

SOP: IP 04 Version No: 1 Effective Date: 10/22/04	OUTSIDE CONSULTING ACTIVITIES BY MEMBERS OF THE RESEARCH PROFESSIONAL STAFF	Supersedes Document Dated: N/A
--	--	---

1. SUMMARY

Establishes limits on the amount of time that may be spent on outside consulting activities by Research Institute Professional Staff, and describes procedures for implementing this policy.

2. POLICY

The purpose of the policy on consulting and related activities is to state with both clarity and generality the limits on such activities and the reasons for those limits. Consulting can provide an important means of continuing education for the Research Professional Staff and can provide them with a currency and experience in aspects of their professional fields outside the context of the Research Institute itself. Though such attributes of consulting may make Research Professional Staff better scholars, researchers and teachers, the employer-employee nature of the consulting process has in it the potential for diversion of the Research Professional Staff from their primary activities and responsibilities.

Therefore, the basic principle of this policy statement is that there needs to be a limitation upon the time that a Research Institute Professional Staff member may spend in consulting.

The limits set forth below are intended to strike a fair balance between consulting and regular Staff duties within the Research Institute and serve to safeguard the interests of both parties.

Though comprehensive, the policy cannot deal unambiguously with every instance of consulting. In cases of doubt, the primary guide should be the intention to promote the interests of the Research Institute as a place of education, research and patient care. Whenever uncertainty exists, it is the Research Professional Staff member's obligation to obtain prior consent from the appropriate Research Institute officer.

3. DEFINITION OF "CONSULTING"

In general, consulting is defined as professional activity related to the person's field or discipline, where a fee-for-service or equivalent relationship with a third party exists.

There are many types of consulting relations and fee arrangements, and the precise form entered into is not determinative. The principle is that, in consulting, a person agrees to use his or her professional capabilities to further the agenda of a third party, in return for a significant immediate or prospective gain. Thus, it does not matter whether the person is on the client's payroll, works as an independent contractor, or acts as a director or as a manager of a company engaged in activities related to the consultant's field or discipline. Included under this definition are situations in which a Research Institute Professional Staff member is chosen to serve on a Board of Directors of a company, or in some equivalent position, because of that Staff member's

affiliation with Research Institute and with a discipline that serves to enrich the company's advisory councils (example: a physicist serving on the board of a drug company in order to provide the perspectives of a physical scientist). All of these examples are considered to be consulting.

Several types of Research Professional Staff activity, other than regular Research Institute duty, are not "consulting." These are:

3.1 Publication

Scholarly communications in the form of books, movies, television productions, art works, etc., though frequently earning financial profit for a Medical and Research Professional Staff member and for another party (e.g., publisher), are not viewed as consultation. To attempt to distinguish between types of books, to assess the roles of book publication in different disciplines, or to challenge the historical relation between authorship and manuscript ownership would be fraught with danger and confusion. These reservations apply equally to the other types of scholarly communication cited above.

3.2 Professional Service (professional affiliation)

Under this rubric falls service on national commissions, on governmental agencies and boards, on granting agency peer-group review panels, on visiting committees or advisory groups to other universities, and on analogous bodies. The fundamental distinction between these activities and consulting is that they are public or Research Institute service. Although an honorarium or equivalent sometimes is forthcoming, these professional service activities are not undertaken for personal financial gain. Therefore, such service does not fall within the consulting category.

3.3 "Moonlighting"

Medical and Research Professional Staff members may pursue a variety of endeavors for financial profit that are not directly related to the person's field or discipline. These efforts are part of the Research Professional Staff member's private life and do not come under Research Institute regulation or this consulting policy. To emphasize again, however, such endeavors may only be pursued after the full-time commitment to Research Institute has been fulfilled.

4. THE NUMBER OF PERMISSIBLE CONSULTING DAYS

Consulting is permitted provided the Medical and Research Professional Staff member's full-time obligation to the Research Institute is met. The maximum number of consulting days permissible for a member of the Medical and Research Professional Staff on a full-time appointment is 52 days per calendar year. This limit is based on a judgment about incentives and is aimed at furthering the Research Institute's teaching, educational, research and patient care-

giving objectives; it is not derived from accounting principles. Research Institute holidays are included in each calendar year from which the 52-day consultation limit is derived. A limited amount of "averaging" of consulting time among full-time member Research Professional Staff is permissible if, on occasion, a Staff member plans to consult for more than 13 days in one quarter but no more than 52 days for the calendar year (the Guidelines for Policy Implementation, below, deal with averaging in more detail). Thirteen days of consulting per quarter, or 52 days for four quarters of active duty, is intended to be a liberal allocation, yet one that is fair to the Research Institute.

5 RESPONSIBILITY OF MEDICAL AND RESEARCH STAFF MEMBERS

The responsibility for adhering to the limit on consulting days, and other aspects of Research Institute's consulting policy, lies first with the individual Staff member. The guiding principle was stated in paragraph 1, above. Research Professional Staff members should resolve any questions and/or ambiguities with their Division Director or Associate Vice President of Research before the fact, so that the Research Institute community is not injured by their actions. The Research Institute has the right, and indeed the obligation, to protect itself from losses due to excess consulting and to seek reimbursement from the Research Professional Staff 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 Research Professional Staff member did not seek prior consultation or follow the advice given by his or her Center/Division Director or Associate Vice President of Research. Research Professional Staff 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 Research Institute so that it may be determined whether the principles set forth herein are being adhered to.

Furthermore, in cases where questions arise regarding potential or apparent conflict between consulting activities and the Staff member's Research Institute duties, the Staff member shall disclose, upon the specific request from the cognizant Division Director, the Associate Vice President of Research, or the Vice President for Medical Affairs, the names of companies for whom he/she consults, the general nature (as opposed to detailed technical aspects) of each consulting agreement, and the number of days committed per consulting agreement.

The Research Professional Staff members must be especially sensitive to potential conflicts of interest between their teaching responsibilities vis-a-vis graduate students, postdoctoral students, residents or interns working under their supervision and their outside consulting interests.

6. GUIDELINES FOR POLICY IMPLEMENTATION

The nature of the consulting work should in no way detract from the prestige of the Research Institute or the professional stature of the Medical and Research Professional Staff member. Consulting obligations undertaken should conform to this objective.

7. AVERAGING

Full-time Research Professional Staff members who expect to consult for more than 13 days in any one calendar quarter, but not more than 52 days in the calendar year, should so inform their Center/Division Director or Associate Vice President of Research on a prospective basis. A reasonable amount of "averaging" over the quarters of the calendar year (or the full year, if the person is at 100 percent time for all four quarters) ordinarily is acceptable, although particular circumstances such as teaching / research loads or the terms of support under grants or contracts will need to be taken into account. Averaging of consulting time from quarters of less than full-time service to quarters of full-time service is not permitted.

8. CONSULTING DURING PERIODS OF PART-TIME RESEARCH INSTITUTE EMPLOYMENT

The 13-day quarterly limit should be prorated for those members of the Staff holding part-time appointments, using the following formula:

$[13 \times F] + [(1-F) \times 6 \times 13]$, where F is the fraction of full-time duty, 13 represents the average number of weeks per quarter, and 6 represents the maximum number of days per week which are likely to be devoted to professional activities during the period of off-duty time. Thus, a Medical and Research Professional Staff member holding a 75% appointment is permitted up to 7.6 days of consulting per quarter.

9. HOURLY CONSULTING

Some consultation is carried out by the hour and not by the day. In such cases, a total of 104 consulting hours is permitted per full-time calendar quarter. Stipulation of this total, as opposed to an hour-to-day conversion formula, permits Staff members added flexibility in carrying out consulting and still protects the primary interests of the Research Institute. The figure 104 does not derive from accounting principles, but stems from subjective judgments about the length of average Staff work days, the work days of businesses employing consultants, and the desire to accommodate legitimate needs of some Staff. For those individuals who consult on both a daily basis and an hourly basis during one calendar quarter, a formula of one consulting day equals 10 consulting hours should be used in calculating total consultation time.

10. USE OF RESEARCH INSTITUTE FACILITIES OR SERVICES

The facilities and services of the Research Institute may not be used in connection with compensated outside work, except in a purely incidental way.

11. CONFLICT OF INTEREST

The Policy for Conflict of Commitment and Interest for Research Professional Staff policy which states in part:

"An implicit assumption underlying the Research Institute's [consulting policies] is that such outside professional activities are a privilege and not a right and must not detract from a Medical and Research Professional Staff member's full-time obligation to his or her Research Institute duties."

Consulting agreements involving Research Professional Staff should specifically address this concern by acknowledging that:

- 11.1 The primary duty of the Consultant, who is a Staff member, is to Research Institute;
- 11.2 The Consultant is subject to the Research Institute's policy on outside consulting activities of its Medical and Research Professional Staff; and
- 11.3 The Consultant may have obligations to the Research Institute by reason of agreements between the Research Institute and external organizations for research or other activities performed in part by the Consultant in fulfilling his/her duties to the Research Institute.

In addition, Staff are required to disclose to the Research Institute whether they (or members of the immediate family) have consulting arrangements, significant financial interests, or employment in an outside entity before the Research Institute will approve the following proposed arrangements between such entities and the Research Institute:

- a) gifts;
- b) sponsored projects;
- c) technology licensing arrangements;
- d) procurements.

On an annual basis, all Research Professional Staff members must certify to their Division Directors their compliance with the Research Institute's policies related to conflict of commitment and interest, and disclose their prior calendar year's consulting activities for and/or significant financial interests in outside organizations that support their Research Institute teaching or research program. In addition, the Staff must disclose if they have involved their students or staff in their outside consulting or business activities.

In cases where questions arise regarding potential or apparent conflict between consulting activities and Research Institute duties, the Medical and Research Professional Staff member

shall disclose, upon the specific request from the cognizant Division Director, the Associate Vice President of Research, or the Vice President of Medical Affairs the names of companies for whom he/she consults, the general nature (as opposed to detailed technical aspects) of each consulting agreement, and the number of days committed per consulting agreement.

13. AUTHORITY

The AVP for Research is responsible for the interpretation and overall coordination of this Policy.

14. RELATED RESEARCH POLICY DOCUMENTS

GRI 03 Conflict of Commitment and Interest for Research Professional Staff