

Best practices for faculty start-ups

Faculty-associated start-up companies* (“Start-ups”) are both opportunities and challenges for Stanford. Stanford has had a long history of entrepreneurial activity by faculty, staff, students and alumni and the University is, in general, supportive of its entrepreneurs. On the other hand, Stanford is an institution of public trust, with education and research as its mission, and a requirement to maintain openness in research. Therefore, entrepreneurial activity must be balanced by careful review of the proposed relationships, which may or may not be allowed, and which may require active management to assure openness in research, academic freedom for trainees and clear understanding about how conflicts of interest are to be managed and intellectual property.

Stanford is committed to avoiding either perceived or actual conflict of interest issues with respect to faculty start-ups. Both Stanford and faculty have responsibilities to optimize technology transfer and mitigate COI when licensing Stanford IP to a faculty start-up is considered.

University/OTL Responsibilities.

Make licensing decisions based on OTL’s professional judgment about technology transfer to achieve the best possible benefit to the public, without undue influence from internal or external parties.

To determine the most effective way to transfer the technology:

- OTL “markets” all Stanford technology to ensure fair and open access to potential licensees
 - Faculty start-ups should not receive or be perceived as receiving preferential treatment.
- Stanford faculty/employees are not allowed to represent the potential licensee and must not negotiate directly with OTL.
- The faculty’s School Dean and the Dean of Research must review any actions that present a potential conflict of interest
 - If OTL, after thorough marketing, determines that a faculty-affiliated company is the appropriate licensee, OTL documents its marketing and rationale for its licensing decision
 - The faculty must disclose to the Deans any interest (consulting fees and/or options) in the start-up
 - The faculty must agree to separate University responsibilities from company responsibilities according to the criteria listed under Faculty Responsibilities
 - If the conflict is deemed manageable by the Deans based on this agreement with the involved faculty, OTL may proceed with the licensing.
- OTL licensing agreements may be exclusive or non-exclusive depending on what is most suitable for achieving technology transfer

Faculty Responsibilities.

Separate University duties for research and education from personal financial interests in the company.

Faculty must

- Separate and clearly distinguish on-going University research from work being conducted at the company
- Limit consulting for the company to a maximum of 13 days a quarter, per University policy
- Serve only in advisory or consultative roles at the company
 - Do not take managerial roles or titles (i.e. CTO) suggesting management responsibility
- Take a leave of absence if engaging in a management role

* Faculty-Associated Start-up is defined as a company where the original intellectual property originates with the faculty, where the faculty is a founder and has a significant equity position in the company, and often has an influential role in determining the direction of the company.

Faculty must not

- Negotiate with the University on behalf of the company
- Receive gifts or sponsored research from the company
- Involve research staff or other University staff in activities at the company;
 - Company personnel cannot be affiliated with the University
- Involve company personnel in Stanford research
- Involve current students in company activities
 - If a student asks to take a leave of absence to participate in the company, refer the student to the School Dean for review of the request and independent advice
- Involve junior faculty in company activities for whom you have supervisory responsibility
 - Even if no supervisory role, avoid situations in which junior faculty might feel expected to be involved
- Use University facilities for company purposes
- Undertake human subjects research at the University as PI/protocol director
- Supervise faculty who are PI/protocol directors for human subjects research related to the company

“Pipelining”. Many times, the faculty member wishes to continue to do research at Stanford in the area of interest to their Start-up. Stanford is particularly concerned that University resources will be used to benefit the company, particularly new companies that do not have their own facilities or many employees (i.e., the “virtual” company.) Stanford should not be the research or development arm of a Start-up. Therefore, new follow-on or improvement inventions developed after the original dominating technology has been licensed to the Start-up will still be marketed to all potentially interested parties and exclusive licenses will not always be granted to the Start-up, even if there is no other interest. In cases where the original technology “dominates” the subsequent developments, sometimes a nonexclusive license will suffice. If, in the interest of effective technology transfer, it is reasonable to grant an exclusive license to the follow-on technology, the exclusivity may be mitigated by a shorter term of exclusivity, limited field of use, increased diligence, etc., subject to conflict of interest review and approval.

Option and License Agreements to faculty start-ups:

Faculty-inventors are expected to wind down on-going research in the particular area that is going to be commercialized by the faculty-inventor’s start-up. COI offices will also review this with inventors, and it will become part of the record.

An option agreement is often used to “reserve” rights in a technology so that the company can begin exploring funding opportunities in order to actually acquire the rights in question. A start-up company sometimes prefers to take an option to a license, rather than an outright license itself. OTL may grant options for any time period up to one year in duration, most often in 6-month increments. Inventors are required to stop initiating new work on the technology at Stanford (that is, using university resources) when the technology is either licensed to a company or has been optioned to a company. Subject to conflict of interest review, the final separation between a company and Stanford may take up to 12 months to be determined on a case by case basis. Since it may take several months to wind-down ongoing research, it is important that inventors plan accordingly and begin the wind-down of the Stanford activities before either the licensing or optioning takes place.

It’s important for inventors to understand that this policy covering options and licenses is intended to enable inventors to succeed in translating their technologies into use without jeopardizing the mission or funding status of Stanford University. Stanford has a rich history of translating inventions, and these practices are designed to build on that strong base.