

## **SECTION VII: Resources for Research**

### 58.0 III-1.11 POLICY ON CONFLICTS OF INTEREST IN RESEARCH OR DEVELOPMENT

(Approved by the Board of Regents, August 23, 1996)

#### I. Introduction

Maryland law encourages public senior higher education institutions to promote economic development in the State and to increase their financial resources through arrangements with the private sector, including collaborative research and development, commercial application of institution-owned intellectual property, and provision of technical assistance. To facilitate these purposes, the Maryland Public Ethics Law allows for the exemption of University of Maryland System personnel from some of that law's conflict of interest provisions. This policy establishes the essential elements of the procedures, to be adopted by each System institution, for obtaining such exemptions.

#### II. Policy

A. A present or former official or employee of a constituent institution of the System, UMSA, UMBI, or CEES may have a relationship (as defined herein) with an entity engaged in research or development, or an entity having a direct interest in the outcome of research or development, which relationship would otherwise be prohibited by the conflict of interest provisions of the Ethics Law, if such relationship is disclosed and approved by the President of the educational institution in accordance with the institution's faculty conflict of interest procedures developed pursuant to this Policy.

B. The Chancellor, a Vice Chancellor, a President, or a Vice President or one holding a similar such position may have such a relationship only if the Board of Regents makes the following findings:

- (1) that participation by, and the financial interest or employment of, the official is necessary to the success of the research or development activity; and
- (2) that any conflict of interest can be managed consistent with the purposes of relevant provisions of the Public Ethics Law.

The Board shall promptly notify the State Ethics Commission in writing of any approval given under this paragraph. In the event that the Commission disagrees with any approval and provides notice to the Board within 30 days of the Commission's receipt of notice of the approval, the Board shall reexamine the matter. The Board shall adopt procedures for handling requests for approvals under this paragraph.

C. If the above conditions are not met, this Policy does not exempt a former or present official or employee from any of the provisions of the State Ethics Law.

D. Nothing in this Policy allows an exemption on the part of any official or employee of the System from the provisions of 15-505 ("Solicitation or acceptance of gifts of honoraria") of the State Government Article. Further, an official or employee of the System may not:

- (1) represent a party for contingent compensation in any matter before the Board of Regents or before the State's Board of Public Works, or
- (2) intentionally misuse his or her position with the System for personal gain or for the gain of another person.

E. The approval of a relationship under this policy does not relieve the official or employee from the obligation to comply with other System and institution policies, including the System Policy on Professional Commitment of Faculty.

- F. The Chancellor is encouraged to consult periodically with the Maryland Department of Business & Economic Development and with Federal agencies that regulate federally-funded research concerning the implementation of this policy.

### III. Procedures

- A. Each institution and UMSA shall develop procedures based on the above policy and the purposes of the Maryland Public Ethics Law as stated at Section 15-101 of the State Government Article of the Maryland Annotated Code. The procedures shall be approved by the Office of the Attorney General and approved as to conformity with Maryland Public Ethics Law by the State Ethics Commission. The approved procedures shall be filed with the Office of the Chancellor.
- B. Procedures shall:
  - (1) Require timely disclosure of any relationship. The disclosure shall be filed with the State Ethics Commission, and maintained as a public record at the institution.
  - (2) Subject to paragraph (5), require review of all disclosed relationships by a designated official who shall determine what further information must be disclosed and what restrictions shall be imposed in order to manage, reduce, or eliminate any actual or potential conflict of interest. The designated official shall also determine whether or not the disclosed relationship represents a harmful interest, as defined herein. If so, approval shall not be granted.
  - (3) Include guidelines to ensure that relationships do not improperly give an advantage to entities with which the relationships exist, lead to misuse of institution students or employees for the benefit of such entities, or otherwise interfere with the duties and responsibilities of the official or employee maintaining the relationship.
  - (4) Subject to paragraph (5), require that each relationship be approved or disapproved by the president of the institution, with such determination to be the final decision.
  - (5) Require that any relationship maintained by the President or a Vice President, by the Chancellor or a Vice Chancellor, and by one holding any other position designated by the Board of Regents be approved by the Board of Regents.

### IV. Reporting

Institutions shall submit to the Chancellor in a format determined by the Chancellor a quarterly report which shall include all approvals granted under this Policy. The Board of Regents shall report to the Governor, the Legislative Policy Committee of the General Assembly, and the State

Ethics Commission, the number of approvals granted under this Policy and how this Policy and the procedures adopted pursuant to it have been implemented in the preceding quarter.

### V. Definitions

- A. "Harmful interest" means an interest which is found to be so influential as to impair impartiality in the conduct of the research, the interpretation of the results of the research, and/or the determination of research or other professional and employment priorities.
- B. "Institution" as used in this policy means each constituent institution of the System, The University of Maryland System Administration, The University of Maryland Biotechnology Institute, The Center for Estuarine & Environmental Studies, and any other Unit of the System that the Chancellor shall designate.

- C. "Relationship" means any interest, service, employment, gift, or other benefit or relationship with an entity that would be prohibited by Title 15, Subtitle 5 of the State's Public Ethics Law if not disclosed and approved pursuant to this Policy and procedures adopted pursuant to it. "Relationship" includes any relationship of the spouse or other relative of an officer or employee if such relationship creates restrictions on the officer or employee under the conflict of interest provisions of the Ethics Law.
- D. "Research or development" means basic or applied research or development, and includes the development or marketing of University-owned technology, the acquisition of services of an official or employee by an entity for research and development purposes, or participation in State economic development programs.

Replacement for: BOR II-3.30

III-1.11(A) PROCEDURES ON CONFLICT OF INTEREST IN RESEARCH OR DEVELOPMENT

(Approved by the President February 1, 1997)

I. General

UMES supports programs to foster economic development in the state and region and programs for commercializing and transferring University-produced technology to the private sector and providing campus affiliations to emerging private high-technology firms. Confidence and trust are eroded, however, when state and University business is subject to improper influence. The Maryland Public Ethics Law establishes certain condition under which officials and employees may have relationships with entities involved with research or development.

Outside activities of an official or employee must not interfere with the primary commitment to the mission of the University. The Board of Regents of the University of Maryland System has enacted a Policy on Professional Commitment of Faculty (BOR II - 3.10), which addresses external commitments and general conflict of interest concerns for its faculty. In addition, the Board of Regents has enacted a Policy on Conflict of Interest in Research or Development (BOR II – 3.30), which allows officials and employees to have certain relationships with businesses involved in research or development, provided certain conditions are met consistent with the Maryland Public Ethics Law.

These procedures implement the System Policy on Conflicts of Interest, and apply to situations where an official or employee seeks to hold an interest in, serve as an employee, director, or officer of, or maintain any other relationship (as defined herein) with an entity which:

- A. Is engaged in or participates in research or development; or
- B. Has a direct interest in the outcome of research or development.

Neither these procedures, nor the statute and System policy under which they have been adopted, exempt any official or employee of the System from any provisions of the Public Ethics Law except as specifically provided in these procedures.

II. General Procedure

- A. An official or employee of UMES may have an interest in or serve as an employee, director, or officer of or maintain any other relationship (as defined herein) with an entity engaged in research or development, or an entity having a direct interest in the outcome of research or development if:
  - 1. The interest, service, employment, or other relationship is disclosed on a form filed with the Vice President for Academic Affairs and maintained as a public record in the Office of the Vice President for Academic Affairs. A copy of the form must also be filed with the state Ethics Commission. An annual report shall also be filed with the State Ethics Commission. An annual report shall also be required for any interest, service, employment or other relationship that lasts more than a year.
  - 2. The relationship will not give improper advantage to the entity with which the relationship exists because its affiliation or involvement with the official or employee, lead to misuse of institution students or employees for the benefit of such entities, or otherwise interfere with the duties and responsibilities of the official or employee maintaining the relationship.
  - 3. The interest will not constitute a harmful interest as defined in these procedures or otherwise present an unacceptable conflict of interest.
  - 4. The interest, service, employment, or other relationship with the entity is approved by the UMES President in accordance with these procedures.

- B. If the requirements of these procedures are not met, the official or employee is not exempt from any of the provisions of the Ethics Law. Approvals granted under these procedures do not affect the application of other University of Maryland System and UMES policies, including Policies on Patents, Copyrights, and Professional Commitment of Faculty, or the obligation to adhere to the provisions of the Maryland Public Ethics Law relating to prohibited gifts. Notwithstanding any approval under these procedures, an official or employee may not (1) represent a party for contingent compensation in any matter before the System's Board of Regents or the State's Board of Public Works, or (2) intentionally misuses his or her position with the System for personal gain or for the gain of another person.

### III. Specific Procedures and Guidelines

#### A. Request and Disclosure Provision

1. Each official or employee who proposes to hold a relationship pursuant to these procedures is required to fill out the Research or Development Interest Form at the time approval of the relationship is requested, at such time(s) as the circumstances of the faculty member concerning the interest change, and annually beginning one year from the date of the initial approval under these procedures. Such forms shall be maintained as a public record at UMES. A copy of each form shall be filed with the State Ethics Commission and with the Vice President for Academic Affairs.
2. The disclosure shall fully describe the relationship and provide such other information as may be required by the Office of the Vice President for Academic Affairs or the President.
3. It is the responsibility of the faculty member to request approval of any relationship.

#### B. Review Process

The President's Advisory Committee on Conflict of Interest shall review the Research or Development Interest Form at the time of the initial request and at each subsequent filing to determine whether or not the disclosed interest represents a harmful interest, is an unacceptable conflict of interest, or is otherwise in violation of the policies, procedures, and best interests of the University. The Committee may recommend restrictions designed to manage, reduce, or eliminate any actual or potential conflict of interest. Approval of the proposed relationship may not be recommended unless the requirements set out in Section II.A of these procedures are met. The President's Advisory Committee shall be appointed by the President. The Committee's recommendations must be supported by the majority vote of the Committee members.

#### C. Approval Process

The President's Advisory Committee on Conflict of Interest shall review the Research or Development Interest Form at the time of the initial request and at each subsequent filing to determine whether or not the disclosed interest represents a harmful interest, is an unacceptable conflict of interest, or is otherwise in violation of the policies, procedures, and best interests of the University. The Committee may recommend restrictions designed to manage, reduce or eliminate any actual or potential conflict of interest. Approval of the proposed relationship may not be met. The President's Advisory Committee shall be appointed by the President. The Committee's recommendations must be supported by the majority vote of the Committee members.

#### D. Additional Operating Guidelines

1. Officials and employees with relationships approved under these procedures shall:
  - a. ensure that their activities, statements, evaluations, recommendations, and judgments do not improperly give advantage to the outside entity;
  - b. ensure that unauthorized statistics, documents, reports, comparison information, and other data are not disclosed which would improperly give advantage to the outside entity;

- c. be aware that legal restrictions regarding misuse of their position for personal gain or gain of another, solicitation or acceptance of improper gifts, and representing a party before the Board of Regents or the Board of Public Works as contingent fee, to apply, notwithstanding any approval under these procedures; and
- d. continue to adhere to other University policies, including the System Policy on Professional Commitment of Faculty.

IV. University Reporting Procedures

- A. UMES shall submit quarterly reports of all approvals to the Chancellor.
- B. UMES shall develop a public file which will contain all the approved exemptions and applicable disclosure statements, and maintain such files for public review.

V. Definitions

- A. "Harmful interest" means an interest which when examined under the review procedures is found to be so influential as to impair impartiality in the conduct of the research, the interpretation or the results of the research, and/or the determination of research or other professional and employment priorities.
- B. "Relationship" means any interest, service, employment, gift, or other benefit or relationship with an entity not part of State government, that would be prohibited by the State's Public Ethics Law if not disclosed and approved pursuant to this Policy and procedures adopted pursuant to it.
- C. "Research or development" means basic or applied research or development, and includes the development or marketing of University-owned technology, the acquisition of services of an official or employee by an entity for research and development purposes, or participation in State economic development programs.

RESEARCH OR DEVELOPMENT INTERST FORM

**NAME:**

**DIVISION:**

**SCHOOL:**

**DEPARTMENT:**

**MAILING ADDRESS:**

**TELEPHONE:**

**INITIAL REPORTING PERIOD:** \_\_\_\_\_

**ANNUAL UPDATE:** \_\_\_\_\_

**CHANGE IN INTEREST:** \_\_\_\_\_

**TERMINATING REPORT:** \_\_\_\_\_

This form is submitted for the purpose of acquiring exemption from certain conflict of interest provisions of the Public Ethics Law. I represent that I have submitted a copy of this form to the State Ethics Commission. I acknowledge that this form will be maintained as a public record at UMES. I hereby make an oath and affirm that the contents of this disclosure statement are true and correct to the best of my knowledge, information, and belief.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

IV-2.00 – POLICY ON SOLICITATION AND ACCEPTANCE OF SPONSORED PROJECTS

(Approved by the Board of Regents, January 11, 1990;  
Amended February 21, 2003)

- I. The University System of Maryland engages in a wide variety of activities sponsored by non-System entities. These activities include research, training and public service projects which are consistent with the missions of the System and the institution. Such activities are encouraged as a means to further the objectives of the System and the institution, to strengthen ties with government, industry, the community, and other academic institutions, and to expand and enhance the instructional environment.
- II. All proposals for specific sponsored projects shall be reviewed by institution personnel for consistency with all University System and institutional policies, for appropriateness to the mission of the institution, and for liability assessment. Each institution has primary responsibility for the solicitation and negotiation of proposals and administration of awards.
- III. Applications may be submitted and awards accepted directly by the designated officer on each campus.
- IV. In the course of soliciting, negotiating and executing agreements with sponsors, a constituent institution may encounter conditions for performance which are not standard System practice. Upon discovery of such a condition, the chief executive officer shall immediately notify the Chancellor. Such unusual practices include, but are not limited to, the following examples:  
  
Abridgement of publication rights  
Necessity for legislation in order to conduct the program of work  
Assumption of liability for a third party  
Creation of an unfunded liability  
Exceptional contribution of State monies to the project  
  
The Chancellor may, in consultation with the chief executive officer, require withdrawal of the proposal or non-acceptance of the award.
- V. Constituent institutions, on an annual basis, are required to submit to the Chancellor a summary of sponsored project activity. The content and format of the report shall be determined by the System office and shall include, at a minimum, the number of awards and their dollar value.

Replacement for: BOR VII-2.00 and BOT Appendix I

106.0 IV-2.20- POLICY ON CLASSIFIED AND PROPRIETARY WORK

(Approved by the Board of Regents, April 25, 1991)

The mission of the University of Maryland System is to generate and to disseminate knowledge. University System interests and purposes are well served by the conduct of extramurally sponsored activities. Sponsors may operate within a proprietary or classified environment while the University functions on the principle of free inquiry and open expression. To serve the common interests of both the University System and the external sponsors, reasonable and workable guidelines for collaborative work which both facilitate beneficial arrangements with the sponsors and protect the basic tenets of the University are necessary.

POLICY

It is the policy of the University of Maryland System that instruction, research, and services will be accomplished openly and without prohibitions on the publication and dissemination of the results of academic and research activities. The following statements establish the basis, under this general policy, on which the University System institutions will enter into contractual agreements under governmental or private sponsorship. It also provides the basis for acceptance of graduate theses and dissertations.

1. It is the policy of the University of Maryland System that it neither conducts federal classified work nor permits the use of University facilities or resources for classified work on any of its campuses. When it is in both the University System and the national interest, it is appropriate to engage in classified work, such work must be conducted at off-campus sites.
2. The University of Maryland System enters into no contractual agreement that restrains it from disclosing the existence of the agreement, the nature of the work, and the identity of the sponsor.
3. University System institutions will enter into no agreement that bars investigator(s) from publishing or otherwise disclosing the findings publicly. However, with the concurrence of the investigator(s), the institution may agree to delay publication for a maximum of 90 days to allow sponsors to determine whether their proprietary information may be revealed, or whether they will exercise their rights under patent clauses in agreements with the institution. The institution with the concurrence of the investigator(s) may agree to an additional delay of up to 90 days.
4. The University System recognizes that some publishable work can best be accomplished if a University investigator(s) has access to a sponsor's proprietary information or materials. The University and investigator(s) may agree to use reasonable efforts to protect such information or materials from disclosure, but they cannot accept liability if such efforts fail.
5. University System institutions accept no graduate theses or dissertations that cannot be made public. The provisions stated in item 3 for delaying public disclosure also apply to graduate theses and dissertations; therefore, the institution will not permit a student to defend any thesis or dissertation which contains proprietary information until the time period allowed by item 3 has expired.
6. This policy does not apply to consulting or other activities conducted off-campus or without the use of University facilities or resources. Consulting activities must conform to the University's separate policy on consulting.
7. This policy does not require the disclosure of the identity of human-research subjects whose participation in research projects is secured through pledges of anonymity. Further, this policy does not require disclosure of confidential student, patient or employee records protected by federal, state or University policies or of information protected by professional ethics.
8. Under highly unusual circumstances, exceptions to sections 1-4 may be granted by the Chancellor of the University of Maryland System on the recommendation of the appropriate President or Director. The Chancellor will make an annual report to the Board of Regents specifying exceptions granted under this provision.

## DEFINITIONS

For the purpose of this policy proprietary information or materials means unclassified information or materials that can be made public or that can be disseminated only with the approval of an individual or organization external to the University of Maryland System.

Replacement for: BOR VII - 8.00-1

IV-3.00 - POLICY ON PATENTS

(Approved by the Board Of Regents, May 31, 1990; Technical Amendment May, 2003) (On February 8, 2002, The Board of Regents Replaced This Policy With Policy On Intellectual Property IV-3.20 For All Patents Disclosed On Or After July 1, 2002. This Policy Remains Applicable Only For Intellectual Property Disclosures Made Before July 1, 2002)

I. Objectives

The objectives of this policy are to encourage and aid research at the University of Maryland System, to provide financial compensation as well as professional recognition to inventors, and to protect and best serve the public interest. To these ends, this policy encourages disclosure of inventions and discoveries and their evaluation for possible patenting and licensing and establishes principles for determining the rights of the constituent institutions and inventors. The University of Maryland System continues to encourage scholarly publication of the results of faculty and student research.

II. Applicability

A. The University of Maryland System Patent Policy applies to all personnel. As used in this policy, "personnel" means all paid and unpaid full-time and part-time faculty members and staff, and all paid employees (including those on approved leaves); and students and fellows.

III. General Policy

A. The University of Maryland System has an interest in all inventions of personnel which are conceived or first actually reduced to practice as a part of or as a result of: a University System Administration or constituent institution administered program of research; activities within the scope of the inventor's employment by the University System Administration or constituent institution; or activities involving the use, to a substantial degree, of University System Administration or constituent institution time, facilities, or materials or of University System Administration or constituent institution information not available to the public. "Invention" means any invention or discovery which is or may be patentable or which may be commercially licensable.

At the time of appointment of visiting faculty and staff a signed acknowledgement of this policy will be required. An invention shall be considered as resulting from activities "within the scope of the inventor's employment" whenever his or her duties include research or investigation or the supervision of research or investigation and the invention is relevant to the general field of inquiry to which the inventor was devoted or assigned. "Time, facilities and materials" paid for from funds administered by the University System Administration or constituent institution shall be considered University System Administration or constituent institution time, facilities and materials whether the funds arise from federal or state appropriations, student fees, donations, grants, contracts or other sources.

B. The University System Administration or constituent institution has a right to ownership of any invention in which it has an interest. Unless otherwise agreed, this Policy also applies to any inventions in which the University System Administration or constituent institution has an interest under the terms of contracts, grants or other agreements. An invention in which the University System Administration or constituent institution does not have a legal interest may be offered to the University System Administration or constituent institution, and, if accepted, the University System Administration or constituent institution will administer such invention in accordance with this Patent Policy or as otherwise agreed.

C. Except under special circumstances the University System will not agree to assign rights in future inventions to private corporations or businesses.

IV. Responsibilities of the University of Maryland System and Delegations of Authority

- A. The University System shall: (1) notify the inventor promptly whenever it decides not to pursue or to abandon the pursuit of patenting or commercialization of an invention, (2) execute, upon request, all contracts, assignments, waivers or other legal documents necessary to transfer to the inventor the University System's interest in any invention which it has so chosen not to pursue, (3) act with reasonable promptness and in good faith on all inventions disclosed to it, and (4) remit to the inventors their shares of income from inventions as specified in Section VI of this policy. Subject to these responsibilities, the University System may, at any time, decide not to pursue or to abandon the pursuit of patenting and/or commercialization of an invention in which it has an interest.
  
- B. Authority and responsibility for Patent Policy is delegated to the Chancellor (or his designee). The Chancellor (or his designee) may seek the advice and assistance of the University of Maryland System Intellectual Property Committee (hereafter called the Intellectual Property Committee; see Section VIII below). The responsibility for administration of the University of Maryland System Patent Policy (including subparts 1-4 of IV.A.) is delegated to the chief executive officers of constituent institutions, except that rights in future inventions shall not be assigned unless the Chancellor determines in writing that doing so is in the best interests of the System. Each constituent institution shall develop procedures for implementing this policy.

V. Responsibilities of Personnel

- A. Personnel who, either alone or in association with others, make an invention in which the University System has or may have an interest shall disclose to the chief executive officer or designee such inventions reasonably promptly. As to an invention in which the University System through the constituent institution has an interest, the inventor, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University System, or its assignees, any or all rights to the invention, including complete assignment of any patents or patent applications relating to the invention.
  
- B. Personnel may not: (1) sign patent agreements with outside persons or organizations which may abrogate the University System's rights and interests as stated in this Policy or which otherwise conflict with this Policy, nor (2) without prior authorization use the name of the University of Maryland System or constituent institutions in connection with any invention.

VI. Revenue Sharing

- A. The University System through its constituent institutions shall share with the inventors revenue which it receives from patents or inventions. Specific provisions of grants or contracts may govern rights and revenue distribution regarding inventions made in connection with sponsored research. Consequently, revenues received from such inventions may be exclusive of payments of royalty shares to donors or contractors.

Moreover, constituent institutions may contract with outside persons or organizations for the obtaining, managing and defending of patents, and any royalty share or expenses contractually committed to such persons or organizations may be deducted before revenues accrue or before the inventor's share is distributed.

- B. The revenues (net, if applicable per the preceding paragraph) which are received from a patent or invention will be applied first to reimburse the University System Administration or constituent institution for any specific, incremental expenses incurred by it in obtaining and maintaining the patent and in marketing, licensing and defending the patent or licensable invention. After provision for such expenses, such revenues shall be shared as follows:
  - (1) the first \$5,000 will be paid to the inventor or inventors; (2) thereafter the inventor(s) will receive fifty percent of such revenues. Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the inventor.

- C. To the extent consistent with State and University System budget policies any net revenue received on account of an invention, after sharing with the inventor, will be dedicated to research and to the promotion of patenting and patents. If practicable, eighty-five percent of the University System Administration's or constituent institution's share of new revenue from each invention will be designated for research in the inventor's department or analogous unit up to \$100,000 in a fiscal year for a particular department or analogous unit. The remaining part of the net revenues shall be devoted to research and the promotion of patenting and patents as directed by the chief executive officer or designee (or, for the System Office, the Chancellor or designee).
- D. If use of such funds for research within the inventor's department or analogous unit is not practicable or for an amount in excess of \$100,000 per fiscal year, the chief executive officer may allocate funds for other use within the institution.

#### VII. Special Cases

The University System recognizes that special cases will arise which are not specifically covered by this policy or which may justify waivers of this policy. Such cases may be submitted to the Chancellor or designee.

#### VIII. Administration

- A. The Intellectual Property Committee consists of the Vice Chancellor for Academic Affairs or designee as an ex officio member and chair and no more than fourteen other members selected and appointed by the Chancellor from candidates nominated by the chief executive officers of constituent institutions. Members are appointed for three-year terms with non-concurrent expiration dates and may serve successive terms.
- B. The Intellectual Property Committee convenes at the call of the Vice Chancellor or designee, who determines when implementation or interpretation of the University of Maryland System Patent Policy requires consideration by the committee. Among the matters which may be referred to the committee for recommendation to the Chancellor are: whether the University of Maryland System has an interest in an invention; questions not covered by policy; and whether some part of the policy should be waived.
- C. When the committee is considering a particular invention, the inventor and/or a representative designated by the inventor may examine all materials submitted to the committee, may make written and oral presentations to the committee, and may be present during oral presentations of others.
- D. It is recognized that the evaluation of inventions and discoveries and the administration, development and processing of patents involves substantial time and expense and requires talents and experience not ordinarily found in its staff. Therefore, the University System Administration or constituent institution may enter into a contract or contracts with third parties in connection with the administration of identified inventions, disclosures of invention, and developed patents.
- E. Disputes on patent matters, including the interpretation of this Patent Policy, shall be referred for resolution to the Chancellor or designee.

Replacement for: BOR VII-4.00 and 4.01; BOT XIII-K

(Approved by the President January 1, 1992)

A. INTRODUCTION

The Eastern Shore Campus follows Board of Regents Policy IV-3.00; Policy on Patents dated May 31, 1990. In order to assist inventors, and for the sake of efficiency, UMES has established a contractual agreement with the UMCP Office of Technology Liaison (OTL) (attached). Under this agreement, OTL acts as a liaison between UMES researchers, patent attorneys, agents and corporations. OTL safeguards the interests of the University and its personnel in matters relating to intellectual property, and enforces the Board of Regents Policy.

B. PROCEDURES AT UMES

1. An inventor with a new invention should contact the Dean of the Graduate School. The inventor must prepare a brief written description of the invention and possible applications.
2. The Dean of the School shall forward the description to the Vice President for Academic Affairs with any additional relevant information.
3. The Vice President for Academic Affairs shall meet with the Dean of the Graduate School, the inventor, and such additional persons as the Dean and the inventor believe should be present to assist in a preliminary assessment.
4. If the Vice President for Academic Affairs believes that further assessment is warranted, the inventor shall be given written authorization to contact OTL at the College Park Campus.
5. OTL shall, upon receipt of written authorization, work with the inventor as provided in the attached "Memorandum of Understanding."

IV-3.10 - POLICY ON COPYRIGHTS

(Approved by the Board of Regents, May 31, 1990) (This Policy Remains In Effect Only For Copyrights Before July 1, 2002. For All Works Copyrighted On Or After July 1, 2002, This Policy Has Been Replaced by the Policy On Intellectual Property Iv-3.20, Approved by the Board of Regents, February 8, 2002.)

PREAMBLE

Prior practice of the University of Maryland has been to ascribe ownership of copyright on the basis of the extent of the use of facilities and resources. This revision bases ownership on the characteristics of the work effort, e.g. the work may be an independent creative act in the course of employment or it could be a commissioned work produced under contract.

Contextual factors such as use of resources etc. will remain important in determining contract terms and in interpreting the policy.

I. POLICY

It is the policy of the University of Maryland System that copyrights arising from aesthetic, scholarly, or other work developed through independent efforts and not part of a directed institutional or University System assignment shall reside with the originator. Independent effort is defined as the product of inquiry, investigation, or research to advance truth, knowledge, or the arts where the specific choice, content, course, and direction of the effort is determined by the individual without assignment or supervision by the institution or System.

All rights in copyright for all other works arising from the use of institutional or System resources whether directed or commissioned or contractually determined shall belong to the Regents.

In conformity with this policy, the Chancellor and chief executive officers of the System institutions are authorized to enter into agreements with respect to ownership, licensure, disposition of royalty income, resolution of disputes, and other rights related to copyrights under their respective jurisdictions. They are authorized to register copyrights, accept copyrights from third parties, and to sell or grant licenses or assignments in the name of the Regents for any rights to copyrights under their jurisdiction.

II. OWNERSHIP BY CATEGORY OF WORK

A. Scholarly/Aesthetic

In keeping with traditional academic practice and policy, ownership of copyrights to scholarly or aesthetic works that are prepared through independent effort and not part of a directed assignment, shall reside with the originator except as otherwise provided in this Policy. The general obligation of faculty to produce scholarly works does not constitute such a directed assignment.

B. Personal

The copyright to any work that is prepared outside the scope of employment and without the use of institutional or System resources by an employee shall be the property of the employee.

C. Sponsored/Contracted

The Board of Regents asserts its right to copyrightable works created under sponsorship or contract. Copyright ownership of sponsored works and contracted works shall be governed by such agreements or contracts. Any sponsored work agreement which provides for ownership by other than the Board of Regents shall also provide the Board of Regents with a free-of-cost, non-exclusive, world-wide license to use and reproduce the copyrighted work for research and education purposes, except where prohibited by law or government regulation.

D. Commissioned

When the institution or System commissions the production of a work, title normally should be with the Board of Regents. In all cases, copyright ownership shall be specified in the written contract. Any commissioned work agreement which provides for ownership by other than the Board of Regents, shall also provide the Board of Regents with a free-of-cost, non-exclusive, world-wide license to use and reproduce the copyrighted work for research and education purposes, except where prohibited by law or government regulation.

E. Acquired by Assignment or Will

The Board of Regents may acquire copyrights by assignment or will pursuant to the terms of the written agreement or testament.

III. REVENUE SHARING FOR NON-CONTRACTED WORK

The Board of Regents may assign or license its copyrights to others. The University System through its constituent institutions shall share with the originator(s) revenue which it receives through copyrights. Specific provisions of grants or contracts may govern rights and revenue distribution. Consequently, revenues received from such copyrights may be exclusive of payments of royalty shares to donors or contractors. Moreover, System institutions may contract with outside persons or organizations for the obtaining, managing and defending of copyrights, and any royalty share or expenses contractually committed to such persons or organizations may be deducted before revenues accrue or before the originator's share is distributed. The revenues (net, if applicable per the preceding paragraph) which are received from a copyright will be applied first to reimburse the System or constituent institution for any specific, incremental expenses incurred by it in generating the copyright and in marketing, licensing and defending the rights.

After provision for such expenses, such revenues shall be shared as follows:

- (1) the first \$5,000 will be paid to the originator(s);
- (2) thereafter the originator(s) will receive seventy-five percent of such revenues. Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the originator.

To the extent consistent with State and University System budget policies any net revenue received on account of a copyright, after sharing with the originator(s), will be dedicated to research and to the promotion of original works. If practicable, eighty-five percent of the System's or constituent institution's share of new revenue from each copyright will be designated for research in the originator's department or analogous unit up to \$100,000 in a fiscal year for a particular department or analogous unit.

If use of such funds for research within the originator's department or analogous unit is not practicable, the funds should usually be designated for research in a related department or unit. The remaining part of the net revenues shall be devoted to research and incentive for creative works as directed by the President or Director, or designee (or, for the System Office, the Chancellor or designee).

IV. DEFINITIONS

For purposes of interpretation of this policy, the following definitions shall apply:

A. Aesthetic Work

A work that is a result of original artistic expression.

- B. Commissioned Work  
A work produced for the institution or the System by others pursuant to a contract at the institution's expense.
- C. Contracted Work  
Work produced by and for others at the others' expense, using institutional or System facilities pursuant to a contract.
- D. Copyright  
The intangible property right granted by statute providing the owner the following exclusive rights over a work: to reproduce, to prepare derivative works, to distribute, to perform publicly, and to display publicly.
- E. Direct University Assignment  
Any written or oral instruction or task assigned to an originator.
- F. License  
A contract in which a copyright owner grants permission to exercise one or more of the rights under copyright.
- G. Originator  
Any person who produces a work by his or her own intellectual effort, including student employees.
- H. Royalties  
A payment made to an owner of a copyright for the privilege of practicing a right under the copyright.
- I. Scholarly Work  
Work such as, but not limited to, books, articles, other such publications, lectures, and computer software resulting from independent effort.
- J. Software  
A work comprising statements or instructions to be used directly or indirectly in a computer to bring about a certain result and any associated documentation containing operational instructions. (In cases where software is found to be patentable the Patent Policy will govern.)
- K. Sponsored Work  
A work produced by or through an institution or the System pursuant to a contract, grant, or other agreement.
- L. University System Resources  
All buildings, equipment, services, funds (regardless of source), and other facilities under the control of the Board of Regents.
- M. Work  
Any copyrightable expression including, but not limited to writings, lectures, musical or dramatic compositions, sound recordings, films, videotapes, computer software, architectural designs, and works of art.

Replacement for: BOR VII-3.00 and BOT XIII

#### IV – 3.20 UNIVERSITY SYSTEM OF MARYLAND POLICY ON INTELLECTUAL PROPERTY

(Approved by the Board of Regents, February 8, 2002)

##### I. INTRODUCTION

The primary mission of universities is to create, preserve, and disseminate knowledge. When that knowledge takes the form of intellectual property, a University must establish a clear and explicit policy that will protect the interests of both its creators and the University while ensuring that society benefits from the fair and full dissemination of that knowledge

##### II. EFFECTIVE DATE

This policy will be effective on July 1, 2002 (“Effective Date”). It will apply to all intellectual property disclosed to the University on or after July 1, 2002. Intellectual property disclosed to the University prior to the Effective Date will remain subject to the UMS Policy on Patents effective May 31, 1990 or the UMS Policy on Copyrights effective May 31, 1990, unless otherwise agreed by the University and all creators of the intellectual property (or the heir or assignee of any creator’s share of Revenue).

##### III. DEFINITIONS

The terms defined in this section are given special meanings in this policy and appear capitalized throughout.

- A. **Personnel.** All University employees, full-time and part-time, including Student Employees acting within their Scope of Employment; non-employee consultants; visitors; and others using University resources.
- B. **Resources Usually and Customarily Provided.** All resources provided unless specified otherwise, in advance and in writing, as a condition of using the resource.
- C. **Revenue.** Consideration paid in cash or equity by a third party in exchange for specific intellectual property rights. Revenue does not include research support in any form (e.g., sponsored research agreements, restricted grants, unrestricted grants, or equity), tuition income, and contract income received by the University including contract income received in lieu of tuition.
- D. **Scope of Employment.** All activities, related to the field or discipline of the faculty member’s appointment, including the general obligation of a faculty member to teach, to do creative work, and to conduct research, or related to the employment responsibilities of non-faculty Personnel, and for which Personnel receive compensation from the University, where compensation is any consideration, monetary or otherwise, including but not limited to, title and the ability to use University resources.
- E. **Sponsored Research Agreements.** Grants, contracts, cooperative agreements, and other agreements under which research or development activities will be carried out, or other agreements administered by the University that relate to intellectual property created under the agreement.
- F. **Students.** Persons enrolled in a University, acting within the course of their academic work, including, but not limited to, undergraduates, graduate and professional students, non-degree students, and not-for-credit students.
- G. **Student Employee.** A student who is also a University employee, acting within the Scope of Employment.
- H. **University.** One of the following: a constituent institution of the University System of Maryland, the University of Maryland Biotechnology Institute, the University of Maryland Center for Environmental Science, or the University System of Maryland Office.

#### IV. GENERAL PROVISIONS

- A. Purpose. The purpose of this policy is to set forth the terms, conditions, and procedures whereby the University System of Maryland, Personnel and Students establish and maintain their interests in intellectual property created by or used at USM institutions, taking into account intellectual property laws governing patents, copyrights, trademarks, and other forms of intellectual property. This policy governs the ownership and protection of such property at the University.
- B. Scope of Application. All Personnel and Students shall comply with this policy, as amended from time to time. This policy shall be included in the faculty handbook, as directed in Board of Regents Policy II - 1.00, Section I. B.2.
- C. Protecting University Interests. Personnel and Students may not
- (1) sign agreements or take any action on behalf of the University unless they are authorized agents of the University, or
  - (2) make unauthorized use of the name of the University. In cases where Personnel or Students take such actions, the University is not bound to honor those actions or agreements.
- D. Acquisition. The University may acquire ownership or use of intellectual property by assignment, license, gift, bequest, or any other legal means. The University shall administer such intellectual property in accordance with this policy unless otherwise required by the terms of the acquisition.
- E. Administration of Intellectual Property which is not University-owned. At the request of the owner, intellectual property not owned by the University may be administered by the University. In such cases this policy shall govern that administration unless the University agrees otherwise in writing.
- F. Sponsored Research
- 1) Ownership. Sponsored research agreements shall provide that all intellectual property developed by Personnel or Students under such agreements shall belong to the University; however, the University, on a case-by-case basis (as circumstances warrant, and consistent with applicable private use restrictions e.g., under bond covenants), may agree to assign ownership or licensing rights to the sponsor, subject to the University's right to use and reproduce the intellectual property for research and educational purposes. The University's president or designee shall approve any such agreement.
  - 2) Federal Sponsorship. Any research project that is funded, in whole or in part, by a federal agency is subject to specific federal statutes and regulations. Those regulations generally allow the University to elect title to any invention that is conceived of or first actually reduced to practice in the performance of federally-funded research with the purpose of commercializing the invention, subject to the government's rights which include reservation of a nonexclusive license to use the invention world-wide for government purposes.
- G. Implementation Authority. The Chancellor shall have the authority and responsibility for implementation and coordination of this policy. Each president shall have the authority and responsibility to implement and coordinate this policy within the president's University. Subject to the other provisions of this policy and applicable law, the presidents may enter into agreements with respect to ownership, licensure, disposition of intellectual property, disposition of royalty income, resolution of disputes, and other matters related to intellectual property in which that University has an interest under this policy, and may register intellectual property; seek protection under copyright, trademark, and/or patent laws; and enforce, defend, manage, and take any action relevant to the institution's intellectual property rights that is necessary for the proper administration of this policy.

## V. COPYRIGHTS

- A. Ownership by Creator. Personnel and Students shall have all rights in copyrights of their work, subject to section V.B. below, with the following exceptions.
- 1) Scope of Employment. The University owns all rights in copyright for work produced by non-faculty Personnel within the Scope of Employment.
  - 2) Sponsored Research Agreements. The University owns all rights in copyright for work produced by Personnel or Students under Sponsored Research Agreements.
  - 3) Signed agreements. The University owns all rights in copyright for all work as stated in written agreements.
  - 4) Computer Programs and Software. Ownership of copyrighted software and computer programs is addressed in Section VII.
  - 5) Technology-mediated Instructional Materials. Ownership and use of technology-mediated instructional materials is addressed in Section VIII.
- B. Right of Use
- 1) University rights. The University shall have the right to use and reproduce for research and educational purposes scholarly and original works, whether owned by the University, Personnel, or Students, for which it has provided resources.
  - 2) Additional Rights. If the University wishes to secure additional rights in copyrighted work, it shall so specify in writing at the time it provides resources beyond Resources Usually and Customarily Provided or other consideration.
- C. Responsibilities of Personnel and Students
- 1) Assignment. For work to which the University has or had rights of ownership or use under this policy, Personnel and Students shall, upon request, execute all legal documents designed to assist the University, or its assignees, in proving or benefiting from such rights, as deemed appropriate by the University.
  - 2) External Collaborations. See Section IV.C and the Policy on Professional Commitment of Faculty, BOR 41.0 II-3.10.
  - 3) Use of Copyrighted Materials. All Personnel and Students are responsible for complying with University guidelines on the fair use of copyrighted material and for complying with the requirements of copyright law, including obtaining required permissions to use copyrighted material.
- D. Responsibilities of the University
- 1) Agreement Regarding Use of Resources Beyond Resources Usually and Customarily Provided. When the University authorizes or directs efforts to create a work or works using University resources beyond Resources Usually and Customarily Provided, it shall enter into a written agreement addressing the extent of use of resources, the schedule for the project (if appropriate), control over the work and its revisions, and ownership of the work.

When the work done by Personnel routinely involves resources beyond Resources Usually and Customarily Provided, compliance with this section may be accomplished by including the required terms in an employment agreement.

- 2) Sharing of Revenue. The University shall remit to creators or their assignees or heirs, their share of Revenue from copyrights as specified in Section XI.A. of this policy.
- 3) Use of Copyrighted Materials. The University shall develop and disseminate guidelines for the use of copyrighted materials. These guidelines should address library and educational fair use as well as fair use exceptions for research and scholarly work.

## VI. PATENTS

### A. Ownership

- 1) University Ownership
  - a) Within Scope of Employment. The University owns inventions created by Personnel within the Scope of Employment.
  - b) Use of University Resources. The University owns inventions created by Personnel, Graduate Students, or Professional Students with the use of University resources.
  - c) Signed Agreements. The University owns all inventions made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.
- 2) Creator Ownership
  - a) Outside Scope of Employment. Personnel, Graduate Students, and Professional Students own patent rights to inventions conceived and first reduced to practice outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements
  - b) Student Ownership. Undergraduate, non-degree, and not-for credit Students own inventions they create unless the invention is subject to another provision of this section.

### B. Responsibilities of Personnel and Students

- 1) Disclosure. Personnel and Students shall disclose inventions which are subject to University ownership to the president or designee in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose.
- 2) External Collaborations. In accord with Section IV.C., Personnel and Students may not: (a) sign patent agreements or other documents (e.g., invention reports, licenses, assignments, Material Transfer Agreements, or Confidential Disclosure Agreements) which abrogate the University's rights; (b) make unauthorized use of the name of the University; or (c) transfer material relating to intellectual property outside the University, except pursuant to a properly authorized Material Transfer Agreement. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.
- 3) Assignment. As to an invention in which the University has a right to ownership or use, the inventor, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the invention, including assignment of any patents or patent applications relating to the invention.

C. Responsibilities of University

- 1) **Timely Evaluation.** The University shall evaluate inventions disclosed in accordance with Section VI.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection; the scope of patent protection; and whether and how to pursue, limit, or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any invention in which it has an interest.
- 2) **Timely Information.** The University shall inform inventors in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of inventions disclosed in accordance with Section VI.B.1). Terms of agreements which constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify inventors promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize an invention.
- 3) **Commercialization by Inventors.** The University, at its discretion and consistent with the public interest, may license intellectual property to the inventors on an exclusive or non-exclusive basis. Inventors must demonstrate technical and business capability to commercialize the intellectual property. Agreements with inventors shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.
- 4) **Assignment of Ownership.** The University may assign ownership to the inventors as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty free, non-exclusive basis. The University may retain more than the minimum license rights, and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the inventors, the transfer to the inventors of the University's interest in any invention that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the invention before it can agree to negotiate the transfer of the University's interest in an invention to the inventors.
- 5) **Sharing of Revenue.** The University shall remit to the inventors or their assignees or heirs, their share of Revenue from inventions as specified in Section XI.B. of this policy.

VII. COMPUTER PROGRAMS AND SOFTWARE

A. Ownership

- 1) **University Ownership**
  - a) **Within the Scope of Employment.** The University owns computer programs and software created by Personnel within the Scope of Employment.
  - b) **Use of University Resources.** The University owns computer programs and software created by Personnel, graduate Students, or professional Students with the use of University resources.
  - c) **Signed Agreements.** The University owns all computer programs and software created or made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.
- 2) **Personnel Ownership**
  - a) **Outside Scope of Employment.** Personnel, graduate Students, and professional Students own software and computer programs conceived and first reduced to practice, and/or authored, outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements.

- b) Student Ownership. Undergraduate, non-degree, and not-for credit Students own computer programs and software they create unless the computer program or software is subject to another provision of this section.

B. Responsibilities of Personnel and Students

- 1) Disclosure. Personnel and Students shall disclose computer programs and software that are subject to University ownership to the president or designee in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose. Disclosure may include deposit of a digital-time-stamped copy of the software program, with appropriate annotations.
- 2) External Collaborations. See Section IV.C. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.
- 3) Assignment. As to a computer program or software in which the University has a right to ownership or use, the creator, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the computer program or software, including assignment of any patents, copyrights, patent applications, or copyright applications, relating to the work.

C. Responsibilities of University

- 1) Timely Evaluation. The University shall evaluate computer programs and software disclosed in accordance with Section VII.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection, the scope of patent protection, and whether and how to pursue, limit, or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any computer program or software in which it has an interest.
- 2) Timely Information. The University shall inform creators in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of computer programs or software disclosed in accordance with Section VII.B.1). Terms of agreements which constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify creators promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize computer programs or software.
- 3) Commercialization by Creators. The University, at its discretion and consistent with the public interest, may license intellectual property to the creators on an exclusive or non-exclusive basis. Creators must demonstrate technical and business capability to commercialize the intellectual property. Agreements with creators shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.
- 4) Assignment of Ownership. The University may assign ownership to the creators as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty free, non-exclusive basis. The University may retain more than the minimum license rights, and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the creators, the transfer to the creators of the University's interest in any computer program or software that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the intellectual property before it can agree to negotiate the transfer of the University's interest in intellectual property to the creators.

- 5) Sharing of Revenue. The University shall remit to the creators or their assignees or heirs, their share of Revenue from computer programs or software as specified in Section XI.B. of this policy.

#### VIII. TECHNOLOGY-MEDIATED INSTRUCTIONAL MATERIALS.

If the University determines that Section VII. is inadequate to cover technology-mediated instructional materials, in whole or in part, the University shall insert its own policy statement in this section. This policy must be consistent with the provisions of Section VII above and must be based on the University's mission and must define technology-mediated instruction and technology-mediated instructional materials, specify ownership rights and responsibilities for reporting by Personnel and Students, describe how materials may be protected and commercialized, specify how costs and Revenue will be allocated, and describe conditions attached to use of work prepared for technology-mediated instruction by Personnel and Students. If the University elects not to have a separate policy statement, this section will say explicitly that Section VII applies to technology-mediated instructional materials.

#### IX. OTHER TYPES OF INTELLECTUAL PROPERTY

- A. Tangible Research Property. The principles in Section VI that apply to inventions and patents also apply to tangible research property.
- B. Mask Works. The principles in Section VI that apply to inventions and patents also apply to mask works.
- C. Plant Varieties. The University owns and may protect or commercialize plant varieties according to the principles of Section VI.
- D. Trademarks, Service Marks, and Trade Dress. Trademarks, service marks, and trade dress may be created in association with an underlying license for another form of intellectual property, such as a patent or a plant variety (“associated with other intellectual property”), or independently, such as a University logo or symbol (“independently created”).
  - 1) Associated with Other Intellectual Property. The University owns a trademark, service mark or trade dress if it is associated with other intellectual property owned by the University.
  - 2) Independently Created. The University owns trademarks, service marks, and trade dress that are independently created by Personnel within the Scope of Employment unless the University agrees otherwise in writing.
  - 3) Commercialization. The University may commercialize or license its trademarks, service marks, and trade dress.
  - 4) Registration. The president or designee shall approve registration of trademarks or service marks, at the state or federal level.

## X. INTERINSTITUTIONAL AGREEMENTS

- A. Joint Appointments and Affiliations. This section applies when an individual has an appointment in and receives support for research or creative work from two or more Universities and when a Student or Student Employee is earning a degree in one University but doing research or creative work in another.
- 1) Ownership. When more than one University can claim ownership to intellectual property under this policy, they own it jointly.
  - 2) Management Agreements. Universities that are or may become joint owners of intellectual property shall enter into agreements stating which University will be responsible for management of the intellectual property. Universities are encouraged to negotiate standard agreements whenever possible.
    - a) Terms to be Addressed. The agreements shall state which institution will be responsible for prosecution of patent applications or other forms of intellectual property protection, which institution will license the intellectual property, how expenses and deductions from Revenue will be allocated, and how institutional net revenue will be shared. The distribution of each University's share of Net Revenue, Project Specific Costs, and General Costs shall be addressed in the management agreement.
    - b) Student Requirements. With regard to Students and Student Employees, agreements shall specify whether the degree-granting University or the supporting University will be responsible for managing intellectual property they create when that property is subject to University ownership.
  - 3) Responsibilities of Managing University. The University managing intellectual property under an agreement shall promptly inform the other University or Universities about steps taken with regard to ownership. Such information shall include at minimum copies of the invention disclosure form, documents associated with filing for statutory protection, assignment of rights, and license agreements. If the managing University decides not to proceed, the other owning University or Universities shall have the right to assume responsibility as the managing University.
  - 4) Distribution of Revenue. The managing University shall distribute Revenue to the creators and share net revenue in all cases according to Section XI.
  - 5) Disputes. A president may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of an agreement. The Chancellor's decision shall be final and binding on all parties.
- B. Joint Creators. This section applies when Personnel or Students from two or more Universities collaborate.
- 1) Early Notification. As soon as collaborators from different Universities recognize that their efforts have resulted in, or are likely to result in, the creation of intellectual property subject to this policy, they shall inform their respective Universities that an agreement is needed.
  - 2) Agreements Govern. Signed agreements between Universities shall determine ownership of intellectual property, responsibility for managing it, and distribution of expenses and Revenue resulting from its development. Universities whose Personnel or Students are engaged in frequent collaboration are encouraged to negotiate standard agreements within the framework of this policy.
  - 3) Disputes. A president may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of the agreement. The Chancellor's decision shall be final and binding on all parties.

## XI. REVENUE SHARING

Unless otherwise agreed to in writing by the creators of a work or inventors of an invention, each named creator or inventor shall receive equal shares of net Revenue.

A. Copyrights. The University shall share with creators Revenue it receives from copyrights of their work, subject to certain exceptions.

1) Exceptions

- a) Scope of Employment. Revenue generated from work produced by non-faculty Personnel within the Scope of Employment is excluded from sharing. However, the University may elect, by written agreement or University policy, to pay up to fifty percent of net Revenue to such non-faculty Personnel.
- b) Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the contract govern.
- c) Equity. Equity shall be distributed in accord with Section XI.G.
- d) Technology-mediated Instructional Materials. University policy adopted to fulfill Section VIII may exclude some or all Revenue from sharing.

2) Deductions from Revenue. The University shall make the following deductions from Revenue before distributing net Revenue (Section XI.A.3).

- a) Creators' Share. First, ten percent of Revenue shall be distributed among the creators of the work until the cumulative total reaches the limit set pursuant to this paragraph that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is \$10,000 to be shared among the inventors. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index during the last calendar year completed, rounded to the nearest \$100.
- b) General Costs. Second, the University will deduct 30% of Revenue to cover the general cost of developing, obtaining, managing, and defending creative works, unless otherwise agreed to by the University and creators, in writing.
- c) Project Specific Costs. Third, the remaining 60% of the Revenue received from a work shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the copyright, and in developing, marketing, licensing, and defending the work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.
- d) Residual Creators' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the creators until the threshold dollar amount has been paid, as specified above in Section XI.A.2)a).

3) Distribution of Net Revenue. Net Revenue is the revenue remaining after deductions under XI.A.2.

- a) Creators' Share. The University shall distribute among the creators fifty percent (50%) of the net Revenue it receives from their creative work unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with creators provide otherwise.
- b) University's Share. The University shall receive 50% of the net Revenue. Each University shall establish guidelines for the use of its share of the net Revenue. Net Revenue received on account of copyrighted work shall be dedicated to research, scholarship, creative work, and related academic activities.

- 4) Timely Distribution. The University shall distribute accrued Revenue due creators under this policy at least annually. Distribution will be made along with a statement of related income and expenses.
- B. Patents and Computer Programs and Software. The University shall share with inventors or creators Revenue it receives from their inventions or creations as provided in this section.
- 1) Exceptions
    - a) Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the agreement govern.
    - b) Equity. Equity shall be distributed in accord with Section XI.G.
  - 2) Deductions from Revenue. The University shall make the following deductions from Revenue before distributing net Revenue (Section XI.B.3).
    - a) Creators' or Inventors' Share. First, ten percent of Revenue shall be distributed among the creators or inventors until the cumulative total reaches the limit set pursuant to this paragraph that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is \$10,000 to be shared among the inventors or creators. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index during the last calendar year completed, rounded to the nearest \$100.
    - b) General Costs. Second, the University shall deduct 30% of Revenue to cover the general cost of developing, obtaining, managing, and defending inventions or creative work, unless otherwise agreed to by inventors or creators and the University, in writing.
    - c) Project Specific Costs. Third, the remaining 60% of Revenue received from a creative work, patent, or invention shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the patent and in developing, marketing, licensing, and defending the patent or licensable invention or creative work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by inventors or creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.
    - d) Residual Creators' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the creators until the threshold dollar amount has been paid, as specified above in Section XI.B.2)a).
  - 3) Distribution of Net Revenue. Net Revenue is the Revenue remaining after deductions under XI.B.2.
    - a) Creators' Share. The University shall distribute among the inventors or creators fifty percent (50%) of the net Revenue it receives from their inventions or creations unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with inventors or creators provide otherwise.
    - b) University's Share. The University shall receive 50% of the net Revenue. Each University shall establish guidelines for the use of its share of the net Revenue. Net Revenue received on account of an invention shall be dedicated to research and to the promotion of patenting and patents.
  - 4) Timely Distribution. The University shall distribute Revenue due creators under this policy at least annually. Distribution will be made along with a statement of related income and expenses.

- C. Tangible Research Property, Mask Works, and Plant Varieties. When tangible research property, mask works, or plant varieties are licensed, Revenue shall be distributed in the same manner that Revenue is distributed under Section XI.B.
- D. Trademarks, Service Marks, and Trade Dress
  - 1) Creators' Share
    - a) Associated with Other Intellectual Property. Revenue received from commercialization of a trademark, service mark, or trade dress that is related to an intellectual property license shall be shared with creators of the trademark, service mark, or trade dress, as specified in Section XI.B.
    - b) Independently-created trademark, service mark, or trade dress. Except as provided herein or unless subject to prior written agreement between the creators and the University, the University will not share the Revenue from commercialization of a trademark, service mark, or trade dress with the individuals who created the trademark, service mark, or trade dress.
  - 2) University Ownership. Revenue received from commercialization of a trademark, service mark, or trade dress licensed independently and not directly related to another form of intellectual property license shall not be shared and shall belong to the University.
- E. Joint Appointment. In situations covered by section X., the University's share of net Revenue shall be divided equally among the Universities or as otherwise provided by written agreement.
- F. Joint Creators. If joint creators are from different Universities, the University's share of net Revenue shall be divided equally unless determined by signed agreements as provided in Section X.B.2.
- G. Equity
  - 1) Issuance of Shares. Equity may be issued separately to the University and the inventors or creators.
  - 2) Distribution of Shares. Equity in a commercial venture received as consideration for intellectual property rights shall be shared equally between the University and the creators, unless a different distribution is negotiated in an agreement signed by the University and the creators of the relevant intellectual property.
  - 3) Timely Distribution. When the University receives all shares directly, as soon as practicable after the University receives equity, and subject to the creators receiving any conflict of interest exemptions that must be granted and complying with any conditions for those exemptions, the University shall transfer equity shares to the creators. The University and creators shall have independence in their exercise of equity holder privileges within the constraints of law, policy, specific exemption under Maryland law from the State Ethics Law, and contractual agreements.
  - 4) Unqualified Persons. Personnel or Students not qualified to hold the equity under applicable law shall designate a qualified person to receive the equity. If no designee is named within thirty days of a written request by the University to do so, the right to a share of the equity shall be forfeited to the University.

## XII. ADMINISTRATION

- A. Implementation Options. Each University shall elect one of the following options for implementing this policy:
- 1) Adoption. Adopt the USM policy including the requirements in XII.B., below;
  - 2) Modification. Modify the USM policy, retaining the requirements in XII.B., below, to reflect the unique needs of the University based on its mission;
- B. University Implementation. Each University shall develop procedures for implementing this policy that:
- 1) establish the University's policy on technology-mediated instructional materials, as required in Section VIII.;
  - 2) establish guidelines for use of materials protected by copyright, as required by Section V.C.3);
  - 3) establish guidelines for use of the University's share of net Revenue within the University, as required by Sections XI.A.3)b) and XI.B.3)b);
  - 4) designate an initial point of contact for intellectual property issues;
  - 5) publicize and make available the University policy and implementation procedures;
  - 6) provide the Chancellor with a copy of the University's policy for approval prior to initial adoption as well as prior to any subsequent revision (Until such time as the Chancellor provides written approval of the initial University document, this USM document shall apply to the University. Subsequent revisions shall not go into effect until approved by the Chancellor in writing.);
  - 7) provide the Chancellor with a copy of the University's implementation procedures for the record.
- C. Authority to Subcontract. The University may enter into contracts with third parties in connection with the development, administration, and protection of its intellectual property.
- D. Special Cases.
- 1) Issues not addressed. The Board of Regents recognizes that special cases will arise that are not specifically covered by this policy. In such cases, Presidents may make a decision on how to proceed and report that decision to the Chancellor. Alternatively, the President may submit such cases to the Chancellor or designee for resolution. All decisions on such cases shall be reported to the Intellectual Property Committee, which will take them into account in its annual review of this policy.
  - 2) Policy waivers. Only the Chancellor may waive any provision of the USM Policy or of any University's approved policy on intellectual property. All decisions concerning waiver shall be reported to the Intellectual Property Committee and to the Board of Regents.
- E. USM Intellectual Property Committee
- 1) Membership. The Chancellor shall appoint one representative from each institution from nominees submitted by the presidents. The Chancellor will assure that faculty members constitute a significant proportion of the membership and that representative of technology transfer offices shall routinely meet with the Committee. Members shall serve a three-year term. No voting member may serve more than two consecutive terms. The Vice Chancellor for Academic Affairs shall chair the Committee, without a vote.

- 2) Responsibilities. The Committee shall advise the Chancellor on intellectual property matters. It shall convene at least once each academic year to review this policy and may recommend revisions to the policy. The Committee shall also meet at the call of the Chair. A University president or the Chancellor may refer to the Committee for its recommendations to the Chancellor matters relating to this policy, including relevant matters not addressed by the policy, and suggestions for revisions. The Chancellor may ask the Committee for advice on the resolution of disputes over intellectual property.
- 3) Creator's Right to Participate. Whenever the Committee considers this policy's application in order to advise the Chancellor about a specific work, Personnel or Students who created the work or their representative may make a written presentation and an oral presentation to the Committee.

### XIII. REPORTING

Each University president shall report annually to the Chancellor and the Board of Regents on intellectual property activity at the University. The report, in a format to be determined by the Chancellor, shall include data for the preceding year on disclosures, patent applications, patent awards, licenses, and start-up companies, distinguishing when appropriate between Maryland-based companies and those outside of the State. The report shall also include data on revenue and expenditures associated with the University's technology transfer function.

(This policy replaces USM IV-3.00 Policy on Patents and USM IV-3.10 Policy on Copyrights in their entirety.)  
Glossary (This section is provided for information only. It is not part of the policy.)

Commercial venture - a start-up company, limited partnership, joint venture or any other entity that has obtained an option or a license to University technology.

Confidential Disclosure Agreement - An agreement or section of an agreement that prevents parties to the agreement from releasing knowledge or information without the other's permission.

Copyright - The intangible property right granted by statute for an original work fixed in a tangible means of expression. A copyright provides the owner with the following exclusive rights over a work: to reproduce, to prepare derivative works, to distribute, to perform publicly, and to display publicly. Copyright comes into existence immediately at the time the work is fixed in a tangible means of expression.

Creative works - "Original works of authorship" that are fixed in a tangible form of expression that may be protected by copyright. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works;
- (7) sound recordings; and
- (8) architectural works.

Creator - Refers to an individual or group of individuals who make, conceive, reduce to practice, or otherwise make a substantive intellectual contribution to the creation of intellectual property. "Creator" follows the definition of "inventor" used in U.S. patent law and the definition of "author" used in the U.S. Copyright Act.

Disclose - Formally record the essence of a potentially patentable concept, the circumstances in which it was conceived, the persons participating in the invention, and the steps taken to reduce it to practice, if applicable, in accord with the requirements of U.S. patent law for establishing precedence.

Equity or equity shares - Shares of common or preferred stock, warrants, options, convertible instruments, units of a limited partnership, or any other instruments conveying ownership interest in a commercial venture, or options or rights to purchase an ownership interest.

First sale - The principle that gives the purchaser of a copyrighted work the right, among other things, to lend it to others.

Intellectual property - The intangible value developed by human creativity that is protected by the legal mechanisms of patents, trademarks, copyrights, service marks, trade secrets, mask works, and plant variety protection certificates. Rights derived from legislation include ownership and disposition, including commercialization. Intellectual property encompasses inventions, discoveries, know-how, show-how, processes, unique materials, copyrightable works, original data, and other creative or artistic works that have value. It also includes the physical embodiments of intellectual effort such as models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions or matter, plants, and records of research.

Invention - any discovery which is or may be patentable or which may be commercially licensable.

License - A contract in which an intellectual property owner grants permission to exercise one or more of the rights that an owner holds.

Mask work - A series of related images representing a predetermined, three-dimensional pattern of metallic, insulating, or semi-conducting layers of a semi-conductor chip product.

Material Transfer Agreement - A contract covering transfer of physical possession and use of tangible research property into or out of the University.

Patent (U.S. only) - The intangible property right to exclude others from making, using, offering for sale, or selling the invention in the United States or importing the invention into the United States. In order to obtain patent protection, an invention must be useful, novel and unobvious.

Plant variety protection certificate - Registration under the Plant Variety Act of 1970 that protects sexually propagated cultivars that are distinctive, uniform and true-breeding.

Royalty - Payment made to an owner of intellectual property for the privilege of practicing a right held by the owner of the intellectual property under applicable law.

Tangible research property - Includes the physical embodiments of intellectual effort such as models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions of matter, plants, and records of research. Tangible research property is distinct from intangible properties such as patents, trademarks, copyrights, service marks, trade secrets, mask works, and plant variety protection certificates. Individual items of tangible research property may be associated with one or more intangible properties.

Trade dress - Distinctive and unique packaging, color combinations, building designs, product styles, and overall presentations identifying the source, product, producer, or distributor of goods and services where the appearance distinguishes the product or business from other similar products or businesses but is not distinctive or specific enough to be considered a trademark.

Trademarks and service marks - Distinctive words or graphic symbols identifying the source, product, producer, or distributor of goods and services.

56.0 III-1.10 POLICY ON MISCONDUCT IN SCHOLARLY WORK

(Approved by the Board of Regents, November 30, 1989)

I. POLICY

The inherent requirement for integrity in the quest for knowledge and in the creation of scholarly and artistic works is fundamental to the academic purpose. Deviations from the proper conduct of scholarly work erode the public's confidence in science, in scholarship and in institutions of higher education. The University of Maryland System expects that the highest ethical standards as well as compliance with public laws and regulations will prevail in the conduct of its activities. The University System considers misconduct in scholarly work by any of its employees a breach of contract. Accordingly:

- A. It is the policy of the University of Maryland System to maintain high ethical standards in science and other scholarly work, to prevent misconduct where possible, and promptly and fairly to evaluate and to resolve instances of alleged or apparent misconduct.
- B. It is the policy of the University of Maryland System to terminate the employment and/or to take other disciplinary action against any individual found guilty of misconduct.
- C. It is the policy of the University of Maryland System to award no degree if misconduct in science or other scholarly work contributed to that degree, and when warranted, to revoke such a degree if misconduct is discovered after its award.

II. PURPOSE

This policy is the basis for University of Maryland System procedures and practices designed to instill and to promote the principles of professional integrity, to prevent scholarly misconduct, and to discover and to censure instances of misconduct when they occur. In accordance with this policy, each institution in the System must prepare, implement and publicize policies and procedures appropriate for its unique organization and administration.

The policy applies primarily to faculty, staff, and student research, scholarly writing, and the creation of works of art. It is not intended to address issues, such as the conduct of students in examinations and in fulfilling course requirements, which are covered by other policies.

## GUIDELINES FOR POLICIES AND PROCEDURES RELATING TO ALLEGATIONS OF MISCONDUCT IN SCHOLARLY WORK

### I. PURPOSE

It is the purpose of these guidelines to provide institutions in the University of Maryland System a framework for policies, procedures, and practices designed to instill and promote the principles of professional integrity, to prevent scholarly misconduct, and to discover and censure instances of misconduct when they occur. Using these guidelines, each institution in the System must prepare, implement and publicize policies and procedures appropriate for its unique organization and administration.

These guidelines apply primarily to faculty, staff, and student research, scholarly writing, and the creation of works of art. They are not intended to address issues, such as the conduct of students in examination and in fulfilling course requirements, which are covered by other policies. Neither are they intended to fully address compliance with laws and regulations. These guidelines address compliance only to the extent that it relates to academic integrity.

### II. POLICY

The inherent requirement for integrity in the quest for knowledge and in the creation of scholarly and artistic works is fundamental to the academic purpose. Deviations from the proper conduct of scholarly work erode the public's confidence in scholarship and in institutions of higher education. The University of Maryland System expects that the highest ethical standards as well as compliance with public laws and regulations will prevail in the conduct of its activities. The University System considers misconduct in scholarly work by any of its employees a breach of contract. Accordingly, institutional policies should include the following statements:

- A. It is the policy of the University of Maryland System to maintain high ethical standards in scholarly work, to prevent misconduct where possible, and promptly and fairly to evaluate and resolve instances of alleged or apparent misconduct.
- B. It is the policy of the University of Maryland System to terminate the employment and/or to take other disciplinary action against any individual found guilty of misconduct.
- C. It is the policy of the University of Maryland System to award no degree if misconduct in scholarly work contributed to that degree, and to revoke such a degree if misconduct is discovered after its award.

### III. PROMOTION OF PROFESSIONAL INTEGRITY

The policies and procedures for each institution must provide for periodic evaluations of procedures and practices that teach and promote integrity in scholarly work, as well as those practices that may inadvertently provide incentives for misconduct. Evaluations should include, but need not be limited to:

- A. Policies that fix responsibilities for the conduct of research and other scholarly work and that assure adequate supervision or oversight of students and of academic or research teams.
- B. Institutional policies regarding authorship and the acceptance of full responsibility for the work published.
- C. Institutional practices regarding authorship as a criterion for promotion.
- D. Practices that foster openness and enhance awareness and recognition of ethical issues and of responsibilities in the conduct of scholarly work.
- E. Practices that assure adequate orientation of students to ethical issues in academic pursuits and to acceptable techniques in data gathering, record keeping and reporting.
- F. Institutional practices and requirements in regard to recording, retention, and storage of data.

#### IV. MISCONDUCT IN SCHOLARLY WORK

- A. It should be emphasized that reporting misconduct in scholarly work is a responsibility shared by everyone at the institution. However, frivolous, mischievous or malicious misrepresentation in alleging misconduct will not be tolerated.
- B. Misconduct in scholarly work may take many forms; these guidelines apply, but are not limited to, the following examples of misconduct:
  - 1. Falsification of data. Ranging from fabrication to deceptively selective reporting, including the purposeful omission of conflicting data with the intent to falsify results.
  - 2. Improper experimental manipulation. For example, manipulating experiments to obtain biased data.
  - 3. Plagiarism. For example, taking credit for an exact copy or the rewritten or rearranged work of another.
  - 4. Improper assignment of credit. For example, insufficiently or knowingly not citing the work of others, including associates and students, or inadequately identifying the repetition of data or material that appears in more than one publication.
  - 5. Abuse of confidentiality. For example, improper use of information gained by privileged access, such as information obtained through service on peer review panels and editorial boards.
  - 6. Deliberate violation of regulations. For example, failure to comply with regulations concerning the use of human subjects, the care of animals, or health and safety of individuals and the environment.
  - 7. Misappropriation of funds or resources. For example, the misuse of funds for personal gain.

#### V. HANDLING ALLEGATION OF MISCONDUCT

- A. Allegations of misconduct in scholarly work may come from various sources within and without the institution. It is important that allegations of misconduct be handled expeditiously and that no serious allegations go unheeded. Consequently, each campus must develop specific procedures that define how allegations will be evaluated, what levels of administration will be involved, and what actions will be taken as the result of evaluating an allegation of misconduct.
- B. No decisions regarding the seriousness of an allegation of misconduct should be made by anyone whose personal or professional interests may be involved. Thus, although an allegation may first be reported to a collaborator, a co-worker, a co-author, a faculty advisor, or a team leader, such a close associate must report the allegation to a designated senior official for further action.
- C. The purpose of the evaluation of an allegation is to determine whether there is or is not substantial basis to believe that scholarly misconduct has occurred, and whether formal discharge proceedings or other action with respect to the individual's employment is warranted.
- D. The evaluation of an allegation should be kept confidential to the extent possible. Until a conclusion is reached, (i.e., the fact-finding process results in a judgment that there is or is not substance to the allegation) information about the allegation and about the evaluation should be made available only to those who need to know. Generally, those who need to know include the accused, individuals who can provide pertinent information or expert opinions, those conducting the evaluation, and appropriate institutional officials. Thus, institutional procedures should identify levels of administration that need to know. The procedures should identify administrative levels at which evaluations will be conducted, as well as levels at which actions will be taken at the conclusion of evaluations.

E. All serious allegations of misconduct must be evaluated first by an inquiry, and then, if the inquiry so indicates, by an investigation. The accused must be notified in writing when an inquiry into an allegation of misconduct is being initiated and again when an investigation is being initiated.

1. Inquiry

- a. An inquiry into an allegation of misconduct should be made by a small committee appointed by the director or president of the institution, or by the director's or the president's designee.
- b. The purpose of an inquiry is to determine whether there is sufficient basis for the allegation to warrant a full investigation. Thus an inquiry need not seek all the relevant information or documentation.
- c. An inquiry may be conducted informally, although records of its findings should be kept to justify its recommendations, and, if no investigation is recommended, to indicate whether the allegation was mischievous.
- d. Institutional procedures should indicate which official should receive and act upon the report of the committee of inquiry. If no investigation is initiated, that official must take appropriate action as indicated under Section VI.B, below. If an investigation is to be initiated, the official shall take or recommend whatever steps are necessary to protect the health and safety of research subjects, students, and colleagues.
- e. Any respondent in an inquiry is required to cooperate in furnishing materials and responding to questions.

2. Investigation

- a. An investigation should be initiated as soon as possible after an inquiry indicates the need. It should be conducted by a special committee appointed by the institutional official indicated in Section V.E, 1.d. above. Its membership should be specifically chosen to evaluate the particular allegations under consideration. At least one member should be an individual not primarily associated with the institution.
- b. The committee may hold hearings and should have the authority, responsibility and resources to collect and consider all of the evidence relevant to the allegation. It should be charged with obtaining expert opinions, if necessary to reach firm conclusions, and to do so by seeking the advice of external experts if that is required to avoid conflicts of interest, or for other appropriate reasons. An investigation must be thorough. It must obtain sufficient evidence to permit the committee to reach a firm decision about the validity of the allegation, or to be sure that further investigation could not alter an inconclusive result.
- c. An investigating committee should also be charged with recommending specific actions appropriate for the seriousness of its findings. These recommendations should address actions to restore damaged reputations if indicated and should identify specific retractions, disclaimers and announcements necessary to set the record straight. The committee may recommend sanctions if wrongdoing is confirmed.
- d. If the alleged misconduct involves the performance of research or other scholarly work supported by an external sponsor, the institution must inform the sponsor when an investigation is initiated. The notification should provide sufficient information to satisfy the institution's obligations to the sponsor, but in the interest of protecting reputations that might be unjustly damaged; a detailed report should await the final outcome of the investigation.
- e. An investigation, once begun, must result in a report to the official cited in Section V.E, 1.d. above, whether or not the individual remains at the institution.

## VI. INSTITUTIONAL ACTIONS

- A. At the conclusion of evaluating an allegation of misconduct in scholarly work, the official indicated in Section V.E., 1.d. above, acting on behalf of the institution must take all actions appropriate for the findings.
- B. If misconduct is not confirmed, the person found innocent must be notified promptly. The institution must consider whether a public announcement will be harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually, that decision should rest with the innocently accused. The institution must take disciplinary action when an allegation is found to be mischievous. The institution may find it necessary to reprimand lax supervision, faulty techniques, or inattention to propriety even when willful misconduct is not established.
- C. If misconduct is established, the institution must take action appropriate for the seriousness of the misconduct. If formal termination proceedings are instituted, such proceedings must be in accordance with System and institutional termination policies and procedures. In addition to appropriate sanctions, the institution must do everything it can to set the record straight. This may take the form of public announcements, published retractions and disassociations with published papers, and full reports to external sponsors.

Replacement for: BOR VII-9.00 and 9.01

### III-1.10(A) - UMES POLICY ON STANDARDS FOR THE CONDUCT OF SCIENTIFIC RESEARCH

(Approved by the President November 21, 1997)

#### I. POLICY

Integrity in research and scholarly activities is the responsibility of the entire academic community. Scholars work in an environment in which there is an important sense of trust. Published material is assumed to have been obtained during the author's investigations. Falsification or fabrication of such data is intolerable. The University of Maryland Eastern Shore (UMES) is responsible for promoting academic practices that discourage scientific misconduct. It also is responsible for developing policies and procedures to address scientific misconduct and for providing the necessary education, training and resources to all faculty and staff for dealing with allegations or other evidence of misconduct in scholarly work.

All members of the University, including faculty, staff, administrators and students share responsibility for developing and maintaining standards to assure the highest ethical conduct of research and detection of abuse of these standards. The Director of the Office of Sponsored Programs shall assist the Vice President for Academic Affairs on issues of scientific research including misconduct except where the Director has a conflict of interest. Fraud or misconduct in carrying out academic activities undermines the integrity of the education system and the scientific enterprise, and erodes the public trust in the University community to conduct research and communicate results using the highest standards and ethical practices. This responsibility to prevent and detect misconduct, however, must be assumed without creating an atmosphere that discourages the openness and creativity that are vital to scholarship and the research enterprise.

Misconduct in scholarly work by any UMES employee is a breach of professional conduct. Furthermore, misconduct in scholarly work by others associated with

UMES (e.g., graduate students, volunteer faculty) will not be tolerated. UMES considers such a breach adequate cause for termination of employment of faculty or staff.

The policies and procedures outlined below are intended to be consistent with the policies and guidelines on scholarly misconduct which were adopted by the Board of Regents of the University of Maryland System in 1989 and shall be modified in the future as may be required to conform to those policies and guidelines. As discussed further in Part IV, these policies and procedures are also intended to bring UMES into compliance with federal regulations applicable to allegations of misconduct related to research funded by the Public Health Service (PHS). In the event of any conflict between any provision of this policy and the federal regulations applicable to a specific case, the federal regulations shall be followed.

The policies and procedures outlined here apply to faculty, staff and graduate students, paid or unpaid, engaged in research, scholarly writing, and the creation of works of art. A copy of this policy shall be provided to all of those individuals. This policy is not intended to address administrative issues of an ethical nature which are covered by other policies; for example, discrimination, affirmative action, and conflicts of interest are covered by other University policies.

The scope of this scientific misconduct policy and procedures is not limited to matters related to externally sponsored research but covers all research and scholarly activity, regardless of source of support.

## II. DEFINITION OF SCIENTIFIC MISCONDUCT

Scientific misconduct involves any form of behavior which entails an act of deception whereby one's work or the work of others is misrepresented, and includes fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research. Other terms such as research fraud, scholarly misconduct or research misconduct, are subsumed within the term scientific misconduct as defined below. Scientific misconduct is distinguished from honest error and from honest differences in interpretations or judgments of data that are inherent in the scientific process. Further, misconduct involves significant breaches of integrity which may take numerous forms such as, but not limited to:

- A. Falsification of data: Ranging from fabrication to deceptive selective reporting of findings and omission of conflicting data, willful suppression and/or distortion of data.
- B. Plagiarism: The appropriation of the language, ideas, or thoughts of another and representation of them as one's own original work.
- C. Improprieties of authorship: Improper assignment of credit, such as excluding others; misrepresentation of the same material as original in more than one publication; inclusion of individuals as authors who have not made a definite contribution to the work published; or submission of multi-authored publications without the concurrence of all authors.
- D. Misappropriation of the ideas of others: An important aspect of scholarly activity is the exchange of ideas among colleagues. New ideas gleaned from such exchanges can lead to important discoveries. Scholars also acquire novel ideas during the process of reviewing grant applications and manuscripts. However, improper use of such information could constitute fraud. Wholesale appropriation of such material constitutes scientific misconduct.
- E. Violation of generally accepted research practices: Serious deviation from accepted practices in proposing or carrying out research, improper manipulation of experiments to obtain biased results, deceptive statistical or analytical manipulations, or improper reporting of results.
- F. Material failure to comply with federal requirements affecting research: Including but not limited to serious or substantial, repeated, willful violations involving the use of funds, care of animals, human subjects, investigational drugs, recombinant products, new devices, or radioactive, biologic or chemical materials.
- G. Inappropriate behavior in relation to misconduct: Including inappropriate accusation of misconduct; failure to report known or suspected misconduct; withholding or destruction of information relevant to a claim of misconduct and retaliation against persons involved in the allegation or investigation.
- H. Deliberate misrepresentation of qualifications, experience, or research accomplishments to advance the research program, to obtain external funding, or for other professional advancement.
- I. Misappropriation of funds or resources. For example, misuse of funds for personal gain.

## III. PROCEDURES FOR HANDLING ALLEGATIONS OF FRAUD/MISCONDUCT

The University of Maryland Eastern Shore will undertake examination (as described below) of any allegation of scientific misconduct. In the inquiry and investigation that may follow, the institution will focus on the substance of the issues and be guided by the following:

- A. Imperatives
  - 1. The process pursued to resolve allegations of misconduct will not damage science itself, or the academic process.
  - 2. UMES will provide vigorous leadership in the pursuit and resolution of all charges.
  - 3. All participants in the inquiry and investigation will be treated with justice and fairness and with sensitivity to their reputations.

4. Procedures will preserve the highest attainable degree of confidentiality compatible with an effective and efficient response.
5. The integrity of the process will be maintained by painstaking avoidance of real or apparent conflict of interest.
6. The procedures will be as expeditious as practical.
7. Pertinent facts at each stage of the response will be documented.
8. UMES shall pursue allegations within the scope of this policy without regard to whether related civil or criminal proceedings have been initiated or are underway. In the event of such proceedings, UMES may, at its option, suspend the inquiry/investigation temporarily but is not under an obligation to do, as the standards of the University may differ from those of the courts.
9. UMES shall recognize and discharge its responsibility after resolving allegations of misconduct to communicate the results of the investigating process internally, to all involved individuals; and externally, to the public, the sponsors of research, the scientific literature, and the scientific community as appropriate.

B. Initiation of an Allegation of Misconduct

A person who believes that scientific misconduct has occurred should discuss the matter with the designated faculty member for each school or with the Dean to determine whether or not the conduct falls under the purview of this document or under other applicable UMES procedures. If it is determined that the alleged conduct is within the scope of this document, the allegation shall be reported to the Vice President for Academic Affairs.

If the Vice President for Academic Affairs has a possible conflict of interest or is unavailable to begin an inquire immediately, the allegations should be referred to the President of UMES who shall designate an administrator to oversee examination of the allegation and carry out responsibilities assigned to the Vice President under this policy with respect to the specific allegation in question.

The Vice President for Academic Affairs shall informally review any allegation of scientific misconduct, confer with the Dean of the appropriate school and with legal counsel, and determine whether the allegation warrants initiation of the inquiry process according to the policies and the procedures for scientific misconduct, or whether other policies and procedures, such as those relevant to employment grievances, should be invoked. The Vice President will inform the individual(s) bringing the allegation as to the policies and procedures to be used. If the reporting individual chooses not to make a formal allegation but the Vice President believes an inquiry is warranted, the inquiry process will be initiated.

Even if the individual against whom an allegation is made (hereafter referred to as he respondent) leaves or has left the University of Maryland Eastern Shore before the case is resolved; UMES will pursue an allegation of misconduct to its conclusion.

C. Inquiry

1. The first step of the review process is an inquiry. This inquiry has as its primary purpose fact finding in an expeditious manner to determine if an allegation is deserving of further formal investigation, and if formal investigation is not warranted, to make recommendations concerning the disposition of the case. Records of the inquiry are confidential and are to be passed onto a Committee of Investigation if formal review is initiated.

2. A Committee of Inquiry composed of no less than three full-time employees, holding a professional level position including the Director of the Office of Sponsored Programs (i.e., faculty, associate staff or academic administrator) with no real or apparent conflict of interest, with no administrative appointment in the unit or school of either the complainant or the respondent, and with appropriate expertise for evaluating the information relevant to the case, shall be appointed by the Vice President for Academic Affairs as expeditiously as possible. At least one member of this Committee will be a tenured faculty member, provided there is a tenured faculty member satisfying the preceding conditions. The Committee shall elect amongst its members a chairperson. Every effort will be made following an initial expeditious administrative review of the allegation to appoint a Committee of Inquiry within fifteen days.
3. The Vice President for Academic Affairs is responsible for notifying all parties in writing of the charges and of the procedures that will be used to examine the charges. Further, they will be informed of the proposed membership of the Committee of Inquiry for the purpose of identifying, in the advance, any real or potential conflict of interest.
4. Where the complaint seeks anonymity, the Committee of Inquiry shall use its best efforts to operate in such a way as to maintain that anonymity to the degree compatible with accomplishing the fact-finding purpose of the inquiry. Such anonymity can not, however, be assured. Further, anonymity of the complainant is important to the substantiation of the allegations. The Committee chairperson shall convene a hearing and shall have the responsibility for ensuring that all of these procedures are followed and shall have the authority to conduct all committee hearings and proceedings.
5. Information, expert opinions, records and other pertinent data may be requested by the Committee of Inquiry. All involved individuals are obliged to cooperate fully with the Committee by supplying such requested documents and information. Uncooperative behavior is unacceptable and may result in immediate implementation of a formal investigation or other UMES sanctions.
6. Timely access to copies of all documents reviewed by the Committee of Inquiry will be assured to all parties. All materials will be considered confidential and shared only with those with a need to know. The Vice President for Academic Affairs and the members of the Committee of Inquiry are responsible for the security of relevant documents within their control. Copies of all documents and related communications are to be securely maintained in the Office of the Vice President for Academic Affairs.
7. The respondent and the persons making the allegations may have the assistance of legal counsel; however, as the inquiry is informal and intended to be expeditious, principals shall speak for themselves, with attorneys present only in an advisory capacity.
8. The Committee of Inquiry and the respondent shall have the opportunity to present evidence and to call and question witnesses.
9. The Committee of Inquiry shall arrive at a judgment as expeditiously as possible. The inquiry phase generally should be completed and a written report filed within sixty calendar days from initiation of the inquiry. If this deadline cannot be met, the Vice President for Academic Affairs and the President of the University of Maryland Eastern Shore shall be advised and the record of the inquiry shall include documentation of the reasons for exceeding the 60-day period. The Vice President shall inform the sponsoring agency of the specific project of delays, if required by such agency or sponsor.
10. The outcome of the Committee of Inquiry will be conveyed in writing to the Vice President for Academic Affairs who will be responsible for communication of the findings to the respondent. This report shall include evidence reviewed, interview summaries, and conclusions of the inquiry. The respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the Committee.

11. If the outcome of the inquiry indicates a need for formal investigation, the Committee of Inquiry communicates its findings to the Vice President for Academic Affairs who then, in consultation with the appropriate Dean and UMES legal counsel, initiates the investigatory process.

Under certain circumstances, the institution may be expected to notify the sponsoring agency or funding source at a point prior to the initiation of an investigation, and the policies of that agency, including applicable federal regulations will be followed. Where notification is not required by regulation or the timing of notice is at the discretion of UMES, factors used in determining the timing of such notification will include the seriousness of the possible misconduct, reasonable indication of possible criminal violations, the presence of an immediate health hazard, consideration of the interests or specific requirements of the funding agency and of the interests of the scientific community, the public, and the individual who is the subject of the inquiry or investigation and his/her associates.

12. If the outcome of the inquiry does not indicate the need for a formal investigation, but does find a need for further alternative action(s), such actions shall be taken by the Vice President for Academic Affairs acting in consultation with the appropriate Dean.
13. If the Committee of Inquiry finds the allegations were not made in good faith, it should refer the matter to the Vice President for Academic Affairs since it is a violation of UMES policy when an allegation of misconduct is not made in good faith.
14. If the Committee of Inquiry plans to terminate the inquiry for any reason prior to completion of the inquiry process, a report of the termination, including a description of the reasons for such termination shall be made to the Vice President for Academic Affairs.
15. Detailed documentation of an inquiry, even where it has been determined that an investigation is not warranted, will be maintained by the Vice President for Academic Affairs securely in a confidential file for a period of three years, and provided to a sponsoring agency and to authorized Public Health Service personnel upon request.

D. Investigation

1. The Vice President for Academic Affairs shall, within thirty days of the reporting by a Committee of Inquiry of the need for formal investigation, appoint a Committee of Investigation of no less than three full-time employees, holding a professional level position including the Director of the Office of Sponsored Programs (i.e., faculty, associate staff or academic administrator) with no real or apparent conflict of interest, with no administrative appointment in the unit or school of either the complainant or the respondent, with the appropriate expertise for evaluating the information relevant to the investigation. At least one member shall be, where possible, a tenured faculty member at the University of Maryland Eastern Shore. In addition, at least one member shall not be associated with UMES.
2. The Committee of Investigation shall elect one of its members as chairperson. The purpose of the Committee of Investigation is to explore further the allegation and determine whether misconduct has been committed and the extent of the malfeasance and to make recommendations regarding whether formal termination procedures or other disciplinary sanctions are warranted. The chairperson shall convene a hearing as soon as practicable and shall have the responsibility or ensuring that all of these procedures are followed, and shall conduct all committee hearings and proceedings.

All parties to the case, including the members of the Committee of Investigation and the respondent, may request documents, present evidence, and call witnesses. Additional hearings may be held and the Committee may request the involvement of outside experts. The investigation will be sufficiently thorough to permit the Committee to reach a firm decision about the validity of the allegation(s) and the scope of the wrongdoing or to be sure that further investigation could not alter an inconclusive result. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

In the course of an investigation, additional information may emerge that may justify broadening the scope of the investigation beyond the initial allegations. Should this occur, the respondent is to be informed in writing of significant new directions in the investigation. In addition to making a judgment on the veracity of the allegations, the Committee of Investigation shall recommend to the Vice President for Academic Affairs appropriate sanctions if warranted, and any corrective actions.

3. As the University of Maryland Eastern Shore is responsible for protecting the health and safety of research subjects, patients, faculty, students and staff, interim administrative action prior to conclusion of either the inquiry or the investigation may be indicated. Such action ranging from slight restrictions to complete suspension of the respondent and notification of external sponsors, if indicated, is initiated by the Vice President for Academic Affairs but may be taken only after consultation with the President and legal counsel to UMES.
4. All parties in the investigation are obliged to cooperate in a timely fashion by producing any additional data or information requested for the investigation by the Committee of Investigation or by the respondent and other concerned parties as judged appropriate by the Committee.
5. The respondent shall have an opportunity to address the charges and evidence in detail. The respondent may be accompanied by and confer with legal counsel at hearings but is expected to speak for him/herself.
6. All affected individual(s) will be afforded maximum confidentiality, to the extent possible, throughout the investigation. All hearings are deemed confidential and closed except by the consent of both of the principals. Written notification of hearing dates and copies of all relevant documents will be provided by the Office of the Vice President for Academic Affairs in advance of scheduled meetings. Proceedings will be tape-recorded by the Committee of Investigation and copies of the tapes will be made available to involved parties upon request. The Committee Chairperson will have full authority over the conduct of the hearing(s) and may consult with the Office of the Attorney General if necessary to resolve legal issues.
7. After all evidence has been received and hearings completed, the Committee of Investigation shall meet in closed sessions to deliberate, and prepare its findings and recommendations. Written findings shall be dated and signed by all Committee members and submitted to the Vice President for Academic Affairs.
8. All significant developments during the investigation as well as the findings and recommendations of the Committee of Investigation will be reported by the Vice President for Academic Affairs to the research sponsor.
9. Every effort should be made to complete the investigation within 120 days; this includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the Vice President of Academic Affairs. If they can be identified, the persons who raised the allegations will be provided with those portions of the report that address their role and opinions in the investigation.
10. It is acknowledged that some cases cannot be fully investigated in 120 days. In such cases, the Committee of Investigation should compile a progress report, identify reasons for the delay, estimate time required to complete the investigation, and request an extension from the Vice President for Academic Affairs. The Vice President shall convey to the funding agency such information as may be required by it, and at intervals as required by the agency.
11. When the respondent is notified of the findings of the Committee of Investigation and the decision of the Vice President for Academic Affairs regarding application of sanctions, the respondent should also be informed of the appeals process. If the sanctions involve a recommendation for termination of employment or other legal rights of faculty or other personnel, applicable disciplinary or termination procedures shall be followed.
12. Detailed documentation of an investigation will be maintained by the University of Maryland Eastern Shore for at least three years, and provided to the sponsoring agency upon request.

#### III-1.10.A-7

1. Absence of Scientific Misconduct

All research sponsors and others initially informed of the investigation should be informed in writing that allegations of misconduct were not supported. If the allegations are deemed not to have been made in good faith, appropriate actions should be taken against the complainant in accordance with this policy. If the allegations, however incorrect, are deemed to have been made in good faith, no disciplinary measures are indicated. Efforts should be made to prevent retaliatory actions and to protect, to the maximum extent possible, the positions and reputations of the persons who made the allegations as well as those against whom allegations of misconduct were not confirmed. In publicizing the finding of no misconduct, the University of Maryland Eastern Shore should be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been lost. Usually, such decision will rest with the person who was innocently accused.

2. Presence of Scientific Misconduct

When an investigation confirms misconduct, the Vice President for Academic Affairs shall consider the recommendations of the Committee of Investigation. He/She shall be responsible for determining and implementing sanctions as appropriate or for referring to the President of the University of Maryland Eastern Shore any actions not within the Vice President's authority. The Vice President is responsible for notifying all federal agencies, sponsors or other entities initially informed of the investigation of the outcome. UMES will take action appropriate for the seriousness of the misconduct, including but not limited to:

a. Institutional Disciplinary Action

- (1) Removal from particular project
- (2) Special monitoring of future work
- (3) Letter of reprimand
- (4) Probation for a specified period with conditions specified
- (5) Suspension of rights and responsibilities for a specified period
- (6) Financial restitution
- (7) Termination of employment

b. Notification

- (1) Sponsoring agencies, funding sources of the particular project
- (2) Co-authors, co-investigators, collaborators, department, campus University publications, as deemed appropriate by the Vice President to Academic Affairs.
- (3) Editors of journals in which fraudulent research was published.
- (4) State professional licensing boards
- (5) Professional societies

c. The Vice President for Academic Affairs also shall take action to protect, to the maximum extent possible, the positions and reputations of those persons who made the confirmed allegations.

3. Appeal

The respondent may appeal the judgment of the Committee of Investigation and/or the sanction. A written statement of the grounds for the appeal must be submitted to the President of the University of Maryland Eastern Shore within thirty days of written notification of the results of the investigation. Grounds for appeal are: new, previously unconsidered evidence; sanctions not in keeping with the findings; a conflict of interest not previously known among those involved in the investigation; or failure of the Committees or the Vice President for Academic Affairs to substantially comply with these procedures in a manner that materially affects the Committee's or the Vice President's recommendation. Upon receipt of a written appeal, the President will evaluate the evidence and make a determination. He or she may, at his or her discretion, reopen the investigation. The President's decision will be binding on all parties and will be conveyed to all involved in a timely fashion.

#### IV. SPECIAL PROVISIONS FOR EXAMINING ALLEGATIONS SUBJECT TO PUBLIC HEALTH SERVICE MISCONDUCT REGULATIONS

The University System of Maryland Misconduct Policy and the University of Maryland Eastern Shore policy are intended to meet the requirements of Title 42, Subchapter D, Code of Federal Regulation, Subpart A, Sections 50.101 through 50.105. The Public Health Service Misconduct Regulations apply to UMES because it applies for research, research-training or research-related grants or cooperative agreements under the Public Health Service Act.

These regulations require UMES to investigate and report instances of alleged or apparent misconduct involving research or research training, applications for support of research or research training, or related research activities that are supported with funds made available under the PHS Act. It is anticipated that the University System of Maryland Policy and the University of Maryland Eastern Shore Policy will be changed, from time to time, to comply with any changes required by amendments to these regulations.

The scope of the University System of Maryland Policy and the University of Maryland Eastern Shore Policy procedure is not limited to matters related to research supported by the PHS Act. All research and scholarly activity, regardless of source of support, is subject to the same standard of integrity. Misconduct in scholarly work will be censured by UMES in all cases. Misconduct associated with research funded under the PHS Act can result in additional federal sanctions against investigators, as well as sanctions against UMES, and must be reported to federal authorities as specified below.

The University of Maryland Eastern Shore recognizes the Office of Research Integrity (ORI) as a component of the Office of the Director of the National Institutes of Health (NIH), which oversees the implementation of all PHS policies and procedures related to scientific misconduct; monitors the individual investigations into alleged or suspected scientific misconduct conducted by institutions that receive PHS funds for biomedical research project or programs; and conducts investigations as necessary.

##### A. Compliance with Regulations

It is the policy of the University of Maryland Eastern Shore to comply with all requirements of the PHS Misconduct Regulation applicable to misconduct. The University System of Maryland and UMES will file institutional assurances as required by Section 50.103 of the PHS Misconduct Regulations. In order to remain in compliance with these assurances, UMES will:

1. Provide to ORI and other PHS officials our most current policy and other policies developed to encourage scientific integrity.
2. Inform University faculty and administrative staff and, as appropriate, its students, of this Policy and the System policy and the importance of compliance.
3. Take immediate and appropriate action as soon as alleged misconduct is reported on the part of an employee. Actions shall include interim measures to protect federal funds and ensure that the purposes of federal financial assistance are being carried out.
4. In accordance with the PHS Misconduct Regulation, inform and cooperate with ORI with regard to each investigation of possible misconduct.

##### B. Reports to ORI

The Vice President for Academic Affairs will make all reports to ORI which are required by Section 50.104, or other parts of the PHS Misconduct Regulation, in connection with allegation of misconduct subject to those regulations. More specifically, the Vice President, with the assistance of the Director of the Office of Sponsored Programs will:

1. Report the University of Maryland Eastern Shore's decision to initiate any investigation. This report will be made in writing to the Director, ORI, on or before the date the investigation begins. It will include, at a minimum, the names of the person(s) against whom the allegations have been made, the general nature of the allegations, and the PHS application or grant number(s) involved. In general, it will be UMES' policy to disclose in this notice no more than the minimum information required under the PHS Misconduct Regulations.

2. Notify ORI immediately during the investigation of any developments which disclose facts that may affect current or potential Department of Health and Human Services funding for the respondent or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.
3. Report to ORI plans to terminate an inquiry or investigation for any reason without completing all relevant requirements under Section 50.103(d). This report will include a description of the reasons for such termination and shall be submitted in accordance with federal regulations.
4. File the results of the investigation with ORI within 120 days of the institution's investigation unless an extension is granted by ORI. The final report will describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions under consideration, pending or taken by the University of Maryland Eastern Shore.
5. Forward an extension request to the ORI from the Committee of Investigation if the Committee cannot complete its work within 120 days. Such a request shall include an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done and an estimated date of completion.
6. Report immediately, at any stage of the inquiry or investigation, any determination by the University of Maryland Eastern Shore that any of the following conditions exists:
  - a. Immediate health hazard
  - b. Need to protect federal funds or equipment
  - c. Immediate need to protect the interest of the persons making the allegations or the individuals who are the subjects of the allegations as well as their co-investigators and associates, if any
  - d. Probability that the alleged incident is going to be reported publicly
  - e. Reasonable indication of possible criminal violation. (A report for this reason must be made within 24 hours of obtaining the information leading to this conclusion.)

C. Recordkeeping

Detailed documentation of the inquiry and investigation shall be maintained. A copy of all documentation prepared and maintained during the inquiry and investigation shall be made available to the Director, ORI.

IV-1.00 - POLICY FOR ESTABLISHMENT AND REVIEW OF CENTERS AND INSTITUTES IN THE UNIVERSITY OF MARYLAND SYSTEM

(Approved by the Board of Regents, January 11, 1990)

1. Centers and Institutes and similar groups and organizations form useful devices for organizing faculty and staff from different disciplines to focus on teaching, research, and/or service in an area of common interest. Centers and Institutes should be justified based on their contributions to specified missions of research and service and by their relationship to instructional programs at the institution.
2. The term “Center” or “Institute” generally refers to an organized, non-departmental unit; it may or may not have external or state funding and a separately identified budget; it usually has a formal administrative structure headed by a director. Centers and Institutes have varied missions, and with few exceptions do not award degrees. Differences among these kinds of units usually are related to their degree of permanence and the level of commitment to them by the institution or the System.
3. Each institution shall ensure that its Centers and Institutes comply with applicable institutional and System-wide policies. Those Centers, which receive federal funds, must, in addition, ensure compliance with federal policies, in particular those regarding the conduct of research.
4. The establishment of a Center or Institute that is multi-institutional shall require the approval of the Chancellor.
5. The establishment of a Center or Institute that is administratively separate from an institution shall require the approval of the Board of Regents.
6. Each institution shall develop policies and procedures for the establishment and monitoring of Centers and Institutes. These policies and procedures shall be filed with the Office of the Chancellor.

Replacement for: BOR VII-6.00 and VII-6.01

IV-1.00(A) - UMES POLICY AND PROCEDURES FOR THE ESTABLISHMENT AND REVIEW OF CENTERS AND INSTITUTES

(Approved by the President January 1, 1992)

A. POLICY

Although faculty may from time to time establish relationships for the purposes of conducting research, or of fostering improvement of teaching or curricula, or of enhancing service to the State in a particular area, they must nevertheless follow certain procedures, as described below, for inclusion in official administrative lists and for periodic review.

Institutes, Bureaus, Centers, Laboratories, Research Teams, and other similar groups and organizations form useful devices for organizing groups of faculty and staff from different disciplines to focus teaching, research and/or service in an area of common interest and concern. Centers, Bureaus, and Institutes should be justified based on their contributions and relationships to academic programs, but with a very few exceptions, these entities shall not offer courses.

To provide an orderly method for the establishment of centers, Institutes, and interdisciplinary units known by other names, it is appropriate to devise guidelines or procedures that provide for appropriate faculty and administrative review. These units are expected to be supported largely by external funding and to exert significant claims on State or University resources. Yet legitimate interests of faculty proponents and of administrators in whose jurisdictions the units may be located must be protected. The following procedural guidelines are intended to protect those interests but are not so complex as to render the establishment of the units such a lengthy and time-consuming task that few will venture to propose them.

B. GROUP

The first and simplest type of unit compares to an established specialization area within a department, such as organic chemistry, counseling psychology, nuclear physics. Characteristically, it is an ad hoc collection of faculty members gathered together as a "Group" to promote an area of common interest. "Groups" and projects in this category might be short-lived. Such a group shall be titled "Research Group for \_\_\_\_\_" or "Laboratory for \_\_\_\_\_" etc. No formal procedure for its establishment is involved other than written approval of the Vice President of the unit in which the faculty are housed.

C. CENTER

The second level of organization compares to an academic program without departmental status. Typical of this type of organization is a "Center". It has more permanency than the "group" referred to above. It may involve external and/or State funding and may appear as an organized unit in the working budget. Usually, it will have a formal administrative structure, headed by a Director. The Director and a secretary may be, at least partially, supported by general funds. Procedures for establishment of a "Center for \_\_\_\_\_" are as follows:

1. A formal proposal for the establishment of a new Center shall be prepared by its proponents, who may be informal groups of interested faculty and administrators, a committee appointed for the purpose of determining need, desirability and feasibility of a Center, or any similar formal or informal group.
2. The proposal shall include a statement of the purpose of the Center; the rationale for its establishment; details of its membership, governance, and administration; initial prospective funding; and space needs and other requirements.
3. The proposal shall be submitted by the organizing proponents to the Vice President or designee to whom the Center Director will report. In those circumstances in which a Center will reside within a Department, the proposal will first be submitted to the Department Chair. The Department Chair will submit the proposal to the Programs, Courses, and Curriculum Committee(s) for advice and recommendation.

4. After review by the Programs, Courses, and Curriculum Committee
  - a. The Chair of the Department in which the Center will reside will be responsible for identifying the source of resources (if any) necessary to create and maintain the Center. These may be extramural funds, department funds, School funds, and/or small, short-term commitments from Graduate School DRIF monies. A proposal requiring, in the view of the Graduate, Dean, large or long-term commitments from Graduate School DRIF will fall under provisions 4.b. below. If the proposal, including commitment of funds, space, etc. will be forwarded to the Vice President for Academic Affairs for approval, the Vice President has the option of consulting APAC, but is likely to do so only if a major redirection of resources appears to be involved.
  - b. In unusual circumstances, a special funding opportunity may require a commitment of more resources than the Department involved can afford. In these cases, the Department Chair shall be responsible for identifying the resources the Department can commit and enumerating those, which would need to be met by the campus. At the campus level, the full review process would be required in these cases, including review by APAC, with final approval by the Vice President for Academic Affairs. APAC shall develop guidelines for its review.
5. It is understood that in the review process, alterations may be recommended and made in the proposal by any of the reviewing administrators.

D. INSTITUTE OR BUREAU

The third level of organization compares with an academic department. Typical of this type of organization is an "Institute" or "Bureau". It is expected to continue indefinitely and, thus, have greater permanency than a Center.

It may have both external and general funding, but it should be included in the working budget and have a formal administrative and governance structure. Procedures for establishment of new academic departments, and are as follows:

1. Same as 1) above.
2. Same as 2) above.
3. Same as 3) above.
4. Same as 4) above, except that the Vice President recommends approval to the President.
5. Upon approval by the Vice President, the proposal is forwarded to the President. After review and approval by the President, the proposal is forwarded to the Chancellor for information. It is understood that in the review process, alterations may be recommended and made in the proposal by any of the reviewing administrators.

E. THE PERIODIC REVIEW PROCESS

1. Institute and Bureaus

Institutes and Bureaus shall be subject to the same review procedures as academic departments.

2. Centers

It is expected that Centers will be established with the provision that their functions, productivity, fiscal condition, and continuance will be periodically reviewed. The procedure for review is as follows:

- a. Every five years, each Center shall submit a review of its activities to the Department Chair to which it reports. This review shall include the following types of information: date Center established, purpose, major activities over previous years, funding and major categories of expenses, number of personnel associated with the Center and source of support for each, relationship to institution, and benefits to institution.

Upon receiving the review, the Department Chair shall choose one of the following administrative actions: maintain the Center in its current state; institute a broader scale review; change the definition, operators and/or director of the Center; terminate the Center. Each Department Chair submits to the Vice President for Academic Affairs a report of these reviews and the administrative actions.

- b. A Center, which is established with other than one-time funding from outside its Department, i.e., one established according to 4.b. above, will follow the same procedure with one additional step. The review will be forwarded to the Vice President for Academic Affairs who, in consultation with the President, shall choose whether to continue or to terminate the campus' portion of the Center's funding.
- c. Those Centers, which reside entirely within one Department and report to the Department Chair, shall be reviewed as part of the Departmental review.

105.0 IV-2.10- UNIVERSITY OF MARYLAND SYSTEM POLICY ON HUMAN SUBJECTS OF RESEARCH

(Approved by the Board of Regents, April 25, 1991)

The policy of the University of Maryland System is to respect and protect the rights and welfare of individuals. In the conduct of research, actions of the University of Maryland System and its constituent institutions will be guided, to the extent that they are applicable, by principles as set forth in such nationally accepted documents as the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, Ethical Principles and Guidelines for the Protection of Human Subjects of Research (April 18, 1979). Actions of the University of Maryland System and its constituent institutions will also conform to applicable federal, state, and local laws and regulations.

In accordance with this policy, all University of Maryland System research activities which involve human subjects, regardless of the level of risk foreseen, require review and approval, prior to the initiation of the activity. An Institutional Review Board (IRB) shall have jurisdiction over all reviews and approvals in accord with procedures set forth in recognized documents, e.g. Multiple Project Assurance document, and/or applicable regulations and policies including other policies adopted by the System or an institution. Those research activities in which human subjects may be exposed to more than minimal risk must be reviewed at a convened meeting of an IRB; other research activities may be reviewed in the manner determined by the IRB under its procedures. An individual is considered to be at more than minimal risk if exposed to the possibility of harm -- physical, psychological, social, legal, or other -- as a consequence of participation as a human subject in any research activity which departs from the performance of routine physical or psychological examinations and tests, or which departs from established and accepted procedures necessary to meet the individual's needs, or which increases the probability or magnitude of risks ordinarily encountered in daily life.

This policy applies to all research activities and to all development, training, and improvement or other related activities containing a research and development component. Furthermore, it applies to any such activity performed on the premises of the University of Maryland System or its constituent institutions and to any such activity performed elsewhere by faculty, students, or employees under University of Maryland System auspices.

To carry out this policy the University of Maryland System institutions will maintain a sufficient number of IRBs with appropriate membership to provide for adequate reviews. The IRBs will have the authority to approve, to require modification as a condition of approval, and to disapprove proposed activities that are covered by this policy. Furthermore, the IRBs will have the authority to determine whether or not any activity is covered by the policy and whether it requires review by an IRB.

Replacement for: BOR VII-5.00

#### (a) Opportunities for Research at UMES

UMES encourages faculty participation in research activities, which will enhance the image of the University, contribute new knowledge to the field of science and also contribute to faculty development.

There is a very limited amount of internal resources available for the conduct of research. However, external funding is available through government agencies, private industry and foundations and organizations. In most cases, requests for proposals are published in the Federal Register and Federal Grants and Contracts Weekly. Faculty members are urged to obtain these publications from the University Library or the Research and Grants Office.

Projects related to food and agriculture may be funded through the Maryland Agricultural Experiment State or Evans-Allen Funds appropriated through the United States Department of Agriculture. Guidelines for requesting these funds are found in the Policies and Procedures Manual for Conducting Research Supported by Evans-Allen Funds under P.L. 95-113 Section 1445. This manual may be obtained from the Director of 1890 Research.

#### (b) Director of Sponsored Research

The Director of Research and Grants is responsible for assisting scientists in securing research funds, identifying research fund sources and ensuring that all research projects proposals are within the stated University mission and are in compliance with established rules and regulations. Although assistance is indicated above, securing of funds is still the primary responsibility of the scientist.

#### (c) Developing a Research Proposal

A faculty member interested in developing a research proposal should proceed as follows:

- Consult with the department head and the program leader to determine if the project falls within the scope and objectives of the research program area, the Department and the School of Agricultural Sciences.
- Identify the existing or needed human and physical resources if the implementation of the project.
- Determine that the proposed project can be successfully completed within the financial constraints and other resources available.
- Submit a one to two page pre-proposal through appropriate channels to the Research Director. The pre-proposal should briefly outline the purpose, objectives, contributions to Agricultural Sciences, duration and first year-estimated cost. A suggested format for preparation of a research proposal may be obtained from the Director of Research and Grants.

#### (d) Review of Proposals

Each proposal must be accompanied by a Routing Form, which is obtained from the Office of Research and Grants, and where appropriate, a Hazardous Procedures Form. The Routing Form must bear appropriate endorsement signatures before submission to the Office of Research and Grants. Proposals proceed from the principal investigator to the Department Chair, then the Office of Research and Grants/1890 Research Director. The Office of Research and Grants must receive all copies of the proposal that are required by the agency and two additional copies bearing original signatures of the principal investigator (unless agency applications specify otherwise).

The Office of Research and Grants will send review copies to the Vice Presidents for Academic Affairs, and Administrative Affairs, the President, and, when appropriate, the Chancellor. Copies are then returned to the Office of Research and Grants for submittal to the sponsoring agency.

Principal investigators should bear in mind that their sponsoring agency may have a specific deadline date and that submission of a proposal to the Office of Research and Grants well ahead of this deadline is necessary in order to complete the internal review cycle. Proposal should be received by the Office of Research and Grants no later than:

- 7 working days for proposals requesting up to \$500,000 total
- 15 working days for proposals requesting over \$500,000 which require Chancellor or Board approval – prior to the requested mailing date.

The above does not include time needed to secure approval at the Department, which should be added to the total processing time.