November 14, 2012

TO: Members of the Board of Trustees
FROM: Mun Y. Choi, Interim Provost
RE: Consulting for Faculty and Members of the Faculty Bargaining Unit

RECOMMENDATION:

That the Board of Trustees approve the revisions to the Consulting Policy for Faculty and Members of the AAUP Faculty Bargaining Unit.

BACKGROUND:

Policy: The proposed revisions to the Consulting Policy, paragraph 5.1, resolve a conflict between the University’s Consulting Policy and the current External Teaching by Faculty and Non-Teaching Professionals Policy. The latter would be eliminated.

The current External Teaching Policy bans faculty from teaching any credit course at another institution, and there is no exemptions process articulated. Faculty member participation in such activities can be beneficial to the University.

The proposed revision does not have an across the board ban; instead, it considers whether the faculty member’s teaching at another institution is competing for work that should be done by faculty while acting as UConn employees. An additional revision was inserted related to confidentiality and Federal research grants. All other considerations under the Consulting Policy continue to apply.

Revisions to the Consulting Policy require approval by the Board of Trustees. The proposed revisions have been reviewed and endorsed by the University’s Consulting Management Committee.

Consulting Procedures: Revisions to the Consulting Procedures must be presented to the Board of Trustees as an informational item. These revisions provide further definition of the activities eligible for the accelerated approval process; such activities are viewed to have a very low risk of conflict of interest. Further revisions address updated procedures stemming from the online approval system and consulting while on federal grants.

The first change expands the faculty member’s ability to participate in U.S. governmental advisory panels. The second deals with surveys in which specialized knowledge only known by a State employee would not be divulged. In addition, clarifying language was inserted into the definitions.

Additionally, the deadline for reconciliation of Fiscal Year 2012 consulting activities was extended to October 31, 2012, due to the implementation of a new online consulting application.

Attached are copies of the original language of the Consulting Policy and Procedures, with indications of the proposed revisions.

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POLICY ON CONSULTING FOR FACULTY
AND MEMBERS OF THE FACULTY BARGAINING UNIT

April 13, November 14, 2012

1. INTRODUCTION

Consulting is a time honored and frequent activity of faculty throughout U.S. research universities. The ability to consult is important in promoting recruitment and retention of faculty of the highest quality. Often, such 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.

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".

2. PURPOSE

This Policy describes how members of the faculty and members of the faculty bargaining unit (both hereafter referred to as “faculty member(s)”) may participate in consulting activities while complying with the State of Connecticut Code of Ethics, the University of Connecticut Ethics Statement, the University's Code of Conduct and the University's Laws and Bylaws.

3. SCOPE

This policy applies to all faculty members -paid by the University of Connecticut and University of Connecticut Health Center.
4. DEFINITIONS

a) consulting - providing services, advice and similar activities for compensation\(^1\), based on a faculty member’s professional expertise or prominence in his or her field, while not acting as a State employee.

b) contracting entity - The entity engaging and compensating the faculty member for the consulting activity.

c) '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.

d) “normal work time/days”– The usual time (days of the week, hours in the day) committed to assigned duties. For most faculty members this represents Mondays – Fridays, 8:00 am – 5:00 pm and not weeknights, weekends, or holiday and vacation days. For faculty on 9, 10 and 11 month contracts, normal work time pertains to those portions of the year to which they are earning their base pay and to any additional time for which they are assigned duties and receive additional compensation over base pay (e.g. “summer work and summer salary”). For part-time faculty, normal work hours only applies to time contracted for by the University.

5. POLICY

a) All faculty members, with the exception noted under ‘o’ below} must receive written permission in advance from their supervisor and the Provost or Executive Vice President for Health Affairs, (whoever has jurisdiction over that member), or their designees, in order to engage in consulting activities. Requests for such permission will describe the consulting activity, the contracting entity, the dates (or range of dates) that the activity will occur, and the maximum total effort in terms of the faculty members’ normal work days to complete the consulting activity.

b) Permission to consult may only be granted when:

i. The request to perform the consulting activity occurs due to the faculty member's expertise or prominence in his or her field, not the faculty member's official State position.

ii. The faculty member is currently, fully performing his/her State duties.

iii. The consulting activity will not interfere with a faculty member's future ability to perform his/her duties and the total time spent consulting in any fiscal year, (July 1 – June 30), will not exceed an average of one day per week during normal work time (as defined in 4d above).

iv. The faculty member is not competing with the University for work that may be perceived as being work the University would choose to perform.

\(^1\) Within this policy, compensation does not include royalties covered under Connecticut statutes 10a-110g.
v. Those members of a faculty bargaining unit who have specific teaching and/or research responsibilities, the consulting contributes to the continued development of the faculty member's professional expertise or academic reputation.

c) Approvals must be obtained for each consulting activity. Any on-going consulting activity must be approved on a fiscal year basis (i.e. July 1 – June 30.)

d) 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.

e) The faculty member must inform the contracting entity that s/he is not acting as a State employee while performing the consulting activity and is not covered by any State liability protection.

f) The faculty member may not inappropriately use his/her association with the University in connection with the consulting activity. That is, 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. Further, it must be made clear that permission to use the University name, logos, or other identifiable marks may only be granted by the University.

g) Permission to use State resources while consulting must be provided in writing, in advance, and use of such resources must be fully reimbursed to the University of Connecticut.

h) When compensation would be deemed to be a ‘significant financial interest’ as defined in the Policy on Individual Conflict of Interest in Research (a link to this policy may be found at consultingpolicy.uconn.edu), the faculty member must disclose this in financial statements made under that policy.

i) It is in the University’s best interest to ensure that its faculty does not compete with the University for work it has or is planning to do itself by teaching a course at another institution for compensation. With this understanding, faculty members may request permission to teach elsewhere under the conditions of this policy and as long as the assignment is determined to be beneficial to the interest of the University.

j) All faculty members who were engaged in a consulting activity in a given fiscal year must complete a year end reconciliation report describing all consulting activities for which they have received approval. If the estimates regarding anticipated time spent on each activity and the compensation range provided when requesting permission to consult do not reflect what actually occurred, such information should be revised appropriately.

k) The Provost and the Executive Vice President for Health Affairs will submit annual reports of consulting activities for the faculty members under their respective jurisdictions to the Joint Audit and Compliance Committee of the Board of Trustees.
The University's Office of Audit, Compliance and Ethics shall develop and implement a plan of regularly recurring monitoring and audits to ensure the complete and accurate implementation of this policy.

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 so as to resolve any conflict. Such actions are subject to reversal through relevant appeal procedures including those described in the University's Bylaws.

Failure to comply with the provisions of this policy may result in appropriate disciplinary action, including but not limited to, loss of the privilege to engage in consulting activities or termination from service. Such disciplinary action will be issued in accordance with the applicable provisions of the collective bargaining agreement or the employment agreement of the faculty member and subject to any appeal rights that may be available.

Any faculty member who does not receive prior written approval under this policy 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.

Faculty paid less than 50% time by the University of Connecticut and/or University of Connecticut Health Center do not need approval to consult. The requirements described in 5b. ii – iv, 5d-h and 5mo still apply. Provisions 5b i., 5b v., 5c-a, 5i and 5n do not apply.

Faculty paid less than 50% time by the University of Connecticut and/or University of Connecticut Health Center may voluntarily elect to request prior approval to consult as described in 5a. In such cases, all the rules under 5a-n are applicable. Once such a faculty member has requested approval to consult, all subsequent consulting activities in that fiscal year must also obtain such approval.

6. CONFIDENTIAL INFORMATION

Any financial information provided in the consulting request forms or reconciliation reports will be deemed confidential financial information, in accordance with Section 1-210(b) of the 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.
PROCEDURES ON CONSULTING FOR FACULTY

AND MEMBERS OF THE FACULTY BARGAINING UNIT

October 19, 2012

1. PERMISSION

Prior to engaging in consulting activities, faculty employed 50% or more time must complete and submit the “Request for Approval of Consulting Activities” form\(^1\) as approved by the Provost and the Executive Vice President for Health Affairs at UCHC. For the purpose of this policy, faculty on Board approved sabbatical leaves are considered to be full-time faculty. Such request must be submitted sufficiently in advance of the start of the consulting activity to allow for its appropriate review. Further, new forms requests must be completed and approved prior to making substantial changes to a previously approved activity. Consulting requests must be based on the faculty member’s professional expertise or prominence in his/her field.

Faculty paid less than 50% time by the University of Connecticut and/or University of Connecticut Health Center may voluntarily elect to obtain prior approval to consult. Once such a faculty member has requested approval to consult for a single consulting activity, all subsequent consulting activities in that same fiscal year must also obtain such approval.

2. INFORMATION

Information to be provided on this form must include the following: The name and address of the payer (contracting entity); a description of the consulting activity with enough detail so that the approver may determine whether such activities conflict with one’s state responsibilities; description of interaction or responsibilities in one’s official capacity, if any, with respect to the contracting entity; estimated amount of remuneration in ranges established by the Provost; an indication whether the faculty member holds an equity interest in the contracting entity of 5% or more, the total number of days expected to complete the consulting activity; maximum total number of days during normal work time, and disclosure of material use of state resources. Additional information regarding remuneration or other matters must be provided, if requested.

\(^1\) Currently this is completed and transmitted using an on-line approval system.
It is understood at the time a request form is being considered for approval that all the dates and times of the consulting activity might not be known. As these dates and times become known, the faculty member is expected to provide them to his/her department head. In all cases these notifications should be at least one day in advance of any consulting work so that the department head can ensure that the faculty member’s assigned job duties are fully addressed. Such notifications must be made in writing to the department heads and emails are acceptable. The need for such prior notification of such dates and times only applies if such dates and times are during normal work time.

3. SIGNATORIES

The forms Requests to consult must be signed-approved by the member’s Department Head and Dean. For members employed in Storrs and the Regional campuses, the form requests must also be reviewed and signed-approved by the Provost or the Provost’s designee. For members at the University Health Center, the form request must be reviewed and signed by the Executive Vice President for Health Affairs or the Executive Vice President’s designee. For members employed by the Division of Athletics, the Athletic Director must sign-approve in place of a Dean and forward the form to the Provost’s designee for review. Subsequent to review and pursuant to NCAA regulations, the President will sign-approve as the Provost’s designee.

4. ACCELERATED APPROVAL PROCESS

There is a set of purely academic activities that faculty members are normally expected and encouraged to undertake. Such activities would include, but are not limited to, reviewing books, articles and research proposals (i.e. federal grant study sections), presenting occasional lectures, speeches, and colloquia to non-profit entities, refereeing of manuscripts, creation of works of art, serving as a member of thesis committee, or case-review (medical-legal review of cases). The nature of such activities will vary from one discipline to another – but the underlying principle is that they are part of faculty member’s expected academic professional development. For activities of this type, and for which the compensation does not exceed $1,000 (per occasioncontracting entity per year), The Provost and Executive Vice-President for Health Affairs delegate to the faculty member’s department head the sole approving authority. This means that the faculty member should fill out the required on-line request form and take it to the department head for signaturesufficiently in advance of the activity to allow adequate time for the Department head to review and approve it. The department head will approve, make and keep a copy, and then immediately forward the original signed form to the appropriate Faculty Consulting Office to ensure consistent record keeping for all consulting activities.

5. SUMMER PRIOR APPROVAL PROCESS

Faculty members may participate in “academic related consulting activities” (as described below) during the summer without advance filing of a consulting request form. Eligible consulting activities are pre-approved.
Eligible faculty are those who hold (9, 10, or 11 month contracts). The consulting activity must occur in the summer and during this time, the faculty member must have no assigned, contractual or grant related job responsibilities for which they are paid by the University. Due to time and effort reporting, consulting while employed 100% on a federal grant during the summer is not allowed on time due to the University.

“Academic related activities” are those normally considered to enhance a faculty member’s professional expertise or prominence in their field and include the following:

- Educational and scientific presentations;
- Giving occasional lectures and speeches;
- Participation in colloquia, symposia, site visits, study sections and similar gatherings;
- Ad hoc refereeing of manuscripts (not to include paid editorships)
- Activities deemed by the Department Head to be similar to the activities described above. The nature of these activities will be reviewed by the Faculty Consulting Offices.

To be eligible for summer prior approval, remuneration for any one academically related activity may not exceed $1,000 with a total limit over the summer of $10,000 for such activities.

By September 15 each year, faculty must submit a list and description of the academically related activities they participated in during the previous summer to their department head and to the appropriate Faculty Consulting Office. Such activities will be included in the year end reconciliation report.

The normal approval process that requires approval prior to the start of the consulting activity may also be used during the summer and is not subject to the financial caps on the Summer Prior Approval process.

6. REPORTING

At the end of each fiscal year, members must complete and submit a year-end reconciliation of all consulting activities, due not later than September 15, on a form developed by the Provost and the Executive Vice President for Health Affairs at the UCHC. Such form must include verification that the University has been appropriately reimbursed for material use of state resources.

7. MANAGEMENT COMMITTEE

A University Consulting Management Committee must be formed. Two members must be designated by the Provost and two must be designated by the Executive Vice President of the UCHC. One member must be designated by the President. The Committee must elect a chair. The University’s ethics officer will serve ex-officio as a non-voting member to serve in an advisory capacity only.
Any of the individuals responsible for approving such consulting activities may request advice from Consulting Management Committee. The Committee shall have the ability to recommend that the proposed activity be denied, approved, or to suggest a plan to manage the potential conflict. The Committee will be authorized to request any other information that it deems necessary to assist it in this determination. Some examples of conditions or restrictions that may be recommended include, but are not limited to: recusal for making decisions in one’s state capacity regarding the payer; review of decisions regarding a payer by a superior; change in required work schedules; permission to work on consulting limited to nights and/or weekends. The Committee may develop generic guidelines for approving requests to consult.

8. SANCTIONS

Any member who intentionally provides misleading or false information during the course of the approval process will be subject to disciplinary action in accordance with such member’s collective bargaining agreement or employment agreement. Such disciplinary action may include, but not be restricted to: letter of reprimand; loss of the privilege to continue to engage in consulting activities; suspension; or, dismissal. The Provost will develop and publish (consulting.uconn.edu) a sanctions policy relating to non-compliance with this policy on consulting.

9. TRAINING

The Faculty Consulting Offices will offer training sessions on an on-going basis as well as maintain a web site with training materials. Such training will include reminders to the Department Heads and Deans as to their responsibilities related to their review and approval of requests to consult.

10. REVISIONS

These procedures may be revised by mutual consent of the Provost and the Executive Vice President for Health Affairs with notification to the University’s Board of Trustees.

11. APPEALS

As articulated in the Policy on Consulting for Faculty and Members of the Faculty Collective Bargaining Unit, the Procedures outlined above are to be implemented in accordance with the applicable provisions of the Collective Bargaining agreement or the employment agreement of the faculty member and are subject to any appeal rights that may be available.
### Definitions of Activities Eligible for Accelerated Approval

(Yearly compensation from the contracting entity not to exceed $5,000)$^{1,2}$

<table>
<thead>
<tr>
<th>#</th>
<th>Activity</th>
<th>AND the Contracting Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Scholarly presentation of one’s own published work.</td>
<td>U.S. governmental agency (federal or state), non-profit entity, state/national professional society or accredited higher education unit.</td>
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<tr>
<td>2</td>
<td>Educational (non-promotional) presentation in which the content, slides, and other materials are controlled by the faculty member.</td>
<td>Any</td>
</tr>
<tr>
<td>3</td>
<td>Educational (non-promotional) course or workshop that does not compete with University (including continuing education) offerings and in which the content, slides and other materials are controlled by the faculty member.</td>
<td>Any</td>
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<tr>
<td>4</td>
<td>Participation in fine arts/artistic performance (including acting, rehearsals, set design, etc.)</td>
<td>Any</td>
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<tr>
<td>5</td>
<td>Writing a book, book chapter, introduction to a book, pamphlet, educational web/computer module, or examination questions.</td>
<td>U.S. governmental agency (federal or state), non-profit entity, state/national professional society or accredited higher education unit.</td>
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<tr>
<td>6</td>
<td>Review of a book chapter or manuscript to be published in a peer review publication.</td>
<td>Any</td>
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<tr>
<td>7</td>
<td>Review of a manuscript to be published in something other than a peer review publication or serving as an editor of a journal.</td>
<td>U.S. governmental agency (federal or state), non-profit entity, state/national professional society or accredited higher education unit.</td>
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<tr>
<td>8</td>
<td>Review of student theses, membership on a thesis committee, and/or development of a reference or review supporting a promotion-tenure-reappointment decision of another faculty member.</td>
<td>Accredited higher education unit.</td>
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<tr>
<td>9</td>
<td>External program, department, school, or institution review.</td>
<td>Accredited higher education unit or accreditation granting agency or U.S. governmental agency.</td>
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<tr>
<td>10</td>
<td>Review of grant proposals and/or serve on an U.S. governmental committee/panel on research or clinical care.</td>
<td>U.S. governmental agency (federal or state), non-profit entity, state/national professional society, or accredited higher education unit.</td>
</tr>
<tr>
<td>11</td>
<td>Safety or scientific advisory committee of an IRB approved clinical trial.</td>
<td>Any</td>
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<tr>
<td>12</td>
<td>Advice regarding a legal action and/or serving as an expert witness but only when the faculty member was not involved in any aspect of the case while acting as a state employee.</td>
<td>Any</td>
</tr>
<tr>
<td>13</td>
<td>Complete a survey so long as no information known only to a University employee is not divulged.</td>
<td>Any</td>
</tr>
</tbody>
</table>

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$^1$ This cap is tied to the lower of the thresholds used by the NSF and NIH in dealing with CoI in research.

$^2$ The yearly cap does not apply to U.S. and state governmental entities.