

FCOI Guidance on Principles Underlying Conflict of Interest (COI) and Conflict of Commitment (COC)

Decisions for Cornell Entrepreneurs

Guidelines for Cornell researchers and entrepreneurs in starting companies while identifying and elevating potential conflicts.

Cornell University is committed to fostering entrepreneurship among researchers 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.

[Contact the COI Office](#) if you have questions.

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 Cornell Key Personnel, defined as any individual who participates in the design, purpose, conduct, or reporting of research, has a financial interest in a startup company involving their Cornell related research. Such potential conflicts, between the financial and research interests of the Key Personnel, 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 Key Personnel exercise 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.

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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 Key Personnel will be required to either decline participation in either the startup company, or the Cornell research, or alternatively, the Key Personnel may make changes to their activities in a manner that eliminates the conflict or renders it manageable.

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

- Key Personnel must not exert undue influence over students and staff under their supervision.
- Key Personnel with a responsibility to, or possibility of financial gain from, a company must not bias their research or other decisions made at Cornell to favor the company.
- [Cornell facilities and resources must not be used improperly](#)
- [Cornell IP ownership must not be compromised](#)
- 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](#) 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 researchers' aspirations to startup companies as much as possible. It is also the Committee's responsibility to protect Key Personnel, and startup companies against conflicts with pre-existing duties and commitments to Cornell. As a result, COI and COC issues related to Key Personnel 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.

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- 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.

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 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. The postdoc may be required to reduce their Cornell appointment to account for the time spent at the company.

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 is needed](#) at this stage. If the company is unrelated to the Key Personnel's Cornell research or the purpose of founding the company is solely to apply for SBIR or STTR grants and no other work is

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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 the 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 Key Personnel 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](#). 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 Key Personnel go on a leave of absence to work at the subject company.
- When Key Personnel return from such a leave of absence.
- When a Key Personnel has equity in a startup and a person supervised by that Key Personnel intends to enter into a relationship with the startup, or an employee of the startup intends to enter Cornell under the Key Personnel's supervision.
- When the startup proposes to fund work or research at Cornell, directly or through a subcontract from a sponsor.
- On occasion, Key Personnel who are 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.

Company Leadership and Leaves of Absence

There is an initial stage in the formation of a company where it is unreasonable to prevent Key Personnel from taking a leadership role in the company as this would unreasonably limit the likelihood of success of the company. However, some external activities of Key Personnel can be incompatible with their primary employment obligations to Cornell.

- Key Personnel may serve as consultant, advisor, or a member of the Scientific Advisory Board at a company as permitted by their appointment (for faculty, this means one day per

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week of external activity). As with all external activities, Key Personnel must continue to satisfy their pre-existing employment obligations to Cornell. Key Personnel 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. An exception may be approved by the FCOIC in the case of an early-stage company. A company is unlikely to be considered early stage if it:

- a. Has employees, or;
 - b. Has sales of products or services, or;
 - c. Has received total funding or expenditures greater than \$500,000, or;
 - d. Has been in existence for two years or more.
- Key Personnel may serve on the Board of Directors of an early-stage company with the approval of the COI Office. Key Personnel may serve on the Board of Directors at a company that is not considered early-stage, only if the following conditions are met:
 - A Conflict Management Plan (CMP) is put in place that meets the following requirements:
 - (1) The time spent in the discharge of duties as a Board member will be within the Cornell consulting allowance.
 - (2) Board member roles in which Key Personnel are performing executive duties, regardless of title, will not be allowed.
 - (3) The Key Personnel cannot negotiate with Cornell on behalf of the company or influence Cornell or its faculty to advance the interests of the company.
 - A full disclosure, including a copy of the contract or other agreement defining the Board role, will be required from the Key Personnel regarding their responsibilities as a Board member so that a CMP can be enforced effectively.
 - Key Personnel must include the [Contract Addendum](#), signed and acceptable to Cornell, in their contract with the company to ensure that no clauses contained in the contract conflict with any pre-existing primary employment obligations to Cornell, or those obligations and attestations owed to the federal funding agencies and the U.S. government.
 - The Financial Conflict of Interest Committee (FCOIC) approves the CMP and Board appointment.

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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.

Company Personnel

Early-stage startups often desire access to equipment in founders' labs and may sometimes desire to work in the 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.

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.

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.