reviewed eleven general situations resulting in formal position papers. For example, based on one position paper, participation in promotional presentations with pharmaceutical companies has been banned.

### **SEMIANNUAL AUDITS**

As required in PA 07-166, the University's Office of Audit, Compliance and Ethics has conducted and finalized two audits to date with the data collection of the third audit underway. Per standard practice, management has had the opportunity to provide responses to each audit finding and recommendation.

The latest audit for the period of time of July 1, 2008 through June 30, 2009 has been reviewed by the Board of Trustees Joint Audit and Compliance Committee (members of the committee come from the Board of Trustees and the University of Connecticut Health Center's Board of Directors) and the Faculty Consulting Oversight Committee (see below).

### **FACULTY CONSULTING OVERSIGHT COMMITTEE**

As required in PA 07-166, the Faculty Consulting Oversight committee continues to meet to review the University's compliance with PA 07-166, and to file annual reports regarding such compliance with the University's Board of Trustees and to the Legislature. This document is the second of such reports. The Committee's responsibility is to ensure that the University complies with the provisions of the Act and the University's policies and procedures on consulting. It may also make recommendation for improvements to the consulting program.

The membership of the Faculty Consulting Oversight Committee is:

<b>Name</b>	<b>Background</b>
Archambault Jr., F.	Professor Emeritus
Clemons, T.	Former Legislator
Dennis-Lavigne A.	Member, Board of Trustees
Freedman, J. (chair)	Former Legislator
Lowe, C.	Department Head, Psychology
McFadden, P.	Professor Emeritus
Bull, N.	Vice Provost
Pawelkiewicz, W.	Former Legislator
Riley, D.	Member, Citizens' Ethics Advisory Board

The Committee met on November 17, 2010 and January 26, 2011. It has reviewed the latest final audit report (July 1, 2008 through June 30, 2009) and the 2010 annual report of the Faculty Consulting Offices

The Committee believes the program was effectively initiated and through on-going revisions has been improved. In fact, in many regards the program is more rigorous than how consulting is handled for other State employees not covered by PA 07-166, especially through the requirement for approval prior to the consulting activities taking place.

The audits have led to improvements to the Consulting Program including revisions to the consulting request form, enhancements to the training program, improving the clarity and predictability of decision making, and assuring sufficient information is available to inform the decision making of the approvers. The University is exploring the development of on-line request form/approval process. All of these should ensure complete compliance with PA 07-166.

The initial implementation of the consulting program, both in terms of logistics and compliance, has met initial expectations. There have been areas of different interpretations regarding the requirements of PA 07-166 and the University's Policy and Procedures. The audit processes in place appear to be working to identify such areas and to report them to senior management and to the Faculty Consulting Oversight Committee. Management has demonstrated its willingness to address the audit findings in a timely manner. Management appears to be keenly aware of the need to fully comply with PA 07-166, but that as a new program, this program is a work in progress that requires monitoring and revision as necessary.

Recommendations for Improvement:

- 1) The Faculty Consulting Offices should develop and administer customized, in-person training sessions for department heads that include details on how to determine if a proposed consulting activity might be competing with University for work it would choose to perform and the meaning of the various attestations the department head must sign in approving a request to consult form.. Attendance at such training sessions should be reported to the attendee's respective dean.

- 2) The Board of Trustees should approve the proposed elaboration of activities eligible for the accelerated approval process. This elaboration specifically describes routine academic activities and acceptable funding sources (as presented to the Oversight Committee), will bring the University into alignment with the shifting Federal threshold for Conflict of Interest in Research (\$5,000), and it will enhance the clarity and predictability on which academic activities the University will be approving.
- 3) After consultation with the Office of State Ethics, the chair of the Oversight Committee should meet with the co-chairs of the Legislature's Higher Education and Government and Administration committees and propose the semi-annual audits mandated by PA07-166 be reduced to a single annual audit. This reduced audit schedule is viewed to be a more efficient and effective use of audit office resources and should have no less, if not actually more, value than a twice a year schedule.

### **VOLUME OF CONSULTING ACTIVITIES**

In FY '10, the second full year of operations, the Faculty Consulting Office on the Storrs Campus received 1,310 requests to consult from 498 individuals. These requests represent very slight declines from FY '09. The Health Center's office received 796 requests (on par with FY '09) from 196 individuals. (~ a 10% increase). Both campuses had over a 99% response rate with the required reconciliation reports from those individuals who had filed requests to consult. The FY'10 annual report of the University's Faculty Consulting Program is attached.