

1 **POLICY 5. Faculty**

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3 **POLICY 5.J: Intellectual Property Policy on Discoveries and Patents for their Protection**
4 **and Commercialization**

5
6 **Objectives**

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8 Creating and disseminating knowledge is a fundamental mission of the University of Colorado. The
9 creative environment of the university is conducive to the development of inventions, software, and
10 other discoveries. This policy of the University of Colorado has been established to accomplish
11 the following objectives:

- 12
- 13 • To encourage the faculty and staff employees of the University to make all discoveries
14 available for public use and benefit as efficiently and quickly as possible;
 - 15
16 • To protect the University's primary role of teaching and research by regulating the
17 involvement of the University, its faculty, staff employees, students and visitors and all
18 ~~collaborators~~ in the development of discoveries;
 - 19
20 • To protect the potential equities interests of the University, its faculty and staff employees,
21 students and visitors in discoveries; and
 - 22
23 • To provide a method of using royalty income from discoveries to advance discoveries and
24 encourage research innovation within the University ~~by providing a method of using royalty~~
25 ~~income from discoveries for research purposes.~~

26
27 **Definitions**

- 28
- 29 • The term "discovery" or "discoveries," ~~means as used in this policy, shall mean~~ any
30 inventive idea and/or its reduction to practice ~~which that~~ relates to, but is not limited to: new
31 processes or methods of producing a new and useful industrial result; any composition of
32 matter, including chemical and biological compounds and research materials; any new
33 devices; any new plant; any new design in connection with the production or manufacture of
34 an article; any new computer hardware and/or software programs; any knowledge clinical
35 protocol or survey instrument; any new use or improvement of existing systems, processes,
36 or methods of producing a new and useful industrial result, devices, compositions of matter,
37 software ~~programs or processes;~~ and any know-how and data supporting these inventive
38 ideas, systems, devices, compositions of matter, software programs, or processes; ~~and any~~
39 ~~new use or improvement of existing systems, devices, compositions, programs or~~
40 ~~processes.~~
 - 41 ~~• The term "discoverer" or "discoverers" shall refer to any individual or group of individuals~~
42 ~~responsible for a discovery.~~
 - 43 ~~• The term "included persons" shall refer to all faculty members and other employees~~
44 ~~(including students on appointment as University employees).~~

- ~~• The term "collaborator" or "collaborators" shall refer to any person or persons who participate with an included person on a discovery.~~
- The term "substantial use of University resources" means use of University administered funds, ~~programs, sponsored programs, facilities, research~~ equipment, including software, research space or other physical assets that goes above and beyond those customarily and currently provided to included persons in accordance with their university position as an employee, student, or volunteer. A visiting scholar or any other visitor makes substantial use of university resources by using university administered funds, sponsored programs, facilities, research equipment, including software, research space, or other physical assets. For purposes of this policy, offices, office equipment, library access, desktop and laptop computers, photocopy equipment, telephone, servers, and fax machines that are customarily provided, are excluded from substantial use of university resources. Use of university resources as permitted under a separately executed facilities use agreement will not be considered substantial use of university resources. (This provision is not intended to override any other university policy concerning reimbursement for facilities or equipment usage.)-

- ~~The term "university discoveries" in means discoveries made: which the University has an interest" shall include discoveries made while performing duties required by a university grant or contract, and/or made~~
 - with the substantial use of University resources, and/or
- ~~made as a result of the use of sponsored program funds supplied or administered by the University, and/or made in fulfillment of an included person's work responsibilities.~~

A discovery made by an included person in connection ~~to~~with consulting or other third-party contractual arrangements is a university discovery if it meets the above criteria.

- The term "visiting scholar" means a person who has been granted access to university administered funds, sponsored programs, facilities, research equipment, including software, research space or other physical assets pursuant to an appropriately executed visiting scholar agreement.
- The term "visiting scholar agreement" means a separately executed written agreement between a person or that person's home institution and university permitting substantial use of university resources, which agreement includes intellectual property provisions approved by the appropriate principal technology transfer officer.

Scope of Policy

- ~~• This policy shall apply to all included persons of the University.~~
- This policy shall apply to any other persons using University facilities.
- The term "work responsibilities" means any work, including third party employment such as consulting activity, that is related to an included person's activities or field of expertise at the

86 university as evidenced by their research focus, or as otherwise articulated in a faculty member's
87 professional plan or an employee's position description.
88

89 A. University Ownership
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- 91 ~~• This policy shall apply to any person not in an above-mentioned category who collaborates~~
92 ~~with included persons in a discovery.~~

93 1. The university owns all university discoveries. Every included person(s), by accepting
94 employment with the university and/or making substantial use of university resources,
95 assigns to the Regents of the University of Colorado any legal rights that may exist in such
96 university discoveries and any intellectual property rights in such university discoveries.
97

98 2. The university has separately established through Regent Policy 5.K Intellectual Property
99 that is Educational Material that the university will not take ownership of Educational
100 Materials and creative and scholarly works, and the ownership and administration of
101 Educational Materials and creative and scholarly works will be in accordance with
102 Regent Policy 5.K; provided, however, that if any Educational Material is a derivative of or
103 otherwise uses any pre-existing university discovery or related intellectual property, neither
104 Regent Policy 5.K nor this provision prevents the university from asserting its pre-existing
105 rights under this Regent Policy 5.J. Where an Educational Material or a creative or
106 scholarly work is also a discovery, the terms and conditions of this Regent Policy 5.J
107 supersede the terms and conditions of Regent Policy 5.K the university will establish a
108 process by which it will be determined whether the educational material or creative or
109 scholarly work will be treated as a discovery under this policy or as an educational material
110 or creative or scholarly work under Regent Policy 5.K.
111

112 3. The university will make no ownership claim on discoveries created without substantial
113 use of university resources to develop the discovery and where the discovery is not
114 related to an included person's work responsibilities.
115

116 4.4. Should the terms of a University approved university-approved third-party grant or
117 contract, including consultation consulting agreements approved by the University the
118 principal technology transfer officer, be in conflict with the terms of this policy, the terms
119 of the approved third-party grant or contract shall control. Only the principal technology
120 transfer officer or their designee has the legal, delegated authority to waive ownership by
121 the university, or to assign ownership, license, or otherwise provide legal rights to
122 university discoveries and intellectual property in a university discovery.
123

124 B. Ownership of Student Discoveries
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126 1. The university will not own a discovery created (A) by a student who is not employed by the
127 university at the time the discovery is made and who has not made substantial use of
128 university resources to develop the discovery or (B) by a student who is employed by the
129 university at the time the discovery is made, but the discovery is not related to the student-
130 employee's work responsibilities and is made without substantial use of university

resources, unless the student: (iA) creates the discovery with an included person who assigns to university (in which case the university will jointly own the discovery with the student), (iiB) assigns ownership rights in the discovery to the university in writing, or (iiiC) must make an assignment of such ownership rights to the university as a condition for participation in a course. If the student-created discovery is a university discovery and the student assigns ownership rights in the discovery to the university, the student will be bound by this policy the same as an included person, including but not limited to, having rights in the distribution of net receipts.

2. A student who holds a research stipend or fellowship through the university and who creates a discovery during the course of the stipend or fellowship will be considered an included person bound by this policy.

4.—

C. Responsibilities of Participating Parties/Included Persons

Every included person, as a condition of employment, ~~or of his/her education, and every user or making substantial use of university resources of University facilities shall~~ must comply with this policy and ~~hereby by accepting such employment or making substantial use of university resources,~~ agrees to make a timely, written report to the ~~University~~ university of all discoveries made by the included person, in order for the university to determine whether the discovery is a university discovery as follows:—

In the event the university determines that the discovery is a university discovery, the included person must:

- ~~To inform all collaborators of the terms and conditions of this policy;~~
- ~~To report to the Technology Transfer Office, in writing, all discoveries in order for the Technology Transfer Office to determine whether or not the University has an interest in the invention. Such report shall be made within a reasonable time after the discovery is made and within reasonable time prior to its submission for publication;~~
- ~~To cooperate with the Technology Transfer Office in deliberations and activities, as provided herein;~~
- ~~To assign to the University, its designee, or a sponsoring agency if required under agreements governing research, any and all rights in and to discoveries in which the University has an interest, as determined by the terms of this policy;~~
 - Execute and deliver any and all documents that may be necessary or desirable to perfect title in the university to all university discoveries and related intellectual property;
- ~~To e~~Execute all documents necessary to complete a patent, license, or other commercial application, and all documents necessary to accomplish a licensing agreement or other agreement for commercial development; ~~and~~
- ~~To e~~Cooperate reasonably with the ~~Technology Transfer Office~~ university in activities necessary or desirable for the commercial development of university discoveries in accordance with the applicable policies and procedures established by the university. ~~in~~

175 ~~obtaining, protecting, and maintaining rights necessary to the commercial development~~
176 ~~of discoveries in which the University has an interest.~~

177
178 ~~It will be the responsibility of all included persons who would like to provide access to university~~
179 ~~research facilities, equipment, and other research resources to a visitor to ensure that such~~
180 ~~visitor has executed an agreement with university prior to the visitor having such access, which~~
181 ~~agreement must include intellectual property provisions that have been approved by the~~
182 ~~appropriate principal technology transfer officer.~~

183
184 It will be the responsibility of the University to disseminate the policy to all included persons
185 and to all others ~~s-users~~ making substantial use of University ~~resources facilities~~. However,
186 the failure of the University to do so ~~shall~~does not, in ~~no~~any way, affect the rights and
187 obligations of the University or of included persons under the terms of this policy.

188
189 **Committee on University Discoveries**

190
191 ~~The Committee on University Discoveries (CUD) is made up of faculty and staff of the~~
192 ~~University. The CUD shall advise the Principal Technology Transfer Officer on matters related to~~
193 ~~this policy and shall serve as the appeals board. The CUD shall also provide such other~~
194 ~~technical advice and expertise as the Technology Transfer Office or its designee, or the~~
195 ~~University, may request, or as initiated by the CUD itself.~~

196
197 **Principal Technology Transfer Officer**

198 **D. Dispute Resolution**

199
200 ~~The university shall create a process to address any disputes that may arise related to this~~
201 ~~policy.~~

202 **E. Principal Technology Transfer Officer**

203
204 The University shall employ and appoint ~~a~~one or more member(s) of its staff to serve as the
205 Principal Technology Transfer Officer(s) to perform such duties and responsibilities, as it
206 shall prescribe.

207
208 **F. Division of Receipts**

209
210 ~~The Technology Transfer Office agrees to~~ university must determine how it will share and
211 distribute ~~net receipts received from the commercialization~~ net receipts; provided that the
212 university must share no less than 30% of any discovery developed under the net receipts
213 with the included persons who are the identified inventors or creators of the
214 discovery. ~~terms of an agreement as follows:~~

- 215
216 ~~• 25 percent to discoverer(s) personally;~~
217 ~~• 25 percent to a University campus account for support of discoverer's(s') research;~~
218 ~~• 25 percent to an account for the benefit of the University; and~~

219 • ~~25 percent to the Campus Chancellor, which will be directed to research with technology~~
220 ~~transfer potential and distributed on a percentage basis as determined at each individual~~
221 ~~campus.~~

222
223 ~~The Campus Chancellors' Offices will make information regarding this distribution readily~~
224 ~~available. Net receipts for each discovery shall be defined as all sums received by the~~
225 ~~Technology Transfer Office from the development and commercial exploitation of the discovery~~
226 ~~after first deducting all unreimbursed legal expenses incurred by the Technology Transfer Office~~
227 ~~in securing the intellectual property protection of that particular discovery or bundle of~~
228 ~~discoveries if licensed as a group. The above distribution schedule shall not apply when it is in~~
229 ~~conflict with the terms and conditions of an approved third-party grant or contract with the~~
230 ~~University. In such case, the terms of the approved third-party grant or contract will control. In~~
231 ~~the event that a discoverer is no longer employed by the University, the 25 percent designated~~
232 ~~to his/her research account shall be divided 10% to an account for the benefit of the University~~
233 ~~and 15% to the Campus Chancellor, which will be distributed in a manner identical to the~~
234 ~~Campus Chancellor share mentioned above.~~

235
236 Last Amended: ~~March 2, 2006~~TBD (Pending)

237
238 History:

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240 05/19/83, 06/20/85, 04/21/94, 01/16/03, 03/02/06, TBD (Pending)

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