

Consulting Management Committee
UCHC Request for Action #3

Date: January 28, 2008

Submitted by: Scott Wetstone, Director of the UCHC Faculty Consulting Office

Proviso

Public Act 2007-166 exempts the faculty and members of the AAUP faculty bargaining unit from subsections b and c of Section 1-84 of the general statutes. These sections address outside employment and ban situations that would: a) impair independence of judgment as to official duties, b) involve the disclosure of confidential information acquired in the course of State employment, or c) result in financial gain for the employee, the employee's family or business associates through use of his/her state office or position.

This exemption only applies when a set of requirements is addressed. Among these requirements is that the Board of Trustees develops policies that ensure that: a) the employee engaged in consulting is not inappropriately using university proprietary information, b) the employee engaged in consulting does not have an interest that interferes with the proper discharge of his or her State duties, and c) there are procedures in place to ensure the appropriate disclosure, review and management of conflicts of interest.

Final approval of requests for consulting reside with the chief academic officer and/or his/her designee¹. The consulting procedures approved by the Board of Trustees established the Consulting Management Committee (CMC) with the role of providing advice to the CAO especially in the areas of identifying, reviewing and when necessary managing conflicts of interest. The ability to manage conflicts of interest is unique for those covered under 2007-166.

Description of Issue

In the situation in which a person is currently working on or leading a research grant/contract with a non-governmental contracting entity, (for profit or not for profit) AND requests permission to consult for the same contracting entity, there may be perception that a conflict of interest exists. This question would also apply when such a grant/contract is under negotiation or is pending but hasn't started yet.

My questions related to this type of situation are:

- 1) In this situation, should the CAO automatically deny such requests to consult? Should the CAO automatically require the development and implementation of a Col management plan?

¹ Hereinafter referred to as the CAO.

- 2) If such situations are deemed as unacceptable Col's, are there any standard management plans that can be issued by the Faculty Consulting Office without the need to bring each such case to the Consulting Management Committee?

Previous Opinion(s) of the Office of State Ethics

The OSE has issued a formal opinion concerning such situations and basically finds them an unacceptable Col. They were concerned that the compensation received for consulting could taint the research work performed as a State employee. They therefore would ban such consulting.

Discussion

The very expertise that makes a faculty member a good candidate to conduct research under a grant or contract provided by a contracting entity, also makes them valuable as a consultant in a variety of roles that are useful to more than the contracting entity. These include serving on safety panels, scientific advisory panels or for providing continuing education or scientific presentations.

Some UCHC faculty have stated that instead of giving up the benefits of consulting, they have given up soliciting research grants and contracts from such contracting entities. Therefore the ban suggested by OSE is detrimental to the University and was in fact one of the driving forces for the University to seek a carve out from the State Ethics Code for faculty consulting.

As in other OSE rulings, their logic makes sense from one perspective (but not all points of view.) In this case, the notion that compensation received for consulting may bias a faculty member in the conduct and reporting of research is understandable. However, by that argument, all faculty engaged in research have a conflict of interest regardless of funding source because all want and need subsequent grants and publications and therefore would want to keep such funding sources happy and willing to make subsequent investments.

The University believes it must rely on the professionalism of its faculty to conduct objective and honest research at all times. At the same time, the University has standards for conducting research in an unbiased manner and enforcement mechanisms to ensure integrity in research. In addition, as required by Federal regulations, it maintains programs for identifying and managing conflicts of interest in research (usually from the perspective that there may be a Col when faculty have significant financial holdings in the companies that sponsor research or that make products whose sales would potentially benefit from such research.) Both Storrs and UCHC operate Research Misconduct committees to this end and these committees both identify such Col and impose management plans as appropriate.

Recommendations:

The Consulting Management Committee should recommend to the CAO:

- 1) In the situation in which someone requests to consult and is working on or leading research grants or contracts held by the University with the same contracting entity, the CAO will not automatically deny the request to consult or automatically require a Col management plan. Instead, professional judgment must be used in such situations on a case by case basis. Among the warning flags that the request should be denied or a Col management plan developed and implemented are a high level of compensation or compensation in excess of what would be expected for the time and effort spent on the consulting activities.
- 2) In the situation in which someone requests to consult and is working on or leading research grants or contracts held by the University with the same contracting entity, AND the total compensation paid to that person by the contracting entity is \$5,000 per year or more² or the compensation earned for consulting is excessive in consideration of the time and effort expended on the consulting activity, then the Office of Faculty Consulting will alert the appropriate Conflict of Interest in Research committee (Storrs+ or UCHC) of this situation. Such committee will then handle the situation as it deems appropriate.

CMC Response

On January 31, 2008, the Consulting Management Committee unanimously approved the two recommendations as written above. On March 9, 2012, the Consulting Management Committee revised the threshold for Col considerations from \$10,000 to \$5,000.

² The usual threshold used by Federal agencies in determining if a research conflict of interest exists.