



RUTGERS POLICY

Section: 50.3.13

Section Title: Governance & Legal Matters

Policy Name: Signatory Authority Policy, also known as the Signatory Delegation Policy

Approval Authority: Senior Vice President and General Counsel

Responsible Executive: Senior Vice President and General Counsel

Responsible Office: Senior Vice President and General Counsel

Originally Issued: 9/1/2010 (approved by BOG on 6/22/10)

Revisions: 7/1/2013

Errors or Changes: Contact: Office of the Senior Vice President and General Counsel 848-932-7697

1. **Policy Statement**

A clear and uniformly-followed policy regarding authority to execute contracts on behalf of Rutgers, The State University of New Jersey, and all legal entities under its control (collectively, "Rutgers") with outside persons and entities is required to minimize financial, legal and related risks and to ensure that appropriate fiscal and management controls are in place for the betterment of the institution.

2. **Reason for Policy**

The primary reasons for this policy are to:

- identify those individuals with signatory authority;
- set forth the University's expectations of individuals who sign contracts on its behalf;
- establish a signatory authority delegation procedure; and
- highlight certain provisions of existing University policy that must be considered prior to the execution of any contract.

3. **Who Should Read This Policy**

This policy should be read and followed by all Rutgers employees (i.e., staff, faculty, administrative officers, and agents of Rutgers with authority to bind the University) whether full-time or part-time.

4. **Related Documents**

Policy 20.1.11 – Purchasing Policy

Policy 20.1.16 – Policy on Notification and Approval of Certain Contracts Awarded without Competitive Bids or Proposals

Policy 20.1.17 – Engagement and Payment of Professional Service Provider Policy

Policy 60.4.2 – Code of Ethics for Administrative and Professional Staff Members

Policy 60.5.9 – Faculty or Staff Involvement with Commercial Enterprise – Contracts with the University

Policy 100.2.7 – Focus Arrangements Database Policy and Approval Procedure

Policy 100.2.4 – Professional Services Agreements

RBHS Policy Library - Clinical Affiliation Agreements

Policy 100.2.1 – General Statement on Agreements with Referral Sources

RBHS Policy Library – Healthcare Contract Management Policy

5. **Contact**

Primary Contact:
Office of the Senior Vice President and General Counsel
848-932-7697

Additional Contacts and Resources:

Office of the Senior Vice President and General Counsel:
<http://generalcounsel.rutgers.edu/staff.shtml>

Department of Risk Management: <http://riskmanagement.rutgers.edu/>

Purchasing Department: <http://purchasing.rutgers.edu/>

Ethics at Rutgers: <http://uhr.rutgers.edu/ethics/>

Chief Ethics and Compliance Officer – Rutgers Biomedical and Health Sciences

6. **The Policy**

50.3.13 SIGNATORY AUTHORITY POLICY

I. **Applicability and Scope**

All Rutgers employees (i.e., staff, faculty, administrative officers and agents of Rutgers with authority to bind the University) whether full-time or part-time, must follow this policy.

This policy is applicable to contracts which commit the resources of the University or create obligations on behalf of the University, except those contracts for the procurement of goods and services which are subject to purchasing policies and procedures under Purchasing Policy 20.1.11. This policy is not intended to affect, change or revise the method for procuring goods and services under Purchasing Policy 20.1.11 (including quick orders).

This policy is applicable to Focus Arrangements, clinical affiliations agreements, agreements with referral sources and Professional Service Agreements (each as defined or described in the respective policy listed under “Related Documents” above). However, to be properly authorized Focus Arrangements, clinical affiliations agreements, agreements with referral sources and Professional Service Agreements must also comply with the respective policy listed under “Related Documents” above.

The term “contract” may be referred to by many different names, including but not limited to, agreement, memorandum of understanding, memorandum of agreement, memorandum of intent, cooperative agreement, proposal, purchase order and notice of award. All of these types of documents, no matter what they are called, which commit the resources of the University or create obligations on behalf of the University, shall collectively be referred to herein as “contracts,” and shall be entered into in accordance with the terms of this policy.

II. **Authority**

The Bylaws of the Board of Governors provide that the President, Executive Vice President for Academic Affairs, Senior Vice President for Finance and Administration, the Chancellor-Newark, Chancellor-Camden, *or their designees*, shall execute contracts on behalf of the University. The Board of Governors may adopt resolutions from time to time granting authority to certain University officials to execute contracts on behalf of the University concerning specific transactions and subject matters.

For purposes of efficiency, it is likely that University officers will exercise their authority to designate others to execute certain contracts on behalf of the University. Any designation must be effected pursuant to a written delegation of authority and follow the procedures set forth in Section III of this policy.

An individual has authority to execute contracts on behalf of the University only if:

- the Bylaws of the Board of Governors grant such authority;
- a resolution of the Board of Governors grants such authority;
- there has been a valid and effective delegation of authority in accordance with Section III of this policy (see the Signatory Authority Matrix for persons delegated authority to execute certain contracts, <http://generalcounsel.rutgers.edu/Signatory/>); or
- the individual is procuring goods or services pursuant to authority granted under Purchasing Policy 20.1.11.

Purchasing Policy 20.1.11

This policy is not intended to affect, change or revise the method for procuring goods and services under Purchasing Policy 20.1.11 (including quick orders). Departments and units seeking to procure goods and services shall continue to submit requisitions to the Purchasing Department in accordance with existing purchasing and RIAS systems.

III. Delegation Procedures

A. General

The Bylaws of the Board of Governors authorize the President, Executive Vice President for Academic Affairs, Senior Vice President for Finance and Administration, the Chancellor-Newark, Chancellor-Camden, *or their designees*, to execute contracts on behalf of the University. These procedures address how a proper delegation of authority to a designee is effected.

B. Procedure for Proper Delegation of Signatory Authority

1. All delegations of authority must be in writing.
2. Generally delegators (persons authorized to designate others to exercise their authority to sign contracts) shall make delegations to official University positions, not to individuals. The authority associated with an appointment may not be exercised by an individual prior or subsequent to the effective dates of employment and/or appointment. A person in a particular position on an acting or interim basis assumes the same signing authority as if he or she held the position on a permanent basis.
3. The delegation must include:
 - a. the delegator's official title;
 - b. delegatee's official title (not, e.g., "all levels above Assistant"), department and campus.
 - c. the type and area of contracts subject to the delegation;
 - d. any limitations on the delegation, such as dollar amount limits; and
 - e. whether subdelegation of the authority is permissible and to what extent.

4. A copy of the executed delegation must be transmitted promptly to the Office of the Senior Vice President and General Counsel. The Office of the Senior Vice President and General Counsel shall maintain a matrix showing the positions that have been delegated authority for contracts covering certain areas (<http://generalcounsel.rutgers.edu/Signatory/>). A copy shall also be maintained in the offices of both the delegator and the delegatee. Copies of all delegations shall be made available upon request from an authorized individual including staff members from the Office of Internal Audit.
5. A delegation may be modified or revoked at any time by the delegator. However, such modification or revocation shall be in writing and shall promptly be delivered to the delegatee and the Office of the Senior Vice President and General Counsel.
6. As a matter of sound administrative practice, delegators shall periodically review and evaluate their delegations.

C. Subdelegations

Subdelegations are not permitted unless expressly authorized in the written delegation. If a subdelegation is authorized, the subdelegation must be in writing and also follow the procedures set forth in this Section III.

D. Unclear Delegations

It is the responsibility of any individual executing a contract on behalf of the University to ensure that they have clear authority to do so. If an individual is uncertain whether they are authorized to sign a particular contract, they should consult with their supervisor.

IV. Implied Representation of Signatory

When an individual signs a contract on behalf of the University, he or she makes the following implied representations to the University:

- The signatory is acting within his or her delegated authority.
- The signatory in good faith is satisfied that the obligations or promises within the document generally conform to University policy and are in the best interest of the University.
- The signatory in good faith is satisfied that the terms of the agreement are stated accurately, completely and in adequate detail.
- The signatory has no reason to believe that an impermissible conflict of interest exists as a result of entering into the contract.
- The signatory in good faith is satisfied that the substance of the promises and obligations undertaken by the University are appropriate and outweigh the potential risks to the University in the undertaking.
- The signatory has consulted, where appropriate, other specialized personnel within the University (e.g., Office of Risk Management, Office of the Senior Vice President and General Counsel).
- The signatory in good faith is satisfied that the agreement does not conflict with existing University agreements.

V. General Principles That Must Be Considered Prior to Execution of a Contract

The following general principles regarding contracts must be considered prior to execution of a contract. The Office of the Senior Vice President and General Counsel and Office of Risk Management may be consulted on these matters:

A. Indemnity, Hold Harmless, and Liquidated Damages Clauses

Many contracts that are presented to the University contain language requiring the University to indemnify, hold harmless the other party or to pay a specific dollar amount to the other party if the University fails to conform to the terms of the contract. Efforts should be made to limit the University's obligations in this regard because such clauses create significant risks to the University.

B. Insurance

If the University is required to provide insurance to the other party, Office of Risk Management should be consulted.

C. Independent Contractors

In some instances, the University enters into contracts with other parties in which the other party provides services on behalf of the University. Generally, it should be stated clearly in the contract that the other party is providing services to the University as an "independent contractor" and not as an "agent" of the University. If a contractor is designated as an agent, the scope of the agent's authority should be clearly defined in the contract.

D. Choice of Law, Choice of Forum

Often times a contract will state what state's law applies to its interpretation and the location of the court where the parties agree to resolve any disputes arising out of the contract. Efforts should be made to ensure that any contractual provision that designates a particular state as the location to resolve disputes between the contracting parties, or to designate a state whose law will apply to an interpretation of the contract, should be New Jersey.

VI. Unauthorized Commitments or Agreements

Individuals who enter into agreements without authority pursuant to this policy may be personally liable for such agreements. Individuals who sign contracts without proper authority pursuant to this policy may also be subject to disciplinary action, up to and including termination.

VII. Writing Requirement

Contracts between the University and any outside person or entity shall be reduced to writing. Under certain extraordinary circumstances, such as an emergency that requires an immediate University response, it may be necessary for an authorized individual to enter into an oral contract. In such circumstances, the verbal agreement should be reduced to writing as soon as practicable.

VIII. Code of Ethics

Any individual entering into a contract on behalf of the University must accordingly exercise their authority in a manner consistent with Rutgers Code of Ethics. The Code of Ethics may be located at <http://uhr.rutgers.edu/ethics/>.

IX. Effective Date

This policy shall be effective as of September 1, 2010.