

SUMMARY

UNIVERSITY RULES AND REGULATIONS REGARDING FACULTY STARTUPS

Many faculty members create startups in order to participate in commercializing their inventions. While there is no UNM Policy on Faculty Startups, there are many university policies that govern faculty startups. This memo outlines the most significant ones.

Under the UNM Intellectual Property Policy, faculty inventions within the scope of employment are owned by the University.¹ The University is contractually obligated to assign them to STC, which decides whether to commercialize them. If STC commercializes an invention, the faculty member gets forty percent of the net proceeds. If STC decides not to commercialize an invention, the University releases the invention back to the faculty member, who then gets upwards of eighty percent.

If STC keeps the invention, its charge is to move the technology into the market and to maximize revenues. Sometimes that means that it will decide to license the invention to a faculty startup. Other times, it will license the invention to some independent company: either a startup or an established company.

If you are planning a startup in order to commercialize your invention, you will need to work with STC and attempt to convince STC that your commercialization plan is optimum. STC will generally want evidence of business expertise, access to capital, and market connections. You will need to negotiate with STC over royalties and commercialization milestone agreements.

Devoting time to your startup is the equivalent of outside employment for purposes of UNM's Policy concerning Outside Employment. That policy provides that a full time faculty member's primary responsibility is to the University. Outside employment must be secondary. It is deemed excessive when it interferes with the faculty member's obligations to the University. At most, outside work may not exceed the equivalent of one work day per week during your contract period, or 39 days for a nine month contract, including weekends. See Regents Policy Manual, Policy 5.5, and the Faculty Handbook.

You may generally not use University resources in your work on your startup. In particular, you may not use UNM facilities, equipment, staff, or students available to you by virtue of being a faculty member. You may, in some circumstances, be able to

¹ For a more detailed description of UNM's rights to faculty inventions, see the Intellectual Property Policy at <http://www.unm.edu/~counsel/pao/index.htm>.

enter into a separate contract, arranged through the head of the appropriate department, to pay the University for facilities or equipment. Because of the potential conflict of interest, the contract would have to be reviewed and approved by the controller, your dean, and higher-level university officials. This generally takes several months.

It is rarely appropriate to have your own students or post-docs participating with you in your startup. If you are in an evaluative or mentorship relationship with your students, you should not mix that with a professional business or employment relationship. These concerns do not apply when hiring students who have graduated or post-docs who have left UNM.

Your outside work with your startup must be disclosed to your department. The Policy Concerning Outside Employment requires you to inform your Chair about the “nature and extent” of your outside commitments. Your Chair will need to report to your Dean certain information, who will in turn report to the Provost the number of days you work outside of your faculty job. Additionally, if you want to keep any inventions you create in your outside work, you will first need the prior written approval of your chair and dean. Forms are available for this purpose at http://www.unm.edu/~counsel/pao/patent_admin.html.

Finally, be aware that any outside work can create a conflict of interest with your UNM research. Conflicts of interest are not considered to be wrongdoing. Nevertheless, having an outside interest that is related to any of your sponsored research will require you submit a formal disclosure to the Conflicts of Interest Committee, and work with that Committee to manage the conflict. See the Policy on Conflicts of Interest in Research at http://www.unm.edu/~ors/pdf_files/unm_forms/COI_Policy.pdf.

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