

## **Policy 5-204: Remunerative Consultation and Other Employment Activities**

### **I. Purpose and Scope**

To outline the University's policy on employment responsibilities and restrictions on outside remunerative employment activities. To establish the circumstances under which faculty members and Administrative Officers are permitted to engage in consulting activities; provided, in any event, that such consulting activities must not impair an individual's ability to adequately perform his or her instructional, clinical, research, administrative, service or other University responsibilities.

This Policy applies to all University Employees including, without limitation, Administrative Officers, Faculty, Non-Faculty Academic Employees and Staff.

### **II. Definitions**

For the purposes of this Policy, the following words and phrases have the meanings indicated:

- A. "**Remunerative Consultation**" or "**Consulting**" includes those professional activities which: (a) are performed by a faculty member or Administrative Officer in his or her individual capacity and not on the University's behalf, (b) with respect to a faculty member, are related to the faculty member's area of expertise, as indicated by the instructional, clinical and research activities the faculty member performs or has performed on the University's behalf, (c) advance or communicate that expertise through interactions with industry, the community, or the public, and (d) for which the faculty member or Administrative Officer receives (or expects) compensation or remuneration. Nominal honorariums and reimbursement for expenses will not constitute compensation or remuneration under this Policy 5-204. Consulting includes a fee-for-service or equivalent relationship with a third party and entrepreneurial activities in which a

faculty member or Administrative Officer has (or expects) an ownership interest in the party for whom consulting services are provided. For purposes of this Policy 5-204, consulting does not include services performed on the University's behalf or performed by a faculty member or Administrative Officer in his or her official University capacity including, but not limited to, service on national commissions, on governmental agencies and boards, on boards or committees of nonprofit professional associations, on granting agency peer-group review panels, on visiting committees or advisory groups to other higher education institutions, and on analogous bodies, even if the faculty member or Administrative Officer receives or expects compensation for such services. Consulting also does not include "moonlighting" activities that are not directly related to a faculty member's or Administrative Officer's area of expertise (and such activities are governed by the provisions of Section III.A restricting activities which interfere with the discharge of full-time service obligations to the University).

- B. **Full-time** - An employment relationship, applicable to Employees, and defined as Full-time in Policy 5-001: Employee Definitions. Full-time employment is generally inconsistent with the acceptance of any other employment on a continuous or permanent basis.
- C. **Additional compensation** - Payment for services rendered by an Employee in addition to the normal working activity contemplated by the terms of the Employee's appointment.
- D. **Overload status** - An employment condition in which the total percent of full time for all assignments held concurrently exceeds 100%.
- E. Relevant employee category definitions used within this Policy (Employee, Faculty, Administrative Officer, etc.) are defined in [Policy 5-001](#).

### III. Policy

#### A. Full Service Obligation of All Full-Time University Employees

All Employees of the University holding full-time positions shall give full services to the work of the university during scheduled work periods. Any non-University employment must not interfere with the discharge of the person's full-time service obligations to the university. It is expected that all full-time University Staff Members will treat the University as their prime employment activity.

1. Part-time or full-time employment in an off-campus position or business enterprise in addition to full-time University employment is discouraged. Each Employee is responsible to inform his/her immediate superior of all such outside employment activities.
2. In any case in which present or contemplated outside employment is believed to involve a question as to a potential conflict of interest, the concerned individual is encouraged to seek advice from the administration and, where appropriate, from the Office of General Counsel by requesting an opinion through the cognizant vice president. (See Policy 1-006—Individual Financial Conflict of Interest.)

#### **B. Public Service Activities of University Employees**

The University approves of public service activities that are not incompatible with full performance of University duties and not inconsistent with University Regulations.

#### **C. Outside Teaching by Full-Time Faculty Members**

Full-time faculty members may not accept employment for, and may not perform, any teaching, instructional, or research services for other academic institutions during teaching semesters without the knowledge and written approval of the cognizant dean and vice president. Compensated or uncompensated participation in an occasional short-term conference, seminar, or symposium or the delivery of a scholarly paper or public address at a professional meeting or academic gathering under the auspices of an academic institution, does not violate this Policy.

**D. Telephone Listings and Off-Campus Offices of Full-time University Employees**

Except where permission is given by the president, full-time Employees may not maintain business or professional telephone listings in their own name, or establish off-campus offices for non-University related professional or business activities.

**E. Remunerative Consultation by Faculty Members and Administrative Officers**

Remunerative consultation and other services to persons, firms, institutions, and agencies outside the University may be carried on by faculty members as long as the performance of such services does not interfere with the individual's service obligations to the University, subject to the following restrictions:

1. Full-time faculty and Administrative Officers are allowed four days a month for either consulting or outside employment, not counting weekends or holidays. Faculty and Administrative Officers who are not full-time are permitted a proportionately reduced number of monthly consulting days commensurate with their part-time status. Unused consultation time may be accumulated for a period not to exceed three (3) months, i.e., for a total accumulation not exceeding a maximum of 12 days for full-time faculty members and Administrative Officers (or a proportionately reduced number of accumulated days commensurate with the part-time status of a faculty member or Administrative Officer), and may be taken during one consecutive period of time. The University has no obligation to compensate personnel for authorized consultation time that, for any reason, is not actually used.
2. This policy is not intended, nor shall it be interpreted, to permit a faculty member or Administrative Officer to engage in consulting activities that impair the individual's ability to adequately perform his or her instructional, clinical, research, administrative, service or other University responsibilities, as

- determined by that individual's department chair, dean or other immediate supervisor, as applicable, even if the faculty member or Administrative Officer otherwise complies with the requirements of this Policy 5-204.
3. Use of consultation time should have a demonstrable relation to the area of expertise of the Faculty or Administrative Officer, and to the University's general mission within the community.
  4. Any absence from the University for the purpose of consultation services may be recorded as an excused absence for approved consultation only if the restrictions of this section have been satisfied.
  5. Consultation involving service to individual patients or clients may take place in a Faculty or Administrative Officer's office or laboratory. Use of university facilities and equipment resulting in clearly identifiable additional cost to the University shall be reimbursed and shall require authorization by the supervisor with direct line authority over the employee.
  6. The individual engaged in consultation activities must arrange in advance, with the approval of the responsible department chairperson, director, or other line officer, for scheduling of classes or other work assignments missed as the result of consultation activities.
  7. Individual exceptions to this Policy may be approved by the cognizant vice president upon recommendation of the dean or director, subject to any specific conditions imposed by the vice president.
  8. Intellectual property resulting from consulting services performed in compliance with this Policy, if any, shall be treated as provided in Section III-B-6 of Policy 7-002: Patents and Inventions.

#### **F. Responsibilities of Consultants**

University employees engaged in consultation services authorized by this Policy must assume the following responsibilities to assure compliance with this Policy and with applicable legal requirements:

1. The University employee must advise in writing, on a [form](#) provided by, or approved by the University, the person, firm, or agency for whom such consultation services are to be performed that (a) the employee, in his/her role as a consultant, is acting solely as an independent contractor, and not as an agent or employee, or under the sponsorship, auspices, or control of the University of Utah, and (b) the University assumes no responsibility whatever, express or implied, for the actions or omissions of the employee in his/her role as a consultant.
2. The University employee must personally assure that the conditions and limitations upon external consulting activities, as specified in this Policy, are fully satisfied, and must be prepared to document that fact if called upon to do so by a responsible university officer.
3. Before entering into a consultation contract, the University employee must personally determine that the contemplated consultation activities and arrangements will not involve a conflict of interest with the individual's duties to the University that may be in violation of the Public Officers' and Employees Ethics Act or University conflict of interest policies. (See Policy 1-006) Such conflicts may be implicated if (a) the consultant is or will be serving concurrently as a principal investigator under a contract or grant from the same external firm or agency; or (b) the consultant's services are directly related to and derived from activities performed under a contract or grant from the same external firm or agency, or from confidential information acquired as a result of participation in such a contract or grant.

#### **G. Public Addresses by Faculty and Administrative Officers**

Requests for Faculty or Administrative Officers to give addresses to clubs, community organizations, and other groups may be responded to at the discretion of each individual Faculty or Administrative Officer. Such activities should not be allowed to interfere with University responsibilities.

#### **H. Extended-day and Continuing Education Teaching by Faculty and Administrative Officers**

Faculty or Administrative Officers who are able to render full employment services to the University, and at the same time serve the interests of the people of the state by teaching for the University in the Academic Outreach and Continuing Education or in extended-day classes may do so provided the following conditions are met:

1. For Faculty, authorization will be given only for emergency or non-recurring assignments. Exceptions to this Policy must be approved by the vice president with line responsibility over the Faculty member.
2. A maximum of 38 contact hours per semester will be permitted for overload to Faculty and Administrative Officers for credit teaching, or noncredit teaching, or any combination of the two. (A contact hour is an in-class instructional hour; thus, a five-credit class that meets five hours a week for a semester represents 75 contact hours.)
3. Authorization to teach extended-day classes on an overload basis must be approved by the dean/director with line responsibility over the department offering the course, and the dean/director with line responsibility over the employee. For the Academic Outreach and Continuing Education, authorization to teach must be approved by the dean/director with line responsibility over the course, by the Assistant Vice President of Continuing Education and by the dean/director or vice president. In instances where a dean/director or vice president holds the teaching assignment, authorization

must be obtained from the supervisor with line responsibility over that employee.

#### **I. Overload and Additional Compensation for University Employees**

Consultation or other services by any University employee which result in overload status or payment of additional compensation by the University are not permitted unless all applicable provisions of [Policy 5-403](#) are satisfied.

#### **J. Full-time Medical Faculty Consultations**

Full-time medical faculty may not engage in private practice or consultation work except in conformity with the Medical Practice Plan ([Policy 8-001](#)) or other policies approved by the president, upon recommendation by the senior vice president for health sciences, subject to such conditions and limitations as the president may require. Such medical practice or consultation work must not interfere with the faculty member's primary responsibility to the University.

### **IV. Rules, Procedures, Guidelines, Forms and other Related Resources**

- A. Rules (reserved)
- B. Procedures (reserved)
- C. Guidelines (reserved)
- D. Forms (reserved)
- E. Other related resource materials

[Company Consulting Services Agreement Form](#)

### **V. References**

[Policy 5-403](#): Additional Compensation and Overload Policy.

[Policy 7-002](#): Patents and Inventions.



## VI. Contacts

Policy Owners: Questions about this Policy and any related Rules, Procedures and Guidelines should be directed to the [Director of Benefits for Human Resources](#).

Policy Officer: Only the [Chief Human Resources Officer](#) or his/her designee has the authority to grant exceptions to this Policy.

## VII. History

Renumbering: Renumbered as Policy 5-204 effective 09/15/2008, formerly known as PPM 2-26

### Revision History

#### A. Current Version - Revision 9

Approved by the Academic Senate: May 6, 2013

Approved by the Board of Trustees: May 28, 2013

Revision effect date: July 1, 2013

#### B. Earlier Versions

Editorially revised: October 11, 2011

Editorial changes were made to this document to reflect the changes in employee definitions as set forth in [Policy 5-100](#).

#### [Revision 8](#)

Editorially revised: 12/27/1999

#### [Revision 7](#)

Approved by the Board of Trustees 5/17/1999