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Volume 4, Academic Affairs

Chapter 7, Faculty Rights and Responsibilities

Section 7, Consulting and Outside Activities by Faculty

Approval Authority: Board of Regents

Responsible Executive: Provost/Vice President for Academic Affairs

Responsible Office(s): Office of Academic Affairs, Colleges,
Departments

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Consulting and Outside Activities by Faculty

Policy Statement

Eastern Kentucky University extends to its faculty members the privilege of consulting or related outside activities because such activities can contribute to the professional development and stature of the faculty member and may benefit the University. Such benefit may be, but is not limited to, enhancement of faculty professional expertise, establishing and maintaining professional contacts, associations and relationships, and developing opportunities for sponsored research.

Both conflicts of interest and conflicts of commitment may arise out of consulting where an employee compromises his/her professional standards or allows an outside activity to interfere with his/her obligations to students, colleagues, or the primary missions of the University. The limits set forth in this policy are intended to strike a fair balance between consulting/outside activities and the obligations of the faculty within the University. Though comprehensive, this policy cannot deal unambiguously with every instance of consulting or outside activities. In cases of doubt, the primary guide should be the intention to promote the interests of the University as a place of teaching, research, and service.

The primary safeguard for ensuring compliance with this policy is the requirement that the faculty member secure advance approval for consulting activities to ensure that the activity is beneficial to the University in that no conflicts of interest exist, no conflict with University duties and responsibilities is present, and the total amount of consulting by the faculty member is not excessive. Professional work that is part of the normal duties of members of the academy does not fall under the auspices of this policy.

Entities Affected by the Policy

- Colleges
- Departments
- Faculty

Procedures

The University has the right, and indeed the obligation, to protect itself from losses due to excess consulting and to seek reimbursement from the faculty member for salary and benefits covering time spent on consulting beyond the limits provided for by this policy, especially in cases where amounts are significant and the faculty member did not seek prior consultation or follow the advice given by his or her department chairperson or dean.

Time Limitation

For nine-month faculty, the maximum limit for consulting is the equivalent of one (1) day per week or 36 days per academic year (August 15 - May 15) during periods of full-time employment at ECU. When faculty members are not under contract with the University and during official vacation, holiday periods and

weekends, they may engage in consulting or other outside activities without time restrictions. Faculty employed full-time during the summer term (9 hours) are limited to one day per week. Faculty employed less than full-time in the summer term may be approved for additional days on a pro rata basis.

Twelve-month faculty and staff must take vacation leave when engaged in consulting during their normal work hours above the one day per week time limitation.

A faculty member on sabbatical leave must follow the approval procedures for any consulting or outside activities undertaken during sabbatical to avoid conflicts of interest or commitment. Faculty members on unpaid leave from the University are not subject to time limitations.

Teaching at other institutions is governed by the principle that outside activities should not encroach upon the faculty member's primary responsibilities to this University. Shared instructional service may be negotiated by the faculty member and appropriate administrative officers of the two institutions. In all cases, accreditation standards must be respected.

The responsibility for adhering to the limit on consulting days lies with the individual faculty member.

Approval Procedures

1. All proposed consulting activities (while employed by the University) must receive prior review and approval through the process described in this policy to ensure that they present no conflicts of interest and do not diminish the quantity and quality of professional services rendered to the University as part of the faculty member's normal duties and responsibilities. Non-compensated consulting (i.e., public service in one's area of professional expertise) must also receive prior approval whenever the potential for a conflict of interest exists. It is the faculty member's responsibility to assess whether the potential for a conflict of interest in non-compensated consulting exists; when in doubt, the Request for Approval of Consulting or Outside Employment Form should be submitted.
2. Each consulting or outside activity, with or without pay, should be thoroughly discussed with the chair of the department before it is accepted.
 - a. Faculty members should resolve any questions and/or ambiguities with their Department Chair/Unit Head before the fact, so that the University community is not injured by their actions. Faculty members have an obligation to report fully the level (i.e., number of days) of their consulting activities when asked to do so by the University so that it may be determined whether the principles set forth herein are being adhered to.
 - b. The faculty member will submit a Request for Approval of Consulting or Outside Employment Form, which includes a clear, written statement of the nature of each activity and the amount of time it will likely require, including time away from the institution, to the Department Chair/Unit Head. This makes it clear that the faculty member has discussed the nature of each outside activity with the Department Chair/Unit Head and a mutual understanding has been reached.
 - c. It is the responsibility of the Department Chair/Unit Head to exercise judicious control of consulting and other outside activities so that no University functions are neglected. Following a careful review, the Department Chair/Unit Head will forward positive recommendations to the College Dean, who has final approval authority.
 - d. In conducting the review of the Request for Approval of Consulting or Outside Employment Form, and any supporting documents, Chairs/Unit Heads and Deans are strongly encouraged to contact University Counsel if there are concerns that there would be potential violations of University policy.
3. Grants and contracts administered through the Office of Sponsored Programs are not considered to be consulting agreements. Compensation for faculty and staff engaged in external grants and contracts are governed under Policy 4.4.8, Salary Compensation on Grants.
 - a. Faculty who do not teach, or who teach fewer than a full load (9 hours), during the summer term may be employed on projects through Division of Sponsored Programs in keeping with University policies and approved internal budgets. Compensation may not exceed one-ninth of the prior academic year salary for anyone month during the period May 16 - August 14.

- b. Department Chairs or other administrators on 12-month appointments are typically not eligible to receive additional compensation through grants and contracts during the summer term.
4. Activities that require use of university facilities and equipment, or the employment of University faculty, staff, and students are not considered to be consulting and such agreements must be submitted through the Office of Sponsored Programs. The inconsequential use of office-based computing equipment and telephone equipment (e.g. the exchange of e-mails or local telephone calls with a consulting client) is permitted without prior approval.
5. The Request for Approval of Consulting or Outside Employment Form must be submitted and approved for each proposed consulting/outside activity arrangement. The number of days of the proposed consultancy must be provided on the consulting approval form. Estimates must be amended to reflect the actual days of the consultancy within 60 days of the end of the fiscal year.
6. Personal consulting contracts must not imply that the consultant is an agent of Eastern Kentucky University. In this regard, Eastern Kentucky University letterhead stationery or similar indicators of University affiliation must not be used when transacting personal consulting activities unless with the written approval of the Provost.
7. A faculty member may not use an EKU ID number for the purpose of conducting personal consulting or outside activities.
8. Ownership (by a faculty member, her/his spouse, and any dependent children or any children occupying the same residence), as a principal, officer, director, partner or other like status, of an interest in a business must be disclosed to the department chair and dean with copies to the Provost. This disclosure must provide the full details of one's relationship to the business, one's obligations to the business, how the relationship might impact one's teaching and research obligations to Eastern Kentucky University, what potential conflicts of interest or commitment could exist, how conflicts of interest/commitment will be avoided, etc.
9. If a consulting agreement involves a faculty member assigning rights in intellectual property to the client, and if the subject area or field of such intellectual property is closely related to or the same as a field of research being actively pursued by the faculty member as part of his/her University responsibilities, or logically anticipated as part of such responsibilities, the faculty member must inform the University (Dean, Associate Vice President for Research, and Provost) in detail of such potential assignment and notify or authorize the University to notify the client of possible vested interests in such property held by EKU. It is inappropriate for faculty consultants to assign EKU intellectual property to organizations engaging their services. Consulting agreements should be examined to ensure that the assignment of rights to intellectual property evolving from consulting activities does not conflict with the University's Intellectual Property Agreement.

Legal Matters

The University cannot accept legal responsibility for privately initiated activities.

Definitions

Conflict of Commitment	A conflict of commitment exists when consulting or other activities outside the University are so substantial or demanding that the faculty member's time and attention interfere with the individual's responsibilities to the University.
Conflict of Interest	A conflict of interest occurs when a faculty member's professional decisions are determined by considerations of financial gain for themselves, or their immediate family, or give improper advantage to an associated entity.
Consulting	Professional work performed outside university auspices that is substantively related to a faculty member's area of expertise and duties at the university. Included is consulting for a company owned by oneself or by a member of one's immediate family.

Responsibilities

College Dean

At a minimum, the Dean is responsible for

- approving requests for consulting or outside activities.

Faculty

Faculty are responsible for

- discussing with the Department Chair/Unit Head a potential consulting or outside activity before accepting the assignment.
- seeking approval for consulting and outside activities covered under this Policy.
- accurately reporting any adjustments to the reported consulting/outside activity days within 60 days of the fiscal year.
- inform the University of consulting or outside activities that may result in assignment of intellectual property to a third party.

Department Chair/Unit Head

At a minimum, the Chair/Unit Head is responsible for

- ensuring that consulting or outside activities requested by faculty do not result in a conflict of interest or a conflict of commitment
- approving requests for consulting or outside activities.

Associate Vice President for Research

The Associate Vice President for Research is responsible for, when appropriate, determining if a potential consulting/outside activity should be administered through Sponsored Programs rather than under this policy.

Policy Violations

Violations of this policy include, but are not limited to: failing to file the appropriate paperwork with the University; filing incomplete, erroneous, or misleading paperwork; failing to provide additional information as required by the approving authority; or non-compliance with any **related** University policy. Violations may result in denial of approval for consulting activities and also may be the basis for employee discipline, up to and including termination, depending on the nature and circumstances of the violation. Any discipline imposed will follow the applicable Board of Regents and administrative policies and procedures for the individual's employment classification.

Interpreting Authority

Senior Vice Provost for Academics and Provost

Policy Adoption Review and Approval

Revised

Date

Unknown

November 1986
December 6, 1982

Entity

Unknown

President Hanley Funderburk
Faculty Senate

Action

Update of Policy

Approved
Approved

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