UNH FACULTY SENATE
MOTION #XXII-M16
on Policies on Start-Up Companies

1. Motion presenters: David Finkelhor, RPSC chair, and Jim Connell, Agenda Committee

2. Date of Faculty Senate discussion: 4/30/2018, 5/7/2018

3. Rationale: Scholarly research at UNH sometimes results in intellectual property (IP) that can be best pursued by forming a start-up company. In some cases, funding agencies (e.g., the National Institute for Health, NIH) specifically encourage, and support, such a path. This involves UNH Faculty and/or Staff in having responsibilities to both UNH and the start-up company that are further complicated if the company licenses IP from UNH. This poses risks associated with conflicts of interest. The proposed "Policy on Conflicts of Interest in Start-Up Companies," and "Policy on Management of Equity Interests in Start-Up Companies" seek to manage and minimize those risks.

As part of the policy, a committee composed of four administrators and three faculty members plays a role in implementation. By contrast, other committees that regulate faculty (e.g., the Internal Review Board for the Protection of Human Subjects, the Radiation Safety Committee, and the Disclosure Review Committee) have a majority of voting members who are faculty. This supports faculty governance and further protects academic freedom.

The new policies would apply *ex post facto* to existing start-up companies. The faculty and/or staff involved have often invested and made long-term plans prior to the new policy. The effects of these changes on those plans need to be taken into account. In effect, a contract was implied. While the policy allows two years for implementation by existing companies, financial commitments often extend well beyond two years, as do plans. For example, FDA (Food and Drug Administration) approvals typically take about a decade. Faculty and/or staff contemplating a new start-up company would also have to ask if policies might similarly change after they form a start-up company, and wonder if UNH is a reliable partner.

4. Motion: The Faculty Senate agrees, in principle, with the proposed "Policy on Conflicts of Interest in Start-Up Companies," and "Policy on Management of Equity Interests in Start-Up Companies," but cannot approve them as written for the following reasons:

> **1) any such policies must have a majority of faculty as voting members of their committee(s) related to faculty actions;**
>
> **2) any such policy must have clear and adequate provisions to protect the interests of existing start-up companies (e.g., grandfathering) and the faculty and/or staff involved with those companies.**

The Faculty Senate does give conditional approval to policies that meet 1) and that provide grandfathering with no time limit to existing start-up companies, thus meeting 2). This in no way expresses a specific preference for grandfathering by the Senate, and the Senate would consider, and act on, any other option that satisfactorily fulfills 2) during a future session.

5. Senate action: The motion passed with 59 votes in favor, 6 votes opposed, and 2 abstentions.

6. Senate chair's signature: ______________________

Forwarded to the following on May 22, 2018

President Mark Huddleston
Wayne Jones, Interim Provost
P.T. Vasudevan, Senior Vice Provost for Academic Affairs
Marc Sedam, Associate Vice Provost of Innovation and New Ventures
All deans