

Joint Venture Policy

Effective Date:	March 2, 2017
Supersedes:	Joint Venture Policy - November 19, 2015
Policy Review Date:	One year
Issuing Authority:	Research Foundation President
Responsible Party:	Vice President of Industry and External Affairs
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Reason for Policy

In furtherance of its mission to support The State University of New York ("SUNY"), the Research Foundation for the State University of New York ("RF") will occasionally participate in Joint Ventures with external partners. These relationships can put the RF's tax-exempt status at risk if not structured properly.

The purpose of this policy is to establish parameters to protect campus administration and the RF's tax-exempt status when the RF participates in Joint Ventures. This policy describes common Joint Venture transactions, the critical factors to consider when evaluating entry into Joint Venture transactions, who has authority to approve Joint Ventures of the various types, and how Joint Ventures must be structured when the RF is a party.

Statement of Policy

For the RF to participate in a Joint Venture, the Joint Venture must be structured in such a way as to mitigate any risk posed to the RF's tax-exempt status. The following describes typical Joint Venture transactions and the protocols for their execution:

I. Joint Ventures Furthering The RF's Tax Exempt Purposes

Except as provided in Section II below, the RF should only engage in Joint Ventures, such as strategic alliances with industry partners, where the activity to be pursued through the Joint Venture is substantially related to, and in furtherance of, the RF's Exempt Purpose. Additional guidance to assist campuses with assessing the consistency of a specific activity or objective with the RF's tax-exempt mission can be found in the [Joint Venture Guidelines](#). Unless the particular activity to be pursued is clearly in furtherance of, and substantially related to, the RF's tax-exempt purpose, a campus must contact the Director of New Ventures who will coordinate to ensure that the subject activity is reviewed by the appropriate parties for compliance with the RF's tax-exempt purpose.

Joint Ventures that further the RF's tax-exempt purposes may be structured in a variety of different ways, including:

- a. Contractual. Contractual arrangements with industry partners are the most common form of Joint Venture utilized by the RF to fulfill its mission. Campus Operations Managers and their delegates should contact the Director of New Ventures before engaging in any industry contracts which may fall within the definition of Joint Venture provided herein.
- b. For-Profit Entity. Creation of for-profit Joint Ventures (whether structured as a "C" corporation or as a pass-through entity, such as a partnership or a limited liability company ("LLC") that has chosen to be taxed as a partnership), requires the approval of the RF President, followed by approval of the Board of Directors. Specific requirements for each type of corporate structure may be found in the Joint Venture Guidelines.

II. Joint Ventures that Further Charitable Purposes Apart from the RF's Exempt Purpose

In certain circumstances, SUNY may request that the RF act as a founding member with another entity (typically, a campus affiliated organization) of a separate, independent corporation which is tax-exempt under Internal Revenue Code ("Code") Section 501(c) (an "Affiliated Corporation") where the activities to be pursued further charitable objectives, but only tangentially further the RF's Exempt Purposes. Creation of any such Affiliated Corporation requires the approval of the RF Board of Directors as prescribed by the RF's [Affiliated Corporations Policy](#).

Campuses considering other transactions or engagements with start-up companies or any other equity opportunities should contact the Director of New Ventures in the Office of Innovation and Partnerships as early as possible in the planning stage, and must contact the Director of New Ventures before signing any Joint Venture agreements. Joint Ventures not falling into one or more of the transaction types described in this policy require the submission of a Campus Research Initiative Plan to the Office of Innovation and Partnerships and the review of the Office of General Counsel, Finance Office and Compliance Office as needed.

Situations in which the RF receives Equity in Lieu of Payment ("EILP") pursuant to a License Agreement or Incubator Program arrangement are not subject to this Policy and instead are governed by the RF's Equity Administration Policy.

Responsibilities

The following table outlines the responsibilities for compliance with this Policy:

Responsible Party	Responsibility
Operations Manager	Submission of proposed Joint Ventures, including Contractual Joint Ventures, to RF Central Office as required under this policy Submission of equity-generating transactions to the Director of New Ventures, Office of Innovation and Partnerships
RF General Counsel	Providing legal advice regarding, and conducting legal review of, proposed Joint Ventures
RF President	Approval of the creation of new Joint Ventures – both for profit and not-for-profit
RF Board of Directors	Approval of the creation of new Joint Ventures – both for profit and not-for-profit
Office of Innovation and Partnerships	Policy oversight Joint Venture establishment and oversight following approval Transaction modeling and support for Joint Venture development

Definitions

Joint Venture – For purposes of this policy, a Joint Venture means any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific business enterprise, investment, or exempt-purpose activity without regard to: (1) whether the RF controls the venture or arrangement; (2) the legal structure of the venture or arrangement; or (3) whether the venture or arrangement is taxed as a partnership or as an association or corporation for federal income tax purposes. This definition is intended to mirror that definition used for purposes of IRS Form 990, Part VI, Section B, Line 16. Should the definition of a joint venture change for these purposes, this definition is modified accordingly.

Equity in Lieu of Payment ("ELIP") - equity in a third-party company in an amount of no greater than a twenty percent (20%) ownership interest in the subject entity which was acquired by the RF through its support of innovation objectives pursuant to a License Agreement or through the Incubator Programs and the subject EILP was obtained pursuant to the RF's standard forms linked in the RF's Equity Administration Policy. For the avoidance of doubt, if the RF will own greater than a twenty percent (20%) ownership interest in the subject entity, or otherwise be involved in the management of the day-to-day operations of the subject entity, such equity interest will not be deemed EILP Equity for purposes of this policy and the campus shall seek approval for such arrangement pursuant to the RF's Joint Venture Policy.

Exempt Purpose - The charitable purpose of the RF, which is set forth in the RF's Charter as follows:

- a. To assist in developing and increasing the facilities of State University of New York to provide more extensive educational opportunities for and service to its students, faculty, staff and alumni, and to the people of the state of New York, by making and encouraging gifts, grants, contributions and donations of real and personal property to or for the benefit of State University of New York;
- b. To receive, hold and administer gifts or grants, and to act without profit as trustee of educational or charitable trusts, of benefit to and in keeping with the educational purposes and objects of State University of New York; and
- c. To finance the conduct of studies and research in any and all fields of the arts and sciences, of benefit to and in keeping with the educational purposes and objects of State University of New York."

License Agreements – An agreement pursuant to which the RF grants a third-party the right or permission to use the RF's intellectual property, typically in return for a set royalty such as upfront payments, minimum payments, royalties based on a percentage of net sales and/or termination payments.

Incubator Programs – Programs housed within campus affiliated or controlled facilities which enable the support of new and growing companies by providing a suite of programs and services, including without limitation the SUNY established incubators throughout the system which provide growth-oriented companies essential business incubation services and access to industry-specific development resources through its connection to SUNY and SUNY's academic and programmatic resources.

Related Information

[Affiliated Corporations Policy](#)

[Equity Administration Policy](#)

[Equity Administration Guidelines](#)

[Joint Venture Guidelines](#)

[Procedures for Equity Administration](#)

[Responsibility for Losses Policy](#)

[Delegation of Authority Policy](#) and [Procedure](#)

Forms

[Research Initiative Plan Template](#)

Change History

Date	Summary of Change
July 6, 2020	Updated Policy Owner.
March 2, 2017	Remove equity language to new policy and update policy ownership language.
November 19, 2015	Specific language related to process and transaction examples has been moved into the Guidelines for RF Participation in Joint Ventures and Procedure for Equity Administration.
September 10, 2015	Updated links and added new links.
December 30, 2014	New policy.

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@rfsuny.org.

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