

# Consulting

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**Policy:** **CONSULTING**

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**Responsible Party:** **Office of the Provost**

**BOR Policy:** [401.1 Consulting Services - Faculty](#)

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The university recognizes that outside activities, including consulting, can provide a range of benefits to both faculty and the university. These benefits include enhancing the reputation of the university, contributing to the university's public service mission, promoting faculty development and the development of their profession, and enhancing the faculty's ability to bring "real world" experiences to the classroom. This experience can also help faculty to better understand research directions and priorities that exist in the private sector, which can be used to prepare students for their future careers. Although consulting may make faculty better scholars and teachers and help them to develop professionally, consulting has an inherent potential for diversion of faculty from their primary activities and responsibilities to the university. This policy is intended to further the mission of the university and to enrich the experiences of the faculty by facilitating appropriately limited outside activities for faculty.

## 1. DEFINITION

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.

## 2. SCHOLARLY ACTIVITIES EXCLUDED

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.

## 3. CONSULTING ACTIVITIES

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](#). Consulting is permitted provided the faculty member's full-time obligation to the university is met. Faculty shall not undertake any form of outside employment or activity that prevents the performance of the responsibilities expected of full-time faculty as provided in the MSU Faculty Responsibilities policy. The university expects that all members of the faculty will conduct their outside activities in a manner that upholds the values of, and reflects credit on, themselves, their profession, and the university. The principal safeguards against abuse include the standards and ethical practices required by professional colleagues and professional organizations, and the rigorous process by which the university evaluates and selects individuals for appointment and promotion.

Faculty engaging in consulting activities will comply with applicable university policies and procedures, including the university's Conflict of Interest Policy, Facilities Use Manual, and Rules for Research Facilities/Equipment.

## 4. 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,
- 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, and
- d. Intellectual property in which the university or a university partner may have an ownership interest (e.g., pursuant to university policy or agreement) may not be transferred by university employees while engaged in consulting activities. Ownership of any intellectual property shall be determined pursuant to the university's Intellectual Property policy or the applicable sponsored research contract or other applicable written agreement. To the extent the consulting agreement is inconsistent with any of the faculty member's obligations under the university's intellectual property policy or an applicable sponsored research agreement, the faculty member's obligations to the university, or university partner under an applicable sponsored research agreement, shall prevail.

Faculty shall use the [form](#) provided by the Office of the Vice President for Research for this purpose.

## 5. 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 their consulting activities must obtain approval from the department head before submitting the bid.

## 6. APPROVAL OF CONSULTING/AVOIDING CONFLICTS OF INTEREST

The obligation of a faculty member's full-time obligation to the university is difficult to define since in academic life it means more than a stated number of hours per week, due to the faculty member's substantial freedom in arranging his or her professional life. Such an obligation, however, implies an overriding interest, loyalty, and responsibility to the university. This obligation, therefore, must be defined qualitatively, depending on principle, rather than formula. The university permits faculty members to devote up to an average of 20%, or the equivalent of one day per week of university time in an academic year, to outside, paid, professional activities where that activity is consistent with that person's role as a member of the faculty and where that activity also enhances the contribution of the faculty member to the university. Such activity benefits both the faculty member and the university.

Faculty members wishing to exceed these time limitations must submit a [Request For Approval of Outside Professional Work form](#) to their department head or director in advance for review and recommendation. The department head or director will evaluate the request form, make a recommendation, and submit the request form and recommendation to the appropriate dean for approval. A denial by the dean (or Extension director as appropriate) may be appealed to the Provost's office within seven (7) calendar days of the denial. The university has discretion to approve such requests where the consulting work will provide a substantial benefit to the university, such as where the time is needed for the faculty member to complete professional licensure requirements related to their work for the university.

The responsibility for adhering to the limit on consulting activities, and other aspects of MSU's consulting policy, lies first with the individual faculty member. Faculty members should resolve any questions and/or ambiguities with their department head or dean before the fact, so that the university community is not injured by their actions. The university has the right, and indeed the obligation, to protect itself from losses due to excessive consulting and to seek reimbursement from the faculty member for salary and benefits covering time spent on consulting activities beyond the limits provided for by this policy, especially in cases where amounts are significant and the faculty member did not seek prior approvals. Faculty members have an obligation to report fully the level (i.e., number of days or amount of time) of their consulting activities.

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 will average more than one work day per week during the faculty member's contract period must be approved in writing in advance by the department head and college dean.

Departments may require faculty to obtain advance approval to be absent from campus or their university assignments for consulting activities to assure that the absence will not negatively impact the work of the faculty member or the department or learning outcomes for students.

Faculty members who accrue or have accrued annual leave (such as FY Extension faculty and FY Agricultural Research Center faculty, and Library faculty) will use annual leave for consulting activities that require an absence from the faculty member's usual work schedule. Faculty members will use annual leave, if available, 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 workday 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.

## 7. 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 10.

## 8. CONSULTING DURING LEAVE PERIODS\_

The university encourages faculty members on 12-month contracts 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

## 9. 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.

## 10. USE OF UNIVERSITY RESOURCES\_

- a. Faculty may not make substantial or regular use of university resources for their private business purposes. For purposes of this policy, substantial use of university resources means that the consultant makes use of university facilities, personnel, space, or equipment on other than an irregular or occasional basis.
- b. Faculty may not use, or otherwise disclose, university intellectual property (e.g., patents and patentable inventions, copyrightable works, trademarks, or trade secrets) for their private business purposes without prior written approval from the Vice President of Research, Economic Development and Graduate Education.
- c. 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 the use 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.
- d. 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 it must be 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.
- e. 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.
- f. 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 (exclusive of university health insurance where applicable) while engaged in consulting activities.

## 11. PROHIBITED ACTIVITIES\_

Faculty engaged in consulting must comply with the following:

- a. No university stationery or forms may be used in connection with consulting work or professional practice. The faculty working as a consultant will use their 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.
- b. 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.