

## 17.01.06 New Venture Formation and Related Investment

Approved May 1, 2019  
Next Scheduled Review: May 1, 2029



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### Regulation Summary

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This regulation enables the commercialization of intellectual property through new ventures and defines the process by which The Texas A&M University System (system) and its members will be able to receive a return on investment of system and member resources.

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### Definitions

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### Regulation

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#### 1. GENERAL

- 1.1 Following disclosure, evaluation and protection of intellectual property, the system or members, through Texas A&M Technology Commercialization (TTC), may elect to form and operate a business entity, assist with the formation and operation of a business entity, or enter into a new venture with another party for the purpose of developing and/or commercializing intellectual property owned by the system or in which the system has an interest. The formation and operation of such a business entity must be approved by the chancellor or designee through a process defined by the System Office of General Counsel (OGC).
- 1.2 If monetary or non-monetary support is exchanged in part or in whole for equity of an entity that is commercializing intellectual property owned by the system or in which the system has an interest, the exchange of equity must comply with System Policy *17.01, Intellectual Property Management and Commercialization*, its regulations, and Texas Education Code, Chapter 153. All equity will be owned and held by the system. If one or more members provide monetary or non-monetary support for the exchange of equity in such entity, the equity related to the member(s)'s investment will be held by the system for the benefit of those members. Equity received by the system or for the benefit of a member(s) in exchange for monetary or non-monetary support to such entity will not be subject to distribution of funds in System Regulation *17.01.04, Distribution of Royalties, License Fees and Sale Proceeds from Licensing*.

## 2. ASSISTANCE PROGRAMS

- 2.1 As described by Texas Education Code, Chapter 153, TTC may operate programs to provide assistance to individual persons and companies in commercializing intellectual property owned wholly or in part by the system or in which the system has an interest or contractual obligation, including individuals covered by this regulation. Assistance may include providing monetary support or non-monetary support, including the use of premises, computers, computer software, telecommunications terminal equipment, office equipment and supplies, machinery, custodial services, utilities or other services that are customarily treated as overhead expenses.
- 2.2 TTC may contract with outside counsel to provide services to assist with the formation of a company or to review and prepare documents associated with a venture whose purpose is to develop and commercialize system intellectual property with the consent of the member chief executive officer (CEO) and OGC and, as required by law, the attorney general of the state of Texas. Outside counsel contracts are subject to System Regulation 09.04.01, *Legal Counsel and Attorney General Opinion Requests*.

## 3. ENTITY FORMATION

- 3.1 TTC, in coordination with the relevant member(s) and with approval from the CEO(s) of the relevant member(s), and the respective member commercialization office, if applicable, is responsible for determining the organizational structure and the financing strategy, executing a license agreement subject to the guidelines set forth in this regulation between the entity and the system, and other activities related to entity formation, such as selection of a CEO, other entity officers and members of the governing board or authority. The system will obligate the entity to comply with applicable laws, regulations and system requirements.
- 3.2 If monetary or non-monetary support is exchanged in part or in whole for equity, the exchange of equity requires the following steps be taken to ensure compliance:
  - (a) Due diligence approval, in accordance with the process defined by OGC.
  - (b) TTC will obtain and provide to OGC and the appropriate member CEO annual financial disclosures from all of its employees who serve, at the request of the system, as a member of the governing board of business entities that have agreements with the system relating to the research, development, licensing or exploitation of intellectual property in which the system has an ownership interest. All employees subject to this Section 3.2(b) must provide such annual financial disclosure.
  - (c) Members and the respective member commercialization office or TTC will promptly disclose to OGC and appropriate member CEO information revealing the existence of a potential or actual conflict of interest regarding employees listed in Section 3.2(b). OGC will review the information provided and report to the chancellor, appropriate member CEO, TTC, and the respective member commercialization office the status of its review and recommendations for resolving any potential or actual conflicts. OGC's recommendations must be implemented to the satisfaction of the chancellor.

#### 4. TECHNOLOGY COMMERCIALIZATION VENTURE FUNDS

The chancellor or designee may establish one or more new venture funds for technology commercialization of system intellectual property.

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### **Related Statutes, Policies or Requirements**

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[Tex. Educ. Code Ch. 153](#)

[System Policy 07.01, Ethics](#)

[System Policy 07.03, Conflicts of Interest, Dual Office Holding and Political Activities](#)

[System Regulation 09.04.01, Legal Counsel and Attorney General Opinion Requests](#)

[System Regulation 15.01.03, Financial Conflicts of Interest in Sponsored Research](#)

[System Policy 17.01, Intellectual Property Management and Commercialization](#)

[System Regulation 17.01.04, Distribution of Royalties, License Fees and Sale Proceeds from Licensing](#)

[System Policy 22.02, System Investment](#)

[System Policy 31.05, External Employment and Expert Witness](#)

[System Policy 33.03, Nepotism](#)

[System Policy 33.04, Use of System Resources](#)

[System Regulation 33.04.01, Use of System Resources for External Employment](#)

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### **Member Rule Requirements**

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A rule is not required to supplement this regulation.

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### **Contact Office**

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