

The University of Connecticut
Office of Audit, Compliance and Ethics

Report on

Faculty Consulting Activities and University Procedures
For the Period July 1, 2015 through June 30, 2016

Audit Team

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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. Faculty members are required to confirm, through 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 FY 2016 consulting request statistics presented in *The University of Connecticut Consulting Program FY 2016 Annual Report*, (Annual Report) which was prepared by the UConn and UConn Health Faculty Consulting Offices (FCOs) and evaluate compliance with the Policy, including 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 during FY 2016. The FY 2016 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 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 recommendations in prior audit reports. This audit did not include tests of management’s corrective actions with a completion date later than June 30, 2016. 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 *FY2016 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 verified 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 2016 reported in the *FY2016 Annual Report on Consulting Activities* materially agreed with our calculations.

We found that 98% and 99% 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 that 100% of the consulting request reconciliations submitted by UConn and UConn Health faculty were created prior to the September 15 deadline and approved by the respective FCOs no later than October 15, 2016. We noted that the decreasing number and severity of audit findings over time demonstrates management's commitment to optimize the program in compliance with the legislative intent of CGS 1-84(r). We also observed the collaborative working relationship between the UConn and UConn Health FCOs, which has resulted in a consistent approach to faculty consulting request oversight across the University.

Our interviews with department heads confirmed an awareness of the faculty consulting policies and procedures and the oversight responsibilities required at the department level. A majority of the department heads 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 or do not occur. We did find that the existing OFCAS functionality that allows department heads and deans to exercise approval authority through the use of a proxy does not clearly align with the use of delegates expressed in the Policy.

Based on our review of Open Payments data provided by the UConn Health Research Compliance Monitor and consulting fee payments for calendar year 2015 available on the Centers for Medicare and Medicaid Services website, we concluded that 98.3% of the activities associated with consulting fee payments received by UConn Health faculty members from companies required to report were submitted for approval as consulting requests. We identified one activity that was not submitted for approval, which took place in FY 2015.

While a reduction in the number of potential conflicts with effort reported on sponsored projects during the summer period has occurred, we continued to identify a small number of UConn faculty members who performed consulting activities during periods in which special payroll authorizations and financial accounting records confirmed that he/she had committed fulltime

effort with corresponding summer salary charged to projects funded by federal sponsors. The current effort reporting system, implemented to comply with federal regulations, relies on payroll records to generate institutional effort reports for the summer period. These reports do not account for overlapping outside consulting activities that reduce institutional effort associated with federally funded sponsored projects. We also noted 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.

In addition, we identified several fulltime management-exempt employees with faculty titles who consulted during normal work hours without utilizing accrued vacation for the period specified in the consulting request.

We would like to thank the FCOs for their cooperation and input during our review of FY 2016 faculty consulting activities.

OBSERVATIONS AND RECOMMENDATIONS

1. Non-Compliant Approved Consulting Requests

The University policy titled, *Sanctions for Non-Compliance with the University's Consulting Policy and Procedures*, 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.”

We found 25 (2%) approved UConn consulting requests in which the creation date occurred after the start date of the activity. The UConn FCO communicated verbally with faculty members who submitted consulting requests that were not approved prior to starting / performing the activity. The UConn FCO also issued five formal warnings to faculty members in FY 2016.

We found 5 (.7%) approved UConn Health consulting requests that were not submitted with sufficient lead-time to allow for timely approval. The creation dates for these consulting requests ranged from two to six days prior to the start date of the activity, which resulted in final approval occurring after the start date. The UConn Health FCO did not identify these late approvals until the completion of our audit procedures. Formal warnings / sanctions were not issued to these faculty members in FY 2016.

We identified 19 UConn and five UConn Health faculty members who submitted consulting requests with total consulting days during FY2016 in excess of 52 days. It is important to note that 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 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.

Recommendations

The FCOs should revise the *Sanctions for Non-Compliance with the University's Consulting Policy and Procedures, issued in September 2011* to account for the effects of the OFCAS on the request / approval process, clarify the exceptions process, and define with whom the responsibility for issuing and tracking sanctions lies.

The FCOs should clarify to faculty members that a request to consult is considered to be submitted late if it is not submitted with sufficient time to process it, which is suggested by the *Sanctions for Non-Compliance with the University's Consulting Policy and Procedures, issued in September 2011* to be at least one week ahead of the start of the consulting activity. Going forward, sanctions should be issued for consulting requests that could not be approved prior to the start date due to submission less than one week ahead of time.

The FCOs should consider adding functionality to the OFCAS to trigger an alert to the department head, dean and FCO when a consulting request is created by a faculty member that causes the cumulative total consulting days during a fiscal year to exceed one day per week. Management review of the nature and extent of a faculty member's consulting activities should be performed when an alert of this nature occurs.

The University should revise the Policy and associated procedures to eliminate the distinction between consulting on "normal work days" and "total consulting days".

Management Responses – FCO

The FCOs will review the Sanctions policy to ensure appropriate sanctions are issued and that the OFCAS system is optimized to support this. Completion date: December 2017.

The FCOs operate as service oriented units and work diligently to obtain all necessary approvals on time, even if the request is submitted with less than one week's notice. Sanctions are only issued if the necessary approvals are not obtained on time regardless of when the request was submitted. Faculty assume a risk that they will not obtain approval for their requests when they submit their requests with too little advanced notice.

When a consulting request is created, but not as yet approved, the OFCAS system prints the number of previously approved days during normal work time on each request and this can be extended to total days as well. Unfortunately, this number is based on previously approved requests and is inaccurate if several requests are in process at the same time (i.e. since they are in progress they are not part of the calculated number.) We will discuss this with IT to see if this problem can be corrected. Completion date: September 2017.

The current policy and procedures focus more on consulting during normal work days than total consulting days when determining if consulting might impair a faculty member's ability to carry out his/her duties. Therefore, management believes we are in compliance with the current policy and procedures and that it is important to allow faculty to pursue consulting during time not owed to the University without limit. As we do every year, management will

consider revisions to the consulting policy based on audit recommendations, improvements to the online-approval system, and general opportunities for improvement. The UConn Health FCO provides quarterly reports to the department heads and deans on their faculty's approved consulting including both total effort and effort during normal work time, and the UConn FCO will make efforts to consistently provide similar reports. Completion date: December 2017.

2. Consulting Activities Performed while Drawing Summer Salary

We identified the 9-month, 10-month, and 11-month UConn faculty members with consulting activities that occurred during the summer periods, July 1, 2015 through August 22, 2015 and May 23, 2016 through June 30, 2016. We traced these faculty members to the University's payroll system, Genesys, to determine whether the faculty received additional compensation during the summer periods relevant to our audit scope. We found 18 (1.7%) consulting requests with possible effort reporting implications for 11 (2.5%) UConn faculty members who were fully compensated for summer effort charged to sponsored programs.

Requests of this nature have the potential to impact the accuracy of effort certifications for faculty with summer effort compensated from federally funded sponsored projects.

Recommendations

Faculty members who plan to perform summer consulting activities should not buy out 100% of summer effort by charging full summer salary and fringe benefits to federally sponsored project accounts.

The UConn FCO should work with the Office of Vice President for Research (OVPR) to implement a procedure to inform Sponsored Program Services of faculty members who performed consulting activities during the summer that may impact the validity of effort reporting certifications.

Management Responses – FCO

The UConn FCO will review the instances of potential consulting while on summer salary, determining the correct circumstances with these faculty members. The FCO will continue to remind faculty and department heads about the need to avoid buying out 100% of summer salary if consulting is anticipated. Completion date: September 2017.

The UConn FCO will request a list of faculty who have bought out 100% of summer time on federal grants, and the UConn FCO will cross-check that list with the consulting database. Completion date: May 2018.

3. 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 vacation days annually. The Consulting Policy specifically 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.”

We identified 51 FY2016 UConn consulting requests in which the faculty member indicated a 12-month employment term. We compared the FY2016 vacation records from the payroll department for these individuals to the periods corresponding to the dates provided in the consulting requests. Our findings were as follows:

- Nine consulting requests for eight 12-month faculty – vacation days were used
- Eight consulting requests for five 12-month faculty – vacation days were not used
- Thirty-four consulting requests for 22 12-month for which no time and attendance records were found

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 2016 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.

Management Responses – FCO

The UConn FCO will review the instances of consulting by 12-month and/or management exempt faculty during normal work time. The UConn FCO will seek adjustments to vacation day allotments through the Payroll Department, when it is determined that consulting occurred during normal worktime without the use of vacation, personal, or holiday time. In addition, the UConn FCO will request a report of all 12-month and/or management exempt faculty and send an electronic reminder to the faculty and their support staff of the need to use vacation/personal/holiday time when consulting occurs during normal work time. Completion date: September 2017.

4. Unapproved Consulting Activities

We obtained a list, dated September 8, 2016, of current and former UConn and UConn Health faculty members and the companies with which the faculty members are affiliated

from the OVPR. The list contained 82 entities, four of which were dissolved in prior years.

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. In our review of requests to consult with faculty-affiliated companies, we found consulting requests submitted in FY2016 for eight entities by ten (6%) UConn Health and 19 entities by 18 (4%) UConn faculty members. No consulting request was filed in FY2016 for six (3%) UConn Health faculty affiliated with seven entities and 30 (8%) UConn faculty affiliated with 37 entities.

Based on a similar finding in the FY2015 audit report, the UConn FCO expended significant effort to determine the status of faculty affiliations with the companies contained in the OVPR list. Faculty who are affiliated with entities that have been dissolved are no longer required to submit a consulting request associated with a defunct entity. Several of the dissolved companies remain on the OVPR list of faculty affiliated companies.

Failure of the OVPR to maintain an accurate and up-to-date list of active faculty who have an affiliation with an external entity negatively impacts the ability of the University to effectively manage financial conflicts of interest and conflicts of commitment and the ability of the FCO to achieve compliance with state regulations and University Policy.

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 work with the OVPR to implement procedures 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.

OVPR should implement procedures to validate the accuracy of the Faculty Affiliated Companies List on a semi-annual basis, prior to distribution to the FCO and other relevant University departments.

Management Responses – FCO

Management agrees with the auditor's recommendations. Completion date: December 2017.

Management Response – OVPR

The OVPR agrees with the recommendation. The OVPR will implement a procedure to verify on a semi-annual basis the status of all faculty companies that have been disclosed to the OVPR and included in the OVPR Faculty Affiliated Company database. Estimated implementation date: June 30, 2017

5. Proxy Approval Procedures

A proxy is an individual who has been authorized to document an official approver's decision in the OFCAS. A proxy is not authorized to make an independent approval decision, and must maintain written documentation of the official approver's decision regarding each request.

Department heads and deans may utilize a proxy to approve consulting requests in the OFCAS, which contains the following attestation on OFCAS Approval Screen:

I am the proxy for the official approver of this consulting request. I have forwarded the information contained in this request to the official approver and I am now accurately recording that person's decision. I am keeping a written paper trail with dated documentation of the official approver's decision regarding this request.

UConn Health Proxy Approval

We identified 255 (33%) UConn Health OFCAS consulting request records that included the approval of at least one proxy in FY 2016. We judgmentally selected a sample of 25 of these consulting requests to assess compliance with the proxy attestation, including written, dated, documentation of the official approver's decision to approve the request prior to executing the decision within the OFCAS.

We found two (8%) proxy approvals that were not supported by documentation of the official approver's decision. One of these exceptions appears to be due to one UConn Health department head who relied on the proxy to independently make approval decisions without the approver's input. We also found three (12%) proxy approvals for which the supporting documentation of the official approver's decision was not dated as required.

UConn Proxy Approval

We identified 419 (40%) UConn OFCAS consulting request records in which the request was approved by one or more proxy, including 33 department head proxy approvals; 211 dean proxy approvals, 98 of which were approved by an Associate Dean, 18 by the FCO, and 95 by staff; and 308 FCO proxy approvals by administrative staff in the Provost's Office.

Further analysis of the UConn consulting requests disclosed a number of requests for which proxy approvals were utilized at more than a single approval level, as follows:

- Proxy approval for the Department head and Dean – eight requests
- Proxy approval for the Department head and FCO – three requests
- Proxy approval for the Dean and FCO – 119 requests
- Proxy approval for the Department head, Dean and FCO – three requests

In our follow-up discussions with the proxy approver for a dean and a department head, we noted that the dean's proxy discussed the consulting requests with the dean and obtained

appropriate written documentation prior acting as a proxy approver in the OFCAS; however, the department head's proxy made independent approval decisions without input from the official approver.

The FCO stated that a FCO staff member will act as a proxy approver in the OFCAS in lieu of a department head and/or dean, after receiving direction from the department head and/or dean to do so.

Recommendations

The UConn and UConn Health FCOs should instruct individuals responsible for the approval of faculty consulting requests to provide dated documentation of an approval decision to his/her designated proxy prior to approval or denial of the request in the OFCAS.

The FCOs should revise the OFCAS proxy approval functionality to be consistent with the Procedures and/or update the Procedures to address proxy approval delegation on behalf of department heads and deans.

The University should revise the Policy and associated procedures to clearly articulate the use of delegates across all tiers of the faculty consulting approval chain.

Management Responses – FCO

Management will send reminders to the proxies regarding their obligations to obtain and maintain decisions from the duly –authorized-decision-maker for whom they are serving as a proxy.

Management will review and potentially revise the Consulting Policy and Procedures regarding the use of delegates and proxies and then determine the best approach to ensuring compliance. Completion date: December 2017.

6. Overreliance on Delegated Approval

The Policy establishes an approval hierarchy, consisting of three levels of approval for faculty consulting requests. The *PROCEDURES ON CONSULTING FOR FACULTY AND MEMBERS OF THE FACULTY BARGAINING UNIT*, dated March 19, 2014, (the Procedures), published on the <http://consulting.uconn.edu/consulting-policies-procedures/> webpage, allow for consulting approval by the Provost or the Provost's designee. No such provision has been established for approval by a faculty member's department head or dean.

A designee is an individual to whom authority to make consulting approval decisions on behalf of an official approver has been delegated, independent of any input from the official approver.

UConn Health Delegated Approval

We noted that one UConn Health approver has delegated his authority to approve consulting

requests for employees who are not department heads to the UConn Health FCO. As a result, the UConn Health FCO, who is also the designee of the Executive Vice President for Health Affairs, has been delegated authority to approve consulting requests at multiple levels of the approval process.

UConn Delegated Approval

Our discussions with the UConn FCO staff disclosed that the Faculty Consulting Officer, originally serving as the Provost's designee, delegated FCO approval authority to two administrative staff members who appear as proxy approvers in the OFCAS. A written delegation memorandum, signed by the Provost, to approve delegation of the Faculty Consulting Officer's approval authority to members of the FCO staff could not be found.

Recommendations

UConn Health department heads and deans who are responsible for approving consulting requests should not delegate their authority to approve consulting requests to the FCOs.

The Provost should review the appropriateness of the level of authority exercised by the UConn FCO administrative staff to whom the Provost's approval has been delegated.

Management Responses – FCO

See management's response to item 5. Completion date: December 2017.