Facility Consulting Training for “Department Heads”

Consulting is Essential to our Aspiration to be a Top Tier Research University

• “… consulting activities provide a range of benefits including fostering economic development, enhancing the reputation of the University, promoting faculty development and enhancing the faculty’s ability to bring to the classroom current and relevant ‘real world’ experiences, among others.” — BoT policy

• Failure to provide the opportunity to consult could have a negative impact on the recruitment and retention of world class faculty.
Tight regulatory controls

- Office of State Ethics and the State Code of Ethics
- PA 07-166 – Carve out from the State Code of Ethics for Faculty Consulting
- External Consulting Oversight Committee (reports to the legislature)
- Office of Audit, Compliance and Ethics – routine audits.
- Recent concerns have been raised about the roles of the Department Heads. This has resulted in part in mandated, face to face training for all Department Heads. Many Department Heads could not articulate the standards they are expected to enforce nor track the time faculty consult during normal work days.
Consulting is an activity performed by a faculty member for compensation as a result of his/her expertise or prominence in his/her field while not acting in his/her official capacity as a State employee (i.e. in his/her own time.) The University's Laws and Bylaws prohibit faculty from consulting on "time due to the University".

Consulting is not defined by the nature of the activity, but is defined by money and where it ends up (i.e. in the faculty member’s pocket.)
Definition of Consulting for Faculty

- This includes all paid faculty and all members of the Storrs & UCHC AAUP bargaining units.

- "Compensation" includes direct monetary payment, "honoraria", or non-cash considerations (luxury travel, gifts, equity in a product and/or company), but not necessary travel expenses and not compensation from another CT State agency.

- Since the faculty member is not acting as a State employee, s/he cannot use the TA process, staff time for making travel arrangements and has no liability coverage from the State.
The Department Head’s Role  
(SoDM Division Chairs)

• Best person to know what is expected from the faculty member and whether s/he is fully performing his/her duties.

• Best person to ensure that the consulting activity does not prevent the faculty member from carrying out his/her assigned duties

• Best person to determine if the consulting activity contributes to the faculty member’s professional expertise or academic reputation (a requirement.)
What to look for while reviewing?

Conflicts of Interest

• Can the contracting entity benefit from the faculty member’s role as a State employee?
• Pertains to the perception of conflict as determined by the “common person on the street” standard.
• When annual consulting for a contracting entity exceeds $5,000, the Faculty Consulting Office (FCO) will contact the Office of Sponsored Programs (OSP), Clinical Trials Office and Purchasing Department to ensure they are aware of this compensation.
• Col may be addressed through a management plan.
What to look for while reviewing?

Identifying CoI

- Is the compensation received appropriate for the amount of service provided?
- Does the faculty member own a portion of the contracting entity?
- Does the faculty member have a grant/contract from the contracting entity in their State position?
- Does the faculty member make purchasing decisions that could affect the contracting entity?
What to look for while reviewing?

Conflict of Commitment

- There is no defined faculty work week.
- Time Due to the University:
  “Any time necessary for successfully carrying out the duties assigned to and for which a faculty member was hired. This includes both sufficient time to perform assigned duties as well as sufficient opportunity to meet with other faculty, staff and students.”

The University's Bylaws prohibit consulting on “time due to the University”
What to look for while reviewing?

Conflict of Commitment

Normal Work Time/Days (all work must be performed despite consulting during these times)

- Normal work time/days are usually Monday – Friday, 8:00 am – 5:00 pm and not weeknights, weekends, or holiday and vacation days.

- Restrictions on the use of normal work time (average days per fiscal year):
  - UCHC fulltime (11 month) – 48 days
  - 10 month – 44 days
  - 9 month – 39 days

If on a 9 month appointment, will they devote more than 39 days to their consulting activities during “normal work times/days”?
What to look for while reviewing?

Conflict of Commitment

“Umbrella” approval versus “specific day approval”

• Specific days must be approved in advance.
  – Listed on the request form
    (cannot be unilaterally denied later on.)
  – Department Head notified after the request is approved.

• The auditors want documentation that specific day approval has taken place.
  (They want to be sure that patient services, classes and other work have not been negatively impacted.)
What to look for while reviewing?

Conflict of Commitment - Competition

The faculty member cannot be performing work that the University should be doing.
Approval Process

• Faculty submit requests using the online system:
  – Online Faculty Consulting Approval System (OFCAS-1 & 2)
    • http://consulting.uconn.edu
    • https://myconsulting.uconn.edu
    • Faculty may track their requests at http://myworkflow.uconn.edu

• Department Heads, Deans, Faculty Consulting Office, Provost’s Office will receive approval emails, but this is not 100% reliable. Therefore, periodically access:
  – http://myworkflow.uconn.edu
Approval Process

• Regular Approval
  – Faculty members **cannot** begin consulting activity without full three level approval: Department Head, Dean, Provost’s designee. Final approval must be obtained at least one day prior to the start of the activity.

• Accelerated Approval (does not exceed $5,000 over the Fiscal Year for pre-defined categories of activities and contracting entities)
  – Faculty members may begin consulting activity following Department Head approval.
Accelerated Approval
(now: low risk of the activity having a CoI)

• What Qualifies?
  – 13 categories of activities but dependent on the nature of the contracting entity. See web site for a detailed list.
  – Categories include:
    • Scholarly Presentation
    • Educational (non-promotional) presentation or course
    • Participation in fine arts/artistic performance
    • Writing a book, book chapter, introduction to a book, pamphlet, educational web/computer module, or examination questions
Accelerated Approval

- Review of a book chapter or manuscript to be published in a peer review publication
- Review of a book chapter or manuscript to be published in something other than a peer review publication, or serving as an editor
- Review of student theses, membership on thesis committee, and/or development of a reference or review for PTR decision
- External program, department, school, or institution review
Accelerated Approval

- Review of grant proposals
- Safety or scientific advisory committee of an IRB approved clinical trial
- Legal Advice/Expert Witness
- Participating in a survey (to be added in November)
Where Can I Find this Information?

- Consulting Website (http://consulting.uconn.edu)
  - Policy & Procedures
  - State statute
  - Accelerated Approval Process

- Submission Form (https://myconsulting.uconn.edu/)

- Approval Queue (http://myworkflow.uconn.edu)
When Problems Arise

Late Requests

- When a request to consult is submitted late, but would have been approved if submitted on time. Late means either received by the Department Head, Dean or the Faculty Consulting Office (FCO) on or after the start date of the activity, or submitted before the start date, but without sufficient time to process it. Ordinarily, at least one week lead-time is suggested.

- First occurrence – letter or phone conversation explaining implications
- Second occurrence - letter explaining sanctions will be imposed with next occurrence
- Third occurrence – letter to personnel file and all remaining requests (within Fiscal Year) will be denied
- Fourth occurrence – Indefinite suspension of consulting permission
When Problems Arise

- Occurrence count for late requests will reset after a full Fiscal Year without additional late requests.

- Exceptions
  - Summer “pre-approved” activities
  - Delay at school/college administrative office
    - Generally, granted to Accelerated Approval requests

-Sanctions will be case-by-case for faculty who consult after denial of request, fail to submit a request, or other non-compliance
While Consulting

• A State employee may not disclose proprietary or confidential information without permission.
• 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.
• Material use of State Resources must be approved in advance and reimbursed.
While Consulting

Ban on Private Practice

• The University’s Bylaws prohibit full-time faculty from performing ‘private practice’

• Characteristics of ‘private practice’ include, but are not limited to:
  – Services that require a license to perform.
  – Assuming responsibility for the care of a patient.
  – Services submitted for reimbursement under health insurance.
  – Services that may lead to claims of malpractice.
Reconciliation

• Reconciliation must occur by September 15 following the close of the Fiscal Year
  – OFCAS allows for online reconciliation
  – Department Heads are asked to remind faculty leaving our employment to complete their reconciliation forms.

• Failure to Reconcile
  – No further requests to consult will be approved until 3 months after the missing reconciliation reports are received
  – Notification letter to faculty member and department head
    • If the faculty member doesn’t complete all overdue reconciliation reports within two weeks of this issuance of this notification letter, permission to participate in all currently approved consulting activities will be revoked.
Other Issues

Payment to Physician Sunshine Act (PPSA) and similar disclosures

Conflict of Interest Policies (University and School level)

University Level Review of Conflicts of Interest in Consulting
For More Information

- **Storrs+ Faculty Consulting Office**
  - Dr. Sally Reis
  - Mr. Brandon Murray

- **UCHC Faculty Consulting Office**
  - Dr. Scott Wetstone
  - Ms. Evelyn Passan