

Name of Policy: Commercialization Policy Number: 3364-70-15 Approving Officer: President Responsible Agent: Vice President, Research and Innovation Scope: All University of Toledo campuses		 Effective date: September 15, 2023 Original effective date: May 28, 2009	
Keywords:			
	New policy	X	Minor/technical revision of existing policy
	Major revision of existing policy		Reaffirmation of existing policy

(A) Policy statement

- (1) Pursuant to section 3345.14 of the Revised Code, the University of Toledo (“UToledo”) board of trustees has determined that all UToledo employees should be afforded the opportunity to hold personal financial interests in companies commercializing technology developed in conjunction with their UToledo research and development activities. UToledo employees’ participation in technology licensing transactions will facilitate UToledo’s goal of making products of its research and development available for use in the private marketplace by providing an incentive for faculty and staff who develop inventions with commercial applications. The procedures and guidelines set forth in this policy are intended to enable UToledo to realize the benefits of these entrepreneurial activities while protecting the integrity of its research and educational mission and complying with its policies and applicable federal and state laws and regulations.
- (2) UToledo’s ownership of intellectual property rights in discoveries, inventions or patents created by its faculty and staff is determined in

accordance with section 3345.14 of the Revised Code and UToledo policy 3364-70-04 (patent policy).

(B) Purpose of policy

Provide a guideline for UToledo employees' entrepreneurial participation in the licensing, development, and commercialization of UToledo intellectual property.

(C) Definitions

- (1) "UToledo intellectual property" includes all creations, discoveries, inventions, or patents, which result from research or investigation conducted in any experiment station, bureau, laboratory, research facility, or other UToledo facility or other facility of any state college or university, or by any UToledo employee acting within the scope of their employment, or with funding, equipment, or infrastructure provided by or through UToledo or any other state college or university, pursuant to section 3345.14 of the Revised Code, as amended.
- (2) "UToledo entrepreneur" is any UToledo employee who:
 - (a) Creates intellectual property owned or partially owned by UToledo; and
 - (b) Desires to hold an ownership interest in a technology commercialization company, as defined in paragraph (C) (3) of this policy, that intends to commercialize UToledo intellectual property.

Note: Per section 3345.14 of the Revised Code, members of the board of trustees will be governed by Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code.

- (3) "Technology commercialization company" is a private or public commercial business that is owned in whole or in part by one or more UToledo entrepreneur(s) and whose purposes are development and commercialization of UToledo intellectual property.
- (4) "Business overview document" is a written paper, submitted by a UToledo entrepreneur, who is planning to establish a technology commercialization company, in which the UToledo entrepreneur provides a summary and

overview of the company's products and/or services, the markets for these products and/or services, and the research and product development strategies. The business overview document will include the management and organizational structure of the technology commercialization company, the specific UToledo intellectual property involved, the nature and extent of the UToledo entrepreneur's participation and management responsibilities, if any, and his/her expected financial arrangements with the technology commercialization company.

- (5) "Conflicts-of-interest management agreements" are written agreements prepared by UToledo and entered into by:
 - (a) UToledo and each UToledo entrepreneur to establish a conflicts-of-interest management plan defining how the UToledo entrepreneur will interact with the technology commercialization company in compliance with all UToledo policies while meeting the entrepreneur's UToledo responsibilities, obligations, and commitments; and
 - (b) UToledo and technology commercialization company to define the terms under which the technology commercialization company will interact with UToledo and UToledo entrepreneur(s) to ensure the highest ethical standards and compliance with all applicable laws, regulations, and UToledo policies.
- (6) "Conflict of interest review committee" is the UToledo body responsible for overseeing conflicts-of-interest management agreements and making written recommendations to the vice president, research and innovation.
- (7) "Conflicts-of-interest administrator" is the UToledo official responsible for assisting UToledo entrepreneurs in identifying, managing, and eliminating conflicts-of-interest and for facilitating the development of conflicts-of-interest management agreements for UToledo entrepreneurs participating in technology commercialization companies. When required or appropriate, the conflicts-of-interest administrator will seek formal recommendations from the conflicts-of-interest review committee regarding matters associated with those companies.
- (8) "Member of his/her family" means immediate family, including the individual UToledo entrepreneur's spouse or domestic partner, and dependent children.

- (9) "Vice president, research and innovation," or his/her designee, is the UToledo official who is responsible for approving conflicts-of-interest management agreements and related exceptions authorized under this policy for UToledo entrepreneurs involved in technology commercialization companies.

(D) Applicability

- (1) This policy applies to any UToledo faculty member, staff member, or administrator who desires to hold an ownership interest in a technology commercialization company.
- (2) This policy defines exceptions to Ohio ethics law and related statutes, Chapter 102. of the Revised Code, and sections 2921.42 and 2921.43 of the Revised Code, which might otherwise apply. Matters outside the scope of this policy will be subject to such laws to the extent applicable.

(E) Process

- (1) UToledo entrepreneurs who wish to participate in a technology commercialization company must first obtain approval from their deans, department chairs, or other appropriate supervisors. The conflicts-of-interest administrator will facilitate the execution of conflicts-of-interest management agreements, in consultation with the conflicts-of-interest review committee. A technology transfer representative will be responsible for negotiating the business terms of the transaction between the technology commercialization company and UToledo.
- (2) The UToledo entrepreneur's dean, department chair, or staff supervisor must actively participate in discussions with the conflicts-of-interest review committee regarding the individual's participation in the technology commercialization company and the implementation of the conflicts-of-interest management agreements. A dean, department chair, or staff supervisor, or other person in the reporting structure who has a financial interest in the technology commercialization company, whose member of his/her family has such a financial interest, or who is a co-participant with a UToledo employee in a technology commercialization company, may not oversee that activity. In such a situation, the president,

provost or their designee must appoint a disinterested administrator to perform the responsibilities of the dean, chair, or staff supervisor.

- (3) As a prerequisite to the granting of a license to UToledo intellectual property, university entrepreneurs who wish to procure an equity position in a technology commercialization company will provide the dean or staff supervisor, as appropriate, and a technology transfer representative with a business overview document. The dean will provide the business overview document to the appropriate department chair.
 - (4) UToledo entrepreneurs who wish to participate in a technology commercialization company may discuss initial company formation with technology transfer representatives; however, the technology commercialization company should retain its own representative for ongoing negotiations of option or licensing terms with UToledo. A third party, such as company management or legal counsel, should perform this function on behalf of the technology commercialization company.
 - (5) In recognition of UToledo's ownership of university intellectual property, UToledo will have the right, but not the obligation, to negotiate and obtain an equity interest in the technology commercialization company. Terms of such interest will be negotiated by a UToledo technology transfer representative. The disposition of any proceeds derived from the equity in a technology commercialization company will be in accordance with the terms and conditions of the license agreement between the technology commercialization company and UToledo, pursuant to UToledo policy 3364-70-13 (disposition of start-up equity).
- (F) Responsibilities of deans, department chairs, and staff supervisors
- (1) Deans and department chairs are responsible for ensuring faculty who participate in technology commercialization companies comply with this policy. Deans and department chairs are also responsible for ensuring compliance with university policy 3364-72-50 (faculty consulting) and policy 3364-70-01 (financial conflict of interest policy for sponsored programs) and for reviewing and making a recommendation as to the propriety of private business activities reported by their faculty in disclosure forms required by those policies.

- (2) Staff supervisors are responsible for ensuring staff who participate in technology commercialization companies comply with this policy. They are also responsible for ensuring compliance with university policies on conflicts-of-interest and work outside UToledo applicable to staff; for reviewing private business activities reported by staff in disclosure forms required by UToledo policies and making recommendations as to the propriety of such private business activities.

(G) Responsibility for UToledo duties

- (1) UToledo entrepreneurs are encouraged to develop discoveries and inventions with commercial potential. UToledo entrepreneurs may not allow their interest in a technology commercialization company to influence their positional responsibilities or to interfere with their relationships with other faculty, staff or students. In particular, assignments for students, including research assignments, must be based on the students' interest and academic development. UToledo entrepreneurs will respect and promote the cooperative nature of the academic environment by sharing information and participating in joint research efforts with their colleagues, as appropriate.
- (2) While faculty are permitted by university policy 3364-72-50 (faculty consulting) and this policy to engage in certain private business activities, they will continue to be responsible for all their UToledo teaching, research, and service obligations. Authorized private business activities must be undertaken in accordance with UToledo's consulting policies and conflicts-of-interest management agreements between UToledo entrepreneur and UToledo, and between the technology commercialization company and UToledo.
- (3) Staff members may not engage in activities relating to a technology commercialization company during regularly assigned working hours unless they take approved leave to engage in those activities. When performed outside regularly assigned working hours, the activities must comply with UToledo policies and a formal conflicts-of-interest management agreement among the staff member, the technology commercialization company, and UToledo.

- (4) Staff members may pursue research projects as authorized by their supervisors. Supervisors will authorize only those staff research projects that will advance the missions of UToledo and the employing unit without regard to the financial interests of individual employees.

(H) Conflicts-of-interest standards

- (1) UToledo entrepreneurs may not use UToledo facilities, equipment, and other resources for research benefiting a technology commercialization company, except when such use is pursuant to a sponsored research agreement, facilities use agreement, or other appropriate contractual arrangement between UToledo and the technology commercialization company.
- (2) As a general rule, UToledo entrepreneurs should not hold management positions in technology commercialization companies. 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 technology commercialization company develops. Professional management should be brought in at the earliest opportunity. To ensure the application of this principle, agreements between UToledo and a technology commercialization company will contain reasonable milestones for the reduction of these management responsibilities. Failure to comply with these agreed-upon milestones may result in the technology commercialization company's inability to engage in sponsored research with UToledo, utilize UToledo staff or students, or any other activities permitted under these guidelines.
- (3) UToledo entrepreneurs should not allow their management activities with technology commercialization companies to consume a disproportionate amount of their professional attention.
 - (a) Faculty who are unable to perform all their UToledo responsibilities because of activities in connection with a technology commercialization company must reduce the amount of activity at the technology commercialization company, request a reduction of their appointment, or request a leave of absence. Professional improvement (sabbatical) leave authorized under section 3345.28 of the Revised Code may not be used for private business purposes.

- (b) Staff members who are unable to perform all their UToledo duties because of activities in connection with technology commercialization companies must reduce those activities, request a reduction of appointment or request a leave of absence.
- (4) Students should be informed in writing of any restriction that their involvement in research related to the technology commercialization company may impose upon them (e.g. confidentiality requirements that may negatively impact or delay public disclosure of their research results, the loss of inventor rights, etc.) prior to the start of technology commercialization company-related research.
- (5) Students may be employed by a technology commercialization company, subject to the limitations set forth in paragraph (H)(6) of this policy. Prior to such employment, the student, the student's faculty advisor, the chair of the student's department, the dean of the college of graduate studies (if the student is a graduate student), the provost, and a representative of the technology commercialization company must sign an agreement disclosing the student's rights and obligations. A template student disclosure agreement will be attached to the conflicts-of-interest management agreement.
- (6) A student may not be employed by a technology commercialization company in which a faculty member has an ownership interest if:
 - (a) The student is enrolled in a course taught by the faculty member, or
 - (b) The faculty member is a member of the student's thesis or dissertation committee, or
 - (c) The faculty member is the student's advisor or the director of his or her thesis or dissertation research.
- (7) Technology commercialization companies may not enter into any agreements with UToledo for the purchase, sale or rental of equipment, supplies or services other than those explicitly recommended by the vice president, research and innovation and approved by the president, as required.
- (8) As a general rule, UToledo employees who are not directly involved with research and development of UToledo intellectual property that is licensed to a technology commercialization company, may hold equity interests in

that technology commercialization company, but only to the extent allowed by relevant sections, including, but not limited to, Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code.

- (9) UToledo regulatory review boards, including, but not limited to, the institutional review board "IRB" and the institutional animal care and use committee "IACUC," may be utilized for research benefiting a technology commercialization company only pursuant to a sponsored research agreement between UToledo and the technology commercialization company and then only for work performed in UToledo facilities by UToledo faculty, staff or students.
- (10) As a general rule, a UToledo entrepreneur should not hold more than twenty-five per cent of the outstanding equity in a technology commercialization company. While significant university entrepreneur equity ownership may be inherent in a newly formed technology commercialization company, it is expected that those ownership interests, as a percentage of the total outstanding shares or membership interests of the company, will decrease as the company develops and attracts additional equity. To ensure the observance of this principle, agreements between UToledo and the technology commercialization company will contain reasonable milestones for the dilution of these equity interests. Failure to comply with these agreed-upon milestones will result in the technology commercialization company's inability to engage in sponsored research, utilize UToledo faculty, staff, or students, and/or any other activities allowed for under this policy.
- (11) UToledo entrepreneurs may not serve as principal investigator or project director for sponsored research awarded to UToledo by technology commercialization companies in which they have an interest if the projects involve human subjects. For projects that do not involve human subjects, UToledo entrepreneurs may serve as principal investigator or project director only if the following requirements are satisfied:
 - (a) Fully executed formal conflicts-of-interest management agreements as defined in this policy; and
 - (b) Approval by the conflicts-of-interest review committee; and
 - (c) Approval by the Vice President, Research and Innovation.
- (12) UToledo agreements for sponsored research projects funded by technology commercialization companies are required to contain the usual

and customary terms utilized by UToledo when contracting with other companies for similar activities. These agreements must include, at a minimum, a requirement for full publication rights, UToledo rights to own or use data, and payment of facilities and administrative cost at UToledo's on-campus research rate negotiated with the federal government. The vice president, research and innovation may approve any exceptions to these conditions.

- (13) UToledo entrepreneurs participating in technology commercialization companies approved pursuant to this policy will continue to be bound by all UToledo policies, including UToledo policy 3364-70-04 (patent policy). New inventions and/or discoveries made as a result of research efforts of UToledo employees for the technology commercialization company, including those made under formal consulting agreements will be owned by UToledo. The technology commercialization company may be offered an exclusive option to license the technology. New inventions and/or discoveries developed by UToledo employees for the technology commercialization company must be disclosed to a technology transfer representative as required by UToledo policy 3364-70-04 (patent policy).

Approved by: Grace Bochenek, Ph.D. <i>Vice President, Research and Innovation</i> Date: Review/revision completed by: <i>Vice President, Research and Innovation</i> <i>Associate Vice President, Technology Transfer</i>	Policies superseded by this policy: <i>None</i> Original effective date: <i>May 28, 2009</i> Review/revision date: <i>April 1, 2011</i> <i>December 10, 2012</i> <i>February 21, 2017</i> <i>March 16, 2020</i> <i>September 15, 2023</i> <i>September 12, 2026</i> Next review date: <i>September 15, 2029</i>
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