

THE UNIVERSITY OF CONNECTICUT CONSULTING PROGRAM FY 2019 ANNUAL REPORT

SUMMARY

FY 19 (July 1, 2018 – June 30, 2019) represented the eleventh full year of operation of the University’s consulting program that was implemented in mid FY 08. The policies and procedures remained materially the same throughout the year. In the first quarter, the primary administrative staff of both the UConn and UConn Health faculty consulting offices were filled by interim help with permanent staff¹ being hired and trained in the second quarter. In the 3rd quarter, Dr. John Elliot was appointed interim Provost.

The Faculty Consulting Offices (FCOs) continue to maintain close working relationships with the Office of the Vice President for Research, the Office of Research Compliance, and the newly convened Clinical Conflict of Interest Committee at UConn Health. Both FCOs now regularly receive updates on the establishment of new faculty affiliated companies. In addition to standard language in offer letters, the UConn Health Human Resources Department now sends each new incoming faculty member a letter from the FCO regarding the program, the need to obtain prior approval, and an offer to provide support before the first day of employment. The Storrs FCO presents information at the twice-yearly new Department Head and Dean orientations, and participates twice a year on a panel to provide information for current Deans and Department Heads about the consulting program.

A review of the information technology support for the On-line Faculty Consulting Approval System (OFCAS) was completed. The engine of the system is IBM Forms Builder. UConn has re-invested in maintaining and upgrading this system, has expanded its use to many other applications, and plans to develop more applications with it. Therefore, the long-term viability of OFCAS is secure.

As mandated by legislation, the Faculty Consulting Oversight Committee (including a member of the Citizen’s Ethics Advisory Board and members appointed by the Legislature) filed its tenth annual report with the UConn Board of Trustees and to the Legislature in the winter of 2019. This was a positive report. The Oversight Committee continues to monitor all audit reports related to the program and will issue its eleventh report in the winter of 2020.

CONSULTING MANAGEMENT COMMITTEE

The Consulting Management Committee (CMC) had an active year. It discussed consulting that involves activities related to corporate responsibility (not as yet resolved) and consulting related to faculty serving as witnesses in cases against the State of Connecticut government or defendants being represented by attorneys working for the State (recommendations pending the Provost’s final approval.)

¹ Ashley Vrabley at Storrs and Elizabeth Morrison in Farmington.

The CMC also discussed three issues raised by the auditors (see the Audit Findings section of this report.) It continued to review the audit reports and monitor the implementation of management plans.

PERFORMANCE NUMBERS: STORRS+ CAMPUS

The Faculty Consulting Office (FCO) on the Storrs+ Campus received 1,135 consulting forms from 455 individuals or 30% of those eligible to consult² (Table 1). Of these, 1,053 were approved (84.7% of the total), 14 (1.2%) were denied, 51 were withdrawn (4.5%), and 17 were “stuck” in the OFCAS system at stages below the FCO (1.5%). In FY 18, the FCO received 1,014 requests from 468 individuals with 97.2% approved, <1% denied, and 2.2% withdrawn.

All data were analyzed using the information submitted on the FY19 Annual Reconciliation Report. Reconciliation reports have been received from all individuals who engaged in consulting activities. Seven individuals (18 requests) left employment with UConn-Storrs+ and did not complete a report.

Of the 1,053 approved activities, 961 occurred (91.3%) and 74 (7.0%) were not performed. The remaining 18 (1.7%) requests were not reconciled, due to employees who left UConn employment. The Storrs+ FCO issued first-offense verbal or written sanctions to 35 faculty members. Of these, sanctions were issues for failure to submit, late submission, unanticipated compensation, and starting consultation activity prior to receiving approval. There were no known cases of other non-compliance with the consulting policy.

The mean amount of time spent consulting during normal work time was 2.13 days. No faculty members reported exceeding the Provost’s recommended maximum of an average of one day per week during normal work hours (39 days for a nine-month appointment). Seventeen faculty members (3.7% of those who consulted) indicated on their reconciliation reports (18 unique activities) that they used more time during the normal work hours than originally estimated (Table 2). The maximum number of additional days was 18 with a mean of 3.8 days.

PERFORMANCE NUMBERS: UCONN HEALTH CAMPUS

The FCO on the UConn Health Campus received 838 consulting requests from 217 individuals (Table 3). Of these, 794 were approved (94.7% of the total), 27 (3.2%) were withdrawn or system errors, and 17 (2.0%) were denied. In FY 18 the FCO received 761 requests from 201 individuals with 93.4% approved and 3.7% denied.

Reconciliation reports were received on time from all those who engaged in consulting activities and who remained on the payroll when reconciliation reports were due. Several individuals left employment with UConn Health and therefore 28 approved activities did not have reconciliation reports.

² The total number eligible faculty was obtained from the UConn 2019 Fact Sheet.

Of the 794 approved activities, 684 occurred and were reconciled (86.1%). There were 186 unique faculty members who performed at least one consulting activity during the fiscal year. The mean amount of time spent consulting normal work time per faculty member was 3.7 days with a maximum of 58.0 days and a median of 2.0 days. The UConn Health FCO issued first-offense verbal or written sanctions to 13 faculty members. Of these, all of the “offenses” were for late submissions or unanticipated compensation. It was determined that all of these requests would have been approved if submitted on time.

Five faculty members used more time during the normal work hours than originally estimated (Table 4). Based on our pre-established threshold of more than 1 day, no action was taken against these faculty members. Faculty using more than one authorized day are reported to their department chairman for appropriate action.

AUDIT FINDINGS

By State statute, the consulting program must be audited by the internal audit office of each constituent unit which is currently the Office of Audit and Management Advisory Services. The original audit schedule was twice a year, but starting in FY 13 the requirement was revised to once each year³.

Within the thirteenth audit covering the period of time from July 1, 2016 – June 30, 2017 (FY 17)⁴ the Provost agreed to the following actions:

- a) Management agreed to reconsider its policy and practices regarding the total amount of time the faculty can devote to consulting.
- b) Management agreed to reconsider its policy and practices related to whether management-exempt faculty on both campuses should be treated the same as each other or as the non-management exempt faculty.
- c) Management agreed to consider how to best prevent full-time clinical faculty from being non-compliant with the ban in the University’s By-Laws prohibiting them from engaging in private practice.

During FY 19, the CMC deliberated on each of the three issues listed above and made its recommendations to the Provost. These recommendations and the Provost’s decisions were presented at the December 18, 2018 meeting of the Board of Trustees Joint Audit and Compliance Committee. To summarize this meeting and subsequent actions:

- a) The CMC recommended that no numeric cap be applied to the total amount of time the faculty can devote to consulting. Rather, that standard should be whether the faculty member has been fully discharging his or her duties (as documented in part in annual performance ratings) and the judgement of the department head level approver

³ All finalized audit reports, FCO annual reports, and Oversight Committee annual reports are posted on the University’s consulting web site: <https://consulting.uconn.edu/>

⁴ This audit was issued on June 6, 2018.

that given the added work of the proposed consulting activity being considered for approval, the faculty member would be able to continue to fully discharge his/her duties. This recommendation applied to all campuses.

While the Provost agreed to these recommendations, he didn't want to come to a final decision until the appointment of the new Vice Provost for Health Sciences that was currently being recruited. The recruitment was targeted for completion in the spring of 2019. Due to a State Auditor's finding⁵ that will be presented to the JACC in the spring of 2020, the CMC will be reconsidering its recommendations on this matter during the winter of 2020.

- b) The CMC recommended that management-exempt faculty on both campuses be treated the same and that no requirement be imposed that they must use vacation time to consult. Similar to the recommendation above, any limitation on management-exempt faculty should be based on their demonstrated ability to fully discharge their duties and not a pre-established cap or need to use vacation days. This concept requires a reliable and valid annual evaluation takes place. Due to a State Auditor's finding⁵ that will be presented to the JACC in the spring of 2020, the CMC will be reconsidering its recommendations on this matter during the winter of 2020.
- c) Based on a review by and recommendations from the Office of the General Counsel, the CMC believes that no additional steps need to be taken regarding the faculty's participation in private practice type activities. Steps had already been taken to enhance the training of new faculty and chairs and an additional letter from the UConn Health Faculty Consulting Office to incoming clinical faculty is now being sent which highlights this issue. This finding concerns a prohibition in the University's By-Laws banning full-time faculty from engaging in private practice. The definition of private practice that has been used since 2007 was re-affirmed as well as the threshold of when this prohibition doesn't apply (95% employment or less.)

The fourteenth audit, covering the period of time from July 1, 2017 - June 30, 2018 (FY 18) was issued on June 19, 2019. The auditors' overall conclusions were that the University is in compliance with CGS 1-84(r) and the University's Policy on Consulting. The auditors also concluded that the FY 18 Annual Report of the Faculty Consulting Office was materially correct.

The auditors identified 65 requests at Storrs+ and 1 request at UConn Health which appeared to be in violation of the consulting policy but in which no entry was made in the sanctions log. While the FCOs contest some of these requests as being violations and in many other cases the appropriate sanction (verbal warning) had taken place but not been recorded, they agreed to the Auditor's recommendations⁶: 1) a common set of standard internal operating procedures was developed for identifying and handling non-compliant requests. These were

⁵ One management-exempt faculty member was found to have consulted on a large number of normal work days and did not have an annual evaluation on record. A subsequent sampling found multiple non-faculty management exempt employees in a similar situation.

⁶ These were all implemented prior to the issuance of the final audit report in June 2019.

based on each office's best practices and a copy was sent to the auditors. 2) The offices' would continue using and expand training and reminder activities, some of which had only been in place for part of FY 18. For example, the Office of the Vice President for Research began distributing a list of all new faculty-affiliated companies and the FCOs check to ensure there is an approved consulting request in each case.

The auditors identified a number of situations in which Storrs-based management exempt faculty did not take vacation days when consulting during normal work time or did not correctly list their correct term of appointment (*i.e.*, 9month, 10 month, 11 month.) They recommended enhancing our IT systems to identify such cases in advance and to that end during mid-FY18 the Storrs FCO began receiving reports on faculty appointment terms and the use of vacation by management-exempt faculty. The FCOs will convene a committee in spring 2020 to revise the OFCAS form.

The auditors raised recently stated Federal concerns related to interactions and travel involving foreign entities with a focus on the loss of intellectual property. These complex and evolving issues were unknown to the FCOs and principally concern information about research. The FCO have begun to meet with the Office of Research Compliance to develop a University-wide approach to addressing the Federal concerns. In addition, the FCO has clarified its exception list from the standard three step approval process to ensure additional review takes place for such higher risk activities. This list is now posted on the consulting website.

Other minor concerns were also raised by the auditors and management responses have been implemented including standardizing how the statistics in this report's Performance Numbers sections are calculated.

OPEN PAYMENTS

The Open Payments program mandated by the Federal Affordable Care Act has completed its sixth cycle including the public release in June 2019 of payment information for CY 18. This program requires medical/dental device manufacturers and pharmaceutical companies to report payments made to certain healthcare providers (including physicians and dentists) to the Center for Medicare and Medicaid Services (CMS). The current Open Payments web site is extremely easy to use. To date, no known negative press coverage regarding UConn Health faculty have occurred. The strong collaboration between the Communications Office and the FCO continues and as was needed in the past, we are ready to explain how the faculty consulting program and its oversight mechanisms vigorously monitor and manage possible conflicts of interest.

ISSUES FOR FY 20

- Addressing all previously raised and new audit findings.
- Continued training of the new staff assigned to the Faculty Consulting Offices.

J. Volin
S. Wetstone
January 2, 2020

Table 1 – Storrs+ Requests to Consult

Requests	Total	ATHL	BUS	CAHNR	CLAS	ED	ENG	FA	LAW	NURS	PHARM	SW	Other
#	1135	19	45	102	337	120	119	87	44	37	99	20	106
%	100%	1.7%	4.0%	9.0%	29.7%	10.6%	10.5%	7.7%	3.9%	3.3%	8.7%	1.8%	9.3%
Unique Faculty	Total	ATHL	BUS	CAHNR	CLAS	ED	ENG	FA	LAW	NURS	PHARM	SW	Other
#	457	8	30	41	152	43	55	27	17	16	31	10	27
	100%	1.8%	6.6%	9.0%	33.3%	9.4%	12.0%	5.9%	3.7%	3.5%	6.8%	2.2%	5.9%
Requests/faculty	Total	ATHL	BUS	CAHNR	CLAS	ED	ENG	FA	LAW	NURS	PHARM	SW	Other
mean	2.48	2.38	1.50	2.49	2.22	2.79	2.16	3.22	2.59	2.31	3.19	2.00	3.93
10 or more requests	12	0	0	1	3	1	2	2	0	0	1	0	2

“Other” includes faculty affiliated with the Provost’s Office and the Vice President for Research, including four UConn Health employees.

Table 2 – Storrs+ Reconciliation Report Variances for Time During Normal Work Hours

Effort During Normal Work Days	
# of faculty with extra days	17
% of faculty with extra days	(3.7%)
min	1.00
max	18.0

Table 3 – UConn Health Requests to Consult

Requests	Total	SoDM	SoM
#	838	120	718
%		13.7%	86.3%
Individual faculty	Total	SoDM	SoM
#	217	33	184
%		15.2%	84.8%
Requests/faculty	Total	SoDM	SoM
mean	3.9	3.6	3.9
median	2.0	2.0	2.0
10 or more requests	14	2	12

Table 4 – UConn Health Reconciliation Report Variances for Time During Normal Work Hours

Effort During Normal Work Days	
# of faculty with extra days	5
% of faculty with extra days	(2.3%)
min	0.3
max	1.0