



Ohio Administrative Code

Rule 3335-13-07 Rules governing employee and student participation in companies commercializing intellectual property in which the university or a university affiliate has an interest.

Effective: December 14, 2022

(A) General information.

(1) In order to translate innovations into useful products and services, universities must engage with various outside entities in the commercialization process. Pursuant to section 3345.14 of the Revised Code, the university board of trustees has determined that the interests of the university will be served if employees, including faculty and staff, and students are afforded the opportunity to hold personal financial interests in university technology commercialization companies.

(2) This rule enables employees and students to realize the benefits of commercialization activities while protecting the integrity of the university's teaching, research, and creative expression.

(3) Employees and students are encouraged to make or create intellectual property with commercial potential; however, they shall do so with due regard to the broader teaching, research, and creative expression of the university and in compliance with applicable university policies and state and federal laws.

(B) Applicability and definitions.

(1) The university's interest in intellectual property made or created by its employees and students is determined in accordance with section 3345.14 of the Revised Code, federal law, and the university policy on intellectual property.

(2) This rule shall apply to all employees and students who have a financial or fiduciary interest in or with an entity to which the university or a university affiliate has or intends to assign, license, transfer, or sell its interest in intellectual property.

(3) A university technology commercialization company (UTCC) is an entity: (a) in which a



university employee or student has a financial interest or a fiduciary role, and (b) that has received or is expected to receive an assignment, license, or transfer of an interest in intellectual property of the university or a university affiliate.

(4) Financial interest includes any stock, bond, warrant, option, loan, or any other equity or debt interest in a UTCC, or promise of the same, as well as any paid consulting or employment with a UTCC. Amounts due to employees or students as proceeds distributable to creators pursuant to the university's intellectual property policy are excluded from the definition of financial interest for the purposes of this rule.

(5) Fiduciary role includes serving as an officer or board member of the entity or in any other decision-making role or other position of trust or authority with the entity.

(6) Participate in/participating in/participation in means having a financial interest in or fiduciary role with a UTCC.

(7) Employee refers to all faculty, staff, student employees, graduate associates, and post-doctoral researchers.

(C) Scope and relation to the Ohio ethics law.

(1) This rule creates an exception to sections 102.03 and 102.04 and sections 2921.42 and 2921.43 of the Revised Code (collectively, the "Ohio ethics laws"). Among other things, these laws prohibit public officials from having an interest in the profits or benefits of a public contract entered into by or for the use of the governmental unit with which the employee is connected, or from soliciting or accepting anything of value that is of such character as to manifest a substantial and improper influence upon the employee with respect to the performance of the employees duties.

(2) Compliance with this rule will provide an employee or student who acquires a financial interest in or a fiduciary role with a UTCC with an exemption from these and other potentially applicable provisions of the Ohio ethics laws.

(3) A failure to comply with this rule could result in a violation of the Ohio ethics laws, which may



involve criminal penalties.

(4) Employees and students whose financial and fiduciary interest in an organization is limited to owning less than five per cent equity in the company, may, but are not required to seek technology transfer oversight committee (TTOC) approval.

(D) Administration.

(1) Employees and students participating in UTCCs shall follow all applicable university policies.

(2) Employee and student participation in UTCCs must be approved by TTOC in order for this rule to apply.

(a) Approval of participation in a UTCC will require, at minimum:

(i) Documented pre-approval and disclosure of the employee's or student's outside work or relationship with the UTCC;

(ii) A conflict management plan addressing the employee's or student's proposed participation in the UTCC.

(b) Each agreement between the university and the UTCC, excluding any agreement between a university affiliate and the UTCC whereby its interest in intellectual property is assigned, licensed, transferred, or sold, requires written TTOC approval. At the discretion of the TTOC, institutional agreements that contemplate numerous university purchases may not require approval for each purchase under the agreement.

(3) Supervisors, tenure initiating unit heads, and unit leaders are responsible for monitoring employees' and students' compliance with all applicable university policies and conflict management plans.

(4) Employees and students who wish to participate in a UTCC shall not be involved with any negotiations between the company and the university or a university affiliate.



- (5) Supervisors, tenure initiating unit heads, or unit leaders must be actively involved in the development of the conflict management plan(s) relating to a UTCC.
- (6) If a supervisor, tenure initiating unit head, or unit leader has a financial interest or is otherwise participating in the UTCC, another administrator more senior to the conflicted individual must be appointed to perform the responsibilities of the supervisor, tenure initiating unit head, or unit leader.
- (7) If the TTOC determines that a transaction involving a UTCC is not in the best interest of the university, the transaction shall not be approved.
- (8) Employees and students may choose to not seek TTOC approval for their participation in a UTCC; however, the exception provided in paragraphs (C)(1) and (C)(2) of this rule will not apply without TTOC approval and their participation will be subject to applicable laws and university policies.
- (E) Responsibilities to the university.
- (1) Faculty should not allow their financial interests in a UTCC to adversely influence their teaching, or to interfere with their relationships with other faculty. In particular, research assignments for students should be based on the students' interests and academic development. While faculty are permitted by university policy and this rule to engage in authorized private business activities relating to their university positions, they continue to be responsible for the performance of all of their university teaching, research, and service obligations.
- (2) Staff may engage in activities relating to a UTCC during regularly assigned working hours only if they take approved leave or document flexible schedule arrangements with their supervisor. Staff may pursue only those research projects that will advance the missions of the university and the employing unit, without regard to the financial interests of individual employees, and that are authorized by their supervisor, tenure initiating unit head, or unit leader.
- (3) Student employees may not engage in activities relating to a UTCC during regularly assigned working hours.



(4) Faculty, staff, and students participating in a UTCC are to at all times clearly represent whether they are acting in their university or UTCC role when conducting professional activities.

(F) Conflict of interest management standards.

(1) University facilities, equipment and other resources may be used for the benefit of a UTCC pursuant only to a sponsored research agreement, facilities use agreement, or other appropriate contractual arrangement.

(2) The conflict management plan may describe the employees contemplated initial equity interest, debt participation, and/or fiduciary role in the UTCC and provide enforceable milestones for reduction of that interest, participation, and/or role.

(3) Faculty shall not allow their activities with UTCCs to consume a disproportionate amount of their professional attention. Faculty engaged in approved outside activities who are unable to perform all of their university responsibilities must reduce those outside activities or request a reduction of appointment or other approved leave in accordance with university policies. Faculty professional leave should be authorized in accordance with other university policies (e.g. faculty professional leave).

(4) Staff who are unable to perform all of their university duties because of activities in connection with UTCCs must reduce those outside activities or request a reduction of appointment or other approved leave in accordance with university policies.

(5) Research benefiting a UTCC may not be used to satisfy the criteria for a thesis or dissertation if the material is restricted from publication. Faculty must inform the student in writing of any such publication restriction prior to the start of the student's research.

(6) A student may not be employed by or participate in a UTCC in which a faculty member participates if the faculty member has a university supervisory, teaching, evaluation, advising, coaching, or counseling relationship with the student.



(7) Students may be employed by a UTCC, subject to the limitation set forth in paragraph (F)(5) of this rule.

(8) University regulatory review boards including, for example, the institutional review board and the institutional animal care and use committee, may be used for research benefiting a UTCC pursuant to a sponsored research agreement or another arrangement approved by the TTOC, and any other university policies.

(9) Employees may not be the principal investigator in sponsored research projects funded by UTCCs in which they participate if the projects involve approval by the institutional review board or if the projects include veterinary clinical trials involving the use of animals unless provided for by other university policies. For sponsored research not requiring institutional review board or institutional animal care and use committee oversight, faculty or staff may assume the role of principal investigator if a formal conflict management plan approved by the TTOC and the conflicts approval committee is in place.

(10) Agreements for sponsored research projects funded by UTCCs must include, at a minimum, a requirement for full university publication rights and full cost recovery, unless otherwise approved in writing by the vice president for research.

(11) Employees participating in UTCCs approved pursuant to this rule continue to be bound by the university's intellectual property policy and all other applicable university policies.

(12) New intellectual property made or created by faculty or staff who have received TTOC approval for their participation in a UTCC will be owned by the university or university affiliate, unless the TTOC determines otherwise in view of section 3345.14 of the Revised Code, federal law, and the university's intellectual property policy. New intellectual property made or created by faculty or staff who choose to not seek TTOC approval for their participation in a UTCC will be governed by state and federal law and the university's intellectual property policy and not this rule. New inventions and/or discoveries developed by the faculty, staff member or student for the company must be disclosed to the technology commercialization office as required by the university's intellectual property policy.