

# University of Wyoming Office of Research and Economic Development

## Policy on Research Data

Updated March 24, 2015

### I. BACKGROUND: PURPOSE, DEFINITIONS, AND CONTEXT

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- A. Policy. It is the policy of the University of Wyoming to preserve, protect, and share Research Data in accordance with academic, scientific, and legal norms.
- B. Purpose. This policy states principles regarding rights in Research Data resulting from or associated with research conducted at or under the auspices of the University. This policy should be read in conjunction with applicable laws, contract terms, and University policies. It does not limit or affect rights under the Faculty Senate, and shall be administered and interpreted in accord with its purpose to ensure the University can fulfill its responsibilities regarding the proper conduct of research. Such responsibilities include:
  - 1. complying with the requirements of law and granting agency regulation;
  - 2. complying with the terms of specific sponsored research agreements;
  - 3. ensuring the protection of human subjects, the appropriate use of animals, and the proper use of tangible research materials;
  - 4. ensuring and protecting the proper management of Research Data under the initial authority of the Principal Investigator, while protecting the rights of faculty, students, postdoctoral scholars, and staff, including their rights of access to, and credit for, data from research in which they participated;
  - 5. securing and protecting intellectual property rights;
  - 6. facilitating the investigation of charges relating to the accuracy, authenticity, and primacy of research, including research misconduct, conflict of interest, and authorship.
- C. Definition of "Research Data." Research is a systematic investigation designed to develop or contribute to generalizable knowledge. "Research Data" means information, records, and tangible products arising from or associated with research conducted at, under the auspices of, or using the resources of the University. Research Data includes both intangibles (e.g., information and copyrighted works such as software and models) and tangibles (e.g., cell lines, biological samples collected for research purposes, synthetic compounds, organisms, and originals or copies of laboratory notebooks).
- D. Definition of "Principal Investigator." "Principal Investigator" or "PI" means for purposes of this policy a University employee or appointee who is deemed to be primarily responsible for the research design and/or the collection of data regardless of funding source.

### II. APPLICABILITY AND ADMINISTRATION

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- A. Applicability. This policy applies to all University faculty, staff, students, and any other persons at the University involved in the design, conduct, or reporting of research at or under the auspices of the University, and it applies to all research projects on which those individuals work, regardless of the source of funding for the project.

- B. Administration. This policy is administered under the authority of the Vice President for Research and Economic Development.
- C. Sponsored Research Agreements. Where research is funded by a grant or contract with the University that includes specific provisions regarding Research Data, this policy should be interpreted in accordance with those provisions. In the event of inconsistency between a sponsored research agreement and this policy, the University's obligations under the sponsored research agreement will control.

### III. OWNERSHIP AND STEWARDSHIP

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- A. University Ownership. All Research Data is owned by the University, except as otherwise provided by an agreement with a third party, a law, or University policy, such as copyright policy. Not including those copyrighted items which are covered in University regulation 3-641.
- B. Stewardship. The Principal Investigator ("PI") is responsible for the collection, management, and retention of Research Data. When there is more than one PI, then there must be an explicit agreement identifying who will fulfill which responsibilities under this policy. PIs should adopt an orderly system of data organization and should communicate the chosen system to all members of a research group and to the appropriate administrative personnel, where applicable. Particularly for long-term research projects, PIs should establish and maintain procedures for the protection of essential Research Data in the event of a natural disaster or other emergency. It is acknowledged that there are federal regulations and University policies that may govern the stewardship of Research Data when dealing with allegations of research misconduct.
- C. Administrative Management. In the event the PI is not available to address questions regarding Research Data, then the matter may be referred to the appropriate University official in order of administrative authority, such as chair of the PI's department and/or unit administering the research, the dean or director, and the Vice President for Research and Economic Development, in that order. Disputes regarding Research Data shall be administered as provided below in Section 6 of this policy (Dispute Resolution Procedure).
- D. Access. The PI generally shall determine who has access to Research Data generated within his or her project, provided that where necessary to assure needed and appropriate access. It is recognized that Research Data is considered as proprietary to the PI until publication or released to the public in some manner such as presentations, patents, for example. However, if publication or some other form of public disclosure does not occur in a reasonable period of time the University may take custody of any or all Research Data. Generally, the PI has an obligation to share data and specimens with his/her research project co-investigators during and after completion of the project, except when such sharing would lead to overlap of effort (e.g. similar data analyses for publication on the same topic), reduction in finite specimen resources that would seriously limit the PI's future use, or where confidentiality agreements or IRB restrictions limit the sharing of specimens or other data. Disputes between investigators will be resolved as described in section 6.

#### IV. PRESERVATION OF RESEARCH DATA

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- A. **Period of Retention.** Research Data must be maintained for a period in accordance with all applicable legal requirements and University policies, including:
1. the contractual requirements or federal regulations applicable to any funding that supported the research in which the Research Data were generated;
  2. the University's research misconduct policy;
  3. requirements to preserve student records;
  4. the Freedom of Information Act and the Wyoming Public Records Act;
  5. court orders or subpoenas;
  6. reasonably anticipated audits or lawsuits;
  7. intellectual property requirements, such as the filing of a patent application.

In addition, if the original Research Data are inherently transient in nature (such as with some biological materials that cannot be stored for a long period of time), then the investigator should document its characteristics by some other means and preserve that documentation consistent with the above guidelines. Questions regarding the specific retention period for a particular collection of Research Data may be directed to the Office of the Vice President for Research and Economic Development.

- B. **Maintenance of Research Data.** Research Data must be maintained in compliance with all applicable University policies, state and federal laws, and contractual requirements, including without limitation those pertaining to human subjects and confidentiality. For example, Institutional Review Boards require that data / records obtained in studies on minors be kept until subjects reach the age of 21. (Researchers and grantees should be aware, however, that contractual provisions regarding confidentiality of Research Data may not be enforceable under applicable federal and/or state law.) Research Data will normally be maintained in the unit in which they were produced, or otherwise in a location expressly approved by the department chair or other University official, unless otherwise directed by the Vice President for Research and Economic Development.
- C. **Destruction of Research Data.** Beyond the period provided or three years, whichever is longer, and unless other circumstances require longer retention, the destruction of Research Records is the responsibility of the PI and the department or laboratory. Although the ultimate responsibility for destruction of research data lies with the PI, (s)he should make a good faith effort to notify in advance any and all co-investigators of the intent to destroy research data. Disputes between the PI and co-investigator(s) over planned data destruction should be resolved as described in Section 6, Dispute Resolution.

#### V. TRANSFER OF RESEARCH DATA FROM THE UNIVERSITY

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- A. **PI's Departure.** When a PI leaves the University, and/or a project is to be moved to another institution, then care should be exercised to ensure compliance with record retention periods. If there are records retention periods applicable to the Research Data, and if those periods have expired, then ownership of the original Research Data may be transferred to the other institution with the approval of the dean or his or her designee and the Vice President for Research and Economic Development, and the University may retain a copy. If applicable

records retention periods have not expired, then regardless of physical location (either at the University, the new institution, or a third party repository).

1. The PI at the new institution remains responsible for data stewardship with regard to publication and access. Disputes, including but not limited to those concerning access and authorship, will be reviewed and/or decided at the University of Wyoming for data developed at the University of Wyoming. There should be a written agreement from the PI's new institution that provides: (a) that the new institution accepts its custodial responsibilities for the Research Data; and (b) that the University of Wyoming has access to the Research Data should that become necessary and (c) that the University of Wyoming will adjudicate disputes as they might arise regarding data produced at the University of Wyoming.
  2. When Research Data comprises finite resources such as cell lines, vectors, and actual research samples (including tissue blocks, genetic material, soil, air, ice cores, etc.), physical transfer will be determined by the chair and/or dean with approval by the Vice President for Research and Economic Development in consultation with the PI. In such cases, and in recognition of the University's desire to further research, the chair or dean should make appropriate arrangements for continued access to the Research Data balancing the interests of the departing PI and the University. Disputes between the departing PI and the dean will be managed through the Office of the Vice President for Research and Economic Development.
- B. Other Investigators' Departure. When individuals involved in research projects at the University leave the University, they may, with the permission of the PI, whose decision shall be in accord with reasonable academic norms, take copies of Research Data generated under their auspices or with their participation. However, any data collected under UW Human Subjects IRB approval will also require approval of the recipient institution's IRB before data (including biological samples) can be used for further research at a different institution. Original copies of Research Data must be retained by the PI in accordance with University policy.
- C. Confidentiality of Human Subjects Data.
1. Confidentiality of Research Data must be maintained if (a) the underlying research utilized Human Subjects and was performed under an IRB approval from the UW IRB (or other IRBs for which the UW has established formal reciprocity), and (b) the Research Data include identifiable data and/or coded data for which the master list linking the code to subject identifiers still exists.
  2. If the Human Subjects research as described in the IRB application has not been completed, IRB approval from the recipient institution must be obtained before Research Data (including biological samples collected under the UW IRB approval) are transferred to the recipient institution.
  3. If the research as described in the IRB application has been completed and identifiable or coded data are retained and transferred, further research with the transferred data cannot begin until IRB approval has been obtained from the recipient institution.

## VI. DISPUTE REVIEW PROCEDURE

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- A. Purpose. This dispute resolution procedure may be used by individuals with a legal interest affected by a dispute regarding Research Data rights ("Interested Parties") to obtain specialized review of issues related to that dispute. It allows Interested Parties to ascertain the application of academic norms to a dispute over the use of Research Data. This policy does not supersede or replace any grievance procedures or other processes that may be available at the University. Nor does this policy replace any University processes related to requests under the Wyoming Public Records Act, or other compulsory legal processes (such as subpoenas or court order).
- B. PI Review. When disputes over Research Data use arise between investigators, the matter should be initially referred to the PI. If the PI is party to the dispute, the matter should be referred to the appropriate chair and/or dean as described in 6.3.
- C. Requesting Review. If a dispute is not resolved by the PI, any Interested Party may submit a written Request for Review to the appropriate dean within a reasonable time (usually within 30 days of a PI's adverse decision). The Request for Review should explain (a) the nature of the dispute, (b) the basis for any contention that the use of Research Data is contrary to academic norms, and (c) a proposed resolution of the dispute.
- D. Procedure. Upon receiving a Request for Review, the dean should promptly appoint an appropriate Reviewer to assess the dispute. The Reviewer will typically be the department chair, center director, or other head of an administrative unit. The dean should establish a proposed timeframe for the Reviewer to conduct review activities and to produce a written Report and Recommendation—normally within 15 business days of the referral to the Reviewer. The Reviewer may discuss the matter with Interested Parties, consult experts, and engage in any other appropriate activity to assess the dispute. If the Reviewer cannot complete the Report and Recommendation within the time allotted by the dean, the Reviewer should request additional time and notify all Interested Parties. The Reviewer's written Report and Recommendation shall be final unless an Interested Party seeks additional review within seven business days of receiving the Report and Recommendation.
- E. Further Review. Any Interested Party may ask for modifications to the Report and Recommendation by submitting a written request to the appropriate dean. If not satisfied with the dean's decision, an Interested Party may similarly seek review by the Vice President for Research and Economic Development. At each step of review, the dean or the Vice President may use any reasonable method to assess the request and shall issue a written decision that includes any necessary modifications to the Report and Recommendation. The dean or Vice President should each seek to issue a written decision within 15 business days of receiving the request for modification or, in the alternative, to provide notification of a revised timeframe for the review. For purposes of this policy, the decision of the Vice President is final.