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Guidelines for Addressing Potential Conflicts of Interest and Commitment in Faculty/Staff Involvement in Start-up Companies

A central mission of Cornell University is to provide benefit to society by bringing important scientific discoveries, technological innovations, and medical advances to the marketplace, training the next generation of researchers, and fostering the economic development of New York State and the nation. Consistent with the Bayh-Dole Act of 1980, the university encourages and supports the efforts of its faculty and other research personnel to participate in the development and dissemination of Cornell intellectual property (IP) by entering into relationships with existing business entities and startup companies.

Such relationships can take various forms including:

- Creating or inventing intellectual property (IP) that is licensed to a business entity by the University;
- Founding and/or taking a financial interest in a startup company that licenses University IP;
- Consulting/serving on advisory boards of the licensee;
- Receiving funding from a licensee to advance knowledge in areas related to that of the original IP or in new areas of research.

These relationships generally benefit the University, its faculty, staff, and students, as well as the public, by enhancing awareness of innovative research and accelerating its economic and societal impact, by helping to attract and retain faculty, and by providing job opportunities for its graduates. Such relationships, however, also may create real or apparent conflicts of financial interest and/or commitment. The University is committed to identifying and appropriately managing such conflicts to ensure the integrity of the research process, the unbiased and effective development of university IP, the protection of its students' ability to pursue their studies and research activities with appropriate independence and objectivity, and to support the appropriate entrepreneurial participation and external engagement of faculty and other research personnel.

The University and its faculty and staff have responsibilities to optimize technology transfer and successfully manage conflicts of interest and commitment. Guidelines for doing this are presented below.

University/CCTEC Responsibilities:

CCTEC is responsible for licensing Cornell IP to achieve the optimal fulfillment of the University's missions of research, education, and societal benefit, including the promotion of local and regional economic development. CCTEC is required to manage the licensing in a businesslike manner so as to obtain a fair return to the University for its investments in research, such as faculty salaries, facilities, and research cost sharing, and in technology transfer, and so as also to be able to provide shared benefit to the faculty/staff creators of the IP and the public. CCTEC licensing agreements may be exclusive or non-exclusive depending on what is most suitable for achieving technology transfer, promoting economic development, and providing societal benefit.

To promote local and regional economic development and/or to optimize transfer of the technology for societal benefit, CCTEC may give preferential consideration to a proposal to license technology to a faculty/staff start-up prior to offering the technology for licensing to other parties under the following conditions:

- There is an existing faculty/staff startup with a viable business plan, or if a faculty/staff member is contemplating a start-up and a written, viable business plan is provided to CCTEC within six months

Note: The Cornell Center for Technology Enterprise and Commercialization (CCTEC) has been renamed and is now the Center for Technology Licensing at Cornell University (CTL).

after a patent application has been filed on a technology that has been disclosed to CCTEC. The business plan must articulate the timeline and planned activities to develop the technology for specific market opportunities and identify the resources available to implement the commercialization of the technology in a competitive manner.

- After the six months time period has elapsed, preferential consideration will still be given to a proposal to license technology to a faculty/staff start-up upon provision of a written, viable business plan, provided that CCTEC's efforts to market the technology have not yet resulted in a license.
- The terms of the agreement are commercially reasonable.
(This preference for faculty/staff start-ups, particularly those based in the local region, does not apply to any technology developed with NIH support that is considered a "research tool" under the guidelines of the National Institutes of Health (http://www.grants.nih.gov/grants/intel-property_64FR72090.pdf) and hence must be made broadly available to the public.)

CCTEC may not negotiate directly with Cornell faculty/staff who are associated with a potential licensee of Cornell IP.

The Ithaca Financial Conflict of Interest Committee (FCOIC) or/and the Weill Cornell Medical College (WCMC) Conflicts Advisory Panel (CAP), depending upon the affiliation of the inventor(s), must review any actions or proposed plans of action that present a potential financial conflict of interest, and the faculty/staff member's Dean must review any actions or proposed plans of action that present a potential conflict of commitment, as described below.

When CCTEC determines that a Cornell-associated startup is a potentially appropriate licensee, the following steps must be taken promptly:

- CCTEC documents and submits its rationale for the licensing decision and the proposed licensing agreement to the FCOIC/CAP and to the faculty/staff member's unit head.
- The faculty/staff member reports the existence or the promise of any interest (equity, options, consulting fees, etc.) in the startup to CCTEC, and provides an amendment to his/her annual on-line report to the FCOIC/CAP describing relevant financial interests in and commitment to the startup.
- The FCOIC/CAP reviews the CCTEC documentation and determine whether the real or apparent conflict associated with the faculty/staff involvement with the start-up can be managed. If the conflict of interest is deemed manageable the FCOIC/CAP must develop a conflict management plan (CMP) within three months of receipt of the CCTEC documentation and faculty/staff report. If the FCOIC/CAP determines that the conflict cannot be managed, it must so inform CCTEC and the faculty/staff member within three months of receipt of CCTEC documentation and faculty/staff report. For the Ithaca campus conflicts of commitment are determined and managed by the Deans of the various colleges. The FCOIC will provide the faculty/staff member's Dean with the CCTEC documentation and faculty/staff report. If the Dean determines that a conflict of commitment exists, he/she must also inform the faculty/staff member, CCTEC, and the FCOIC within three months of receipt of the CCTEC documentation and faculty/staff report. CCTEC may proceed with licensing the technology once the management plan is signed by the faculty/staff member(s) and, if appropriate to the campus, the Dean documents his/her determination regarding any potential conflict of commitment.

Research funding and restricted gifts

- The University may accept sponsored research or restricted gifts from a company in which a faculty/staff member has an interest that are to be used at the direction or discretion of that faculty/staff member, but only with the approval of the FCOIC/CAP and a management plan to oversee the use of the funds, and only with a prior written agreement with the university

regarding the ownership and disposition of any intellectual property that may arise from the use of such funding.

Faculty/Staff Responsibilities:

Faculty and staff members must take special care to separate their university responsibilities for research and education from their engagement with and commitments to external entities (companies), including Cornell-associated startups, in which they hold a financial interest. Most conflicts of financial interest and commitment arising from faculty/staff involvement with a Cornell-associated startup can be successfully managed. The goal of the University and the faculty/staff should be to work collaboratively to develop an effective management plan that is transparent and protects the integrity of Cornell research, ensures compliance with applicable regulations and institutional policies, protects students' academic interests, fosters an open academic environment, and ensures the primary professional commitment of full-time faculty and staff to the university.

Faculty/staff must

- Separate and clearly distinguish the focus of ongoing university research and educational responsibilities from his/her involvement in any effort being conducted for the company.
- Limit consulting for the company to the maximum allowed by university and college policy.
- Preferably serve in advisory or consultative, rather than management, roles in companies. Full-time faculty may assume and retain managerial or executive roles or titles (e.g., CEO, CTO, CSO) in a startup that suggest or entail management responsibility but only when such roles or titles are specifically allowed in a CMP, which will also describe the circumstances under which such roles and/or titles must be ended, and have the signed approval of the faculty member's Dean; otherwise,
- Take an unpaid leave of absence when engaged in a management role at the company.

Faculty/staff may not

- Negotiate with the university on behalf of the company.
- Involve company personnel in Cornell research.
- Involve¹ university research staff or other university staff over whom the faculty/staff member has oversight or supervisory responsibility in professional activities at or for the company.
- Involve¹ students over whom a faculty/staff member currently has academic oversight responsibility in company activities. If a student asks to take a leave of absence or go *In Absentia* to participate in the company, the student must be referred to their department head or Dean for independent advice and review of the request. Student internships and coop assignments at the company may be appropriate with a FCOIC/CAP management plan.
- Assign students or Cornell staff over whom the faculty/staff member has any academic oversight or supervisory responsibility to sponsored projects funded by the company without the explicit approval of the FCOIC/CAP and a management plan to oversee the activities of the students/staff involved.
- Involve¹ junior faculty for whom a faculty member has supervisory responsibility, or has the authority to vote on tenure or otherwise provide assessment of performance, in company activities. Even if there is no supervisory role, faculty members must avoid situations in which junior faculty might feel expected to be involved.
- Use university facilities for company purposes, other than the routine use of the faculty/staff member's office and routine use of university library resources, without the written approval of the Senior Vice Provost for Research (Ithaca) or Senior Executive Vice Dean (WCMC) and, for Ithaca, also of the Dean of the college in which the resources are located, except under the conditions that are available to all commercial or industrial users.

- The company may utilize university facilities that are available for commercial or industrial users, e.g., shared research facilities, on the same basis and with the same fee structure that is offered to any other commercial entity.
- The company may occupy space in the McGovern Family Center for Venture Development in the Life Sciences if approved for occupancy through the process established by the McGovern Center Management and Advisory Council. Faculty may not negotiate or lobby for this approval on behalf of the company.
- Serve as PI/protocol director for human participant research that is related to the company's business activities or objectives, unless the rebuttable presumption for this prohibition is overcome and the CMP specifically addresses the conduct of such human participant research.
- Supervise faculty, staff, or students who are PI/protocol directors for human participant research related to the company's business activities or objectives unless the rebuttable presumption is overcome and the CMP specifically addresses the conduct of such human participant research.

For further information and specific guidance please contact your Office of Research Integrity and Assurance: www.oria.cornell.edu/COI/ (Ithaca) and http://www.med.cornell.edu/research/rea_com/ (Weill-Cornell Medical College).

¹ “Involve” for the purpose of these guidelines does not include, for example, Cornell research activities not sponsored by the company but under the direction of the faculty member that are in the same general areas as those of interest to the company, nor public discussions of the results of such research in the presence of company staff. “Involve” for purposes of these guidelines is defined as any activity associated with the company, including, but not limited to planning, performing duties, assessing or testing ideas/materials/other business-related items, providing representation or support of/for the company, discussing any aspect of company business, and performing any research directly or indirectly for the company, regardless of time, compensation, or location.