

**HISTORY OF THE UNIVERSITY OF TEXAS SYSTEM
INTELLECTUAL PROPERTY POLICIES AND GUIDELINES
1985 TO PRESENT**

Item No.: 11	Date of BOR Meeting: 2/12/98	Sections Affected/New Section Added: Amendments to Part Two, Chapter XI, Section 1; Amendments to Part Two, Chapter XII, Sections 2.1, 2.3, 2.4, 2.8, 8.1, 9.1, 9.2, & 9.3
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SUMMARY OF REVISION: Amendments to Part Two, Chapter XI, Section 1, regarding delegation of authority to the chief administrative officer on behalf of BOR; Amended Chapter XII: to include students under IP Policy; to broaden application of scholarly works; when BOR will own IP; reporting requirements; approval process for legal documents related to IP. Added new section 2.8 regarding use of System facilities by inventor after invention is released to inventor.

CHAPTER XI

CONTRACT ADMINISTRATION

Sec. 1. Delegation of Authority.--Subject to Subsection 1.1 and to the general provisions of Part One, Chapter I, Section 9 and except as otherwise provided in these **Rules and Regulations**, the Board delegates to the chief administrative officers authority to execute and deliver on behalf of the Board contracts and agreements of any kind or nature, including without limitation licenses issued to the Board or a component.

1.2 Applicability.--This Chapter applies to all contracts and agreements except contracts or agreements relating to personnel, faculty, athletics or athletic events, real properties (except the lease of space for use by a component), physical plant improvements, acceptance or administration of gifts or bequests, contracts and grants for sponsored research, contracts for legal services, and agreements to settle claims, disputes, or litigation.

CHAPTER XII

INTELLECTUAL PROPERTY

Sec. 2. General Policy.

2.1 The intellectual property policy shall apply to all persons employed by the U. T. System and the component institutions of the System, to anyone using System facilities under the supervision of System personnel, to undergraduates, to candidates for masters and doctoral degrees, and to postdoctoral and predoctoral fellows.

2.3 The Board shall assert its interest in scholarly or educational materials, art works, musical compositions and dramatic and nondramatic literary works related to the author's academic or professional field, regardless of the medium of expression, as follows:

2.31 Students, professionals, faculty and researcher authors.--The Board shall not assert ownership of works covered by this Subsection authored by students, professionals, faculty, and nonfaculty researchers. The Board encourages these authors to carefully manage their copyrights. The Board retains certain rights in these works as set forth in the Policy and Guidelines for Management and Marketing of Copyrighted Works.

2.32 Software.--The Board normally shall assert ownership in software as an invention; however, original software which is content covered by Subdivision 2.31, or that is integral to the presentation of such content, shall be owned in accordance with Subdivision 2.31.

2.4 Notwithstanding the provisions of Subsection 2.3, the Board shall have sole ownership of all intellectual property created by an employee who was hired specifically or required to produce it or commissioned by the System or a component institution of the System. Except as may be provided otherwise in a written agreement approved by the chief administrative officer of the component institution and the Chancellor, the provisions of Subdivision 5.23 relating to division of royalties shall not apply to intellectual property owned solely by the Board pursuant to this Subsection 2.4.

2.8 Neither the facilities nor the resources of System or its component institutions may be used (i) to create, develop or commercialize intellectual properties unrelated to an individual's employment responsibilities (See Subsection 4.1); or (ii) to further develop or commercialize intellectual properties that have been released to an inventor (See Subdivision 5.22) except as the component institution's chief administrative officer and the appropriate Executive Vice Chancellor or Vice Chancellor may approve where System retains an interest under the terms of the release.

Sec. 8. Reporting.

8.1 Any employee covered by Subsections 6.2, 7.1, or 7.2 shall report in writing to the chief administrative officer of the component institution, or to such other person as may be designated by the chief administrative officer, the name of any business entity as referred to therein in which the person has an interest or for which the person serves as a director, officer or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be accumulated in the office of the chief administrative officer or designee and then forwarded to the appropriate Executive Vice Chancellor or Vice Chancellor by September 1 of each year so that the Chancellor may file a report with the Board. Information in the report shall be included in the annual report required by Section 51.912(c), **Texas Education Code**.

Sec. 9. Approval of and Execution of Legal Documents Relating to Rights in Intellectual Property.

9.1 Agreements that grant an interest in Board intellectual property may be executed and delivered in accordance with the provisions of the Regents' **Rules and Regulations**, Part Two, Chapter XI, following any required review by the Office of General Counsel.

9.2 Any document altering substantially the basic intellectual property policy of the System as set out in the preceding Sections and other policies and guidelines that may be adopted by the Board shall have the advance approval of the chief administrative officer, the appropriate Executive Vice Chancellor or Vice Chancellor, the Chancellor, and the Board as an agenda item. Such an alteration in a sponsored research agreement shall not be considered substantial and the agreement may be executed and delivered as set forth in Section 9.1 if, in the judgment of the chief administrative officer and with the concurrence of the appropriate Executive Vice Chancellor or Vice Chancellor, the benefits from the level of funding for the proposed research and/or other consideration from the sponsor outweigh any potential disadvantage that may result from the policy deviation.

9.3 The Chancellor, the appropriate Executive Vice Chancellor or Vice Chancellor, the Vice Chancellor and General Counsel or the authorized representative of UTIMCO may execute, on behalf of the Board, legal documents relating to the Board's rights in intellectual property, including, but not limited to, declarations, affidavits, powers of attorney, disclaimers, and other such documents relating to patent applications and patents; applications, declarations, affidavits, affidavits of use, powers of attorney, and other such documents relating to trademarks; and other documents approved pursuant to Subsections 9.1 or 9.2. The chief administrative officer or designee may execute, on behalf of the Board, institutional applications for registration or recordation of transfers of ownership and other such documents relating to copyrights.

The purposes of the amendments to the Regents' Rules and Regulations, . . . Chapter XII, Sections 2, 8, and 9, relating to intellectual property, are summarized below:

- b. Part Two, Chapter XII, Subsection 2.1 was amended to make explicit the application of the Intellectual Property Policy to all students
- c. Part Two, Chapter XII, Subsection 2.3 was amended to broaden the application of the "scholarly works" exception to add teaching materials to those covered by this Section
- d. Part Two, Chapter XII, Subsection 2.4 was amended to clarify when the Board will own intellectual property that would otherwise be owned by a faculty member and when it need not share royalties with an inventor
- e. Part Two, Chapter XII, Subsection 2.8 was added to explicitly prohibit the use of System facilities to develop inventions released to the inventor except as expressly authorized
- f. Part Two, Chapter XII, Subsection 8.1 was amended to correct an outdated requirement for Board approval
- g. Part Two, Chapter XII, Subsections 9.1 and 9.2 were amended to allow all intellectual property agreements covered by this Chapter to be processed like other agreements
- h. Part Two, Chapter XII, Subsection 9.3 was amended to delegate authority to execute copyright registration applications and related documents to component executives.