

The University of Connecticut
Office of Audit, Compliance and Ethics
Report on

**Faculty Consulting Activities and University Procedures
For the Period July 1, 2013 through June 30, 2014**

Audit Team

Staff Auditor: Donna L. Barberi, CIA

University Audit Manager: Elaine C. Zincavage, CPA

Cheryl Chiaputti

Cheryl Chiaputti, CPA, Director of Audit Services

May 14, 2015
Audit # 14-32

**The University of Connecticut
Office of Audit, Compliance, and Ethics
Report on
Faculty Consulting Activities and University Procedures**

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 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. Faculty consulting requests are submitted and processed through an on-line faculty consulting approval system (OFCAS) used by both Storrs 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 (FY).

OBJECTIVES AND SCOPE

Our audit objectives were to evaluate compliance with the Policy, including the required annual faculty consulting reconciliation reporting 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 for the period, July 1, 2013 through June 30, 2014 (FY 2014). FY 2014 consulting request data used in the audit was extracted from the OFCAS database tables using a query written by Storrs University Information Technology Services (UITS). We utilized this data to confirm the accuracy of the FY 2014 consulting request statistics presented in *The University of Connecticut Consulting Program FY 2014 Annual Report*, (Annual Report) which was prepared by the Faculty Consulting Offices (FCOs). The annual consulting request reconciliation report component of the audit was based on comprehensive campus specific *Reconciliation Report[s] for FY 2014* for Storrs and UConn Health, generated through OFCAS.

We conducted interviews with judgmentally selected deans and/or 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, 2014. These actions will be evaluated in subsequent 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. In response to prior audit observations, the FCOs consistently communicate with the appropriate University offices to discuss and resolve questions of potential conflict of interest and competition with the University. We recognize the ongoing time and effort that is invested by the FCOs in these endeavors.

We concluded that the summaries included in the *FY2014 Annual Report on Consulting Activities* regarding the concerns reported in the prior year faculty consulting audit report and management's responses were accurately stated. In addition, the number of Storrs and UConn Health Requests to Consult in FY 2014 reported on page 5 of the *FY2014 Annual Report on Consulting Activities* materially agreed with our calculations. We verified the total requests to consult per School/College/Unit as well as the number of faculty who submitted requests from each area. We continued to identify a small number of duplicate requests in the OFCAS data in FY 2014 that appear to be included in the count of consulting activities. A quarterly analysis of the OFCAS data would be useful to identify and correct potential errors and omissions due to programming or other database inconsistencies.

We found that all reconciled consulting requests submitted by Storrs and UConn Health faculty were created prior to the September 15 deadline and approved by the respective FCOs no later than October 7, 2014.

Our interviews with Storrs and UConn Health department heads and deans confirmed an awareness of the faculty consulting policies and procedures and the oversight responsibilities required at each level. To facilitate this oversight, several department heads and deans requested the capability to generate a year-to-date departmental consulting request report, which was not available to them at the time of our review. In general, the all department heads and deans commented positively on OFCAS, particularly with respect to ease of use and training provided by the FCOs.

We continued to identify a small number of Storrs 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 and fringe benefits charged to projects funded by federal sponsors. We also noted several 12-month management-exempt level 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 2014 faculty consulting activities.

OBSERVATIONS & RECOMMENDATIONS

1. Approved post Workflow Consulting Requests

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

We found 175 Storrs consulting request in which the final approval date occurred after the starting date of the activity. Further review determined that 139 of the 175 requests were submitted by the faculty member prior to the start date of the consulting activity. Final approval was delayed at department head, dean and/or FCO office. It appears that the approval delegation workflow may be causing delayed approval at the department head and dean levels.

Seven of the remaining 36 requests had no start date. The Storrs FCO linked the cause of the missing start date to a malfunction in OFCAS related to an option to begin the activity upon approval. We concluded that the Storrs FCO conducted all necessary oversight actions in these instances. The remaining 29 requests were submitted by the faculty member after the start date of the consulting activity. The following causes were noted:

- Misinformed regarding receipt of compensation for activity
- Misinformed regarding summer consulting approval
- Misinformed regarding annual approval for consulting approved in the prior fiscal year and/or begun in the prior fiscal year that ran into the next
- Confusion regarding the need to submit a consulting request for a faculty owned entity when the company is not profitable
- Faculty member oversight / ignorance of policy
- Data entry / system error

We found 20 UConn Health consulting requests that were submitted by a UConn Health faculty member whose consulting requests are approved by the Storrs FCO. Consulting requests that are approved after the actual start date of the activity become subject to the State of Connecticut *Public Employee Ethics Regulations*.

Recommendations

The FCOs should consider distributing information to highlight "*Common Misconceptions about the Faculty Consulting Policy*" to all deans, department heads and faculty members.

Departments and schools with a significant number of approval delays occurring after the start date of a consulting activity should be identified with remediation implemented as appropriate.

The FCOs should implement procedures to ensure that consulting request start dates occur after the approval process has been fully completed to avoid the appearance of late submission. In addition, faculty could be reminded that requests should be submitted with sufficient time for review and approval or at least a week prior to the start date. Sanctions for the late submission of a consulting request should be consistent for all faculty members regardless of the location of the approving FCO relative to a faculty member's duty station.

Management Responses

Management agrees that continuing efforts to disseminate information correcting misconceptions is appropriate. Currently, the consulting web site has an FAQ section that addresses misconceptions. UConn Health also periodically distributes a broadcast email to faculty concerning such matters. Expected completion date: Immediately.

The Faculty Consulting Offices will identify decision makers who routinely delay the handling of request forms and take measures to improve their processing speed. Expected completion date: July 1, 2015.

In addition, the new online system allows the Faculty Consulting Offices to view all consulting requests awaiting approval. Therefore, the Storrs FCO has reached out to decision makers three times in FY15 to address unapproved consulting requests (October, 2014; December, 2014; February, 2015), and we anticipate additional reminders.

The new online faculty consulting system sends requests from UConn Health faculty who report to the Provost directly to the FCO, so the possibility of delay is greatly diminished.

2. Annual Faculty Consulting Reconciliation Reports

The Policy states: "*Any on-going consulting activity must be approved on a fiscal year basis (i.e. July 1 – June 30.)*" Twenty-nine of the Storrs reconciled consulting requests reported end dates after June 30, 2014. We attempted to find a corresponding FY 2015 consulting request in the new OFCAS for each of these activities. With the exception of one request, we found none.

Additionally, we reviewed the Storrs and UConn Health reconciled reports for requests that significantly exceeded the original number of days requested. Three Storrs reconciled consulting requests reported an increase in the number of consulting days ranging from 10 to 17 days more than the original request. Increases in the number of consulting days of this magnitude may negatively impact the department head's ability to provide appropriate oversight of faculty member's performance of his/her University duties.

Recommendations

The FCOs should not approve the reconciliation for a consulting activity that extends beyond a fiscal year. Procedures should be implemented to ensure that a corresponding consulting request is submitted in the appropriate fiscal year.

The FCOs should implement a procedure to notify deans, department heads, and faculty of the need to submit an additional consulting request in those instances in which the number of consulting days significantly exceeds the original request.

Management Responses

The Storrs FCO currently notifies faculty, deans, and department heads that consulting requests cannot cross fiscal years. The FCO will contact faculty who submit reconciliations that cross fiscal years, requesting the submission of a new request for the new fiscal year. Future consulting requests will not be approved before the new request is submitted.

The FCO will provide additional training to the chairs and department heads as to when new requests need to be submitted when an already approved request has a significant expansion in consulting days.

3. Annual Faculty Consulting Non-Reconciliation Reports

Non-reconciled consulting requests were tracked by the FCOs through a *Non-Reconciliation Report for FY14* for Storrs and UConn Health, which contained 23 Storrs and 22 UConn Health consulting requests, submitted by 12 and 5 faculty members, respectively.

One of the unreconciled Storrs requests was submitted by an adjunct faculty member. Six of the 12 Storrs faculty members with 16 unreconciled requests and all five UConn Health faculty members with the 22 unreconciled requests separated from the University prior to the reconciliation due date. No follow-up action by the FCOs is possible in these instances. The remaining five Storrs faculty members with unreconciled FY 2014 consulting requests submitted paper reconciliation forms to the FCO. No recommendations are required.

4. Management Review Process

Faculty consulting requests can be approved for a time period when the exact dates are not known. Once the dates become known, procedures require the faculty member to notify his/her department head of the dates for approval of time away during normal business hours. Based on our review at UConn Health of ten department heads, one of the ten had not implemented a process to approve and monitor faculty time away from work due to an approved consulting request.

Recommendation

Faculty members and department heads should be reminded that when known dates are not listed on the faculty consulting request, the dates and times should be properly reported to the department head when they become known, and the documentation of these dates should be maintained in compliance with procedures.

Management Response

The Faculty Consulting Offices have and will continue to remind department heads and

deans of the need to obtain approval in advance for any consulting time taking place on known normal work time (NWT) that was not specified on the original request to consult form that was approved. Along with the quarterly YTD reports sent to department heads and deans, which includes the total amount of consulting expected to take place on NWT, will send a reminder that consulting on NWT must be monitored and approved in advance for each specific date/time once it becomes known. Expected completion date: UConn Health: November 2014; Storrs: April 2015.

5. Consulting Activities Performed while Drawing Summer Salary

We classified the 1,103 approved Storrs consulting requests into categories based on the consulting period determined by the start and end date. We traced 101 judgmentally selected consulting requests that included the summer period to the payroll and financial systems to determine whether the associated faculty member received summer salary for effort committed to projects funded by federal sponsors.

Based on our analysis, we identified nine faculty members with consulting requests that occurred during summer periods in which the faculty member received full compensation for federally funded summer effort charged to sponsored grant accounts. These findings illustrate that Storrs department heads and deans do not consistently cross check summer consulting against compensated sponsored project effort commitments to determine whether faculty have uncommitted time available to perform the private summer consulting activity.

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.

Department Heads should review summer salary and committed effort before approving consulting activities that may conflict with effort committed to federally funded projects.

Management Responses

The Storrs Faculty Consulting Office has contacted each department head of faculty who may have performed consulting while 100% on a federal grant during the summer. In some instances, faculty were only reimbursed for travel and a consulting request was not required. The FCO will continue to remind Deans and Department Heads that summer salary should not be drawn at 100% if consulting is anticipated.

6. Consulting Activities Performed by 12-Month Employees

Storrs deans and other management-exempt employees with faculty titles in academic offices are 12-month employees. As such, these University employees accrue 22 vacation days annually. The Consulting Policy includes these individuals in its scope.

We identified 20 consulting requests submitted by ten 12-month managerial-exempt

employees. We traced the dates of the consulting requests to the 2014 calendar year vacation accrual data maintained by the payroll department. We found ten consulting requests that occurred during a period in which the employee's time and attendance data showed zero vacation hours taken.

The Storrs FCO stated that it uses email to remind and inform the 12-month managerial employees of the requirement to take vacation time to cover personal consulting activities that occur during normal work days.

Recommendation

The FCO should publish written guidelines for 12-month managerial-exempt employees with faculty titles, formerly members of the AAUP, on the *Consulting by Faculty* website, <http://consulting.uconn.edu/> regarding the circumstance in which accrued vacation should be utilized to cover private consulting activities.

Management Response

This document has been available on the Consulting by Faculty website since 2011. An updated version was prepared by the Faculty Consulting Offices and posted on April 15, 2015.

7. Conflict of Interest and Competition with the University

Currently OACE subscribes to *PharmaShine*, a service that makes it possible to track and report some of the payments made to UConn Health faculty by a number of pharmaceutical, medical device, biological, and medical supply manufacturers companies who report such payments on an after the fact basis. *PharmaShine* now accesses CMS's (Centers for Medicare and Medicaid Services) Open Payments report which lists payments made by pharmaceutical, medical device, and group purchasing organizations to clinicians. The University has established an Open Payments Advisory Committee to address the Open Payments program mandated by the Federal Affordable Care Act.

The *PharmaShine* Open Payments report listed 26 payments to UConn Health physicians, categorized as consulting, ranging from \$35 to \$139,828 for the period August 1, 2013 through December 30, 2013. We compared the *PharmaShine* reports for consulting activities to the consulting requests by requestor name to determine whether an approved consulting request was processed in OFCAS.

We identified five physicians that did not appear to submit an online consulting request for payments reported on the *PharmaShine* Open Payments report. Given the likely disparity between the period in which a faculty consulting activity occurs and the date of the payment for the activity reported in the Open Payments data, it is necessary for the FCO to conduct an investigation to determine whether the appropriate approval was in place for a posted payment item. As a result of such investigations, the FCO found that one physician was employed on a part-time basis and is not required to submit consulting requests; another physician is no longer employed by UConn Health. The remaining three physicians were

found to have not obtained prior approval for the consulting reflected in the payment postings. In two of these cases, such requests would have been approved if received on time and in one case the activity would not have been approved. Each of these three faculty received sanctions for failure to submit a consulting approval request. No further recommendation is required.

In addition, we traced a list of faculty owned companies to the FY 2014 Storrs and UConn Health consulting requests to determine whether the associated faculty owner submitted a request to perform consulting activities for the company. We found 27 Storrs and eight UConn Health faculty members with an ownership interest in a company who did not submit a request to consult for the company identified. Two of the 27 Storrs faculty members have ownership interests in more than one company. The Policy applicable to FY 2014 consulting requests lacked clarity regarding whether approval to consult was required for a faculty member who actively participates in a company which he/she founded, regardless of the amount of compensation received.

The Board of Trustees approved a revision to the *Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit* on March 25, 2015 that includes a “faculty affiliated company” and expands the definition of compensation to include equity interests. Based on the revised policy, a faculty member will be required to seek approval to consult for a company in which he/she holds an ownership interest regardless of actual compensation received. No further recommendation is required.