

# **THE UNIVERSITY OF CONNECTICUT CONSULTING PROGRAM FY 2020 ANNUAL REPORT**

## **SUMMARY**

FY 20 (July 1, 2019 – June 30, 2020) represented the Twelfth 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 the UConn faculty consulting office was filled by Dr. Sarah Croucher. In the 3<sup>rd</sup> quarter, Dr. Carl Lejuez was appointed 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 the third quarter, the FCOs learned of the need to replace the current on-line faculty consulting approval system with a new system by July 1, 2021. In the fourth quarter this deadline was shifted to October 1, 2020. This was successfully accomplished.

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 eleventh annual report with the UConn Board of Trustees and to the Legislature in the winter of 2020. 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) discussed the issue of consulting time for management-exempt faculty at the Health Center, delivering a recommendation to Provost Lejuez which assisted in updating policy relating to consulting-time for all UConn management-exempt faculty. The CMC also met to discuss the upgrade from OFCAS-3 to OFCAS-4.

The CMC 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 1,133 consulting requests from 503 individuals, accounting for approximately 33% of the full-time faculty who would be eligible to consult<sup>1</sup> (Table 1). Of these, 1,069 were approved (94.3% of the total), 11

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<sup>1</sup> The total number eligible faculty was obtained from the UConn 2020 Fact Sheet.

were denied (0.9%), 31 were withdrawn (2.7%), and 22 were “stuck” in the OFCAS system at stages below the FCO (1.9%). In FY19, the FCO received 1,135 requests from 455 individuals with 84.7% approved, 1.2% denied, 4.5% withdrawn, and 1.5% “stuck” in the OFCAS system.

All data were analyzed using the information submitted on the FY20 Annual Reconciliation Report. Reconciliation reports have been received from all individuals who engaged in consulting activities, with the exception of three faculty who failed to reconcile on time and then could not formally reconcile their requests as OFCAS-3 was closed to new actions immediately after the deadline for reconciliation. Fourteen individuals (20 requests) left employment with UConn-Storrs+ and did not complete a report.

Of the 1,055 approved and reconciled activities, 911 occurred (86%) and 144 (14%) were not performed. The Storrs+ FCO issued first-offense verbal or written sanctions to 13 faculty members and one faculty member received a suspension from consulting for one year. Of these, sanctions were issues for failure to submit, late submission, unanticipated compensation, failure to reconcile on time, 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 3.97 days. Two 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). Nine faculty members (1.8% of those who consulted) indicated on their reconciliation reports (9 unique activities) that they used more time during the normal work hours than originally estimated (Table 2). The maximum number of additional days was 9 with a mean of 3.0 days.

## **PERFORMANCE NUMBERS: UCONN HEALTH CAMPUS**

The FCO on the UConn Health Campus received 690 consulting requests from 207 individuals (Table 3). Of these, 662 were approved (95.9% of the total), 13 (1.9%) were withdrawn or system errors, and 15 (2.2%) were denied. In FY 19 the FCO received 838 requests from 217 individuals with 94.7% approved and 2.0% 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 9 approved activities did not have reconciliation reports.

Of the 662 approved activities, 556 occurred and were reconciled (84.0%). There were 184 unique faculty members who performed at least one consulting activity during the fiscal year. The mean amount of time spent consulting during normal work time per faculty member was 3.62 days with a maximum of 36.0 days and a median of 2.0 days. The UConn Health FCO issued first-offense verbal or written sanctions to 15 faculty members. One second-offense written warning was issued. 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.

Four faculty members used more time during the normal work hours than originally estimated and approved (Table 4). Based on our pre-established threshold of more than 1 day, the department head level approver was notified of one faculty member who used more than one authorized day than was approved. The department chair will determine the 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 year<sup>2</sup>.

The fifteenth audit, covering the period of time from July 1, 2018 - June 30, 2019 (FY 19) was issued on March 5, 2020. 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 19 Annual Report of the Faculty Consulting Office was materially correct.

The auditors identified a small number of cases submitted to the Storrs+ FCO in which faculty submitted requests to consult late, some of which were approved, and some of which were not approved but there was no documentation in the sanctions log that the appropriate verbal or written warning had been issued. In addition, they identified a number of cases in which the request had been submitted with less notice than is requested by the Faculty Consulting Offices, but in fact were reviewed and approved on time.

The auditors recognized that prior efforts had been made to address these issues that were operationalized late in FY 19 and would not be reflected yet in the data they reviewed. These included: 1) the development of a common set of standard internal operating procedures for use by both FCOs for identifying and handling non-compliant requests. (These were based on each office's best practices and a copy was sent to the auditors.) 2) Implementation of additional training and reminders as well as a pro-active system for considering whether faculty owners of newly reported faculty-affiliated companies had appropriate, approved consulting requests on file.

The auditors' recommendation was to continue these efforts.

The auditors identified a small number of cases in which consulting requests had not been submitted but activities had taken place and determined these may have been avoided with better management oversight. The recommended a mandatory refresher training for all UConn Health department head and dean level approvers, revisions to the pre-employment orientation letter sent to all incoming faculty by the UConn Health FCO, and the review of the sanctions policy to address the few faculty who tend to under-report their level of

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<sup>2</sup> 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/>

compensation and thus were eligible for the accelerated review process which only includes department head level approvers.

The pre-employment letter and approver training were completed in the Fall of 2020. The review of the sanctions policy will be considered in the spring of 2021, but the FCOs noted that in almost all cases, the activities in question were situations in which we perceive a very low risk for conflict of interest and additional review would not have been warranted even if the higher compensation level had been reported.

The auditors also noted the need for succession planning for the Director of UConn Health FCO. Since then, it has been determined that director will be leaving the position as of July 1, 2021 (but continuing his employment at UConn Health as a part-time teaching faculty member.) A search committee to refill this position was convened in the Fall of 2020 and his successor should be named in early 2021. It is unclear at this time what the plans are for training this new director.

The auditors noted the need to replace the on-line faculty consulting approval system (OFCAS-3) with a totally new program that would run on a new server platform (OFCAS-4). The target date for this new system was July 1, 2021 and the auditors made suggestions for upgrades.

Since the audit report was issued, the deadline for the new system was changed to October 1, 2020. This deadline was met and the auditors were included in the planning process.

The auditors noted that Faculty Affiliated Companies are a risk area in terms of potential conflicts of interest. They encouraged more data sharing between the FCO and the Office of the Vice President for Research. After review, both offices agreed the best approach to proceed was to give the OVPR full, real-time access to the new OFCAS-4 system and its data. That took place in the fall of 2020.

Once again, the auditors raised their concern that there should be a cap on how much time a faculty member may consult (whether that be on normal work time, or nights, weekends, holidays or vacation days) and that all management-exempt faculty should be required to use vacation days when consulting during the normal work week even if they make that time up on nights, weekends, holidays, etc. These matters have been considered twice by the University's Consulting Management Committee and over the summer of 2020 they were considered by our new Provost, Dr. Carl Lejuez.

The Provost has determined the existing rules concerning the amount of consulting will stay in place as we are comfortable that we can ensure that each faculty member is fully performing his/her state duties. Provost Lejuez has issued a new policy for consulting that applies to management-exempt faculty that for the first time is the same for both campuses. This requires such faculty to document how they are making up for any time spent consulting during normal work time at other times such as nights, weekends, holidays and vacation days.

During the summer of 2020, the Auditors of Public Accounts (aka the State Auditors) issued a report for UConn Health for FY 17 & FY 18 that included one finding related to faculty consulting. They identified one case in which a UConn Health faculty member did not have annual performance evaluations on record for the last several years despite having performed a large number of consulting activities. Such evaluations are our usual methodology for documenting each faculty member has fully performed his/her State job. While senior management believes there is other evidence this faculty member has been fully performing his job, an immediate formal performance evaluation took place and will now take place annually.

## **OPEN PAYMENTS**

The Open Payments program mandated by the Federal Affordable Care Act has completed its seventh cycle including the public release in June 2020 of payment information for CY 19. 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 21**

- The on-line faculty consulting approval system (OFCAS-3) was replaced on October 1, 2020. The new system (OFCAS-4) was developed and tested in a short period of time. While it has several significant enhancements, one drawback was the need to transfer live data from the OFCAS-3 system into the new database which using different data fields. As a result, the summary data for FY 21 will be more difficulty to assemble and analyze.
- On July 1, 2021, Dr. Scott Wetstone, Director the UConn Health Faculty Consulting Office will be stepping out of this role. During FY 21, his replacement will need to be identified and trained.

M. Bradford  
S. Croucher  
S. Wetstone  
January 24, 2021

Table 1 – Storrs+ Requests to Consult

<b>Requests</b>	<b>Total</b>	<b>ATHL</b>	<b>BUS</b>	<b>CAHNR</b>	<b>CLAS</b>	<b>ED</b>	<b>ENG</b>	<b>FA</b>	<b>LAW</b>	<b>NURS</b>	<b>PHARM</b>	<b>SW</b>	<b>Other</b>
<b>#</b>	<b>1133</b>	20	42	96	365	108	104	90	49	46	100	16	97
<b>%</b>	<b>100%</b>	1.77%	3.71%	8.47%	32.22%	9.53%	9.18%	7.94%	4.32%	4.06%	8.83%	1.41%	8.56%
<b>Unique Faculty</b>	<b>Total</b>	<b>ATHL</b>	<b>BUS</b>	<b>CAHNR</b>	<b>CLAS</b>	<b>ED</b>	<b>ENG</b>	<b>FA</b>	<b>LAW</b>	<b>NURS</b>	<b>PHARM</b>	<b>SW</b>	<b>Other</b>
<b>#</b>	<b>503</b>	10	31	40	170	49	57	31	19	17	30	9	40
<b>%</b>	<b>100%</b>	1.99%	6.16%	7.95%	33.80%	9.74%	11.33%	6.16%	3.78%	3.38%	5.96%	1.79%	7.95%
<b>Requests/faculty</b>	<b>Total</b>	<b>ATHL</b>	<b>BUS</b>	<b>CAHNR</b>	<b>CLAS</b>	<b>ED</b>	<b>ENG</b>	<b>FA</b>	<b>LAW</b>	<b>NURS</b>	<b>PHARM</b>	<b>SW</b>	<b>Other</b>
<b>mean</b>	<b>2.25</b>	2.00	1.35	2.40	2.15	2.20	1.82	2.90	2.58	2.71	3.33	1.78	2.43
<b>10 or more requests</b>	<b>10</b>	0	0	1	3	1	0	1	1	1	1	0	1

“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

<b>Effort During Normal Work Days</b>	
# of faculty with extra days	9
% of faculty with extra days	(1.8%)
min	0.5
max	9.0

Table 3 – UConn Health Requests to Consult

<b>Requests</b>	Total	SoDM	SoM
#	690	95	595
%		13.8%	86.2%
<b>Individual faculty</b>	Total	SoDM	SoM
#	207	39	168
%		18.8%	81.2%
<b>Requests/faculty</b>	Total	SoDM	SoM
mean	3,3	2.4	3.5
median	2.0	2.0	2.0
10 or more requests	9	1	8

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

<b>Effort During Normal Work Days</b>	
# of faculty with extra days	4
% of faculty with extra days	(2.2%)
min	0.2
max	1.5

**REPORT ON THE UNIVERSITY OF CONNECTICUT'S  
COMPLIANCE WITH CGS 1-84(r)  
FACULTY CONSULTING PROGRAM**

**February 26, 2021**

**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 Board of Trustees approved the latest revisions to these policies in April 2013.

Faculty Consulting Offices (FCOs) were established in Storrs and at the UCHC that have 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 CGS 1-84(r), 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 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 carried out annual (and previously semiannual) audits as required and, as expected, have identified areas in which clarifications and improvements have been recommended. The University has developed procedures to address all identified issues in a timely and appropriate manner.

**The Faculty Consulting Oversight Committee has determined that the University of Connecticut complies with CGS 1-84(r).** The oversight required by the Act, including the Faculty Consulting Oversight Committee itself and the audits, has and will continue to perform ongoing review, assessment and improvements to the program.

The Oversight Committee has no explicit recommendations for improvement of the program at the current time and has concluded that the University has made a committed effort to oversee the process and implement improvements, as necessary. While the Committee is aware of a recent State audit finding regarding consulting, it is satisfied this finding concerns the case of a single faculty member out of ~700 who consult annually and the issue has been appropriately addressed by the University.

To date, the program, with its policies, procedures, and implementation, have resulted in a system that proactively 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)<sup>1</sup>, 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.

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.<sup>2</sup>

The new consulting system became fully operational on December 15, 2007. Since that time, both the Storrs Campus and UConn Health campus have each established a Faculty Consulting Office (FCO) 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). A subset of consulting activities with very low risk of conflict of interest are eligible for an accelerated approval process that only requires the approval of the department head.

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<sup>1</sup> See <http://consulting.uconn.edu/state-statutes/>

<sup>2</sup> The policy and procedures governing consulting may be found at: <http://consulting.uconn.edu/consulting-policies-procedures/>

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 retains jurisdiction over the activity and has the responsibility for assessing compliance with the State Code of Ethics and whether additional sanctions are justified. 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.<sup>3</sup>

### **AUDITS**

As required in CGS 1-84(r), the University's Office of Audit, Compliance and Ethics has conducted audits on the University's faculty consulting program<sup>4</sup>. 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.<sup>5</sup>

### **FACULTY CONSULTING OVERSIGHT COMMITTEE**

As required in CGS 1-84(r), the Faculty Consulting Oversight committee meets on an on-going basis to review the University's compliance with CGS 1-84(r), and to file annual reports regarding such compliance with the University's Board of Trustees and to the Legislature. This document is the twelfth in a series of such reports.<sup>6</sup> 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:

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<sup>3</sup> These position papers and the minutes of the CMC may be found at <http://consulting.uconn.edu/consulting-management-committee/actions/>

<sup>4</sup> Initially, audits were required twice a year but the legislature changed this to a once a year audit schedule starting in FY 12.

<sup>5</sup> Copies of past audits may be found at: <http://consulting.uconn.edu/reports-and-audits/>

<sup>6</sup> Past reports may be found at: <http://consulting.uconn.edu/reports-and-audits/>

<b>Name</b>	<b>Background</b>
Cobb, C.	Professor, School of Education
Dennis-Lavigne, A	Member, Board of Trustees
Chiusano, C.	Citizen's Ethics Advisory Board
Fox, K.	Professor Emerita, School of Business
Freedman, J. (chair)	Former Legislator
Krisst, I.	Former UConn Administrator
Silbart, L.	Professor, School of Allied Health
Siegle, D.	Professor, School of Education

The Committee last met on January 27, 2021 and reviewed and approved this annual report by email on February 23, 2021. It has reviewed the FY 19 final internal audit report and the FY 2020 annual report of the Faculty Consulting Offices (attached<sup>7</sup>). The former was presented at the Joint Audit and Compliance Committee of the University's Board of the Trustees and the latter will be reviewed at an upcoming meeting of the Board of Trustees along with this report from the Oversight Committee.

The Committee believes the program was effectively initiated and through ongoing revisions has been improved. In fact, in many regards the program is more rigorous than those governing other State employees not covered by CGS 1-84(r), especially through the requirement for approval prior to the consulting activities taking place.

Annual 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, FY 14, FY 15 and replaced on October 1, 2020. This system has successfully addressed its objectives. All of these actions assure compliance with CGS 1-84(r).

The initial implementation of the consulting program, both in terms of logistics and compliance, has met initial expectations. There have been occasional differences in interpretations regarding the requirements of CGS 1-84(r) 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 appears to be keenly aware of the need to fully comply with CGS 1-84(r).

The Committee takes note that the number and severity of audit finding 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. The Committee also takes notes that the two Faculty Consulting Offices (Storrs/regional campuses and at UConn Health) work together exceedingly well and thus present a consistent and reliable approach to consulting across all the units of the University.

The Oversight Committee did not issue recommendations for improvement for FY 2020.

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<sup>7</sup> The Office of Audit and Managerial Services has found this report to be materially correct.

## **VOLUME OF CONSULTING ACTIVITIES**

In FY 20, the twelfth full year of operations, the Faculty Consulting Office on the Storrs Campus received 1,133 requests to consult from 503 individuals. The UConn Health office received 690 requests from 207 individuals. Both campuses had a 100% response rate for those individuals required to complete reconciliation reports. The FY 20 annual report of the University's Faculty Consulting Program is attached.