The University of Cincinnati has been working with commission-based recruitment agents for over a decade. In fact, our very first agreement was signed in 2006. As one of the first large, public research universities to openly disclose that we contract with agents, the development of standards and best practices has been a centerpiece of the university’s continued work in this niche area of international recruitment and admission. Particularly, the University of Cincinnati has been very involved with the American International Recruitment Council (AIRC), a federally recognized standards development organization (SDO), since its inception in 2008. With 275 institutional members and 78 certified agencies, AIRC works to safeguard the interests of students, agencies, and institutions, in large part by providing an extensive certification process for agencies around the world. Although working with agents is only one piece of our broader international recruitment strategy, we spend a considerable amount of resources ensuring these partnerships are both ethical and productive.

The Importance of the Contract

Many years and iterations later, our agency contract remains a cornerstone of our agent partnerships. Following the agency application and vetting processes, the review and signing of the contract is one of the first points of contact between an agency and the university. Perhaps most importantly, these binding legal documents govern our agency partnerships—some of which involve hundreds of thousands of commission dollars throughout the three-year duration of each contract.

For institutions just beginning the journey of incorporating agent use into their international recruitment strategies, there are many sample contracts available online. Most institutions are willing to share examples of their own contracts, and AIRC members have access to a resource library with a plethora of sample contracts.

At the University of Cincinnati, we use a standard agreement for our agency partnerships and request that agencies sign this agreement. We are certainly open to negotiating the terms of the contract in some cases. However, because our legal team must carefully review and sign off on any changes made to the agreement, this can often lengthen a process that is already somewhat time-intensive.

Recently, we completed a successful contract negotiation with a large, global agency. Like the University of Cincinnati, this agency has a standard contract that it typically asks universities to sign. Talks of an official partnership had been ongoing for many years, but neither side was willing to budge on certain pieces of their respective contracts. However, it eventually reached a point where both sides believed we each had enough to gain from a partnership to put in the time and energy required to come to agreement. What resulted was a months-long negotiation, including several Skype calls and phone conversations, an in-person meeting on our campus, and seemingly endless email threads. We used the university’s...
Agent Contracts: A Cornerstone of Agent Partnerships

contract as the base, but the conversations proved invaluable for many reasons. They allowed those of us on the University of Cincinnati side to think carefully about why certain clauses in our contract were worded the way they were worded, or why they even existed at all. Ultimately, we evaluated, or re-evaluated, some of the understandings and expectations contained within our contract—leading to larger questions around what we want out of our partnerships and what a good partnership looks like, including how to evaluate its success. Of course, it also allowed us to get to know our agency counterparts rather well—which has certainly helped as the partnership has progressed.

Contract Language

A noteworthy aspect of the contract is the clarity of language used, as this can help to avoid misunderstandings and difficult conversations later on. The use of vague terms and ideas—such as “promptly” instead of “within 48 hours”—can lead to confusion and unclear expectations on both sides. Contract language can often fall victim to the use of jargon, so it is critical to define all terms at the beginning of the contract. In our standard contract, the first page-and-a-half comprises definitions of terms used throughout the contract—such as “fees rate,” “prospective student,” and even “services.” Taking the time to define and clarify terms and processes at the outset is essential for both your institution and your prospective agent partners. It can be helpful to think about this in terms of policies—that is, what you will do—and processes—how you will do it. Will you calculate the commission based on a student’s tuition for the first two semesters? Great! How will you do this? How and when will you communicate this to your agents? How will you ensure both sides agree, and what will you do in the event that both sides are struggling to do so? Having these types of parameters laid out in your contract as explicitly as possible, without resulting in a 75-page document, is in the best interest of the institution, the agency, and the student.

Of course, policies and procedures can—and should—change over time. Don’t forget that any time you change institution-level policies or processes with regard to agents, it is essential to update any piece of the contract that mentions these. Even if the change seems small or otherwise inconsequential, if it is discussed explicitly in your contract, it must also be updated. Failure to do so could result in difficulties with your partners and, in the worst case, even legal trouble.

Similarly, it is of critical importance to ensure your standard contract is updated when policies or standards change throughout the industry. This will be particularly true as the use of agents becomes more prevalent and more regulated. A clear example of the latter happened when NACAC introduced the revised Statement of Principles of Good Practice: NACAC’s Code of Ethics and Professional Practices in September 2017. Specifically, the updated code states: In contracts with third-party representatives, require those representatives to disclose to their student clients any institutions who are compensating them. In their promotional material for international students, institutions should offer to verify whether they have authorized any third-party agents to represent them and indicate how students may request this verification. As we were thinking through how to ensure compliance of this particular section, we reached out to several universities that also work with agencies to see how they were handling it. A representative from one university wrote back indicating that their institution has a blanket statement in their standard agreement requiring the agency to read and comply with the Code of Ethics published by NAFSA and NACAC’s Code of Ethics. Surprisingly to me, we hadn’t had a statement like this in our contract previously—but we did very soon after that!

Lessons Learned

After over 10 years of experience working with agents, here are some of the lessons we’ve learned at the University of Cincinnati:

1. It is in your best interest as an institution to think critically (and frequently) about your contract. It is the legal backbone of your partnership and thus can be very powerful.
2. Contracts (and contract negotiations) should be seen as a piece of the partnership and an opportunity for relationship-building.
3. Develop a good relationship with your legal team—or a reliable point of contact for those institutions with large legal counsels. It is also important to ensure your legal team is educated on agency-based recruitment and some of the prevalent topics within this realm.
4. As you create and update your contract, think in terms of fair/equal expectations—don’t ask agencies to comply with something you (as the institution) wouldn’t.
5. Clarity of contract language is of utmost importance. Say what you mean and mean what you say.