**Principles Underlying Conflict of Interest (COI) and Conflict of Commitment (COC) Decisions for Cornell Entrepreneurs**
(Draft of January 4, 2023)

## Introduction:

Cornell University is committed to fostering entrepreneurship among faculty and students by encouraging new company startups and enabling commercial use of technologies developed at Cornell through technology licensing. These activities are well aligned with Cornell's vision of being a global top-ten research university and its Land Grant mission. At the same time, however, such entrepreneurial activities present the possibility of bias in research, conflict of interest (COI), and/or conflict of commitment (COC), and these, if not handled properly, can threaten the integrity of research activity and the University's status as a recognized charitable educational organization.

This document is focused on providing guidelines for Cornell researchers and entrepreneurs in starting companies while identifying and elevating potential conflicts. Mitigation of bias and undue influence in other situations involving consulting for, owning financial interests in, and other engagements with industry and outside entities is handled in accordance with applicable Cornell policies and processes that must be followed by all Cornell researchers[1,2,3].

## Biases and Conflicts:

Bias is any tendency that prevents unprejudiced consideration of a question. For example, bias can be due to a real or perceived conflict of interest (COI) and can arise when a Cornell investigator has a financial interest in a startup company involving their Cornell related research. Such potential conflicts, between the financial and research interests of the investigator, must be managed properly to avoid bias or any appearance of influence or bias in research. The appearance of bias, even if not actually present, can damage the public research record by reducing the public trust in the reliability of published results.

A common way bias appears in research is when a PI exercises influence over subordinates to advance the interests of a startup company. Exercise of bias in this manner is called undue influence and must be avoided so that the integrity of the research record is not called into question. Undue influence can occur in a variety of situations. For the purpose of avoiding COIs in Cornell related research, we define *undue influence* as the use of the authority or the influence that a researcher has over staff, post-docs, students, or other subordinate members of their research team to gain unfair advantage or unfair benefit. These may include circumstances resulting in deleterious impacts to another team member, the university, or the public research record. Another type of conflict, called conflict of commitment (COC), can occur when an external commitment of a researcher interferes with their primary obligations to Cornell.

## Conflict Management and CMPs:

The Office of Research Integrity and Assurance (ORIA) works with researchers to establish Conflict Management Plans (CMPs) that appropriately address potential conflicts and the prospect of bias. The CMP sets forth obligations and actions that serve to reduce, mitigate, or eliminate actual, potential, or perceived conflicts of interest. In rare instances, a conflict may be unmanageable (meaning the conflict is not susceptible to effective management measures) and the investigator will be required to either decline participation in either the startup company, or the Cornell research, or alternatively, the investigator may make changes to their activities in a manner that eliminates the conflict or renders it manageable.

[1] See https://researchservices.cornell.edu/compliance/conflict-of-interest
[2] See https://researchservices.cornell.edu/forms/faculty-consulting-contract-addendum
[3] Contact the COI office at coi@cornell.edu with any questions

Appropriate management of entrepreneurial activities is a key component of an effective COI program, and is it based on the following fundamental requirements:

- Faculty must not exert undue influence over students and staff under their supervision
- Cornell facilities and resources must not be used improperly[4]
- Cornell IP ownership must not be compromised[5]
- Cornell's not-for-profit status must not be jeopardized; and
- Public and sponsor trust in Cornell research must not be undermined

To protect the integrity of the public research record and the interests of the University, the Financial Conflicts of Interest (FCOI) Committee[6] and staff are charged with managing Conflicts of Interest (COI) and Conflicts of Commitment (COC). Within the limitations of this charge, the Committee and staff work to avoid compromising faculty and student aspirations to startup companies as much as possible. It is also the Committee's responsibility to protect faculty, staff, students, and startup companies against conflicts with pre-existing duties and commitments to Cornell. As a result, COI and COC issues related to faculty and research staff, or student ownership of, and participation in, commercial ventures, constitute a large proportion of the FCOI Committee's work.

Successful COI and COC management requires that all parties take an active role in the process. Specifically:

- Entrepreneurs must contemporaneously report changes in circumstances that implicate bias or the potential for undue influence preferably in advance of the anticipated change in circumstances.
- COI staff must implement a Conflict Management Plan (CMP) whenever required.
- CMPs must be reviewed and updated whenever opportunities for influence are introduced.
- The FCOI Committee must make decisions about whether a CMP is needed, and therefore, they must have access to the respective roles of startup company employees, and the respective board members and advisors.
- In order to appropriately manage CMPs related to companies in Cornell incubators, the Director of the incubator will have a role in the CMPs regarding relevant communications with the Conflict Manager and COI staff but will not enforce or manage CMPs.

## Guidelines for Cornell Entrepreneurs:

To ensure transparency and timely resolution of COI and COC issues related to entrepreneurship, the FCOI Committee provides the following guidelines for adhering to the fundamental requirements.

1. **Avoiding undue influence.** As stated above, when a Cornell startup company is also involved in Cornell research, the possibility exists for real or perceived undue influence over students, staff, postdocs, and others. This influence can be to the detriment of the person influenced as well as the underlying research. Any member of the Cornell community possessing a financial interest (e.g., equity) in the company has the potential to exert such influence over peers or those under their supervision, even if they do not have an official position with the company. Students are especially susceptible to undue influence due to the consequences of performance evaluation. Postdocs are

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[4] https://policy.cornell.edu/policy-library/personal-and-private-activity-using-university-property-and-facilities
[5] https://policy.cornell.edu/policy-library/inventions-and-related-property-rights
[6] For information about the FCOI Committee, see https://researchservices.cornell.edu/resources/financial-conflict-interest-committee

susceptible as well, but perhaps to a lesser degree, as they have somewhat more control over their career than do students. To prevent undue influence, or a reasonable perception of undue influence:

- Graduate students and their supervising faculty members are prohibited from jointly founding a company, or working together in a company until the students have graduated.
- Postdocs and their faculty advisor may only work together in a startup company in which either has or plans to have an equity stake, for a period of no more than one year. And the postdoc may be required to reduce their Cornell appointment to account for the time spent at the company.

2. **Reporting COI/COC events and CMP updates.** Actual, and equally important, perceived COI and COC may take different forms at different stages in the evolution of a company from technology discovery to product commercialization.
   - Once notified, COI staff will review and determine whether a CMP[7] is needed at this stage. If the company is unrelated to the faculty member's Cornell research or the purpose of founding the company is solely to apply for SBIR or STTR[8] grants and no other work is planned until such a grant is obtained, then a CMP may not be necessary. However, a CMP is required if postdocs supervised by the founders are involved in a company in any way.
   - The CMP must be reviewed and updated whenever circumstances implicating bias or undue influence change. It is ***not*** acceptable to wait for the required annual review to make significant updates. It is the responsibility of the faculty or staff member to notify the COI staff of a change in circumstance, preferably in advance of its onset, but no more than 30 days after the COI event. Circumstances requiring (preferably advance) review of circumstances and an applicable CMP include, but are not limited to:
     - Founding a company. Founding a company is an event which changes the COI status of the founding member(s) and must be reported to the COI office[9]. It is not acceptable to simply update the COI report annually.
     - When a Cornell license agreement is to be negotiated with the startup.
     - When a startup, in which a Cornell researcher has an equity interest, applies to enter a Cornell incubator, the researcher has an obligation to notify COI staff in writing and have their CMP reviewed.
     - When faculty or a research staff member goes on a leave of absence to work at the subject company.
     - When a faculty member returns from such a leave of absence.
     - When a PI has equity in a startup and a person supervised by that PI intends to enter into a relationship with the startup, or an employee of the startup intends to enter Cornell under the PI's supervision.
     - When the startup proposes to fund work or research at Cornell, directly or through a subcontract from a sponsor.
     - On occasion, faculty founders of a startup want to give the startup access to equipment in that founder's lab. These uses implicate Private Use and potentially compromise Cornell's tax-exempt status. Such uses must, therefore, be reconciled with Policy 4.19 and approved by the Vice President for Research and Innovation (VPRI) in consultation with the Office of General Counsel.

[7] Template Conflict Management Plan

[8] For more information about special considerations regarding SBIR and STTR grants, see Guidance for SBIR/STTR Projects

[9] Contact the COI office at coi@cornell.edu.

3. **Company Leadership and Leaves of Absence.** In some cases, activity a faculty member pursues can be incompatible with their primary employment obligations to Cornell.
    - Faculty may serve as consultant, advisor, or a member of the Scientific Advisory Board at a company as part of their permitted one day per week external activity conducted outside the course and scope of their assigned Cornell responsibilities. As with all external activities, faculty must continue to satisfy their pre-existing employment obligations to Cornell. Faculty cannot serve as President, CEO, or in any other fiduciary role (e.g., COO, CSO, CTO) at a startup without taking a leave of absence to do so, except in relation to the initial stages of the company's formation.
    - Faculty may serve on the Board of Directors at a company, only if the following conditions are met:
        - A. A Conflict Management Plan (CMP) is put in place that meets the following requirements:
            - i. The time spent in the discharge of duties as a Board member will be within the Cornell consulting allowance.
            - ii. Board member roles in which faculty are performing executive duties, regardless of title, will not be allowed.
            - iii. The faculty member cannot negotiate with Cornell on behalf of the company or influence Cornell or its faculty to advance the interest of the company.
        - B. A full disclosure, including a copy of the contract or other agreement defining the Board role, will be required from the faculty member regarding their responsibilities as a Board member so that condition A can be enforced effectively.
        - C. The Financial Conflict of Interest Committee (FCOIC) approves the CMP and Board appointment.

4. **Access to Startup Information**. To make informed decisions, the FCOI Committee will, in some cases, need to understand the roles of startup company's employees and members of the boards of directors and advisors. The University does not require access to sensitive company business or technical information, but it does require sufficient information to make appropriately informed decisions related to the COI and COC issues presented, and to secure company and researcher affirmation regarding the subject conflicts identified.

5. **Company Personnel.** Early-stage startups often desire access to equipment in (faculty) founders' labs and may sometimes desire to work in the faculty founder's lab. Such uses implicate Cornell's tax-exempt status and must be reconciled with Policy 4.19 and approved by the VPRI in consultation with the Office of General Counsel[10].

6. **Incubators.** For companies in a Cornell incubator, Incubator Directors are generally aware of situations involving conflict management. Although it may not be necessary for the Director to be privy to the full contents of the CMP, the Director will be associated with the CMP in a manner that allows for the Director to know when the CMP is approved or changed. The Director will also need enough information to enable the communication of comments and observations to the Conflict Manager and COI staff. Specific details will be populated on a case-by-case basis.

[10] https://policy.cornell.edu/policy-library/personal-and-private-activity-using-university-property-and-facilities

Adherence to these guidelines will significantly reduce the time and effort required to identify and manage COI and COC issues that arise in entrepreneurship within the Cornell community.