100.00: CONSULTING

Consulting is any additional activity beyond duties assigned by the institution, professional in nature and based in the appropriate discipline, for which the individual receives additional personal remuneration during the contract year. Remuneration for consulting is paid by agencies or individuals outside the University and the funds upon which consulting payments are made are not controlled by the University.

Faculty members are encouraged to write for scientific and technical periodicals, to write books in their professional fields, and to engage in other creative and professional activities as part of their duties. Such scholarly activities will not be considered consulting and will not be subject to this policy. 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 will not be considered consulting for purposes of this policy. These external professional 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.

Faculty may engage in consulting activities in a manner consistent with this policy. All consulting assignments are also subject to the conflict of interest policy.

100.10 NOTIFICATION

In all consulting engagements, the faculty shall notify the client in writing that:

(A) the faculty member is acting as a consultant and not as an employee of the University,
(B) the University is not a party to the contract nor responsible for the performance thereof, and
(C) the University is not liable in any way for property of the client utilized for test, observation, or otherwise in connection with the consulting engagement, nor for consequent damages.

Faculty shall use the form provided by the Office of the Vice President for Research for this purpose.
100.20 COMPETITIVE BIDS

Faculty may submit competitive bids as consultants if:

(A) the project does not require substantial use of University resources;

(B) the project will not interfere with the assigned duties/time commitments of the faculty or staff member;

(C) the project does not interfere with any contractual obligations of the University; and

(D) the project will not create an actual or apparent conflict of interest.

Faculty who wish to submit a bid in connection with his or her consulting activities must obtain approval from the department head before submitting the bid.

100.30 APPROVAL OF CONSULTING/AVOIDING CONFLICTS OF INTEREST

Consulting activities may not detract from the performance of the faculty member's regularly assigned duties. Faculty consulting activities that will result in more than a one-day absence from the faculty member's usual work schedule or which will average more than one work day per week during the employee's contract period must be approved in writing in advance by the department head and college dean. Faculty members will use annual leave or leave without pay for consulting activities that take them away from the University or their University assignments for more than an average of one work day per week during the contract period.

Consulting activities that create an actual or apparent conflict of interest with the faculty member's University duties must be disclosed in writing to the department head and college dean and the Office of Research Compliance. The faculty may accept the consulting assignment only if the Office of Research Compliance determines that adequate safeguards to eliminate or appropriately reduce the effect of the conflict of interest can be implemented through an appropriate Conflict Management Plan before the assignment begins.

All consulting assignments must be reported annually to the Board of Regents using the procedures established by the University.

100.40 CONSULTING BY ACADEMIC YEAR/PART-TIME EMPLOYEES

Faculty on academic-year contracts and part-time faculty may engage in consulting activities during the hours and periods they are not under contract to the University. Any use of University facilities, equipment or personnel must conform to Section 100.70.

100.50 CONSULTING DURING LEAVE PERIODS

The University encourages faculty members to take annual leave for rest and recuperation. However, compensated consulting activities conducted during annual leave periods should conform to the policies in this section.
CONSULTING ACTIVITIES IN FACULTY REVIEWS

Any department and/or college may adopt standards for faculty review that consider favorably the consulting activities of a faculty member. Consulting activities may be included in dossiers submitted for annual review, retention, tenure and promotion if authorized by the department and/or college annual, retention, tenure and promotion standards and such activities were conducted in accordance with the requirements of this policy. Typically, consulting activities are included as service under standards.

USE OF UNIVERSITY RESOURCES

(A) Faculty may not make substantial or regular use of University resources for his or her private business purposes. For purposes of this policy, substantial use of university resources means that the consultant will use of university facilities, personnel or other space or equipment on other than an irregular or occasional basis.

(B) Occasional use of University facilities and equipment for consulting work may be allowed only if such use does not interfere with classes or other University activities and the University is fully compensated for the full costs of such use. Written approval of the department head and the dean is required. Except in cases of occasional, de minimis use, a faculty member who uses University resources in consulting work must enter into a written "use agreement" with the University that must be approved by Legal Counsel prior to the use. De minimis use would be use of a university resource where the use is minimal, the resource has little value and occurs infrequently (e.g., occasional phone, calls, use of a pen, sitting at a desk, etc.). The use agreement will set forth the terms, conditions and compensation for the use of any University resources, prior to use.

(C) Faculty acting as a consultant may not use University employees or students in consulting assignments without the prior written approval of the department head and dean. The consultant’s use of university employees or students must be reported and determined whether an appropriate conflict management plan can be implemented. The consultant’s use of University employees may not overlap with the employee’s scheduled working hours and assignments. The faculty member is responsible for the payment of any persons used in consulting assignments and compliance with all state and federal employment laws.

(D) Faculty acting as consultants may not authorize other persons to use University resources without the written permission of the dean and the execution of an appropriate facility use agreement that provides for appropriate insurance protection for the University.

(E) Faculty acting as consultants are not acting as university employees when engaged in consulting and will not be covered by worker’s compensation or the university’s self-insurance fund while engaged in consulting activities.

PROHIBITED ACTIVITIES

Faculty engaged in consulting must comply with the following: No University stationery or forms may be used in connection with consulting work or professional practice. The consultant will use his or her home or other off-campus address and telephone number on correspondence and advertising. The name of the University shall not be used in advertising or otherwise without the written consent of the President or designee.
Faculty engaged in consulting or professional practice may not, assign, commit, contract away or otherwise affect University rights, including rights to intellectual property, without the express written consent of the Office of Vice President for Research. Consulting arrangements and commitments shall not bind, commit or attempt to affect the rights of any University faculty, students or staff without their express written permission, with copies given to the department head. Any attempt by faculty to assign, commit, contract away or otherwise affect University rights in violation of this policy shall be null and void. Faculty members performing consulting services shall inform their consulting sponsors of this policy at or prior to the time they enter into their consulting arrangements.

Consulting arrangements with non-University sponsors may not be used to circumvent University Office of Sponsored Programs’ responsibility for administering grants to the institution. Consulting assignments that will require substantial use of University facilities, personnel, or other resources, must be arranged through the Office of Sponsored Programs unless that office, upon being fully informed, determines that the assignment does not constitute appropriate grants and contracts activity.