



Review of the Interim University of Maryland Consulting Policy (II-3.10[E])

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DESCRIPTION OF ISSUE

The Division of Research and the Office of General Counsel have identified a necessity for the University to develop and have in place a Consulting Policy based on federal, state, and local requirements, including those from:

- o National Security Presidential Memo ([NSPM-33](#))/[NSPM-33 Guidance](#) and the regulatory and contractual requirements of federal agencies (e.g., PHS, NSF, and DOE), which require that institutions that receive government funding have processes in place for disclosing all outside professional activities including Consulting and for reviewing conflicts of interest/commitment (COI/COC);
- o Maryland State Ethics Law that applies to all UMD employees – The University recently received guidance from the Maryland State Ethics Commission on the obligations of University employees associated with conflict of interest and conflict of commitment; and
- o The USM Policy on Professional Commitment of Faculty ([II-3.10](#)), which includes a provision on outside professional consulting and requires an institutional policy be in place.

The lack of a Consulting policy has also been identified as an area of risk for the University.

Because of the federal, state, and USM requirements, the Vice President for Research agreed that the development of the Consulting Policy was a key priority. These requirements and associated deadlines also fulfill the Senate’s criteria for interim University policies.

Based on the need for a breadth of subject-matter expertise to develop the policy, a working group composed of Division of Research staff, faculty, and research staff, including the Chair of the Conflict of the Conflict of Interest Committee; a few key administrators from the Provost’s Office, and the Office of General Counsel (OGC), worked collaboratively to develop a draft interim Consulting policy. The draft policy was reviewed and refined following input on the COI process and input from the deans, the Senate Director, the Associate Provost for Faculty Affairs, the Senior Vice President & Provost, the Senate Leadership, and OGC before being finalized and approved as an interim policy pending Senate review by the President on October 14, 2022.

DESCRIPTION OF CHANGE YOU WOULD LIKE TO SEE

The Interim Consulting Policy must be reviewed by the University Senate before it can be formally codified as University policy.

SUGGESTION FOR HOW YOUR PROPOSAL WOULD BE PUT INTO PRACTICE

The interim policy should be charged for review by a body of the University Senate, likely the University Research Council. Since there is likely a lot of overlap between the charge elements required for and the focus of this policy and the Interim University of Maryland Policy & Procedures Conflict of Interest and Conflict of Commitment (II-3.10 [\[A\]](#) & [\[B\]](#)), it would be helpful if the two charges were developed to be conducted in parallel to one another but not as a joint charge so that issues with one do not adversely affect the other.

ADDITIONAL INFORMATION

There are some considerations that were not legal in nature, and therefore not urgent, but likely require further discussion by the Research Council in the course of its review. These could be included as “Consider” elements in the charge. These include:

1. The Interim Consulting Policy is currently written so that paid and unpaid Consulting count against the total number of Consulting days allotted, based on employee appointment type.
 - *Is this appropriate or should just paid Consulting count towards the total number of days?*
2. Consulting related to research cannot perform activities or hold titles that include fiduciary or management roles, without an approved COI management plan based on State Ethics Law.
 - *Should the same standard regarding fiduciary or management roles be in place for non-research-related Consulting?*
3. The policy includes a process for post-approval review of non-research-related Consulting by a COC Review Board appointed by the Provost. The Board formulates campus-wide guidance based on these reviews.
 - *It would be helpful if the Research Council provided some perspective on how best to handle similar reviews of research-related conflict of commitment.*
4. The policy currently excludes adjunct faculty and faculty below 50%. There is also an exclusion for moonlighting, which is defined as an activity outside of an individual's discipline or area of expertise. It does not currently address part-time faculty that may work/teach at two institutions.
 - *The RC should consider the implications of the policy on faculty who are not adjunct faculty and have an FTE of 50%-99%, who may hold a position at another institution within their discipline.*