

**REPORT ON THE UNIVERSITY OF CONNECTICUT'S
COMPLIANCE WITH PUBLIC ACT 07-166 (Section 12)
FACULTY CONSULTING PROGRAM**

February 1, 2010

Report Issued by the Faculty Consulting Oversight Committee

SUMMARY

Pursuant to a change in the Connecticut State Statutes and action by the University of Connecticut Board of Trustees, new policies and procedures for approving consulting activities for the Faculty and members of the AAUP bargaining unit were implemented in December 2007. Faculty Consulting Offices (FCOs) were established for Storrs+ and UCHC and have provided an extensive amount of training to those who consult and for those who must participate in the consulting approval process, such as department heads and deans. A University-wide Consulting Management Committee (CMC) was convened to provide recommendations regarding the identification and management of potential Conflicts of Interest arising from consulting activities.

As required by PA 07-166, the Faculty Consulting Oversight Committee was convened including members appointed by the Legislature/Executive branch and from the Citizens' Ethics Advisory Board. This Committee has met four times to review the implementation of the consulting program and to review the semi-annual audits of the program conducted by the University's Office of Audit, Compliance and Ethics.

Implementing this program required development of policies, procedures, forms and databases; identification and training of staff; and awareness and training of faculty, department heads, and deans. The Office of Audit, Compliance and Ethics has carried out semi-annual audits as required and as expected have identified areas in which clarifications and improvements have been recommended. The University is addressing each of the issues raised in a timely and appropriate manner.

The Faculty Consulting Oversight Committee has determined that the University of Connecticut is complying with PA 07-166. The oversight required by the Act, including the Faculty Consulting Oversight Committee itself and the audits, has and should continue to enable ongoing review and improvement of the program. To date, the program, its policies, procedures, and implementation has resulted in a system that pro-actively identifies and manages potential conflicts of interest. It should be noted that an individual who does not participate with the program is subject to sanctions by the University and may also be subject to additional sanctions by the Office of State Ethics.

BACKGROUND

Public Act (PA) 07-166 (Section 12), approved on June 19, 2007, created a carve-out from the portion of the State Ethics Code dealing with consulting. Participating in appropriate consulting activities is viewed as being mutually beneficial for the University and its faculty and the intent of the Act is to enable such activities.

This carve-out applies to faculty and members of the faculty bargaining unit (herein fore referenced as “faculty”) of a constituent unit of the State system of higher education. In the context of the Act, “consulting” represents situations in which faculty are compensated for services rendered while not acting as a State employee. The request to consult must be based on the faculty member’s expertise in a field or prominence in such field and not due to the State position held. Faculty must receive prior approval before such consulting begins. It should be noted that no other State agency requires prior approval or any such mandated disclosure of outside employment activities.

The Act transfers final authority for approval of such activities to the University and it allows management plans to be implemented for addressing perceived conflicts of interest. Specifically, the legislation allowed these individuals to enter into a consulting agreement with a public or private entity, provided such agreement or project does not conflict with the individual’s employment as determined by policies established by the Board of Trustees for such constituent unit.

This carve-out from the State Ethics Code is predicated on a set of requirements being met including significant institutional oversight. The University of Connecticut Board of Trustees (BOT) approved the University’s “Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit,” including operational procedures for implementation, on September 25, 2007. The Policy and Procedures define a consistent set of rules for consulting for all the faculty of the University. The implementation procedures were subsequently amended on December 4, 2007 to allow for fast track processing of a certain class of activities generally referred to as “academic activities” where remuneration does not exceed \$500.

The new consulting system became fully operational on December 15, 2007 (the University’s policies, procedures and request form may be found at consulting.uconn.edu). Since that time, both the Storrs Campus and the Health Center have each established a Faculty Consulting Office (FCO) with reporting lines and staffing. Usage data systems have been developed by each FCO. Further, both campuses have developed on-line and live training programs. In the first year of implementation, twenty-five (25) group sessions have been given at the Health Center and sixteen (16) such sessions have been given at the Storrs Campus. In addition, on both campuses, many additional training sessions have been given at the invitation of schools and departments, or to individual faculty.

Requests to consult must be reviewed and approved by the faculty members’ department head, dean, and the provost’s designees (one for each campus). Consulting may not negatively impact the faculty member’s ability to fully and satisfactorily address their assigned job duties. At the end of the fiscal year, each faculty member must submit a reconciliation report indicating variances from the requested time spent consulting during the normal work time and confirming any and all appropriate reimbursements for use of University resources, if any.

If a faculty member does not adhere to the provisions described in the Act or the University’s Consulting Policy and Procedures, the Office of State Ethics will retain jurisdiction over the activity and have the responsibility for determining whether it complies with the State Code of Ethics and whether sanctions should be imposed. Violations of the University’s Consulting Policy and Procedures will in addition be subject to sanctions issued by the University which may result in termination.

CONSULTING MANAGEMENT COMMITTEE (CMC)

As required by the implementation procedures, President Hogan appointed the University's Consulting Management Committee (CMC) on December 10, 2007. The CMC is authorized to review and recommend disposition of certain consulting situations that do not have obvious resolution. The CMC also offers input on unforeseen situations put before it that may arise as a result of consulting activities. To date, the CMC provided advice to the directors of the Faculty Consulting Offices on an ad hoc basis, and also reviewed ten general situations resulting in formal position papers. For example, based on one position paper, participation in promotional presentations with pharmaceutical companies has been banned.

SEMIANNUAL AUDITS

As required in PA 07-166, the University's Office of Audit, Compliance and Ethics has conducted and finalized two audits to date with the data collection of the third audit underway. Per standard practice, management has had the opportunity to provide responses to each audit finding and recommendation.

The audits for the period of time of inception of the program through June 30, 2008 and July 1, 2008 through December 31, 2008 have been reviewed by the Board of Trustees Joint Audit and Compliance Committees (members of the committee come from the Board of Trustees and the University of Connecticut Health Center's Board of Directors) and the External Oversight Committee (see below).

FACULTY CONSULTING OVERSIGHT COMMITTEE

As required in PA 07-166, in spring 2009 the Faculty Consulting Oversight committee was convened to review the University's compliance with PA 07-166, and to file annual reports regarding such compliance with the University's Board of Trustees and to the Legislature. This document is the first of such reports. The Committee's responsibility is to ensure that the University complies with the provisions of the Act and the University's policies and procedures on consulting. It may also make recommendation for improvements to the consulting program.

The membership of the Faculty Consulting Oversight Committee is:

Name	Background
Archambault Jr., F.	Professor Emeritus ¹
Clemons, T.	Former Legislator
Dennis-Lavigne A.	Member, Board of Trustees
Freedman, J. (chair)	Former Legislator
Lowe, C.	Department Head, Psychology
McFadden, P.	Professor Emeritus
Bull, N.	Vice Provost
Pawelkiewicz, W.	Former Legislator
Riley, D.	Member, Citizens' Ethics Advisory Board

¹ Since being appointed to the Oversight Committee, Mr. Archambault has been elected to the University of Connecticut Board of Trustees (alumnae representative.)

The Committee met on May 19, 2009, November 13, 2009, January 5, 2010 and January 12, 2010. It has reviewed the first two final audit reports and the first two annual reports of the Faculty Consulting Offices (the first report was only for a six month period.)

The Committee believes the program was effectively initiated and through on-going revisions has been improved. In fact, in many regards the program is more rigorous than how consulting is handled for other State employees not covered by PA 07-166, especially through the requirement for approval prior to the consulting activities taking place.

The audits have led to improvements to the Consulting Program including revisions to the consulting request form; enhancements to the training program; clarification of definitions used in the formal Consulting Policy and Procedures; and modifications to ensure complete compliance with PA 07-166.

The initial implementation of the consulting program, both in terms of logistics and compliance, has met initial expectations. There have been areas of different interpretations regarding the requirements of PA 07-166 and the University's Policy and Procedures. The audit processes in place appear to be working to identify such areas and to report them to senior management and to the Faculty Consulting Oversight Committee. Management has demonstrated its willingness to address the audit findings in a timely manner. Management appears to be keenly aware of the need to fully comply with PA 07-166, but that as a new program, this is a work in progress that requires monitoring and revision as necessary.

VOLUME OF CONSULTING ACTIVITIES

In the first six months of operation in FY '08, the Faculty Consulting Office on the Storrs Campus received 784 requests to consult from 402 individuals. The Health Center's office received 361 requests from 123 individuals. At the end of the fiscal year, each faculty member is required to complete a reconciliation form to ensure that the consulting that actually took place was within the parameters approved prior to the activity taking place. Both campuses had over a 99% response rates with the required reconciliation reports from those individuals who had filed requests to consult.

In FY '09, the first full year of operations, the Faculty Consulting Office on the Storrs Campus received 1,374 requests to consult from 517 individuals. The Health Center's office received 790 requests from 171 individuals. Both campuses had over a 99% response rates with the required reconciliation reports from those individuals who had filed requests to consult.