



Ohio Administrative Code

Rule 3342-10-05.1 Administrative policy regarding staff participation in companies commercializing institutional research.

Effective: October 15, 2016

(A) Purpose. Staff are encouraged to develop discoveries and inventions with commercial potential; however, they should do so with due regard to the broader teaching and research mission of the university. Staff should not allow their interest in a financial opportunity arising out of their research efforts to influence their teaching or research, or to interfere with the relationships with others in their department.

(B) Eligibility. University rules apply only to staff members and/or student employees who:

(1) Are specifically assigned to engage in research and development activities;

(2) Create intellectual property owned by the university; and

(3) Desire to hold an ownership interest in any firm, corporation, or other association to which the board of trustees has assigned, licensed, transferred, or sold the college or university's interests in discoveries or inventions made or created by that employee or in patents issued to that employee (hereinafter "company") commercializing their research.

(4) This policy serves as exceptions to the Ohio ethics law and related statutes (Chapter 102., sections 2921.42 and 2921.43 of the Revised Code), which might otherwise apply. Matters outside the scope of this chapter will be subject to such laws to the extent applicable.

(C) Responsibilities.

(1) Institutional responsibilities and personal financial interests. Staff members may pursue research projects as authorized by their supervisors. Supervisors must take extra care to monitor the entrepreneurial activities of their staff employees. They should authorize only those staff research projects that will advance the missions of the university and the employing unit, without regard to the financial interests of individual employees.



(2) Staff responsibilities. Staff members may not perform private business activities of any kind during institutional working hours. Staff who wish to perform activities for companies commercializing their institutional research shall do so on their own time. These activities must not interfere with the performance of any of the employee's institutional responsibilities and must be undertaken in accordance with rule 3342-6-23 of the Administrative Code and pursuant to a conflict of interest management plan between the staff member, company and university and approved by the vice provost and dean of research and graduate studies.

(3) Staff supervisors. Staff supervisors are responsible for ensuring that their employees participating in approved entrepreneurial activities continue to perform all of their institutional responsibilities. They are also responsible for enforcing rules 3342-03-07.1 and 3342-6-23 of the Administrative Code and for reviewing and making a recommendation as to the propriety of private business activities reported by staff in written disclosures required by that rule.

(D) Procedures and guidelines.

(1) Reporting business activities. Private business activities that may relate to a staff member's scope of employment shall be reported in writing to the vice president for research and sponsored programs.

(2) Determining applicability of guidelines. Decisions concerning the relationship between a staff member's private business activities and his or her scope of employment shall be made by the vice president for research and sponsored programs.

(3) Activities not related to research. Private business activities that are not subject to these rules because they are unrelated to a staff member's scope of employment are nevertheless subject to the policy on conflicts of interest and commitment, the policy on patents and copyrights and the rules of the employing unit.

(4) Approval process. Staff must obtain approval from the vice president for research and sponsored programs and a conflict of interest management plan must be in place before any business agreements related to their university research are finalized. Staff may not enter into any agreements



relating to commercialization of their research until final written approval from the vice president for research and sponsored programs is obtained.

(5) Annual review. Each year on the anniversary of the agreement, the vice president for research and sponsored programs in consultation with the staff supervisor will conduct an assessment of the employee performance under conflict of interest management plan.

(a) The staff supervisor will provide a written assessment of the employee's performance as outlined in the conflict of interest management plan.

(b) A review of the company's performance focused on the achievement of milestones including but not limited to the reduction of management responsibilities for the employee, the dilution of employee equity interests, patents filed, etc., will be a part of the annual assessment.

(c) At the discretion of the vice president for research and sponsored programs, a staff advisory committee may be convened to provide advice and counsel to the vice provost to assist in the assessment of the performance of the staff member to meet his/her obligations under the conflict of management plan.

(d) Failure to meet the goals outlined in the conflict of interest management plan will result in defined actions prescribed by the vice president for research and dean of graduate studies in consultation with the staff supervisor that may include but are not limited to revisions in the management plan, changes in the sponsored research or licensing agreements, or other remedies that ensure the staff meets their commitments to Kent state university.

(6) Agreements with start-up companies. Companies may not execute any agreements relating to the commercialization of a staff member's research until final written approval from the vice president for research and sponsored programs is obtained. While they may find it necessary to do so initially, staff members should not participate in the ongoing negotiation of option and licensing terms between the company and the vice president for research and sponsored programs. When available, third parties, such as company management and/or legal counsel shall perform this function.

A company wishing to obtain an exclusive license to the university technology may be required to



provide the vice president for research and sponsored programs with a viable business plan including, at a minimum, the following:

(a) A capitalization plan addressing the acquisition of additional capital and the equity dilution of the staff member's ownership interest;

(b) A proposed management team; and

(c) Milestones for capitalization, product development, and commercial sale.

(7) Use of university facilities. University facilities, equipment and other resources may be used to conduct research benefiting a company in which a staff member has an interest only pursuant to a sponsored research agreement, facilities use agreement or other appropriate contractual arrangement in accordance with rule 3342-3-08 of the Administrative Code and this rule.

(8) Management of start-up companies. Staff for a limited period of time may hold management positions in start-up companies commercializing their research. While they may initially find it necessary to play a management role in a newly formed company, it is expected that their management responsibilities will decrease as the company develops. Professional management should be brought in at the earliest opportunity. Agreements between the university and staff owned start-up companies should contain enforceable milestones for the reduction of these management responsibilities. Failure to comply with these agreed-upon milestones may result in the company's inability to engage in sponsored research, utilize student employees and the other commercialization agreements and/or activities allowed for under these guidelines.

(9) Management positions in existing companies. A staff member who acquires an interest in a previously established company that contracts with the university to commercialize his or her research should not serve as a director, officer or employee of that company.

(10) Leave to pursue private business activities. Staff who wish to perform management activities for newly formed companies commercializing their university research during university working hours may do so only if they take approved leave. Staff who are unable to perform all their institutional duties because of management responsibilities in their private companies are encouraged to consider



a reduction of appointment or other approved leave mechanism.

(11) Student research within the university. Graduate and undergraduate students may use university facilities, equipment and other resources to perform research benefiting a company in which a staff member has an interest only pursuant to a sponsored research agreement.

(12) Student employment with the company. Companies in which staff members hold an interest may employ students. Prior to such employment, the student, the staff member, the chair of the student's department, the chair of the graduate studies committee and the company must sign an agreement that clearly sets forth the roles, rights and responsibilities of the respective relationships.

(13) Contracts unrelated to technology development. Companies in which staff hold an interest may enter into agreements with the university unrelated to research or technology development for the purchase, sale or rental of equipment, supplies or services only to the extent not prohibited by Chapter 102., and sections 2921.42 and 2921.43 of the Revised Code.

(14) Investments by staff not involved with development of the technology. Staff who are not directly involved with research and development of technology licensed to a faculty or staff owned start-up company may hold equity interests in that company only to the extent not prohibited by Chapter 102., and sections 2321.32 and 2921.43 of the Revised Code.

(15) Regulatory review boards. University regulatory review boards including, for example, IRBs and animal care and use committees, may be utilized for research benefiting a company in which a staff member has an interest only pursuant to university policies.

(16) Limitation of equity ownership. While significant staff equity ownership may be inherent in a newly formed company, it is expected that their ownership interest, as a percentage of the total outstanding shares or membership interests of the company, will decrease as the company develops and attracts additional equity.

(a) Agreements between the university and staff owned start-up companies should contain enforceable milestones for the dilution of these equity interests.



(b) In most cases, the staff's ownership interest should decrease to no more than twenty-five per cent of the total equity of the company.

(c) Failure to comply with these agreed upon milestones may result in the company's inability to engage in sponsored research, employ students and the other commercialization agreements and/or activities allowed for under this chapter.

(17) Principal investigators. Staff may assume the role of principal investigator in sponsored research projects funded by companies in which they have an interest only pursuant to university policies.

(18) Intellectual property. Staff participating in start up companies approved pursuant to these guidelines continue to be bound by the university policy on patents and copyrights. New inventions and/or discoveries made as a result of a staff member's research efforts for the company, must be disclosed in writing to the vice president for research and sponsored programs. New inventions and/or discoveries developed by the staff member for the company will be owned by the university, unless the invention or discovery is wholly unrelated to the research responsibilities of the staff member.