

Consulting Management Committee
November 5, 2010

Attendees

Members: M. Aindow (Co-chair) and T. Van Hoof.

Staff: N. Bull, S. Wetstone, E. Passan

The meeting was convened at 11:00 AM:

1. Approval of minutes of 10/1/10 is postponed. A call for revisions and vote for approval will be sent via email.
2. Accelerated Approval Process (“Fast Track”)

As recommended at the last meeting, the Policy on Rescinding Approval for Activities Under the Accelerated Approval Process has been withdrawn. Instead, the faculty member will have to specifically indicate which category of activity and sponsor qualifies them for fast track approval. If incorrect information is provided, that would be grounds for rescinding approval but if correct information is provided, the approval is binding.

The Committee reviewed the revisions to the “Definitions of the Accelerated Approval Process” document and no additional suggestions were made. This revision to the “Fast Track” policy will be presented to the Faculty Consulting Oversight Committee and based on their recommendation will be formally proposed to the Provost as a change to the Consulting Procedures.

3. UCHC Request for Action #9 – Promotional Activities (draft attached):

S. Wetstone reviewed the proposed revisions. There was discussion regarding item 1(c) in the Recommendations section “An exception to this definition is when the faculty member is only presenting on their own peer-reviewed published works.” Does the faculty member have control over their own work? We previously had a case where the faculty member was presenting his own research results to the FDA and the Committee decided this would be an acceptable consulting activity. We need to be more attentive to how the educational materials association with educational presentation are created.

4. Use of the University’s websites or print publication for advertising an activity associated with faculty consulting.

An athletics coach would like to advertise her sports camp on the University’s web site. Whatever is decided would also apply to other advertising venues including print formats in University publications.

We cannot find any University policy regarding advertising. We believe there may be applicable Federal rules including those that govern appropriate use of “.edu” web sites and concerning the University’s non-profit tax status. There may also be State rules regarding this type of situation.

Within the domain of consulting, there are two considerations that must be addressed:

a) Employees may not receive personal financial gain due to their position as a State employee. University employees should have the same right to advertise in University publications (print and web site) as any other citizen of the State and if they do, then they have no advantage due to their State position. An exception to this may be in a sanctioned public-private partnership as exemplified by companies created under the UConn Research and Development Corporation.

b) When consulting, the employee may not use the University's logo or trademarks without permission, may not represent him/herself as a spokesperson for the University or representing the University's position on issues, and must make it clear to the sponsor that s/he is not acting as a State employee when carrying out the work. This concern may be addressed if an adequate disclaimer statement is included in the advertisement that makes it clear the activity is not a University sanctioned activity and that persons performing work related to the advertisement (i.e. the employees of the camp in the case in questions) are not acting as State employees when doing such work.) What isn't clear at this time is the wording and formatting of such disclaimer statements.

It was noted that private business entities owned or run by University employees cannot use a University mailing address for said business. Also, the Athletics web site is a ".com" rather than a ".edu" address and therefore different rules may apply.

Nancy Bull will check with procurement and the tax attorney regarding effects of allowing advertising on these sites and in University publications in regards to our non-profit status.

The Committee noted that while it might be possible to conduct such advertising and be in compliance with the Consulting rules, such advertisement may not be in compliance with other rules. The latter issue is beyond this Committee's jurisdiction and should be looked at by a different entity (e.g. an ad hoc committee created by the Communications or President's Office).

We will resume discussion of this topic at next meeting when we have a quorum.

5. Consulting while on Sabbatical leave:

Sabbatical leaves are granted to faculty for the purpose of the advancement of knowledge or professional improvement of mutual benefit to the University and the individual. The University Bylaws state that faculty will receive full pay for ½ year or ½ pay for a full year. The faculty will remain full-time employee while on sabbatical leave. Sabbatical leaves require BoD or BoT approval (Article XIV.L.).

There is ongoing confusion concerning the faculty's ability to consult when on sabbatical leaves. A complicating factor is when compensation is paid by the organization at which the faculty member on leave is stationed (ex/ a faculty member's sabbatical leave is to conduct research at another University and the sabbatical length is a full year. Half of the faculty member's normal salary is paid by the University and half by the University at which they are working.) Another complication is when the faculty member receives compensation from another 3rd party.

When working as a University employee, the Faculty member's salary is capped at their annualized rate if they had remained stationed at the University. A 9-month faculty member earning \$100,000 per year while stationed at UConn, could earn no more than \$133,333 for a 12 month working sabbatical year at another institution (or working at UConn if placed on 3 months

of summer salary.) The full year of pay would be pro-rated based on actual effort. To say this differently, a faculty member cannot “double-dip” or exceed the 12/12ths rule while performing the work of a sabbatical leave.

Faculty on sabbatical leaves are entitled to consult (being compensated for services rendered while not acting as a State employee) so long as the rules for consulting are complied with, including the requirement for prior approval. In this manner faculty may earn income outside of the 12/12ths limit. Such consulting can only be done for work different than the work assigned to perform while on sabbatical leave. A faculty member cannot do the same work sometimes as an employee and sometimes as a private citizen. Such consulting work cannot interfere with the faculty member’s ability to fully perform their assigned duties while on sabbatical leave. Such consulting work can be performed during normal work time, but the cap on such time still applies.

In order to avoid confusion as to whether work done while consulting is work that should have been done as a State employee, it is imperative that the activities to be performed while on sabbatical leave are well described and on record with and approved by the department head and dean.

Since these issues have been raised by the OACE auditors in the past, Scott Wetstone will discuss the above interpretation with them to be sure this proposed interpretation is clear and addresses their concerns. It will then be brought back the CMC.

The committee adjourned at 12:02 PM.

Next meeting to be held on Friday, December 10, 2010 at 10 AM

Respectfully submitted by:
E. Passan