Office of University Counsel Internship Guidelines

**Background:** Many internship providers now require that their internships be governed by a formal agreement. These agreements are in large part a response to 2010 guidance from the Department of Labor stating that internships in the “for-profit” private sector will most often be viewed as employment unless a six-point test for trainees can be met. Increasingly students are being asked to enter into a formal agreement between the provider, the student and, more often than not, the University.

- **As a general rule, Cornell does not enter into three-way internship agreements.**
  - Personnel overseeing or advising students on internships should inform their students early and often that an internship provider might require a formal three-way agreement as a prerequisite to participation in the internship, and that, as a general rule, Cornell will not enter into such agreements.
  - Managing student expectations is critical. While the University has granted narrow exceptions to the general rule against signing such agreements, exceptions are not made lightly. Agreements with providers having no affiliation to or ongoing relationship with Cornell can impose onerous obligations on the University and expose it to liability in areas where it is in a poor position to manage risk. Cornell cannot exercise control over or accept responsibility for activities that occur at such internships. It is important that students understand this basic principal from the outset.
  - Students should offer to provide internship hosts with a **Certificate of Student Status**, which often alleviates the need for an agreement. The student must execute a **FERPA Release** before the certificate can be generated.

- **There are rare exceptions to the general rule.**
  - The University can (but not necessarily will) enter into three-way agreements where most or all of the following factors are satisfied:
    - The internship is part of a long-term relationship between Cornell and the internship provider.
    - The internship is part of a recognized University program (ex: Co-op).
    - The internship is for Cornell credit or in satisfaction of an academic program requirement.
    - The student will be registered at Cornell during the time of performance, i.e., will the internship take place during the semester rather than during the summer or other leave.
    - Will there be Cornell oversight and/or a Cornell supervisory presence?
  - Determinations are made on a case-by-case basis. OUC should review and negotiate any agreement being proposed.
  - Note that review and negotiation of a three-way agreement will take time. They cannot be left for the last minute – all the more reason to make students aware of the general rule and get them asking the right questions early.

- **Students are free to enter into two-way agreements, but the University cannot and should not advise them on whether or not to do so.**