

## Training Session

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

University-wide Policy: Approved by the BoT on 9/25/2007

Operational Guidelines revised and reported to the BOT on 12/4/2007

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**Implemented at UCHC on December 15, 2007**

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## Training Materials

- Request for Approval of Consulting Activities
- Overview document on Consulting (in-depth training)
- **Revisions to the Consulting System to be Implemented on 1/1/09**
- UConn Policy and Procedures on Consulting
- Public Act 07-166 – Section 12
- Code of Ethics Section 1-84
- Request for Use of University Resources While Consulting

<http://consulting.uconn.edu/>

- UCHC Faculty Consulting Office:

Director: Scott Wetstone      Staff: Sandy Paisley, x1113

(Evelyn Passan, x2594)

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## What is Consulting?

### Definition of Consulting

Providing services, advice or 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.

- "faculty" includes all members of the AAUP bargaining unit
- "compensation" includes direct monetary payment, "honoraria", or non-cash considerations (luxury travel, gifts, equity in a product and/or company)

**Must contribute to the professional development of the faculty member.**

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## These are NOT Consulting:

- 1) **There is no compensation.**
- 2) **The work is done as a State employee: State contracts, MoUs, PSAs, ARAs, dual employment with another State agency**
- 3) **The work doesn't contribute to professional development**

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**Note:** The ETH-NE form may need to be filed while acting as a State employee

- Direct payment for necessary travel expenses and/or direct reimbursement to the employee.
- No luxury travel is allowed even if a 3<sup>rd</sup> party pays for it.

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## What is the Fuss About Consulting? Why Are We Changing the System?

### External Regulators, Monitoring and Enforcement

- State Code of Ethics - Office of State Ethics
  - interpretations in the post-Rowland era
- State auditors (and fiduciary responsible Boards)
  - Efficient, effective and legal use of State resources (including faculty time)

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## What is the University's Attitude ?

- Consulting is a **significant benefit** to the University and to the State.
  - professional development → enhances academics
  - economic development
  - recruitment and retention of the best faculty
- The opportunity to consult **must be retained!**
  - new legislation sought and obtained: P.A. 07-166

**Carve-out from the State Code of Ethics!**

**Ability to Manage Conflicts of Interest**

- investment in resources to facilitate consulting

**Compliance with the new system is essential.**

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## What Are the Rules that Apply to Consulting?

### 6 Rules

1. A State employee may not receive any personal financial benefit due to his/her State position.
  - obtaining the consulting activity
  - carrying out the consulting activity
2. A State employee must maintain his/her independence of judgment when making decisions (or influencing how others make decisions) in his/her role as a State employee
  - Conflict of Interest = perceived Col
  - Management Plans

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Two Criteria Test for determining if you have a Col?

- Can the contracting entity (CE) benefit from your role as a State employee?
  - What decisions do you make or influence?
  - Is the CE a U.S. governmental agency?
  - Does the CE do business or seek to do business with the University?
- Is the compensation you will receive appropriate for the amount of service that will be provided?

$$\frac{\$}{\text{Effort}}$$

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## What Are the Rules that Apply to Consulting?

3. A State employee may not disclose proprietary or confidential information without permission.
4. Use of the University's logo or distinguishing marks and/or representing the opinion of the University require permission of the University to do so.
5. A University employee may not compete with the University for work the University would like to perform.

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## What Are the Rules that Apply to Consulting?

6. A University employee may not consult on

**"Time due to the University"**

- There is no defined work week for faculty.
- Professionals must get their work done...fully.**
- Limit: average of 1 day/week during "normal work hours"
  - Weekends & Nights
  - Vacation
  - Less than 12 months appointments
  - Part-time employees

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## How Do I Get Approval to Consult?

1. Complete a request form:

- Demographic information
- Col information

Name/address of the Contracting Entity (CE)  
Description of the consulting activity

List of current grants/contracts with the CE

Description of employee's role in decision making related to the CE

Compensation (**estimated** / guess high)

When compensation is earned, not paid.

Note: confidentiality protection for compensation

Use of range check off boxes vs actual \$ amount

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## How Do I Get Approval to Consult?

### 1. Complete a request form (continued):

- Time & Duration information (**estimated** / guess high)
  - within a single fiscal year: July 1 – June 30
  - total effort & total effort minus time not normally expected to be at work
- Material Use of State Resources (must be reimbursed)
  - non-material use: <\$100/year
  - departmental policies: phone, fax, photocopying & similar non-personnel uses
  - idle, non-consumable resources

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## How Do I Get Approval to Consult?

### 1. Complete a request form (continued):

- Attestations

I will not be representing the University  
I will not be acting as a State employee  
I will not be provided liability coverage  
I will not compromise the University in its relationships  
I will not disclose confidential or proprietary information  
This activity will not interfere with my carrying out my duties.  
I will not use my laboratory to generate new data for the CE.  
I have read the Policy on Consulting  
To the best of my knowledge, I was asked to do this activity due to my professional expertise or prominence in a field.

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## How Do I Get Approval to Consult?

### 2. Obtain Approvals

- Department Head (for the SoDM this is Division Head)  
This is the key person in determining whether the consulting activity might impair work performance, is consistent with Time & Effort reports, and/or whether it is work the University would want to perform. This decision making process will be subject to audit.
- Dean (Director of Athletics for members of that unit)
- Provost/VP for Health Affairs or designees (President for athletics)

The Faculty Consulting Office will review all requests and provide its recommendation to the Provost/VP or designee

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## NOTE

All approvals must be obtained prior to the start date of the consulting!

(Approval cannot be granted on the start date.)

**Starting 1/1/09 this will be strictly enforced.  
Starting 1/1/09 sanctions will be issued.**

- Use the correct start date.
- Use the fast track approval process if possible.

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## "Fast Track" Approval Process

### Criteria:

- Purely academic activities that are part of faculty member's expected academic professional development (but not their job). Subject to dept. head's interpretation.
- Compensation ≤ \$500

### Process

- Department head's approval only.
- Copy of form must be retained by the department with the original going to the Faculty Consulting Office
- Activity must be included in year-end reconciliation report.

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## Consulting Management Committee

- Identification of CoIs
- Management Plans

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## How Do I Get Approval to Consult?

### 3. Reconciliation Report (annually)

Required for all who have an approved consulting activity

Must note variances from the initial request

Must attest that all material use of State resources were reimbursed.

These will be mailed to faculty during the summer and are due no later than September 15.

## Offices of Faculty Consulting

### ☺ Friends or Foes? ☹

- Training
- Ombudsman role
- Ensure long term viability for consulting
  - review requests before Provost/EVP or designee approval
  - Oversight: audits, JACC, BoT, External Adv Com, and Legislature

### Case Study 1

Dr. B is asked to serve on an NIH study section. This will require him to read a dozen grant proposals prior to meeting with the panel in Washington D.C. for two days. He is paid a flat fee which covers both travel expenses and an honorarium. He uses his secretary to arrange travel and photocopies his materials before going to the meeting.

Is this consulting?

Will there be material use of State resources?

What is the 'duration' of the activity?

### Case Study 2

Dr. F. is a surgeon who uses implants in her surgery. Many companies make such products. At the end of the year, the company making one implant product asks the surgeon to complete a short questionnaire regarding her satisfaction with the product and to comment how well it worked. The company pays the surgeon for her valuable time in filling out the questionnaire.

Is this consulting?

Is there a conflict of interest in this case?

### Case Study 3

Dr. E. takes a second job selling ice cream from a truck on weekends, Memorial Day, July 4, and Labor Day. He occasionally works on a Tuesday, but takes vacation time when doing so. He has now been requested to work on 4 consecutive Thursdays and sell on the roads that surround the Storrs campus.

Is this consulting?

Is there a problem with "time due to the University"?

Is the person competing with the University?

# QUESTIONS?

The following slides are only used to answer questions.

### Summary of Major Changes To the Policy & Procedures for Conflict of Commitment (Consulting)

Storrs+ Policy	UHC Policy	Change
√	√	New University wide policy & procedures have been approved by the BoT that will replace individual unit policies.
√	√	Must conform to Public Act 07-166 : Approval must be in advance Approval must consider Col & other issues Sanctions for non-compliance Oversight : external advisory committee, audits & reports to the BoT & Legislature

### Summary of Major Changes To the Policy on Conflict of Commitment (Consulting)

Storrs+ Policy	UHC Policy	Change
√	√	Scope of the policy will only include faculty and members of AAUP based on expertise or prominence in a field.
	√	Requirement that consulting must contribute to the professional development of the faculty member.

### Summary of Major Changes To the Policy on Conflict of Commitment (Consulting)

Storrs+ Policy	UHC Policy	Change
√	√	Emphasis away from guaranteed minimum or maximum number of consulting days to the standard of being able to fully perform duties (as validated by those aware of the faculty member's assigned duties and current performance of duties.)
	√	Maximum of an average of one day a week for consulting during times one would normally be at his/her State job.

### Summary of Major Changes To the Policy on Conflict of Commitment (Consulting)

Storrs+ Policy	UHC Policy	Change
√	√	Recognition that compensation received for consulting may represent a Col and must be disclosed on Col financial reports.
√	√	Recognition that a management plan might be needed for Cols.
√	√	Fuller articulation that consulting should not compete with the University for work.

### Summary of Major Changes To the Policy on Conflict of Commitment (Consulting)

Storrs+ Policy	UHC Policy	Change
√		Requirement that those consulting must complete a year end reconciliation report.
√		Requirement to keep a centralized, electronic database on consulting activities
	√	Separation of the policies on Academically Related Activities (activities performed as a State employee) from consulting activities.