

Title:	Procedures for the Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit.
Protocol Owner:	Office of the Provost
Applies to:	Faculty and members of the faculty bargaining unit, Management-exempt personnel with faculty appointments
Campus Applicability:	UConn & UConn Health
Effective Date:	June 29, 2022
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PURPOSE

To establish the process, procedures, and criteria for implementing the Policy on Consulting for Faculty and Members of the Faculty Bargaining Unit.

CONSULTING REQUESTS

Faculty must submit consulting requests for externally compensated activities that are based on the faculty member's professional expertise or prominence in their field. Requests are also required for any active faculty affiliated company (FAC), either to approve effort with the company, or to provide an affirmation that there is no effort on the part of the faculty member in relation to the FAC during any given reporting year.

Compensated activities that are not associated with the faculty member's professional expertise do not require consulting approval (such activities should be conducted outside of normal work time or time due to the University). Consulting approval is not required for activity undertaken by a faculty member with outside entities that is related to their expertise but is uncompensated (even if necessary expenses to support the activity are provided). This latter activity may often be professional service and undertaken as part of the faculty member's work as a State employee.

Required Information for Consulting Requests Forms

To be considered for approval, the consulting request form must be completed in full. The information provided on the request form must be accurate. The consulting request form requires the following information:

- The name and address of the contracting entity, including whether this is a domestic or foreign entity.
- A detailed description of the proposed consulting activity to allow for determinations related to conflicts of interest, conflicts of commitment, or other compliance questions as relevant.
- The expected dates or range of dates when the activity will occur.
- Estimated compensation for the consulting activity (in ranges provided on the form).
- Information related to any affiliation with the contracting entity (including, but not limited to, equity interests, board service or directorships, or other financial interests).
- Total time that the faculty expects to spend on the consulting activity, including an estimate of how much of this time will be during normal work time.
- Disclosure of any proposed material use of state resources (see section below for detail).
- For all FACs an affirmation of whether there will be any effort on the part of the faculty member in relation to the FAC.

After submitting the form, the Faculty Consulting Office may request additional information for further clarification.

Reporting Years

Consulting requests only cover a single reporting year. A new consulting request must be submitted for ongoing activities each new reporting year.

- The reporting year for Storrs and regional campuses mirrors the academic contract year (May 23 through May 22).
- The reporting year for UConn Health follows the regular reporting year of the University (July 1 through June 30).

The relevant date ranges for the reporting year should be applied according to the appropriate work location of the faculty member.

Part-Time Faculty & Faculty Leaves

Faculty on sabbatical, research leave, or other leave where the faculty member remains an employee of the University 0.5 FTE or greater, must continue to submit consulting requests. If a faculty member takes a personal leave where they are not an employee of the University for the duration of their leave, they do not have to submit consulting requests.

Faculty whose employment is below 0.5 FTE are not required, but may choose to submit, a consulting request form. Once such a faculty member has requested approval to consult for a single consulting activity, all subsequent consulting activities within the same reporting year must also obtain such approval.

If a faculty member changes employment status so that they move at or above 0.5 FTE, they are then required to submit consulting requests for any consulting work they will engage in going forward.

Faculty Affiliated Companies

Faculty must submit a request each reporting year in relation to any faculty affiliated company. This should include any work (even in an unpaid capacity), including as an employee, consultant, or advisor. If no work will be taking place in a given reporting year, a request must be submitted attesting to this fact for any active faculty affiliated company on the list maintained by the Office of the Vice President for Research. Consulting approval for such work does not mitigate the obligation to adhere to other policies related to faculty affiliated companies.

Required Time for Approvals

Consulting request forms must be submitted in a reasonable time to allow for the review and approval process. Once approved, the consulting request form cannot be amended. Therefore, any significant change requires the submission of a new or updated consulting request form.

Faculty are not permitted to initiate work on consulting activities until the submitted request has been fully approved.

It is recommended that requests are submitted at least one week prior to starting work on the activity to allow time for approval.

Low Conflict of Interest (COI) Risk Consulting Activity

When conducted in a domestic context (*i.e.*, in the U.S.), several academic activities that faculty members usually undertake pose a low risk for conflicts of interest (COI) (hereafter, low COI risk). These are activities that often form an expected part of faculty work.

Activity with U.S. entities that falls into the following categories may qualify as low COI risk:

- Academic or research presentations that are non-promotional in nature.
- Serving as a grant reviewer, including on grant review panels (includes reviewing fellowship applications, honorific awards, or similar materials).
- Reviewing a thesis, tenure case, or academic unit.
- Writing or reviewing for publication (includes articles, journalistic pieces, book chapters, or books).*
- Artistic performances.*

To be considered a low COI risk consulting activity, the compensation for the activity must not exceed \$5,000 (this is an aggregate figure for multiple activities with the same contracting entity within the same reporting year). The contracting entity must be based in the U.S.

For activities in the category of writing or reviewing for publication or artistic performances (marked with an asterisk) to qualify as a low COI risk consulting activity total time spent on the activity must not exceed 2.1 days of normal work time (this is an aggregate figure for multiple activities with the same contracting entity within the same reporting year).

If all conditions to qualify an activity for the low COI risk category are not met the request must go through the full review process.

CONSULTING REQUESTS APPROVAL PROCESS

Approvers

Consulting requests must be approved by the unit head (or their designee) at all levels of the supervisory hierarchy based on the unit's reporting structure, including the department/unit head, dean/equivalent unit head, provost. Provost-level review is conducted by a designee of the provost, who will be a senior leader of an appropriate level.

Consulting requests are also reviewed by the Faculty Consulting Offices (FCO), who may request additional or clarifying information before a request is able to be approved. In most cases (except for

those routed through the low COI risk pathway), review and final approval is conducted by the provost's designee.

For the majority of faculty, the initial approval is provided at the departmental level. In centers or institutes the director takes the role of unit head for approvals. These unit heads should only approve consulting requests for faculty they directly supervise. They should not approve affiliates who are supervised within a different unit. Faculty with joint appointments must be approved by the department head of their home department. For the Schools of Law, Nursing, and Social Work, consulting requests route directly to the dean. Consulting requests from department heads route directly to deans, consulting requests from deans route directly to the Provost.

Approval for Low COI risk consulting activity

The Provost delegates authority to department/unit heads to serve as the sole approving authority for reviewing and approving consulting requests submitted through the low COI risk consulting activity approval pathway.

Criteria for Consulting Approvals

Permission to consult will be granted when:

1. The consulting request relates to the faculty member's expertise or prominence in their field and is not due to their position as a State employee.
2. The consulting activity will not create a conflict of interest that cannot be adequately managed.
3. The consulting activity is not work that could be performed by the University.
4. The faculty member is currently, fully, and satisfactorily performing their assigned duties as established by their workload assignment.
5. The consulting activity will not interfere with a faculty member's future ability to perform their assigned duties as established by their workload assignment.
6. The consulting activity is not competing with the University, including in relation to future business plans of the University.
7. The consulting contributes to the continued development of the faculty member's professional expertise or academic reputation.

Approval for 9, 10, and 11-month faculty

Potential for conflicts of interest and conflicts of commitment are relevant during off-contract months. Consulting approval is required for all faculty, regardless of contract length, throughout the calendar year.

FACULTY MEMBER'S OBLIGATION TO THE UNIVERSITY WHILE CONSULTING

Not Acting as a State Employee

The faculty member must inform the contracting entity that they are not acting as a State or University employee while performing the consulting activity and are not covered by any State liability protection.

- The faculty member may not inappropriately use their association with the University in connection with the consulting activity. Faculty members may identify their employee status, but they shall not speak, act, or make representations on behalf of the University or express institutional endorsement in relation to the outside activity.
- Permission to use the University name, logos, or other identifiable marks may only be granted by the University.
- When compensation is deemed a “significant financial interest” as defined in the [Policy on Financial Conflicts of Interest in Research](#), the faculty member must disclose this in financial statements made under that policy.

Obligations to the University when engaged in Consulting Activities

Faculty must provide notification of the specific dates and times spent consulting for activities conducted during normal work time (*e.g.*, consulting that will occur when a faculty meeting is scheduled, when a class should be taught, when patient care is scheduled, or any other such obligations).

Faculty members must provide their supervisor (normally a department head) the details of time spent consulting during normal work time at least one day before engaging in the consulting activity. This information should be provided on the consulting request form if known at the time of the request. If this information is not available when the request is made, it must be provided in writing (via email) to the supervisor once known. The supervisor has the discretion to deny any request for consulting during normal work time if they are concerned that the consulting would interfere with the ability to complete assigned duties as established by the faculty member's workload assignment.

Use of University Resources

In rare cases, material use of University resources may be used to support consulting activities. Such use should be documented with a formal agreement and the University must be compensated for such use at fair market rates. Any consulting request involving material use of University resources must include documentation that includes the following:

1. A summary of the material use of state resources.
2. A description of the fair market value of these resources.
3. The name of the University employee who approved the use of the resources, including an attestation of this approval.

4. An attestation that this University employee is responsible for monitoring the appropriate reimbursement for such resources.
5. An attestation that the faculty member is prepared to provide documentation of all points above to the auditors when requested.

Consulting During Normal Work Time

Consulting should not adversely impact the ability of a faculty member to carry out their assigned workload. Approvers should utilize any relevant information to assess whether the proposed consulting activity will have an impact on the ability of the faculty member to carry out their assigned work. This information may include annual performance evaluations.

If an approver has reason to think that a consulting activity will negatively impact the ability of a faculty member to carry out their assigned workload, the request should be denied.

Specific regulations may apply during any period when a faculty member is earning summer salary from a grant.

Proprietary and Confidential Information

The disclosure of proprietary information (*i.e.*, intellectual property owned in part or in total by the University) is prohibited unless specific permission is granted.

MANAGEMENT-EXEMPT EMPLOYEES WITH A FACULTY BASE APPOINTMENT

Management-exempt employees with a base faculty appointment (as defined in their offer letter) may consult following the same policies and procedures outlined for all UConn faculty. However, when they perform approved consulting work during regular business hours (*i.e.*, Monday – Friday, 8 a.m. – 5 p.m.), management-exempt employees with a faculty base must document when they have worked an equivalent number of hours performing University work outside of normal business hours, which may include work performed on approved vacation, personal, compensatory, or holiday leave time.

CONSULTING RECONCILIATION

Each approved consulting request must be reconciled at the end of each reporting year. This reconciliation process requires the faculty to report actual time spent on consulting activities and actual compensation that was received. If the estimates of anticipated time spent on each activity and the compensation provided when requesting permission to consult differs from what occurred, such information should be updated appropriately.

Each campus has an established deadline for the reconciliation of consulting requests from the prior reporting year.

- The reconciliation deadline for Storrs and regional campuses is September 10.
- The reconciliation deadline for UConn Health is September 1.

The relevant reconciliation deadline should be applied according to the appropriate work location of the faculty member.

Failure to reconcile approved consulting requests by September 15, even if the activity did not occur, will result in sanctions.

ROYALTIES

Compensation received from royalties does not fall under the purview of this policy, as per Office of State Ethics Advisory Opinion No. 1991-12.

It may be in the interest of the University to support publication of books or artistic works with financial support. This will usually be in cases where the book or artistic work is an expected output of the faculty member, but without support from the University the work cannot be published or would be diminished in some form.

If the financial support from the University is \$5,000 or more, the faculty member may be requested to remit royalties to the University. However, this will be evaluated on a case-by-case basis.

POLICY ENFORCEMENT

Violations of the Policy on Consulting may result in appropriate disciplinary measures in accordance with University Bylaws, General Rules of Conduct for all University Employees, and applicable collective bargaining agreements.

A report or allegation of a violation or noncompliance with this policy shall be reviewed by the Provost or Provost designee. After due process, the Provost may elect to withdraw the authorization or appropriately modify the conditions upon which the authorization to consult is granted to resolve any conflict.

Office of State Ethics

Any faculty member who does not receive prior written approval under this policy and engages in consulting activities is subject to the jurisdiction of the Office of State Ethics. In addition, the faculty member may be subject to sanctions issued by the University for violating this policy.

Sanctions

The sanctions outlined below relate to the provisions of Conn. General Stat §1-84(r), which requires the University to establish “procedures that impose sanctions and penalties on any member for failing to comply with the provisions of the policies.”

- A. The following sanctions will be taken when a request to consult is late. Requests are late when they are received by the department head, dean, FCO, or provost’s designee after the activity has started. This section (A) applies only to requests to consult that would routinely have been approved and where late submission is the only non-compliance issue.
 1. First Occurrence – a counseling letter with the faculty member and their direct supervisor explaining the implications of late submission.
 2. Second Occurrence – a counseling letter to the faculty member, their direct supervisor, and dean explaining the implications of late submission and advising them that disciplinary sanctions may be imposed the next time this occurs.
 3. Third Occurrence – suspension of approval for all requests to consult during normal work time for the remainder of the reporting year. This occurrence will be documented with a letter to the personnel file.
 4. Fourth Occurrence – indefinite suspension of approval for all requests to consult during normal work time. This occurrence will be documented with a letter to the personnel file.
- B. Occurrences of late submission will be cumulative. The count will be reset to zero occurrences if the faculty member goes a full reporting year without any new occurrence.
- C. Some exceptions can be made for late requests. These exceptions will only be granted for activities that do not involve significant potential risk for conflicts of interest or conflicts of commitment. All exceptions will be documented.

Exceptions for late requests may be made in the following circumstances:

1. When a faculty member learns of the consulting opportunity without sufficient time for full approval. Written documentation should be submitted to support this justification.
 2. If the request is late because of delayed processing of the submitted form by the department head, dean, FCO, or provost’s designee.
 3. If a request qualifies as low COI risk, as defined above, and the activity is reported via the faculty consulting approval system prior to the reconciliation deadline for the reporting year in which the consulting work took place.
- D. Failure to submit required annual reconciliation reports by September 15 will result in the following sanctions:
 1. No further requests to consult will be approved until three months after the missing reconciliation reports are received.

2. A notification letter will be sent to the faculty member and their supervisor. If the faculty member does not complete all overdue reconciliation reports within two weeks of the issuance of this notification letter, permission to participate in all currently approved consulting activities will be revoked.
- E. This section applies when faculty engage in a consulting activity when the request to consult was denied (whether such request was submitted prior to the start of the activity or late), no request to consult was submitted, or for other material non-compliance (such as the unauthorized material use of State resources, use of the University's logo without permission, or when the person represents themselves as acting as an agent of the University while consulting, *etc.*). In these situations, sanctions will be determined on a case-by-case basis. Factors used in determining the level of sanctions include but are not limited to:
- a. Whether or not the University would have approved the activity if a formal request had been made.
 - b. The level of compensation for the activity.
 - c. The time expended for the activity from the time due the University.
 - d. The existence and nature of previous non-compliance with the consulting policy.

Sanctions may include a ban on future approval of requests to consult, cancellation of previously approved and ongoing consulting activities, or other disciplinary actions. The progression of these latter disciplinary actions will be consistent with those specified in the AAUP contract and the University Bylaws.

- F. All sanctions will be issued by the provost or provost's designee.

Appeals

Disciplinary action will be issued in accordance with the applicable provisions of the University Bylaws, Collective Bargaining Agreement, or the employment agreement of the faculty member and subject to any appeal rights that may be available to faculty members.

REPORTING, AUDITS, AND OVERSIGHT

The provost will submit an annual report of consulting activities for all faculty members to the Joint Audit and Compliance Committee of the Board of Trustees. In addition, the University's Office of Audit and Management Advisory Services (AMAS) shall develop and implement recurring monitoring and auditing to ensure the complete and accurate implementation of this policy. Each year the Consulting Oversight Committee will review these reports.

Third-Party Disclosures

Any financial information provided in the consulting request forms or reconciliation reports will be deemed confidential, in accordance with Conn. General Stat §1-210 (Freedom of Information Act) and will not be disclosed to any third party unless the member agrees or a court of competent jurisdiction so orders, or in order to comply with Federal and/or State laws or regulations related to the handling of Federal research grants.