

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
GUIDELINES ON POLICY FOR USE OF UNIVERSITY RESOURCES IN
SUPPORT OF ENTREPRENEURIAL ACTIVITIES

Introduction

This document provides guidance to faculty and administrators on activities allowed under the [*Policy for Use of University Resources in Support of Entrepreneurial Activities*](#). However, deans, chairs, directors and supervisors must ultimately determine how their units' resources are utilized consistent with State and University policy, including deciding whether available resources, particularly staff time, can support these activities without infringing on their units' primary missions.

I. Personal Use Associated with “Entrepreneurial Activities.”

In most situations, State and University policy strictly regulate the use of University resources for personal reasons by University employees. (See attached Appendix for summary of basic University provisions regarding personal use of University resources.) The *Policy for Use of University Resources in Support of Entrepreneurial Activities* (http://research.unc.edu/red/university_resources_policy.php) creates exceptions to the general limitation on use of University resources for personal purposes. That Policy recognizes that

“[c]onsistent with the University’s goal to support the economic development of the State of North Carolina, entrepreneurial activities of University faculty are considered part of their duties. Faculty use of university resources in support of appropriate entrepreneurial activities may be allowed provided these activities do not conflict with applicable policies regarding use of public facilities for private gain. Incidental and minimal use of office, library, machine shop, personal desktop work stations, storage servers, communication devices, or clerical staff is permitted.

In analyzing whether proposed use of University resources is appropriate under the Policy, one must first determine that the activity meets the policy definition of “entrepreneurial activity.” First, the proposed use can *only* be made by members of the faculty. SPA and EPA Non-Faculty employees may only make personal use of University resources as allowed under the guidelines discussed in the Appendix. Second, such activities must “contribute to the university’s economic development, technology transfer or other public service goals.” Thus, a proposed use that advances only the interests of a faculty or staff member or of a non-University entity with which he or she is associated without any concurrent benefit to the University would not qualify as a University entrepreneurial activity. In such cases, the Policy prohibits use of University resources in support of such activities “except as otherwise allowed by University policy,” and as

explained in the Appendix. Finally, the proposed use should be generally consistent with and of a nature similar to the examples included in the Policy, which are:

- Early stage activities associated with forming a nonprofit organization focused on health care, environmental or educational issues or with a startup company in which the university expects to acquire an equity position through licensing intellectual property.
- Activities in support of the development of a licensing agreement with an established company.

Early stage activities associated with forming a company to which the University expects to license intellectual property *without* acquiring equity in the company also qualify as “entrepreneurial activities”.

II. Frequently Asked Questions.

The following questions and answers are intended to provide general guidance to faculty and administrators. Applying the Policy to specific fact situations will at times require the exercise of discretion by the faculty member and his or her supervisor. Advice and counsel should be sought from the University Conflicts of Interest Officer or the Office of University Counsel when questions arise.

1. What use of University resources may a faculty member make in connection with the early stage activities of a business founded to acquire rights in intellectual property the faculty member has helped create as a University employee?

Answer: If the business is a start-up company in which the university expects to acquire an equity position or negotiate another form of licensing relationship, the faculty member’s activities constitute recognized entrepreneurial activities. University resources may be used as follows:

Communications: Use of office telephones, cell phones or PDAs, fax machines and personal computers is appropriate under this policy.

However, faculty members storing email and files related to entrepreneurial activities on University computers and servers should bear in mind that such records could be subject to disclosure under the North Carolina Public Records Act. That Act requires disclosure, on demand, of records (including electronic records) “made or received pursuant to law or ordinance in connection with the transaction of public business by any agency (including its employees) of the State of North Carolina,” unless a recognized exception allows the record to be withheld. (N.C. General Statutes §§ 132-1, 132-6.)

Library services: May be used for research, but costs of article retrieval should not be charged to a University account.

Other services: University machine shops may be used to fabricate prototypes of inventions under consideration for licensure, provided such use is not inconsistent with funding restrictions. Following execution of a license, University machine shops and other recharge centers should not be used in conjunction with company activities except as provided by contract between the University and the company.

Web sites: It is appropriate for faculty to list their entrepreneurial activities on their campus web profiles, and to include links to the associated company web sites if they wish. Web content describing company products, services or events may be accessible through these links, but may not be posted on University pages.

Office and meeting spaces: Faculty may use their campus offices and conference rooms not reserved for other University activities for occasional meetings with other scientific founders and members of the company's management or scientific teams.

Administrative staff: Faculty may engage support staff in scheduling the faculty member's time, reserving meeting rooms, and processing fax, post and express mail correspondence. Support staff should not be asked to make arrangements or handle reimbursements for company travel or hospitality. University staff may not provide administrative support to company employees or non-University members of the management team.

Travel: Faculty travel on behalf of the company should be arranged and paid for by the faculty member or the company. However, where the faculty member is traveling on University business and participates in company activities on the same trip, he or she is responsible only for those additional arrangements and expenses specifically related to company activities.

2. What use of University resources may a faculty member make in connection with the activities of a start-up company *after* the University has completed licensure of University intellectual property to the company?

Answer: It is always appropriate for faculty inventors to meet in their offices with licensee company management or scientific personnel. Where the University has licensed technology to a company and owns a prototype of the licensed technology, with departmental approval faculty may allow demonstrations of the technology in a University facility to current or prospective company personnel, or potential company investors or customers. Such meetings or demonstrations are considered to be part of the process of the transfer of technology to a licensee company. Any such meetings or demonstrations that may involve interpretation or potential revision of the business terms of the University's license with the Company should be vetted in advance with the Office of Technology Development, which may wish to participate in the meeting.

Following execution of a license, once the company has hired independent management and acquired office or laboratory space, faculty use of University resources other than their offices in connection with company activities should be limited to those activities allowed under the guidelines set out in the [Personal Use Policy](#). (See Appendix.) Such is the case because the Policy allows use of University resources in support of early stage activities to develop companies advancing the University's objectives in technology transfer and economic development. As those companies mature and establish independent operations, reliance on University resources should be curtailed to that allowed by the guidelines set out in the Appendix.

3. May a faculty member involve non-clerical supervisees, students or trainees in supporting his or her entrepreneurial activities?

Answer: Generally no. The Policy only allows use of clerical employees to support entrepreneurial activities, and such use should be limited to scheduling calls and appointments, processing correspondence, and the like. Involvement by a faculty member of supervisee research faculty, technical, administrative or research staff, or trainees at any level in support of faculty entrepreneurial activities is inappropriate, unless such persons are co-inventors of the University technology to be licensed, are co-founders of the company, or are assigned to work with the company as part of a formal academic curriculum (e.g. a Kenan Institute internship).

Technical staff, research faculty and trainees may participate in research activities sponsored by the company or studying the company's technology as part of a research support agreement executed by the Office of Sponsored Research, subject to approval and management by the appropriate School Conflict of Interest Committee.

4. How may research faculty, staff and trainees work with the company directly?

Answer: Employment of University research faculty, technical, administrative or research staff, or trainees at any level by companies in which the faculty member to whom they report have a personal interest complicates the University reporting relationship and is highly susceptible to appearance of conflict of interest or even coercion. Such employment relationships should be avoided. Where an employee has unique relevant expertise, employment with the company may be allowed provided the required Notice of Intent to Engage in External Professional Activities for Pay (for EPA personnel) or Secondary Employment Notification Form (for SPA personnel) is approved by an official higher in the reporting line than the conflicted faculty member. Employment for trainees may be allowed only if approved by both the student's Director of Graduate Studies/Program Director and the corresponding School Conflict of Interest Committee/monitoring committee.

5. May a faculty member allow a company to which the University proposes to license intellectual property or has licensed intellectual property to use University office or laboratory space assigned to the faculty member?

Answer: No. The *Policy for Use of University Resources in Support of Entrepreneurial Activities* allows limited use of University facilities and resources by faculty members in support of entrepreneurial activities. The Policy does not permit other entities to occupy or use University resources or facilities. Such activities may only be undertaken as allowed under the University Facilities Use Policy and related policies and procedures. Time-limited use of University facilities and resources by a non-University entity may be allowed under some circumstances, including but not limited to approval by department and School/College leadership and the University Space Use Committee, fair market consideration for use of the space, and with a contract negotiated by the Office of University Counsel. Persons wishing to propose such an arrangement should contact the Office of University Counsel for assistance.

6. How does the Policy apply to federal SBIR or STTR awards where the company will subcontract part of the award to the University for the faculty member to conduct research here?

Answer: These programs call for especially close collaboration between the University and the company, but the same policies apply. As explained above, University policy does not permit other entities to occupy University facilities except through an approved Facilities Use Agreement. Otherwise, only the activities defined and funded by the subcontract may be performed using University resources.

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Appendix: Basic University Policy Provisions on Personal Use of University Resources.

Permissible use of University resources for personal use is limited to (1) use of resources that are freely available to the public, and (2) minimal and incidental use of such resources. In the latter case, the University Personal Use Policy provides that

- The cost to the University must be negligible.
- The use must not interfere with the employee's obligation to carry out University duties in a timely and effective manner.
- The use must in no way undermine use of University resources and services for official purposes.
- The use may not express or imply sponsorship or endorsement by the University.
- The use must be consistent with state and federal laws regarding obscenity, libel, or the like, and state and federal laws and University policies, including policies regulating political activity, the marketing of products or services, or other inappropriate activities.
- Users should be aware that internal or external audit or other needs may require examination of uses of University resources and should not expect such uses to be free from inspection.

(University Personal Use Policy, Business Manual, Accounting Services Section, Policy 26, <http://www.unc.edu/finance/busman/act/actpol26.html> .)

Of particular concern is the use of students or supervised employees in conjunction with private activities. It has long been the University's position that it is inappropriate for faculty to involve students, SPA employees or EPA Non-faculty employees in consulting activities, including those with University start-up companies, allowed under the Policy on External Professional Activities for Pay. Involvement of students in such activities poses substantial concerns under the University Policy on Conflicts of Interest and Commitment. Use of employees to, for example, obtain clerical assistance, also raises conflict of interest concerns as well as potential Wage and Hour law complications. Moreover, regardless of intent, such involvement may be perceived as coercive by the supervisee.