

DARTMOUTH

Use of Dartmouth Resources for Company Activities

Dartmouth community members need advance written approval for the use of Dartmouth resources¹ for outside activities involving companies (referred to here as “company activities”).²

This Policy seeks to inform faculty, staff and students regarding limitations and processes surrounding the use of Dartmouth resources for company activities. It is intended to help navigate existing policies and to avoid legal and other difficulties primarily in areas where company and university activities intersect.

I. Background

Dartmouth community members (faculty members, students, postdocs and staff) increasingly have personal, financial, or professional relationships with companies, often related to the commercialization of research-based discoveries. Dartmouth views the transfer of ideas, understandings and technologies that result from research conducted at Dartmouth as having the potential to benefit society significantly. Accordingly, Dartmouth is inclined to support relationships with companies, provided they are consistent with community members’ primary commitments to Dartmouth, the institutional priorities of higher education and research, and obligations under law.

Legal restrictions — including those stemming from Dartmouth’s status as a non-profit, tax-exempt organization and from limitations related to financing of resources by tax-exempt bonds and federal grants, among others— limit the use of Dartmouth facilities for company activities. In addition, conflicts of interest may arise.

Please note that company activities may also be governed by limitations under other policies, such as those described in the applicable Faculty³ or Student Handbooks, and the Dartmouth Employment Policies and Procedures Manual.

II. Use of Dartmouth Resources⁴

Dartmouth resources may not be used for company activities unless written approval by the responsible Dean or the Provost in is obtained in advance. Any such use is considered a

¹ Dartmouth resources include, but are not limited to, personnel, space, equipment, supplies and core facilities.

² The main purpose of this Policy is to address matters of financial compliance, conflict of interest and other issues that primarily arise in relation to commercial/for-profit activities. However, this Policy may also be applied to outside activities at Dartmouth that are not (or not primarily) commercial in nature but raise similar concerns.

³ For example, a faculty member’s commitment to a start-up venture is considered an outside consulting activity and thus must conform to the applicable limits with respect to such activity.

⁴ For clarity, research conducted at Dartmouth under a Sponsored Research Agreement does not constitute the use of Dartmouth resources for company activities such that this section would apply.

privilege and will only be permitted for compelling reasons that do not conflict with Dartmouth's primary mission as an institution of research and higher education and applicable law.⁵

Any planned company activity using Dartmouth resources should be discussed early in the process with the Department Chair or supervisor, who should initiate discussions with the Offices of the Dean and Provost.

III. Approval Process

Use of Dartmouth resources for company activities for the duration of up to one year requires advance written approval by each responsible Dean.⁶ The Dean(s) may extend this approval once for up to one additional year. Use of Dartmouth resources, if planned from the beginning for the duration of more than one year, always requires advance written approval by the Provost. No approval or extension will be issued by the Dean(s) or Provost unless the proposed company activity has been found eligible for approval by the Office of the Vice Provost, as outlined below.

Any significant changes in company activities, whether proposed or already approved and ongoing, must be approved in writing by the Dean(s) or the Provost (whoever is or was responsible for issuing approval), following these procedures. Unanticipated changes must be reported without delay and may lead to suspension of the activity.

The applicable form provided by the Office of the Vice Provost for Research should be filled out and submitted to the responsible Dean's Office or the Provost's Office as soon as possible and in no case later than 90 days in advance of the proposed start date for the use of the applicable resources.

Before the Responsible Dean(s) or the Provost approve a company activity, they shall notify the Vice Provost for Research. The Office of the Vice Provost for Research will consult with all necessary stakeholders within Dartmouth⁷ to determine whether the proposed use of Dartmouth resources is eligible for approval. If the activity involves the use of space or resources located in buildings that were financed by tax-exempt bonds, the Controller's Office will be consulted. Following consultation with all necessary stakeholders, the Office of the Vice Provost for Research will inform the Dean(s) or Provost whether the proposed company activity is eligible for approval. If it is not eligible, the Dean(s) or Provost will inform the applicant that the proposed activity is not approved. If it is eligible, the final decision whether or not to approve a planned company activity rests with the responsible Dean(s) or the Provost.

Any use of Dartmouth resources for company activities will be subject to a formal agreement including, but not limited to, provisions on conflict of interest, treatment of developed

⁵ Continued good faith compliance efforts are of utmost importance to the goals of this policy; past compliance history will be considered in the approval process.

⁶ References to the Dean or Provost include the Dean's or Provost's designee, as applicable.

⁷ Including but not limited to the Office of the Vice President for Finance and Administration, the Office of Sponsored Projects, the Technology Transfer Office, and the Research Compliance Officer/Conflict of Interest Committee, as required.

intellectual property, liability and indemnification, and personnel safety. Fair market value (FMV) will have to be established and represents the minimum cost that will be paid to Dartmouth for the use of the applicable resources.

Company activities in shared spaces require cooperation with the school/entity with which the space is being shared, and adherence to Dartmouth policies, if applicable, with respect to the type of activity contemplated (e.g. environmental health and safety, bio-radiation, etc.).

Depending on the nature of the proposed company activities, several Dartmouth policies may apply.⁸ Special care needs to be taken to comply with the terms of Dartmouth's Policy on Patents, Copyrights, and other Intellectual Property Rights (the "Intellectual Property Policy"),⁹ Conflict of Interest Policy¹⁰ and all other applicable policies. Ownership of Intellectual Property developed by a faculty member, student or staff member while engaged in company activities using Dartmouth resources will be determined in accordance with Dartmouth's Intellectual Property Policy and U.S. Patent Law. The Dartmouth Principal Investigator or liaison is responsible for educating/informing all personnel involved in company activities about Dartmouth policies and procedures on a regular basis.

IV. Conflict of Interest Concerns

Conflicts of interest (COIs) are often inherent in collaborations between Dartmouth and companies in which a Dartmouth community member has a Significant Financial Interest (SFI).¹¹ In particular, COIs easily arise when a Dartmouth community member with an SFI in a company engages simultaneously in the company and the Dartmouth side of research which is related to company interests.

According to Dartmouth policy it is each investigator's responsibility to submit an annual COI disclosure in a timely fashion through the Dartmouth COI online disclosure system, to disclose fully any and all equity interests in non-publicly traded entities, such as start-up companies, as well as to disclose any other financial interests meeting the disclosure threshold for SFIs. Equity interests in non-publicly traded entities, even if worth nothing or of unknown value, must be disclosed.

The Dartmouth Conflict of Interest Committee (COIC) will determine whether a COI is present and whether COI management is warranted. If this is the case, the COIC will establish a COI management plan.

V. Other Related Matters

⁸ <https://www.dartmouth.edu/~osp/resources/policies/>

⁹ <https://www.tto.dartmouth.edu/dartmouth-intellectual-property-pol>

¹⁰ <http://www.dartmouth.edu/~osp/resources/policies/dartmouth/cofinterest.html>

¹¹ For definitions and guidance see Dartmouth Conflict of Interest Policy
<http://www.dartmouth.edu/~osp/resources/policies/dartmouth/cofinterest.html>

Involvement of graduate students or postdocs in activities relating to a faculty member's company requires advance approval by the applicable Dean's Office and the Department or Program Chair and the Dean of the Guarini School of Graduate and Advanced Studies, as applicable. Approval by the Faculty Advisor or Chair of the Major Department is required for involvement of undergraduate students. Special care needs to be taken always to protect the education and academic progress of a student or postdoc. Conflicts of interest need to be avoided or managed adequately by the Department and the Conflict of Interest Committee.

Facilities such as the Dartmouth Library (and all its resources) may only be used for company activities under the same terms as they are available to the general public. If Dartmouth approves the use of facilities such as the IACUC or the IRB for a company activity, the established rate for outside users will be charged. The same applies for institutional services provided by the Office of Environmental Health and Safety related to radiation safety and biosafety and any other applicable services. Use of computing services will be negotiated as part of the formal agreement.

Any purchase (or other transaction) involving Dartmouth funds from a company in connection with which a Dartmouth community member has an SFI, requires prior approval by the responsible Dean. Purchases involving funds awarded to Dartmouth through a grant or contract additionally require the approval of the Director of OSP or her/his designee.

If necessary to address compliance concerns related to a company activity in Dartmouth space or using Dartmouth resources, Dartmouth (or an agreed-upon 3rd party) may review books and records of the company pertinent to the activity. Such a review will be conducted confidentially and under reasonable conditions. Pursuit of activities under this Policy indicates acceptance of this condition.

Dartmouth departments responsible for managing activities in spaces either adjacent to or co-located with companies should implement procedures to safeguard assets owned by Dartmouth or sponsors. It must be assured that grant and institutional funds are not utilized in any way to support company activities unless adequate controls are in place to assure reimbursement of funds supporting those activities. Principal Investigators of Dartmouth grants are key stakeholders in both addressing and managing these issues, as they are responsible for certifying labor verification and other reports associated with external funds.

VI. Effectiveness of Policy, Amendments and Dispute Resolution

This Policy is effective as of July 1, 2019 and replaces the Memorandum on Start-Up Company Activities in Dartmouth College Space issued in April of 2004. This Policy may be revoked or amended by Dartmouth, in whole or in part, from time to time, via the Provost (or his or her designee), who is authorized to make revocations or amendments on behalf of Dartmouth. Any such revocation or amendment shall become effective upon adoption by the Provost or his or her designee, or as of such other time as such person shall specify and will be reflected in the current version of the Policy posted July 1, 2019. Questions or disputes regarding the application, interpretation or implementation of this Policy shall be resolved by the Provost or his or her designee; the decision of such person on the matter shall be binding on Dartmouth and all individuals subject to this Policy.