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Policy Profile

Policy Title:	Restricted, Proprietary and Classified Research
APS Number:	1023
Effective:	February 1, 2012 ¹
Approved by:	President Bruce D. Benson
Responsible University Officer:	Vice President for Academic Affairs
Responsible Office:	Office of the Vice President Academic Affairs
Policy Contact:	Office of the Vice President for Academic Affairs , 303-860-5623
Supersedes:	September 24, 2007
Last Reviewed/Updated:	February 1, 2012
Applies to:	All campuses

Policy Snapshot

Brief Description: To specify the procedures by which CU researchers are required to petition for approval by the chancellor to conduct research under sponsorship conditions that may limit their ability to publish or disseminate findings freely.

Reason for Policy: Implement **Regent Policy 4-F**, Classified Research.

I. Introduction

This administrative policy statement implements Regent Policy 4-F, Classified Research.

II. Policy Statement

The ability of CU faculty, staff and students to develop new knowledge within a context of academic freedom is crucial to supporting the mission of the university. CU's researchers depend on financial and infrastructure support from federal, state and private sector sponsors. Sponsored research is critical to fulfilling the university's mission to acquire knowledge and disseminate it widely. In order to protect the ability of CU faculty, staff and students to support its mission, the university must enact specific policies and procedures that will ensure compliance with both Regent policy on publication restrictions and the requirements of research sponsors.

III. Definitions

- A. *Restricted research* is defined as sponsored research for which the sponsor requires a delay in the publication of the results in excess of 180 days, or a lesser time period prescribed by a campus, from the date of submission to the sponsor for review.
- B. *Proprietary research* is defined as sponsored research for which the sponsor imposes data ownership restrictions that limit publication of the results in excess of 180 days, or a lesser time period prescribed by a campus, from the date of submission to the sponsor for review.
- C. *Classified research* is defined as research that bears a security classification from the federal government, such as top secret, secret, or confidential. Classified research restricts some or all of the results, procedures, and personnel working on the project under rules established by the agency for which the research is being conducted.

IV. Exclusions

- A. **Routine Testing Service**
Faculty involvement in activities requiring university expertise and university health care facilities for technical measurement, analysis, observation, or evaluation in a controlled clinical setting that do not lead to publishable information are excluded from this policy.
- B. **Multi-site Clinical Trials**
Faculty members participating in clinical research trials involving multiple institutions and the coordination of multiple sites for which (a) upon conclusion of the trial, the sponsor requires greater than six months to collect and analyze the data from all participating sites, and (b) all participating institutions agree to said delay in publications, are excluded from this policy.

C. Personal Consulting by Faculty Members

Faculty members may perform personal consulting under the existing rules and regulations of the university; such consulting may include work on restricted, proprietary or classified projects. The normal campus approval procedures for faculty consulting will be followed even if some or all of the work is restricted, proprietary or classified. Personal consulting conducted in non-university facilities is excluded from this policy. However, personal consulting conducted in university facilities is included in the policy and, therefore, requires approval of the chancellor, or the chancellor's delegate and must follow all university policies regarding such consulting.

If a faculty member includes university students in personal consulting on restricted, proprietary or classified projects conducted outside university facilities, the faculty member must consider any potential restrictions that would affect students' academic research and publications and must include a contingency plan that permits the students' ability to publish their work in due course. This contingency plan must be approved by the faculty member's department head and must also be provided to the student(s).

V. Patent Policies

The interests of the Principal Investigator and of the university in patentable discoveries that are made in all research, including that considered restricted, proprietary or classified, shall be protected by the patent policies established by the Board of Regents.

VI. Human and Animal Studies

Federal law and guidelines mandate that the usual committee reviews for human and animal studies, when included in restricted, proprietary or classified research, be the same as those required for unrestricted research.

VII. Impact on Faculty Personnel Decisions

The university will continue to base decisions concerning faculty personnel matters on contributions to teaching, research and creative work, and leadership and service. Restricted, proprietary or classified research results that may not be published in the open literature will not be considered in faculty personnel decisions until and unless the research results are released for publication.

VIII. Involvement of Student, Postdoctoral Researchers and Non-Tenured

Faculty

The ability of students, postdoctoral researchers, and non-tenured faculty to publish is paramount to their academic careers. Any restrictions on publications placed upon research projects conducted by such personnel must be addressed by the petitioner accordingly.

IX. Publication of Student Work

Students must be free to pursue knowledge in an open environment. Formal academic work by students (coursework, theses, dissertations, etc.) shall not include classified research. Any petition for student involvement in research projects that imposes either explicit or potential restrictions that would affect students' academic research and publications must include a contingency plan that permits the students' ability to publish their work in due course. This contingency plan must be approved by the faculty member's department head and must also be provided to the student(s).

X. Use of University Facilities for Classified Research

The university shall strive to maintain campus environments fully open to the university community. Classified research projects shall, therefore, preferably be conducted at off-campus locations unless the chancellor verifies the necessity of on-campus university facilities for the proposed classified project.

XI. Security Costs

All security costs required for classified research shall be borne by the research sponsor. The university may provide facilities to store classified documents.

XII. Petition to Conduct Restricted, Proprietary or Classified Research

- A. Each proprietary or restricted research project involves submission of a petition for the approval by the campus chancellor, or the chancellor's delegate. Authority for the approval of petitions to conduct classified research resides with the chancellor and cannot be delegated. Approval is normally required prior to the formal submission of the research proposal to the potential sponsor, but in all cases approval by the chancellor, or the chancellor's delegate, is required before acceptance of the award by the university.
- B. Prior to submission to the chancellor, or the chancellor's delegate, the petition shall be

reviewed and approved on the campus utilizing a process defined by the chancellor of that campus.

- C. Upon receipt by the chancellor, or the chancellor's delegate, the petition shall be referred to a faculty committee for review and recommendation. Following the committee's review and the chancellor's or the delegate's decision, the petitioner shall be notified, and the chancellor's or the delegate's decision shall then be made public. Normally, this process will be completed within four weeks of the receipt of the petition by the chancellor, or the chancellor's delegate.
- D. The petition shall be an open document and shall contain the information listed in Appendix B.
- E. Projects receiving continuation funds do not require either further review or action by the chancellor, or the chancellor's delegate, unless a change in the scope of the required proprietary or security arrangements occurs.

XIII. Faculty Committee on Restricted, Proprietary and Classified Research

A. Composition

The campus committee on classified, proprietary and restricted research shall be composed of faculty members representing the broad range of scholarly disciplines appropriate for the campus. They shall be appointed by the chancellor or her/his designee for three year, staggered terms.

B. Procedures and Criteria

The committee shall utilize the procedures and criteria listed in Appendix B.

C. Confidentiality

The committee shall conduct its deliberations and handle all material with strict confidentiality, rigorously observing national security laws and protecting proprietary information.

D. Reporting Responsibility

The campus chancellor or his/her designee shall provide an annual report to the Office of the President each August concerning restricted, proprietary or classified research, which shall include its general nature, funding, campus locations, number of square feet of space used, FTE employed, and extent of security arrangements.

XIV. History

The purpose of this administrative policy statement is to specify the procedures by which CU researchers are required to petition for approval by the chancellor, or where allowable under Section XII of this APS, the chancellor's delegate, to conduct research under sponsorship conditions that may limit their ability to publish or disseminate findings freely. This administrative policy statement was prepared by the Office of the Vice President for Academic Affairs in consultation with the Faculty Committee on Restricted, Proprietary and Classified Research, the Faculty Council, and the Educational Policy and University Standards Committee.

- Original policy effective February 1, 1987
- Revised November 1, 1987
- Revised March 14, 2005
- Revised September 1, 2007
- Revised September 24, 2007
- Revised February 1, 2012
- The term "service" was replaced with the term "leadership and service" effective April 30, 2014 per resolution of the CU Board of Regents.

Appendix A

Regent Policy 4: ORGANIZATION OF ACADEMIC UNITS

4-F. CLASSIFIED RESEARCH

The University of Colorado is honored to have been selected for research of every conceivable kind over many generations. The products of this inquiry by distinguished faculty and students have advanced the reputation of our University and serve society.

In the case of restricted, proprietary, and classified research, potential impacts on the University need special consideration. Therefore, individual campuses of the University of Colorado will undertake, conduct, or manage only those restricted, proprietary, and classified research projects that receive the specific approval of the campus chancellor, or her/his delegate. Authority for the approval of petitions to conduct classified research resides with the Chancellor and cannot be delegated. For the purpose of this policy, these types of research are defined as follows:

- A. Restricted research is sponsored research for which the sponsor requires a delay in the publication of results for more than 180 days, or a lesser time period prescribed by a campus, beyond the date of submission to the sponsor for review.
- B. Proprietary research is sponsored research for which the sponsor imposes data ownership restrictions that limit publication of the results beyond 180 days, or a lesser time period prescribed by a campus, from the date of submission to the sponsor for review.
- C. Classified research is research that bears a security classification from the federal

government, such as top secret, secret, or confidential. Classified research restricts some or all of the results, procedures, and personnel working on the project under rules established by the agency for which the research is being conducted.

A faculty advisory committee on each campus will advise the chancellor or her/his delegate, on individual cases.

In the case of multi-campus research, the president will review the recommendations of the involved chancellors and faculty advisory committees and make a determination. Actions taken by the chancellor or, in the case of multi-campus proposals, the president shall be public information. Classified research projects approved by the chancellor will be conducted at off-campus locations whenever possible. The work produced on restricted, proprietary or classified research projects cannot be used either in faculty personnel decisions or in student theses/dissertations until the work can be published in open literature. All classified research projects will fully finance any security costs required by the projects out of the sponsor-funded direct or indirect costs.

Not included in this policy are routine testing services provided to industry by the University whose results are not publishable.

Faculty members shall not perform restricted, proprietary or classified research in University of Colorado facilities under the one-sixth rule without specific approval of the campus chancellor as provided in this policy.

A report on restricted, proprietary, and classified research shall be provided annually to the Regents which shall include its general nature, funding, and campus locations.

(Adopted June 19, 1986, pp. 594-595, September 23, 2004, and amended April 11, 2006.)

Appendix B

SAMPLE FORM TO PETITION TO CONDUCT RESTRICTED, PROPRIETARY, OR CLASSIFIED RESEARCH

The attached sample form provides for the information required by the campus Faculty Committee on Restricted, Proprietary and Classified Research (FCRPCR) for their consideration of a petition to conduct classified, proprietary, or restricted research. The form may be enlarged to include additional information required in the campus-specific approval process. It is recommended that the petitioner be provided an electronic copy so that the form may be filled in using a computer, where the space for responses can be expanded or contracted as needed. It is not necessary to maintain specific page breaks. It is recommended that the information be provided in a font and size that distinguish the information from the form prompts. It is not the responsibility of the FCRPCR to review the scientific merits of the proposed project. The charge to the Committee is to evaluate petitions on the basis of whether the proposed project is in the best interests of the University in accordance with the Regent Law on Academic Freedom and Regent Policy on Classified Research. All petitions

will be reviewed and approved on the local campus utilizing a campus process defined by the Chancellor. The Faculty Committee requires explicit approval by the Department Chair prior to any others specified by the Chancellor.

The recommendations of the Faculty Committee will be based on its judgment of the appropriateness of the proposed research at the University and its evaluation of the following factors, which should be addressed explicitly in the petition in the order shown:

PETITION TO CONDUCT RESTRICTED, PROPRIETARY, OR CLASSIFIED RESEARCH INVOLVING UNIVERSITY RESOURCE

1. Project title
2. Project director/Principal investigator(s)
3. Granting agency
4. Proposed funding level
5. Beginning and ending dates of the proposed research (also specify the total period and portion involving classified, proprietary, or restricted research if not the entire period)
6. The location of the proposed research
7. Time deadlines for the proposal
8. Unclassified summary of the proposed research expressed in non-technical terms and suitable for public dissemination and understanding. Petitioners are advised that the diverse expertise of FCRPCR members reflects a wide range of disciplines and thus may not overlap with those of the petitioner.
9. The intellectual content of the proposed research. That is, the extent to which the research may lead to significant new knowledge and the importance to the University's principal mission of creating knowledge and disseminating it to students.
10. The relationships between the proposed research and the openness of the academic environment. Specifically,
 - a. The extent and duration of special security arrangements (if applicable)
 - b. The extent to which portions of the campus will have restricted access (if applicable).
 - c. The extent to which students and faculty involved in the research will be allowed to discuss their results with students and faculty not involved in the research.
 - d. The restrictions that will be applied to publication of results.
11. The impact of the proposed research on the resources of the University (funds, equipment, personnel, space, etc)
 - a. The extent to which the research project will contribute new resources that can be applied to unclassified or unrestricted work.
 - b. The extent to which the research project will require the dedication of resources that would otherwise be available for unclassified or unrestricted work.
12. Involvement of student, postdoctoral researcher and/or non-tenured faculty in the proposed research; including a detailed contingency plan that ensures timely completion of student degree requirements and the ability to publish study results critical to career advancement.

1. The term "service" was replaced with the term "leadership and service" effective April 30, 2014 per resolution of the CU Board of Regents.

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