Criteria for Acceptance of Sponsored Activities Agreements with Disclosure Restrictions

In its role as an educational and research institution, Dartmouth seeks to contribute knowledge to the world. The results of its sponsored activities should, therefore, be accessible to the public and be disseminated on a non-discriminatory basis. With few exceptions outlined below, Dartmouth will not undertake sponsored studies when results from such studies cannot be freely disseminated.

Paramount to any consideration of restrictions on the disclosure of results from sponsored studies is the finding that any such restrictions are consistent with the College’s institutional mission of education and research. Sponsored agreements shall not restrict the involvement of faculty, staff and students in projects; in accordance with College policy, principal investigators shall select participants based on scholarly and professional criteria alone.

Notwithstanding the above, the College may undertake sponsored projects with restrictions as described in Section 1. Sponsored activities with restrictions beyond those described in Section 1 may be accepted in rare cases and under compelling and extraordinary circumstances as described in Section 2.

1. The following types of restrictions are generally permissible and any one or more of them may be accepted without Review Committee (vide infra) approval following appropriate oversight (e.g., by the Office of Sponsored Projects or the Office of Entrepreneurship & Technology Transfer) with respect to a particular project:

   a. The College agrees not to disclose confidential patient data, or other confidential information concerning identifiable human subjects.

   b. The College agrees to delay publication of a manuscript or other public presentation of study results for a period not to exceed 90 days from the provision of a draft of the manuscript or other public presentation to the sponsor (or a prospective licensee) solely for the purpose of affording the sponsor or prospective licensee an opportunity to take the steps necessary to obtain patent rights with respect to any inventions described in the manuscript or presentation. Such agreement may not give the reviewing party the right to edit or otherwise modify the manuscript or presentation. Moreover, irrespective of any comments or other response of the reviewing party, the College or applicable faculty member has the right to freely disseminate information following the expiration of the agreed upon review period.

   c. With respect to (i) proprietary information owned by the sponsor not consisting of work generated by Dartmouth faculty or students or (ii) sponsor-provided information of a “background” nature, i.e., its disclosure is not essential to the description or replication of the study, which
information is made available to Dartmouth investigators pursuant to a non-disclosure obligation, the sponsor is given the opportunity, for a period not to exceed 90 days prior to public disclosure, to review a draft manuscript or other public presentation of the study results solely for the purpose of determining whether it contains any such restricted information. If the sponsor fails to notify Dartmouth within the agreed upon review period that any information contained therein constitutes restricted information, the College or the applicable faculty member has the right to freely disseminate all information contained in the manuscript/presentation. If the sponsor notifies Dartmouth within the agreed upon review period that the information in the manuscript/presentation contains restricted information, such restricted information shall be removed from the manuscript/presentation.

2. Sponsored projects containing disclosure restrictions that do not satisfy the criteria set forth in Section 1 may occasionally be recommended to the Provost by the Review Committee for exemption from the nondisclosure prohibitions if, taking into account the countervailing concern described in Section 3, the committee finds that, based upon the considerations outlined below, this exemption is justified:

a. Compelling public policy reasons (e.g., national security or public health and safety) warrant the nondisclosure restriction.

b. The nondisclosure restrictions are “narrowly tailored” so as to extend no further than necessary to address legitimate policy concerns.

c. The principal investigator’s College-based sponsored activities consist predominantly of efforts directed primarily to publication in the open literature.

d. The interests of students, postdoctoral scholars and other trainees will be protected. They will not be required to participate in any project involving disclosure restrictions, and will not be allowed to participate in any such project for their thesis research or other activities necessary to fulfill academic requirements.

3. If the project is expected to involve technology that is subject to restrictions under U.S. export control regulations, consideration should be given as to whether acceptance of disclosure restrictions would require prohibition or restriction of participation by foreign nationals in such project.

4. The Review Committee shall consist of the Council on Sponsored Activities (CSA), or when there is need for an expedited review, a subcommittee of the CSA. Following recommendation from the review committee, decisions made by the Provost with respect to whether an exemption may be granted are final.