

**REPORT ON THE UNIVERSITY OF CONNECTICUT'S
COMPLIANCE WITH PUBLIC ACT 07-166 (Section 12)
FACULTY CONSULTING PROGRAM¹**

December 10, 2013

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. The latest revisions to these policies were approved by the Board of Trustees in April 2013.

Faculty Consulting Offices (FCOs), established in Storrs and at the University of Connecticut Health Center (UCHC), provided 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 on a regular basis to review the implementation of the consulting program and to review the twice a year 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 conducted semiannual 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 and audits conducted on the process, has and should continue to enable ongoing review and improvement of the program.

To continue the quality improvement of this program, the Oversight Committee endorses the objectives described in the FY 2013 Annual Report for the University of Connecticut Consulting Program (attached.) These include developing an approach for addressing the Open Payments program mandated by the Federal Affordable Care Act and continuing the deliberations of the newly convened High Risk Conflict of Interest Committee.

¹ The University has developed a consulting web site (<http://consulting.uconn.edu/index.html>) that includes the University's policy and procedures, training materials, request form, and minutes/actions of the Consulting Management Committee.

Further, based on the long track record of continuing quality improvement, the Oversight Committee supports the development of new procedures to increase the efficiency of the approval process used by the University in regards to low risk consulting activities. These are characterized as being traditional ‘academic’ activities that have low rates of compensation.

To date, the program, with its policies, procedures, and implementation, have resulted in a system that pro-actively identifies and manages potential conflicts of interest. Any 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)², 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. Many consulting requests are for our most well-known faculty to give keynote addresses at national or international conferences for modest stipends and expenses.

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. 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,” and reviewed the 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. These documents have been reviewed and revised by the BoT several times since 2007 in order to make improvements to the program.³

The new consulting system became fully operational on December 15, 2007. Since that time, both the Storrs Campus and the Health Center have each established a Faculty Consulting Office (FCO)

² See <http://consulting.uconn.edu/statutes.html> .

³ The policy and procedures governing consulting may be found at: <http://consulting.uconn.edu/policies.html> .

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.

Requests to consult must be reviewed and approved by each faculty member's 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 his/her 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, a University-wide Consulting Management Committee (CMC) was first convened 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 has also reviewed eleven general situations resulting in formal position papers. For example, based on one position paper, participation in promotional presentations with pharmaceutical companies has been banned.⁴

SEMIANNUAL and ANNUAL AUDITS

As required in PA 07-166, the University's Office of Audit, Compliance and Ethics has conducted semiannual audits with the data collection⁵. Per standard practice, management has had the opportunity to provide responses to each audit finding and recommendation. These audits are reviewed by the Joint Audit and Compliance Committee of the Board of Trustees as well as by the Faculty Consulting Oversight Committee.⁶

FACULTY CONSULTING OVERSIGHT COMMITTEE

As required in PA 07-166, the Faculty Consulting Oversight committee meets on an on-going basis in order 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

⁴ These position papers and the minutes of the CMC may be found at <http://consulting.uconn.edu/cmc/index.html> .

⁵ The legislature changed this to a once a year audit schedule starting in FY 12.

⁶ Copies of past audits may be found at: http://consulting.uconn.edu/reports_audits.html .

the fourth of such reports.⁷ 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 |
|----------------------|---|
| Clemons, T. | Former Legislator |
| Cobb, Casey | Professor, School of Education |
| Dennis-Lavigne, A | Member, Board of Trustees |
| Freedman, J. (chair) | Former Legislator |
| Nair, S | Professor, School of Business |
| Pawelkiewicz, W. | Former Legislator |
| Riley, D. | Member, Citizens’ Ethics Advisory Board |
| Siegle, D | Professor, School of Education |

The Committee last met on November 7, 2013 and December 10, 2013. It has reviewed the latest final audit report and the FY 13 annual report of the Faculty Consulting Offices (attached).

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, improving the clarity and predictability of decision making, and assuring sufficient information is available to inform the decision making of the approvers. The University has developed an on-line request form/approval process that became operational in FY 12 and has been revised in FY 13. As described in the attached report, this system has successfully addressed many of its objectives, but it also has encountered unexpected problems as well. It is believe that these problems are almost entirely resolved now. All of these actions should ensure complete compliance with PA 07-166 on an on-going basis.

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 is aware of the need to fully comply with PA 07-166 and it continues to monitor and revise it as necessary

The Committee takes note that number and severity of audit findings has decreased over time and this demonstrates management’s commitment to operate the program optimally and in full compliance with the Legislature’s intent for the program.

⁷ Past reports may be found at: http://consulting.uconn.edu/reports_audits.html .

Recommendations for Improvement:

- 1) The Committee is aware that the University has convened a committee charged with identifying what it believes is a small number of complex, consulting arrangements that have a high risk of having a conflict of interest. Once identified, the committee, which has membership from a wide range of offices that handle conflicts of interest and conflicts of commitment, will examine each case to determine if a conflict exists and if yes, to develop and implement an appropriate management plan. Such a plan could include denial of the request to consult or other actions. The Committee encourages the University to complete its development of this process and to implement it in FY 14.
- 2) The Federal Affordable Care Act has created the Open Payments program which requires pharmaceutical and medical device companies to make annual reports on payments to physicians, dentists and similar health care providers. The University has developed educational awareness programs for its faculty and it has begun a risk assessment process regarding the release of such information. It should continue its risk assessment process and develop a comprehensive approach for addressing the possible impacts of the Open Payments program.
- 3) The University should consider methodologies for increasing the efficiency of the approval process when dealing with low risk of Conflict of Interest consulting activities. These are characterized as being 'academically related, traditionally performed by faculty at similar institutions, and as having low rates of compensation.

VOLUME OF CONSULTING ACTIVITIES

In FY 13, the fifth full year of operations, the Faculty Consulting Office on the Storrs Campus received 1,125 requests to consult from 443 individuals. The Health Center's office received 767 requests from 171 individuals). Both campuses had very high response rate with the required reconciliation reports from those individuals who had filed requests to consult. The FY 13 annual report of the University's Faculty Consulting Program is attached.