



UNIVERSITY OF MINNESOTA  
BOARD OF REGENTS POLICY

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Academic

INTELLECTUAL PROPERTY

Adopted: October 8, 1999

Effective: May 15, 2001\*

Supersedes: (see end of policy)

INTELLECTUAL PROPERTY

SECTION I. PURPOSE.

This policy exists to encourage research and innovation, clarify ownership of intellectual property rights, create opportunities for public use of University innovations, and provide for the equitable distribution of monetary and other benefits derived from intellectual property.

SECTION II. APPLICATION.

**Subd. 1. Application.** This policy applies to all faculty, staff, students, and any other persons employed by the University; to all persons receiving funding administered by the University or receiving other compensation from the University; and to all University-enrolled graduate students and post-doctoral fellows regardless of funding or employment status.

**Subd. 2. Effective Date.** This policy applies to intellectual property disclosed to the University after the effective date of this policy.

SECTION III. DEFINITIONS.

**Subd. 1. Creator.** "Creator" means the individual or group of individuals who invented, authored, or were otherwise responsible for the intellectual creation of the intellectual property, as defined in the applicable intellectual property statutes.

**Subd. 2. Intellectual Property.** "Intellectual property" means any invention, discovery, improvement, copyrightable work, integrated circuit mask work, trademark, trade secret, and licensable know-how and related rights. Intellectual property includes, but is not limited to, individual or multimedia works of art or music, records of confidential information generated or maintained by the University, data, texts, instructional materials, tests, bibliographies, research findings, organisms, cells, viruses, DNA sequences, other biological materials, probes, crystallographic coordinates, plant lines, chemical compounds, and theses. Intellectual property may exist in a written or electronic form, may be raw or derived, and may be in the form of text, multimedia, computer programs, spreadsheets, formatted fields in records or forms within files, databases, graphics, digital images, video and audio recordings, live video or audio broadcasts, performances, two or three-dimensional works of art, musical compositions, executions of processes, film, film strips, slides, charts, transparencies, other visual/aural aids or CD-ROMS.



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**Subd. 3. Net Income.** "Net income" means the gross monetary payments the University receives as a result of transferring rights in the intellectual property less the University's out-of-pocket expenditures (including legal fees) directly attributable to protecting, developing, and transferring that intellectual property.

**Subd. 4. Regular Academic Work Product.** "Regular academic work product" means any copyrightable work product which is an artistic creation or which constitutes, or is intended to disseminate the results of, academic research or scholarly study. Regular academic work product includes, but is not limited to, books, class notes, theses and dissertations, course materials designed for the web, distance education and other technology-oriented educational materials, articles, poems, musical works, dramatic works, pantomimes and choreographic works, pictorial, graphic and sculptural works, or other works of artistic imagination. Software specifically needed to support a regular academic work product or which is designed to disseminate the results of academic research and scholarly study is also considered a regular academic work product.

**Subd. 5. Employee.** "Employee" means a person employed or otherwise compensated by the University, including faculty members, staff members, and students.

**Subd. 6. Specially Commissioned Work.** "Specially commissioned work" means a work specially ordered or commissioned and which the University and the creator expressly agree in a written instrument signed by them shall be considered as such.

**SECTION IV. ADMINISTRATIVE PROCEDURES.**

The president, in consultation with the vice president for research and the Faculty Senate, shall adopt procedures to implement this policy.

**SECTION V. UNIVERSITY OWNERSHIP.**

Subject to the exceptions in section VI, the University shall be the sole owner of all intellectual property created through the use of University resources or facilities, supported directly or indirectly by funds administered by the University, developed within the scope of employment by employees, agreed in writing to be a specially commissioned work, or assigned in writing to the University.



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**SECTION VI. EXCEPTIONS TO UNIVERSITY OWNERSHIP.**

**Subd. 1. Regular Academic Work Product.** A regular academic work product is owned by the creator and not the University. This subdivision does not apply to a regular academic work product that is assigned in writing to the University or specifically ordered or commissioned and designated in writing by the creator and University as a specially commissioned work.

**Subd. 2. Course Requirement.** Intellectual property created solely for the purpose of satisfying a course requirement is owned by the creator and not the University. This subdivision does not apply if the creator assigns ownership rights in the intellectual property to the University in writing or assignment of such ownership rights to the University is made a condition for participation in a course.

**Subd. 3. Pre-Existing Rights.** If the intellectual property referred to in subdivisions 1 and 2 is a derivative of or otherwise uses preexisting University-owned intellectual property, this section shall not prevent the University from asserting its preexisting rights.

**Subd. 4. Contractual Agreements.** For intellectual property created in the course of or pursuant to sponsored research, external sales, industrial affiliates programs, or other contractual arrangements with external (non-University) parties, ownership will be determined in accordance with the terms of the University's agreement with the external party and applicable law.

**Subd. 5. Outside Consulting Activities.** For intellectual property created in the course of or pursuant to activities that fall within and comply with the Board of Regents policy, *Outside Consulting, Service Activities, and Other Work*, ownership will be determined in accordance with the terms of any agreement governing intellectual property developed pursuant to such activities.

**SECTION VII. USE OF INTELLECTUAL PROPERTY.**

**Subd. 1. Rights to Publish.** Nothing in this policy shall be construed as affecting the rights of a creator to publish, except that the creator must agree to observe a brief period of delay in publication or external dissemination if the University so requests and such a delay is necessary to permit the University to secure protections for intellectual property disclosed to it by the creator.



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**Subd. 2. Use of Teaching Materials.** In order to facilitate joint work on teaching materials and support collaborative teaching, and notwithstanding the ownership rights otherwise granted by this policy, individuals who contribute teaching materials used in jointly developed and taught University courses thereby grant a nonexclusive, nontransferable license to the University to permit other contributors to the course to continue using those jointly produced teaching materials in University courses.

**SECTION VIII. DISTRIBUTION OF INCOME.**

**Subd. 1. Academic Research or Scholarly Study.** Unless otherwise agreed in writing by the University and creator, in the event that the University receives income from intellectual property that is derived from academic research or scholarly study, that is disclosed to and licensed or otherwise transferred by the University's technology transfer unit, and that is not agreed in writing to be a specially commissioned work, any net income will be divided as follows:

- (1) 33-1/3% to the creator;
- (2) 33-1/3% to the Office of the Vice President for Research to support the University's technology transfer unit and to support research and scholarly activity at the University;
- (3) 8% to the creator's colleges or schools that supported the creation of the intellectual property; and
- (4) 25-1/3% to the department, division, or center that supported the creation of the intellectual property to be spent in support of the creator's research or other directly related University work.

**Subd. 2. Changes to Distribution.** Changes to the distribution of income under subdivision 1, paragraphs (3) and (4) may be appropriate if the income to a department, division, or center becomes disproportionate compared to the unit's budget or if there are administrative organizational changes, including movement of the creator among units. Decisions about redistribution of income under such circumstances shall be made by the vice president for research in consultation with the Senate Committee on Research and the deans of the appropriate colleges or schools.

**Subd. 3. Other Intellectual Property.** If the University receives income from intellectual property disclosed to and licensed or otherwise transferred by the University's technology transfer unit and not covered by subdivisions 1 and 2, it may be appropriate to share some portion of the net income with the creator in the form of a bonus or other temporary salary supplement. Any such distribution will be made in the discretion of the vice president for research in consultation with the creator's supervisor.



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**SECTION IX. UNIVERSITY RESPONSIBILITIES.**

The University shall have the responsibility to:

- (1) provide oversight of intellectual property management and technology transfer,
- (2) establish effective procedures for licensing and patenting intellectual property,
- (3) promote effective distribution and marketing of intellectual property,
- (4) protect the University's intellectual property, and
- (5) inform individuals covered by this policy about its provisions.

**SECTION X. RESPONSIBILITIES OF APPLICABLE INDIVIDUALS.**

Employees, all persons receiving funding administered by the University or receiving other compensation from the University, and all graduate students and post-doctoral fellows regardless of funding or employment status, have a responsibility to:

- (1) adhere to the principles embodied in this policy;
- (2) sign, when so requested by the University, the University's Intellectual Property Policy Acknowledgment;
- (3) create, retain, and use intellectual property according to the applicable local, state, federal, and international laws and University policies;
- (4) disclose promptly in writing intellectual property owned by the University pursuant to this policy or created pursuant to sponsored research or other contractual arrangements with external parties that are governed by section VI, subdivision 5, and assign title to such intellectual property to the University or its designee to enable the University to satisfy the terms of any applicable funding or contractual arrangement; and
- (5) cooperate with the University in securing and protecting the University's intellectual property, including cooperation in obtaining patent, copyright, or other suitable protection for such intellectual property and in legal actions taken in response to infringement.

**SECTION XI. COMPLIANCE.**

Failure to comply with the provisions of this policy is a violation and may result in discipline of an employee in accordance with applicable University policies and procedures.

\*THIS POLICY BECAME EFFECTIVE ON MAY 15, 2001 WHEN THE PRESIDENT ACCEPTED ADMINISTRATIVE PROCEDURES REQUIRED FOR ITS IMPLEMENTATION.

SUPERSEDES: EDUCATIONAL MATERIALS DATED APRIL 14, 1967 AND PATENT AND TECHNOLOGY TRANSFER DATED OCTOBER 10, 1986.