

# **Overview**

## **Policy on Consulting for Faculty and Members of the Faculty Collective Bargaining Unit**

### **Introduction**

There are numerous rules that apply to all employees of the State of the Connecticut as well as additional rules specific to those employed by the University of Connecticut<sup>1</sup>. These are described in various statutes, bylaws, policies, regulations and procedures.

A subset of these rules apply when an employee (fulltime or part-time) is compensated for services rendered while not acting as a State employee. These rules apply regardless of the amount of time/effort involved or when the activity takes place. Compensation includes direct monetary payment, “honorarium”, non-cash considerations such as luxury travel<sup>2</sup>, gifts, or even equity in a product and/or company even if those currently have no monetary value.

Chief among these rules are those that require that such activities: a) are not being conducted on “time due to the University”, b) do not create an unacceptable conflict of interest (i.e. the individual’s decision making as a State employee, or influence on decision making on State related business are not biased by the relationship or that if such bias exists<sup>3</sup>, it is appropriately managed), and c) do not result in the employee benefiting from his/her State position either in obtaining or carrying out the work. Another important requirement is that employees do not disclose proprietary and/or confidential information.

While the authority to interpret and enforce the rules related to “time due to the University” are under the jurisdiction of the University, the other rules cited above are under the jurisdiction of the Office of State Ethics (OSE) and the Citizen’s Ethics Advisory Board<sup>4</sup>. Usually, the OSE only responds to allegations of non-compliance which then trigger investigations. However, requests for advisory opinions can be sought in advance of a consulting activity, but obtaining a complete review can take a long time. If and when a State employee is being investigated, s/he is usually not represented by the University’s legal counsel and penalties are directed to the individual in his/her private capacity.

For several reasons, the University has recently sought and obtained a change in jurisdiction over sections 1-84 b & c of the State Code of Ethics<sup>5</sup>. This change shifts such jurisdiction of interpreting and enforcing these sections of the Code from the Office of State Ethics to the

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<sup>1</sup> Herein referred to as “Storrs+” for all those employed by the main campus, regional campuses and law school, and “UHC” for those employed by the University of Connecticut Health Center.

<sup>2</sup> The additional expenses above and beyond what would be incurred if one was traveling as a state employee.

<sup>3</sup> This applies to even a perception of bias (i.e. would a reasonable person be concerned that a bias might exist.)

<sup>4</sup> State of Connecticut general statutes Section 1-84 b and c.

<sup>5</sup> Public Act 07-166, section 12.

University<sup>6</sup>. This shift only applies to a subset of University employees, those being faculty or members of the faculty collective bargaining unit (i.e. AAUP), and only when the following conditions are met:

- the Board of Trustees establishes policies that meet a variety of conditions including, but not limited to, the disclosure, review and management of conflicts of interest. These policies must include sanctions when behavior is inappropriate and when the University's established policy and procedures are not complied with<sup>7</sup>,
- prior approval is obtained (i.e. before the outside work begins) with final approval by the chief academic officer, and
- the request to provide the services must be predicated on the person's expertise or prominence in a field.

As a result of these changes, it is possible for a faculty member or member of a faculty collective bargaining unit to obtain certification that they are not violating State statutes regarding conflict of interest, inappropriately benefiting from one's position as a State employee, and inappropriately disclosing the State's proprietary/confidential information. Employees without such certification are subject the jurisdiction of the Office of State Ethics.

A required element of this shift in jurisdiction is substantial internal and external scrutiny over the process. This includes twice a year audits by the Office of Audit, Compliance and Ethics and review by an Oversight Committee that includes three members appointed by the leaderships of the Legislature in conjunction with the Governor's Office and a member of the Citizen's Ethics Advisory Committee. The oversight committee will formally make recommendations to the University's Board of Trustees and to the joint standing committees of the General Assembly having cognizance of matters relating to higher education and government administration. If the University is found not be adequately discharging its new responsibilities in this area, jurisdiction may be transferred back to the Office of State Ethics.

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<sup>6</sup> The actual language of the statute exempts Higher Education faculty and members of the faculty bargaining units from certain section of the State Ethics code, but only when a set of requirements are met that by in large mirror the intent of the Code of Ethics in these same areas.

<sup>7</sup> The "Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit September 25, 2007" and the accompanying "Procedures" we approved by the Board of Trustees on September 25, 2007.

## Specific Rules Related to Consulting

### Eligibility

The University's policy on Consulting for Faculty and Members of the Faculty Bargaining Unit only applies when the person requesting permission to consult:

- is an employee<sup>8</sup> of the University, full-time or part-time.
- is a faculty member or a member of the AAUP Bargaining unit.
- was asked to engage in the consulting activity due to his/her professional expertise or prominence in a field. For those employees with teaching or research responsibilities, the consulting activity must contribute to the continued development of that person's professional expertise.

The University reserves the term "consulting" to situations in which an individual is compensated for services rendered while not acting as a State employee and the requirements above are met. Employees may still be eligible to be compensated for services rendered while not acting as a State employee, but such activities are not considered "consulting". Such activities are under the jurisdiction of other policies and processes.

Note – the shift in jurisdiction from the Office of State Ethics to the University only occurs when

- The University's Policy and Procedures on Consulting for Faculty and Members of the Faculty Bargaining unit are complied with, including that all information provided through the process is truthful.
- Approval is obtained prior to the start of the consulting activity.<sup>9</sup>

### Conflict of Interest

The Code of Ethics prohibits State employees from engaging in consulting activities that would create a conflict of interest that impairs their ability for independent judgment when serving in their State positions. This applies to their direct decision making and/or to the influence they have over the decision making of others. A conflict of interest may be 'real' in that bias is actually exercised or there may simply be a 'perception' of a conflict. In either case, it may be possible to successfully manage such situations.

In order to identify such real or perceived conflicts of interest and in order to attempt to develop appropriate management plans for such persons, those requesting permission to consult will have to provide the following:

- Information as to how one's State duties, might be related to the contracting entity (the party engaging and paying the employee to consult).

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<sup>8</sup> Employees must be in Storrs+ or UCHC payroll system. Persons on contract, personal service agreements, stipends, etc. are not employees.

<sup>9</sup> The State statute is clear, no back dating or retroactive approvals are allowed.

- If there is even a perception that one's decision making as a state employee or influence on decision making by other state employees may impact the contracting entity, then information related to the level of compensation received for the consulting work, which will be used to determine if such compensation is appropriate in consideration of the services to be rendered.

The Consulting Management Committee has been convened to provide advice as to the existence of conflicts of interests and what may be appropriate plans for managing such conflicts. Such advice is available by request either from those seeking to consult or those who must formally approve requests for consulting.

#### Inappropriately Benefiting from One's State Position

State employees may not use their State positions for financial gain, either for themselves, their relatives, or their other employers/business partners. This benefit would include being asked to perform the consulting activity due to one's State position, or the free use of State resources to support such consulting. Any material use of State resources must be reimbursed. The rules on conflict of interest also address situations in which an employee may use their decision making authority or influence with other decision makers to gain financial benefit.

#### Proprietary/Confidential Information

State employees may not disclose any information that that State considers its own intellectual property (whether that be in whole or in part) or trade secrets without obtaining prior permission. Such permission should be solicited from the Center for Science and Technology Commercialization.. Disclosure of financial, patient or other types of confidential info may not be disclosed without specific permission.

#### Competing with the University

University employees may not engage in consulting activities that the University would have viewed as work it would have wanted to provide.

#### Not Acting as a State Employee

When consulting, the individual is not acting as a State employee and must so notify the contracting entity. Therefore, s/he has no State liability protections of any kind, statutory immunity, etc.

#### Use of the University's Name, Logo or Marks

The requestor may not inappropriately use his/her association with the University in connection with the consulting activity. Requestors may identify their employment status, but they shall not speak, act or make representations on behalf of the University or express institutional endorsement. Permission may only be obtained from the University to use the University's

name, logos or other identifiable marks The Consulting Management Committee is available to provide advice on the appropriate use of the University's name and/or affiliation.

### Time due to the University

Even for those members of the University in the Faculty Bargaining unit, there is no standard work week for those eligible for consulting under this policy. In general, the number of hours of work per week and the actual days to be worked are those required to adequately perform one's assigned duties, rather than a strict adherence to a calendar and time clock.

Therefore, consulting will only be approved when the requestor is adequately performing their current duties and can be expected to continue to adequately perform such duties when participating in the consulting activity for which approval is being requested. Being available to prepare for and/or teach classes, meet with students out of class, and/or to attend meetings with other faculty, administrators and staff, or cover other faculty for appropriate absences (e.g. trainee supervision, clinical call, etc.), are considered essential requirements when considering the impact of consulting on one's ability to perform one's duties.

In addition, the time commitment to such consulting cannot exceed an average of one day a week of work. This limit only applies for such time that the employees is normally expected to work. For example, if an employee is on a nine month contract (September – May), and is not re-employed by the University for the summer, consulting during June – August would not count towards this limit. As another example, if an employee is not expected to work a given Sunday, time spent consulting on that day would not count towards this limit.

## Process

### Initial Request for Approval<sup>10</sup>

Requests to consult should be made by completing the form titled “Request for Approval of Consulting Activities for Faculty and Members of the AAUP Bargaining Unit” (see the appendix.) All requested information needs to be provided and be truthful. Submission of this form should be sufficiently in advance to ensure the approval process can be completed prior to the activity beginning. Additional forms may need to be attached including Use of University Resources..

A request form may only pertain to a single fiscal year, July 1 – June 30. If an activity extends beyond a single fiscal year, a separate request will need to be submitted for the period of the next fiscal year.

By his/her signature, the requestor must attest to the following:

1. S/he certifies that s/he has read the Policy and Procedures on Consulting for the Faculty and Members of the Faculty Bargaining Unit
2. S/he understands that when consulting,
  - a. s/he will not be representing the University,
  - b. s/he will not be acting as a State employee and will so notify the contracting entity, and
  - c. the University will not provide liability or malpractice protections and/or salutatory immunity
3. S/he certifies that the consulting will not
  - a. compromise the University in any of its external relationships,
  - b. compromise the University’s intellectual property,
  - c. require disclose of confidential or proprietary information, nor
  - d. interfere with assigned duties.

Significant changes in an approved consulting activity will require the submission of a new request form and approvals prior to the start of such changes in the activity.

### Approval

The signed request form then needs to be reviewed and approved by the following:

- the requestor’s department head,
- the requestor’s dean (the Athletic Director for those in the Division of Athletics), and

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<sup>10</sup> The request form and subsequent approvals will initially be entirely paper based. It is anticipated by the end of 2007 that an on-line system for completing forms and obtaining approvals will be implemented. This will allow tracking of forms and should greatly facilitate the approval process.

- the Provost (or Provost's designee) for all those employed by Storrs+ and the VP for Health Affairs (or designee) for all those employed by UCHC. The President will serve as the Provost's designee for requests from members of the Division of Athletics.

These approvers must certify that

- the requestor is adequately performing his/her duties,
- the addition of the requested activities will not exceed an average of one day per week and not interfere with assigned duties, and
- such activity is an appropriate professional activity and is the requestor is not competing for work that the University would choose to perform.

The Faculty Consulting Offices (FCOs) for Storrs+ and UCHC will review each request and make their respective recommendations to the Provost and VP for Health Affairs, (or their designees), but do not have approval authority. Requestors, department heads, and deans may also obtain advice from the FCOs. A Consulting Management Committee will be available to provide specific advice to all parties regarding the perception of Conflicts of Interest, acceptable management plans for such conflicts, and dealing in situations in which the University's names might or might be appropriately used. This committee will have two members appointed by the Provost, two members by the VP for Health Affairs, and one by the President. The University's Ethics Officer will serve as a non-voting member.

#### Accelerated Approval Process

There is a set of purely academic activities that faculty members are normally expected and encouraged to undertake. Such activities would include reviewing books, articles and research proposals, giving occasional lectures, speeches, and colloquia, refereeing of manuscripts, creation of works of art, etc. The nature of such activities will vary from one discipline to another – but the underlying principle is that they are part of faculty member's expected academic professional development. For activities of this type, and for which the compensation does not exceed \$500 (per occasion), The Provost and VP delegate to the faculty member's department head to be the sole approving authority. This means that the faculty member should fill out the required form and take it to the department head for signature in advance of the activity. The department head will approve, make and keep a copy, and then forward the original signed form to the appropriate Faculty Consulting Office to ensure consistent record keeping for all consulting activities.

#### Reconciliation Reports

At the end of each fiscal year, all those who engaged in approved consulting activities must submit a reconciliation report. This report will list all consulting activities approved for that year and indicate any changes to the information originally provided when the request was first made and approved. It will include an attestation that any material use of State resources was appropriately reimbursed.

## Appendix

### Frequently Asked Questions & Forms<sup>11</sup>

1. I am not a faculty member or a member of the faculty bargaining unit. Can I consult?

We only use the word ‘consulting’ when this type of activity is being carried out by a faculty member or member of the faculty bargaining unit and when such work is based on that person’s professional expertise or prominence in a field . The Consulting Policy for Faculty and Members of the Faculty Bargaining Unit does not apply to you. You may be allowed to be compensated for services rendered provided that you do not violate other rules such as time due to the University. The Office of State Ethics would have jurisdiction over determining if you had a conflict of interest, had inappropriately benefited from your State positions, had violated rules on confidential/proprietary information, etc.

2. Can I consult if the activity is not based on my professional expertise or prominence in a field?

We only use the word ‘consulting’ when this type of activity is being carried out by a faculty member or member of the faculty bargaining unit and when such work is based on that person’s professional expertise or prominence in a field. You may be able to receive compensation for services rendered that are not related to your professional expertise or prominence in a field, but any review and approval would take place using rules and processes different than described in the Policy for Consulting for Faculty and Members of the Faculty Collective Bargaining unit. See the answer to number 1 above.

3. Do I have to participate in this process if I am only a 10%, part-time employee?

Yes, you must comply with this policy and process no matter what percent time you are employed as a State employee. However, those under contract, personal service agreements, and stipend are not State employees and therefore not covered under this policy and process.

4. Sometimes offers to consult come quickly. How do I obtain all the necessary approvals prior to the start of the activity?

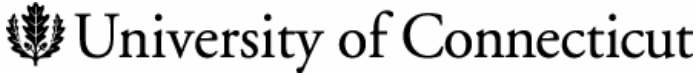
Just like with a last minute grant submission, you may need to walk your request form to all the people who must review, approve and sign it. Once the computer driven on-line approval system is operational, it will include a rules engine that will provide automatic notifications to those who need to review and sign approval forms based on how much time remains before the activity starts and it will allow a requestor to track where in the approval process a particular request is being held up. The latter will enable the requestor to do their own facilitation to ensure approvals take place in time.

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<sup>11</sup> The forms illustrated in this document may not be the most current versions of these forms. Please refer to the appropriate public email folders and/or web sites for the most up to date versions.

5. Does consulting on a Sunday count towards the average of one day a week time limitation? Does consulting in the summer count (for 9 month employees)? Does consulting on vacation count (for 12 month employees)?

The rules for consulting apply to any days so long as the person is currently a State employee. The only exception to this is in the determination of “time due to the University”. Consulting activities performed on days/times in which you have no University responsibilities don’t count against the average of one day a week limit. Such activities would not interfere with getting one’s assigned duties done since there was no expectation State work would be performed on such days. However, with that said, from time to time professionals may need to work on Sundays or even the summer so judgment is still needed by approvers on a case by case basis



For Office Use Only	
Date Received	_____
ID Number	_____
Storrs+ _____ UCHC _____ C _____ M _____	

## Request for Approval of Consulting Activities for Faculty and Members of the AAUP Bargaining Unit

(Recommend submission with adequate time for review.)

<b>Complete Name (Print)</b>		<b>Department/School Name &amp; U-Box/MC</b>	
<b>Telephone Number</b>		<b>E-Mail Address</b>	
<b>Name/Address of Contracting Entity</b>			
<b>Description of Consulting Activity</b> <i>(Please provide as much detail as possible for the activity)</i>			
<b>Your Current Grants or Contracts through the University from Contracting Entity</b> <i>(Please list)</i>			
<b>Description of Decision Making Role</b> <i>(In your role as a State employee, do you have any role in decision making (influencing decision making), that might affect the contracting entity that is compensating you for consulting? Examples of such roles include being a member of a standing or ad hoc purchasing committee or in negotiating contracts with the contracting entity. If you have no such role, indicate "none.")</i>			
<b>Activity Start Date</b>		<b>Activity End Date</b> <i>(must be in same fiscal yr)</i>	
<b>Total Number of Days Consulting</b> <i>(This includes time that I am normally expected to be at work and time that I am not normally expected to be at work)</i>		<b>Days Consulting During Normal Work Hours</b> <i>(This only includes time that I am normally expected to be at work.)</i>	

**Check here if you have other approved consulting requests for this fiscal year.**

**Remuneration** – The individual may receive compensation including direct monetary payment, “honorarium,” non-cash considerations such as luxury travel, gifts or even equity in a product and/or company even if those currently have no monetary value. The individual will not be acting as a State employee.

Provide estimated total compensation for the above referenced activity. **(check one)**  
*(Any personal financial information disclosed in this form is acknowledged to be provided in confidence and is not required to be disclosed by Federal or State statute.)*

- ≤ \$500
- \$501 - 1,000
- \$1,001 - 5,000
- \$5,001 - 10,000
- \$10,000+

**Activity/University Relationship**

Will there be material use of University resources?  Yes  No  
If yes, complete University Resources form (<http://compliance.uconn.edu/link/1489>) and attach.

Do not use this form. A more recent version may be available.

**Attestation**

When consulting, I understand that:

- I will not be representing the University;
- I will not be acting as a State Employee and I will so notify the party with whom I am consulting.
- The University will not provide any liability or malpractice protection, or statutory immunity for these activities.

I certify that my consulting activity will not:

- Compromise the University in any of its external relationships, including the State or Federal Government;
- Compromise the University's intellectual property interests or require me to disclose confidential or proprietary information;
- Interfere with any of my assigned duties.

I understand that as a consultant I am not being hired to generate new data or information in my university laboratory and cannot use my personal consultant compensation to do so.

I certify that I have read the Policy on Consulting for Faculty and Members of the AAUP Bargaining Unit and that to the best of my knowledge my involvement in this activity is based on my professional expertise and/or prominence in a field and not due to my State position.

Requestor's Signature

Date

**Approvals**

I do not approve this consulting activity. A copy of this form will be submitted to the dean and the appropriate Faculty Consulting Office (listed below).

I approve this consulting activity and recommend its approval by the Dean. I certify 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; 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.

This consulting activity qualifies for "fast track" approval according to Provost's statement on such academic activities (<http://compliance.uconn.edu/link/1490>). As a "fast track" activity it only requires the signature of the requestor's department head, but the signed form must be submitted to the appropriate Faculty Consulting Office (listed below).

**Department Head**

(Signature)

**Date**

(Print Name)

\_\_\_\_\_

**Dean**

(forward to the FCO listed below)

(Signature)

 Approved     Disapproved  


**Date**

(Print Name)

\_\_\_\_\_

**Provost or Exec. Vice President  
for Health Affairs (or designee)**

(Signature)

 Approved     Disapproved  


**Date**

(Print Name)

\_\_\_\_\_

**Routing Process**

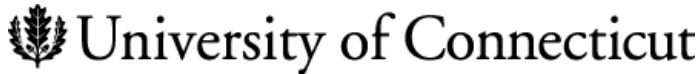
This form should be mailed or faxed to:

**Storrs and Regional Campuses**

Faculty Consulting Office  
Attention of Dr. Ilze Krisst  
Unit-1006  
Fax: (860) 486-5381

**Health Center**

Faculty Consulting Office  
Attention of Dr. Scott Wetstone  
MC-3800  
Fax: (860) 679-1255



For Office Use Only	
Date Received	_____
ID Number	_____
Storrs+ _____ UCHC _____ C _____ M _____	

## Request for Use of University Resources While Consulting

<b>Complete Name (Print)</b>	<input style="width: 95%;" type="text"/>	<b>Department/School Name &amp; U-Box/MC</b>	<input style="width: 95%;" type="text"/>
<b>Telephone Number</b>	<input style="width: 95%;" type="text"/>	<b>E-Mail Address</b>	<input style="width: 95%;" type="text"/>
<b>Name/Address of Firm for Whom the Work is to be Done</b>	<input style="width: 95%; height: 50px;" type="text"/>		
<b>Name of Contact Person at Firm</b>	<input style="width: 95%;" type="text"/>		
<b>Activity Start Date</b>	<input style="width: 100px;" type="text"/>	<b>Activity End Date</b>	<input style="width: 100px;" type="text"/>

Provide an itemized list of resources to be used and an estimated reimbursement to be made for them. (Attach pages if necessary)

Resource(s):	Reimbursement:
1	\$
2	\$
3	\$
4	\$
5	\$

Please note that:

- This form must be used for State resources including, but not limited to, laboratory space; significant use of non-laboratory space; specialized equipment; and personnel.
- Departmental policies and procedures need to be employed for resources such as phone, fax, photocopying, office supplies and similar non-personnel costs.
- Use of "idle, non-consumable" resources need not be reported, such as an available conference room.
- Expenses totaling less than \$100/fiscal year are considered *de minimis* and need not be reported.

<b>Requestor's Signature</b>	<input style="width: 95%;" type="text"/>	<b>Date</b>	<input style="width: 95%;" type="text"/>
<b>Department Head</b>	<input style="width: 95%;" type="text"/>	<b>Date</b>	<input style="width: 95%;" type="text"/>

*Storrs+: Please fax this form to the Office of Research Compliance (6-1044) and keep a copy on file in the department.  
UCHC: Please fax this form your school's finance dean.*