

# PAID EXTERNAL CONSULTING POLICY

Approved by the University Senate 04/04/98

## I. Preamble

Participation by faculty members of The Ohio State University in activities of government, in industry and in other private institutions generally serves the academic interests of the university. As a result of such activities, the people of Ohio benefit from the dissemination of knowledge and technology developed within the university and students benefit from experiences faculty bring to the classroom. Moreover, the professional experience and recognition that such participation brings to the faculty member is shared indirectly by the university. The patterns of administration of TIUs, colleges, and university offices may discuss in greater detail the relation of such participation to the missions of those units.

The purpose of this policy is to establish guidelines and reporting requirements for paid consulting, external to the university, that is undertaken by faculty members, including administrators with faculty appointments, and that is related to their areas of professional expertise. The following activities are not subject to this policy's guidelines and reporting requirements:

- 1) External professional activities that reflect normal and expected public service activities of faculty and that do not entail compensation beyond reimbursement for expenses and/or a nominal honorarium. These activities include service to governmental agencies and boards such as peer review panels and advisory bodies to other universities; presentations to either professional or public audiences in such forums as professional societies, libraries, and other universities; and peer review activities undertaken for either for-profit or nonprofit publishers.
- 2) Health care activities that are explicitly covered by approved practice plans.

## II. Policy

Faculty members, including administrators with faculty appointments, are encouraged to engage in paid external consulting to the extent that these activities are clearly related to the mission of the university and the expertise of the faculty member, provide direct or indirect benefits to the university, and do not entail a conflict of interest as defined in the Conflict of Interest Policy.

As a general rule, the proportion of a faculty member's professional effort devoted to consulting should not exceed one business day per week. Prior approval must be obtained as outlined in the procedures below. Faculty members should avoid any conflict or appearance of conflict between consulting and university responsibilities. In particular, the disruption of formal instructional activities because of consulting must be avoided. Consulting during off-duty quarters is not subject to time limitations.

Under Ohio law, the university owns any intellectual property that is a "product of university research" as defined in Section B of the Policy on Patents and Copyrights. The external consulting policy applies to faculty members from the initial date of employment, including during off-duty quarters, until the date of resignation. When consulting, faculty members must not assign to other entities the rights to a product of university research. Before signing a consulting agreement that requires assignment of intellectual property rights, a faculty member should contact the Office of Technology Transfer to determine the applicability of the Policy on Patents and Copyrights.

Faculty may not, in connection with paid external consulting, use the university name or the fact that they are affiliated with the university, in a manner that:

- 1) Suggests that the university approves or disapproves of a product or service provided by a profit, non-profit or governmental entity; or
- 2) Suggests that the university has performed research or issued research findings when it has not done so, or misleadingly states the results of university research; or

- 3) May be interpreted to communicate the official position of the university on any issue of public interest.

Faculty may not use university letterhead in connection with paid external consulting, nor may they use university facilities and other resources to support consulting unless permission is obtained from the TIU chair and the university is appropriately compensated.

Faculty may not use university Institutional Reviews Boards, e.g., the Human Subjects Review Board, for research conducted as part of a consulting arrangement.

Faculty are personally responsible for any damages or claims for damages which may arise in connection with their consulting activities. The limited immunity conferred by Section 9.86 of the Ohio Revised Code does not apply to consulting.

### III. Procedures

#### 1) Reporting Requirements

##### a) Prior approval

A faculty member must complete the Paid External Consulting Approval Form for each consulting arrangement. These forms shall be filed with the TIU chair or, in the case of an administrator, with the individual to whom he or she reports. All paid external consulting related to one's area of expertise requires prior approval. If a faculty member engages in paid external consulting without first obtaining approval or participates in activities that have been disapproved, a complaint may be filed against the faculty member under Faculty Rule 3335-5-04.

If a proposed consulting arrangement causes or could be perceived to cause a potential conflict of interest, the faculty member must file a Conflict of Interest Form along with the Paid External Consulting Approval Form.

All absences from duty of one full business day or more resulting from consulting, and all absences resulting from consulting that cause a missed commitment such as a class, require the prior approval of the TIU chair or other unit administrator. The Human Resources Application for Leave Form is used for this purpose.

##### b) Timing of reporting

Some consulting arrangements are on-going whereas others occur at a specific moment in time. For on-going activities, a faculty member may complete a single Paid External Consulting Approval Form for that activity to cover the entire time during which the activity will take place, but not beyond the end of the fiscal year in which the form is filed. A new form is required if the activity continues into another fiscal year. Each non-continuing activity during a fiscal year requires a separate form. These forms must be filed sufficiently in advance of the planned activity to permit time for a meaningful approval process including the development of a plan to manage any conflict of interest or other legal issues posed by the proposed activity.

##### c) Approval mechanism

The Paid External Consulting Approval Form must be approved by the tenure unit initiating unit chair and dean, or by a regional campus dean. In the case of administrators, the form must be approved by the person to whom he or she reports. A copy of the form shall be included in the faculty member's primary personnel file. If the TIU chair does not approve the proposed activity, the faculty member may appeal to the dean. If the dean does not approve the proposed activity, the faculty member may appeal to the provost. The provost's decision shall be final.