

**THE UNIVERSITY OF WYOMING
BOARD OF TRUSTEES'
REPORT & SUPPLEMENTAL MATERIALS**

**April 14, 2021
Conference Call Meeting**

**The final report can be found on the University of Wyoming Board of Trustees Website at
<http://www.uwyo.edu/trustees/>
University of Wyoming Mission Statement (July 2017)**

We honor our heritage as the state's flagship and land-grant university by providing accessible and affordable higher education of the highest quality; rigorous scholarship; the communication and application of knowledge; economic and community development; and responsible stewardship of our cultural, historical and natural resources.

In the exercise of our primary mission to promote learning, we seek to provide academic and co-curricular opportunities that will:

- Graduate students who have experienced the frontiers of scholarship and creative activity and who are prepared for the complexities of an interdependent world;
- Cultivate a community of learning energized by collaborative work among students, faculty, staff and external partners.
- Nurture an environment that values and manifests diversity, internationalization, free expression, academic freedom, personal integrity and mutual respect; and
- Promote opportunities for personal health and growth, physical health, athletic competition and leadership development for all members of the university community.

As Wyoming's only public university, we are committed to scholarship, outreach and service that extend our human talent and technological capacity to serve the people in our communities, our state, the nation and the world.

TRUSTEES OF THE UNIVERSITY OF WYOMING AGENDA
April 14, 2021
Conference Call Meeting

Note: Only topics that have support materials provided in advance of the meeting are contained within this report. Topics that will be discussed with only a verbal report do not have information included.

WORK SESSIONS

UW Regulation Review Committee (ad hoc committee); Kermit Brown (Chair)

- a. Modifications to UW Regulations – Evans
 - i. Consideration and Action: UW Regulation 6-10 (University of Wyoming Public Art Policy) *[postponed from March 2021 Meeting]*4
 - ii. Consideration and Action: UW Regulation 9-1 (University IP).....30

AGENDA ITEM TITLE: Approval of modifications to UW Regulation 6-10 (Public Art),
Brown/Evans

SESSION TYPE:

☐ Work Session

☐ Education Session

☐ Information Item

☒ Other:

[Committee of the Whole – Items for Approval]

☒ *Attachments are provided with the narrative.*

APPLIES TO STRATEGIC PLAN:

☒ Yes (select below):

☐ Driving Excellence

☐ Inspiring Students

☐ Impacting Communities

☒ High-Performing University

☐ No [Regular Business]

EXECUTIVE SUMMARY:

At the September 2016 Board of Trustees meeting, the Board approved review by UW Administration of UW's current regulatory structure, to include the following:

- 1) Phasing out presidential directives;
- 2) Defining regulation versus policy/procedure;
- 3) Creating a new "look" and format for the regulations; and
- 4) Updating the substance of the regulations, policies, and procedures as needed, including determining whether there are any substantive gaps.

At the January 2017 Board of Trustees meeting, the University proposed 12 sections for the new ***Governing Regulations and Standard Administrative Policies and Procedures website.***

Section 1: Governance and Structure

Section 2: Academic Affairs

Section 3: Athletics

Section 4: Diversity and Equal Opportunity

Section 5: Employment and Ethics

Section 6: Facilities

Section 7: Finance and Business

Section 8: Information Technology

Section 9: Research and Economic Development

Section 10: Safety and Security

Section 11: Student Affairs

Section 12: University Relations

The new structure will involve three levels of policies:

- 1) Governing Regulations (Level A)
- 2) Standard Administrative Policies and Procedures (Level B)
- 3) Department/Unit Administrative Policies and Procedures (Level C)

Attached is the following Section 6 Facilities regulation (with a summary of the proposed modifications):

- **UW Regulation 6-10 (Public Art):** Modifications to align the process with the University's 2018 Public Art Plan and to exempt the regulation if the University opts into the State of Wyoming Art in Public Buildings program.

Per the routing process for UW Regulations, the proposed modifications to the regulations were provided to the President's Cabinet, Deans and Directors, Faculty Senate, Staff Senate, ASUW, and the Internal Auditor. A number of suggestions from the Faculty Senate Executive Committee were incorporated.

The Trustees Regulation Committee will discuss this item at the April 2021 Board of Trustees conference call and recommend full Board action, if appropriate.

PRIOR RELATED BOARD DISCUSSIONS/ACTIONS:

None.

WHY THIS ITEM IS BEFORE THE BOARD:

UW Regulation 1-101 requires that the Board approve modifications to UW Regulations.

ACTION REQUIRED AT THIS BOARD MEETING:

Board approval, modification, or disapproval of the recommended modifications to the Regulations.

PROPOSED MOTION:

"I move to authorize modifications to UW Regulation 6-10, as presented to the Board"

PRESIDENT'S RECOMMENDATION:

The president recommends approval.

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UNIVERSITY OF WYOMING REGULATIONS

Subject: University of Wyoming Public Art **Policy**

Number: UW Regulation 6-10

~~I. COMMITTEE CHARGE~~

~~Per the appointment letter of January 24, 2012, and consistent with the action of the Board of Trustees on October 23, 2013, the President's Public Art Committee (the Committee) is hereby charged with: 1) evaluation and providing a recommendation on proposals for the placement of art—permanent or temporary—in public areas of the university, including outdoor public areas and interior public spaces (prominent public areas, lobbies, atria, entrances, and principal assembly areas); and 2) working with Physical Plant and the University of Wyoming (UW) Foundation to develop a plan for the future placement of trees, benches, and picnic tables through the Foundation's "Tree and Bench" program.~~

~~The Committee shall serve in an advisory capacity to the UW President. In offering input, the Committee shall strive to provide recommendations by unanimous consent wherever reasonably possible. In the event unanimous consent is not achievable, recommendations will be determined by a majority vote of a minimum quorum of three Committee members.~~

~~II. COMMITTEE MISSION~~

~~The President's Public Art Committee seeks to enrich the cultural, intellectual, and scholarly life of the University of Wyoming's students, faculty, staff, and visitors while advancing the university's academic mission through enhancing and complimenting the physical and aesthetic environment of campus, preserving and celebrating its history and heritage, and inspiring contemplation, reflection, and dialogue.~~

~~III. VISION STATEMENT~~

~~The President's Public Art Committee strives to advance the aesthetic and physical environment of UW by creating an integrated mixed use of public spaces that reflects the University's teaching, research, and service mission and acknowledges its heritage. Art can become the physical expression of UW and that art can further inquiry and widen knowledge. Finding a balance from traditional to contemporary is essential in creating~~

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~~public spaces that challenge and broaden the experience of our students, faculty, staff, donors, and visitors on campus.~~

~~IV. DEFINITION OF PUBLIC ART~~

~~I. The Committee is guided by the following definition of public art: art~~PURPOSE

To outline the process for acquisitions, proposals, evaluation, and installation of public art.

II. DEFINITIONS

Defined Property: The placement of donated trees, benches, monuments, tables, and similar donated structures.

Donation: A work of public art or defined property which is donated to the University through the UW Foundation upon recommendation of the Public Art Committee and if accepted by the UW President.

Direct Selection: A work of public art purchased or commissioned from an individual artist by the University upon recommendation of the Public Art Committee.

Limited-Term Installations: Public art or defined property that may or may not be the property of the University and is installed for a specified period.

Open Competition: A work of public art selected through a competition or request for proposals for a commissioning. These commissions may include faculty, staff, students, and external artists.

Permanent Installations: Installations of public art or defined property that are the permanent property of the University and are intended to be installed for an extended period or in perpetuity.

Public Art: Art objects placed in a shared, publicly accessible space. Categories of public art may include functional, expressive, or installation art donated or commissioned, or otherwise acquired that are prominent and located in public space. Art media may include but is not limited to sculptures, painting, murals, photography, drawings, prints, mixed media, electronic media, gardens, including fountains and seating, and may include but is not limited to objects in clay, fiber, textiles, wood, metal, plastic, or other material.

~~V. DEFINITION OF ADDITIONAL PROPERTY AND FACILITIES (DEFINED PROPERTY) UNDER THE REVIEW OF THE COMMITTEE~~

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~~In addition to public art, the Committee shall provide recommendations regarding the placement of donated trees, benches, monuments, tables, and similar donated structures.~~

~~VI. COMPOSITION OF THE COMMITTEE AND TERM OF APPOINTMENTS~~

~~Members of the Committee are appointed by the UW President for indefinite terms and serve at the pleasure of the President.~~

~~VII. AUTHORITY OF THE COMMITTEE~~

~~The Committee~~**Public Art Committee:** The Committee that advises the President on matters relating to the selection, location, cost, financing, and installation of art and defined property in the public spaces of the university. ~~The final decisions on the disposition of public art rest with the UW President. The Committee:~~The Committee shall consist of an Art Museum representative, the Department of Visual and Literary Arts Head, an Art and Art History Program faculty member, an ASUW representative, a student representative, a faculty member approved by Faculty Senate, a Staff Senate representative, the Vice President for Finance and Administration, a UW Foundation representative, a Student Life representative, and two individuals accomplished in art or design who are not employed by the University. Terms shall be two (2) years in length, shall be staggered, and shall coincide with the University's fiscal year (July 1 to June 30). Committee members will be appointed by the President of the University.

~~III. Maintains an inventory of the works of public art acquired after January 2012 (or records from prior acquisitions, as identified)~~PROJECT TYPES

~~A. Engagement~~ **and** maintains copies of acquisitions, deeds of gift, or loan forms;

~~B. Identifies sites at the university where art or defined property may be safely installed, consistent with the mission~~**Education:** These projects focus on ideas to create awareness, excitement, and criteria adopted by the Committee;

Guides curiosity about the existing art on campus through programs and events for students, alumni, faculty, staff, alumni, donors, members of the public, and artists who seek to install works of public art or defined property; and community members.

Seeks input

Enhance Existing Sites: These projects feature suggestions by campus meeting participants and communicates with the stakeholders regarding the acquisition and placement where art is desired, including atriums and the tunnels connecting the student residences to the dining hall.

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Integrated Art: These projects engage artists to integrate into the design of facilities and landscapes to create memorable places and amplify campus character.

Socially Engaged and Interdisciplinary Projects: These projects focus on opportunities for artists to work with students, faculty, and staff from various disciplines to create art experiences.

IV. MISSION AND VISION OF PUBLIC ART

The Public Art program enriches the cultural, intellectual, and scholarly life of the campus and the Wyoming community.

V. TYPES OF PUBLIC ART AND DEFINED PROPERTY PROPOSALS CONSIDERED

Acquisition methods of public art or defined property include the following:

~~C. Engages artists and facilities managers to ensure that the installation is appropriate, safe, and secure for audiences (traffics flows, etc.), feasible (installation and maintenance), that every effort is made to prevent vandalism or theft, and that every effort is made to retain the integrity of work;~~

~~D. May require artists, donors, or sponsors to engage stakeholders to discuss any proposed installation (both its physical nature and its content) with the university and community, or other stakeholders;~~

~~E. Makes a recommendation to the UW President to accept or deny a proposed public art or defined property installation;~~

~~Encourages the inclusion of~~

A. University generated, which are solicited proposals for public art including:

1. An artist may be commissioned by the University.

2. An artwork may be purchased by the University.

3. An artwork may be loaned to the University.

~~F. University Generated public art (interior and exterior locations) in major renovations or new construction of university buildings; and~~

~~G. Ensures that the proper signage is attributed to works of public art or defined property.~~

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~~VIII. TYPES OF PROPOSALS CONSIDERED~~

~~The following definitions apply to proposals that require review by the Committee and its recommendation to the UW President.~~

~~A. Duration of Installations~~

- ~~1. **Permanent installations:** Installations of public art or defined property that are the permanent property of the University and are intended to be installed for an extended period of time or in perpetuity;~~
- ~~2. **Limited term installations:** Public art or defined property that may or may not be the property of the University and is installed for a specified period of time.~~

~~B. Methods of Selection/Acquisition~~

~~The following types of acquisitions are to be made in consultation with the Committee:~~

- ~~1. **Donation:** A work of public art or defined property is donated to the University through the UW Foundation upon recommendation of the Committee and action by the UW President;~~

~~**Direct** will be solicited via requests for qualifications, requests for proposals, invitational selection: An individual artist is chosen by the UW President upon recommendation of the Committee and a work is either purchased or commissioned. The Committee may also, or **direct** a separate, ad hoc, committee, appointed with the approval of the President, to oversee the selection of an individual artist;.~~

- ~~2. Open **Open competition:** The Committee, or a separate, ad hoc, committee, appointed with the approval of the President, may hold a competition or issue requests for proposals for a commissioning regulated by the Committee. Competitions or commissions may include faculty, staff, students, and external artists.~~

~~C. Acquisitions~~

~~Acquisitions of public art or defined property may be made by donation or purchase.~~

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1. ~~Donations~~

B. ~~Donations~~source generated, which are unsolicited proposals presented to the University including:

- a. ~~An existing artwork, which~~ may be made by the artist or donor(s), including but not limited to an individual, family, alumni group, or class given as a gift committee;**

~~Donor(s) may approach any units of the University, but all offers of works of public art or defined property must be acted upon by the Committee, and are subject to approval by the UW President in consultation with the President of the Board of Trustees; or loan to~~

- b. ~~The~~ University representative in contact with the donor must discuss any potential gift with the Committee. Preliminary review by the Committee will address the appropriateness of the work of art for the University, including content, size, material, condition, site suitability and installation and maintenance costs. This review may be based on conversations or a written proposal, but the Committee must act on all proposals and forward its recommendations to the UW President;**

- 1. Based on a recommendation from the Committee, the President may designate a representative of the University, to discuss the offer in detail including appropriateness, integrity of design and condition, proposed installation site, installation and maintenance costs, signage or recognition identifying the title of the work, the artist, dates, and the donor, activities acknowledging the gift of the work of art, e.g., celebrations, openings; determine the responsible party, i.e., the office responsible for the installation, insurance, and maintenance of the work of art;.**
- c. ~~Based on the results of discussions in subparagraph C1d., the Committee on Public Art may call for open meetings with specified parties to further discuss the acquisition.~~**

2. ~~Purchases~~

- a. ~~Any university unit may propose to purchase works of art or defined property for interior and exterior public spaces. The University representative from the unit should discuss any potential purchase with the Committee. Preliminary review will address the appropriateness of the work of art for the University, including content, size, material, condition, site suitability and installation and maintenance costs. This review may be based on conversations or a written proposal, but the~~**

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~~Committee must act on all proposals and forward the results to the UW President;~~

~~b. Purchases must follow the processes in Section IX. Selection Processes for Purchases of New Works or Extant Works of this policy.~~

~~D. Limited-term Installations, including Art or Defined Property on Loan~~

~~In the event the artwork or defined property is intended to be a temporary display, in addition to the above considerations, special attention shall be made to the timeline, financing, and disruption for and during construction and removal of the property. Arrangements for disposal or removal should be concluded in advance of the loan and its implementation whenever possible.~~

2. A commissioned artwork, which may be given as a loan or gift to the University.

IX.VI. SELECTION PROCESSES FOR PURCHASES OF NEW WORKS OR EXTANT WORKS
PROJECTS

A. Funds Available for the Project

Prior to selection of the project, the Public Art Committee shall provide written confirmation to the President that funds are available and earmarked for the entire project, including installation, and shall identify the funding source.

A.B. Determination of Selection Committee

An ad hoc committee including representatives of the proposers, representative of the UW The Public Art Museum, community liaison, and other individuals deemed essential to the selection process by the Committee, e.g. members of physical plant will appoint an Artist Selection Committee for each public art project or group of projects to select the artist(s) and the project for a specific site. The Committee shall include representatives from the Public Art Committee, departments or units occupying the building or adjacent area, etc. shall comprise the Selection Committee for new or extant works, only upon recommendation of the Committee and approval by the UW President in consultation with the President of the Board of Trustees and other individuals deemed essential to the selection process by the committee.

B.C. Determination of Selection Process
Processes

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- 1. Direct purchase from living or deceased artist.** A living artist submits to the purchasing group an appropriate number of images of works; a proposal sheet containing information on the artist's name, address, title of work, dimensions, medium, price, current location, and installation instructions; resume, artist statement, and references from similar projects regarding the creation and installation of public art. If the artist is deceased, the purchasing group works with the artist's Estate or representative to present appropriate number of images of the artist's work, a biographical sketch and resume, and information on the current location, cost of the work and installation instructions to the ad hoc committee.

Open source applications: The application process for an open-source art project includes submitting a written description of the proposed project and the desired timeframe to be on view; visuals that clearly convey the proposed project; a summary of why this project is important for the University of Wyoming and how it addresses the public art plan; information about the artist(s) involved with the project, including bio/resume and samples of previous work; a detailed budget that outlines the total project costs, including maintenance; percentage of funds that have been raised, how much need to be raised, and all confirmed funding sources; a maintenance plan; the proposed site, if one has been predetermined; and the implementation timeline.
- 2. Commissioning artworks:** Calls for artists to apply for opportunities are posted widely through:

 - a. Request for qualifications (RFQ)** where artists are invited to submit images, a resume, and a brief statement or letter of intent regarding their interest in and approach to the project.
 - b. Request for proposals (RFP)** where artists are invited to submit conceptual proposals for works of art.
- 3. Invitational selection:** A group of artists is invited to submit their qualifications and a panel selects from this group. The presentation may be assembled based on nominations from arts professionals, as well as curatorial input from the public art staff and Public Art Committee.
- 4. Direct selection:** In rare instances, an artist might be selected directly to create a proposal.
- 1. Open competition.** Purchasers provide scope, description, budget, and schedule as well as installation timeline to the Selection Committee. Artists submit to the Selection Committee in response to a Call for Artwork:

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~~resume and list of works, images of their works of art, a statement of conceptual approach to the project/artist's statement, and a reference from a similar project regarding the creation and installation of public art.~~

- ~~2. **Limited competition.** Purchasers provide scope, description, budget, and schedule as well as installation timeline. The Selection Committee may invite a limited number of selected artists to compete. Invited artists must submit: resume and list of works, images of their works of art, a statement of conceptual approach to the project or artist's statement, and a reference from a similar project regarding the creation and installation of public art.~~

C.D. Selection Procedure

~~Within sixty (60) days, the The Artist Selection Committee reviews all proposals and selects a minimum of 3 finalists. Finalists are compensated for creating specific proposals which are presented in person in open forums. The Selection Committee selects their proposal the artist(s) and the project and submits it to the Public Art Committee, and, upon recommendation of the Committee, the UW President makes the final selection ~~in consultation with the President of the Board of Trustees.~~~~

X.VII. CRITERIA FOR SELECTION

All public art or defined property shall be judged against the following criteria:

A. The relationship of the proposed project to the University's public art vision and goals as outlined in the University of Wyoming's Public Art Plan.

B. The feasibility of implementing the project.

A. The Artistic Merit Considerations

- ~~1. Enhances the physical and aesthetic environment of the university;~~
- ~~2. Instills a sense of quality through the civic spaces of the university;~~
- ~~3. Enriches the cultural, intellectual, and scholarly life of UW;~~
- ~~4. Inspires contemplation, reflection, and dialogue;~~
- ~~5. Preserves and acknowledges history, heritage and culture; and~~

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1. Fosters university identity and enhances and balances existing worksartist or entity proposing the artwork demonstrated they are capable of implementing the project.
2. The proposed site is appropriate for the project and is related to the site's use and operations.
3. The implementation schedule is realistic.
4. The project complements other university activities.
5. The project requires input from an architect, engineer, conservator, or other specialist.
6. If the project needs to be reviewed by another government agency or other organizations, when and how the review will take place.
- 6.——The level of art.

B.——Physical Plant Considerations

- 1.——Location and artwork or defined property avoids life, safety, or health risks;
- 2.——Work contemplates a suitable location for infrastructure;
- 3.7. On-going maintenance requirements; andrequired.
- 4.——Work of art is consistent with UW's Long Range Development Plan (LRDP), existing area, landscaping, buildings, and view shed.

C.——Constituent Input

- 1.——Students and parents;
- 2.——Faculty, staff, and administrators;
- 3.——Donors and alumni; and
- 4.——Community and policymakers.

D.——Financing

- 1.——Identified source of funds for acquisition or loans;

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- ~~2. Identified source of funds for installation;~~
- ~~3. Identified source of funds for maintenance; and~~
- ~~4. Identified source of funds for removal (if temporary).~~

~~E. Considerations Related to Individual Artists~~

- ~~1. Regional, national or international accomplishments, ie professional artist who has garnered curatorial recognition, gallery representation, or other recognitions in the field;~~
- ~~2. Proven record of public art commissions / installations.~~

XI.VIII. EXEMPTIONS

This ~~policy~~regulation shall not apply to the established academic programs in the UW Student Union Gallery, UW Art Museum, College or Department galleries, including exterior space of the Visual Arts building, or student exhibitions.

If a new University building project is state-funded, the University can select to opt in to the Wyoming Art in Public Buildings program and 1% of the total construction costs for the new building project (not to exceed \$100,000) will be used to acquire works of art for permanent installation at the project site pursuant to W.S. 16-6-802. The Public Art Committee, in consultation with the University's Facilities Construction Department, shall make a recommendation to the President on whether to opt in. The President, in consultation with the Facilities Contracting Committee of the Board of Trustees, shall make the final determination on whether to opt in to W.S. 16-6-802. If the University opts in to the state program, this regulation shall not apply.

XI.IX. DISCLAIMER

The University endeavors to maintain the public art per the original agreement but shall reserve the right to remove, reinstall, store, move, or dispose of the object at the discretion of the University and in discussion with the artist and his/her Estate. The University is obligated to retain the artwork in its original form and not alter, change, or otherwise reconfigure the work.

Responsible Division/Unit: Office of the President

Source: None

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Links: <http://www.uwyo.edu/regs-policies>

Associated Regulations, Policies, and Forms: None

History:

UW Regulation 1-102(I)(M), Attachment C adopted Minutes of the Trustees, January 17, 2014

Moved to new UW Regulation 6-10 on 6/12/2019 Board of Trustees meeting (effective 7/1/2019)

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UNIVERSITY OF WYOMING REGULATIONS

Subject: University of Wyoming Public Art

Number: UW Regulation 6-10

I. PURPOSE

To outline the process for acquisitions, proposals, evaluation, and installation of public art.

II. DEFINITIONS

Defined Property: The placement of donated trees, benches, monuments, tables, and similar donated structures.

Donation: A work of public art or defined property which is donated to the University through the UW Foundation upon recommendation of the Public Art Committee and if accepted by the UW President.

Direct Selection: A work of public art purchased or commissioned from an individual artist by the University upon recommendation of the Public Art Committee.

Limited-Term Installations: Public art or defined property that may or may not be the property of the University and is installed for a specified period.

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Public Art: Art objects placed in a shared, publicly accessible space. Categories of public art may include functional, expressive, or installation art donated or commissioned, or otherwise acquired that are prominent and located in public space. Art media may include but is not limited to sculptures, painting, murals, photography, drawings, prints, mixed media, electronic media, gardens, including fountains and seating, and may include but is not limited to objects in clay, fiber, textiles, wood, metal, plastic, or other material.

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Public Art Committee: The Committee that advises the President on matters relating to the selection, location, cost, financing, and installation of art and defined property in the public spaces of the university. The Committee shall consist of an Art Museum representative, the Department of Visual and Literary Arts Head, an Art and Art History Program faculty member, an ASUW representative, a student representative, a faculty member approved by Faculty Senate, a Staff Senate representative, the Vice President for Finance and Administration, a UW Foundation representative, a Student Life representative, and two individuals accomplished in art or design who are not employed by the University. Terms shall be two (2) years in length, shall be staggered, and shall coincide with the University's fiscal year (July 1 to June 30). Committee members will be appointed by the President of the University.

III. PROJECT TYPES

Engagement and Education: These projects focus on ideas to create awareness, excitement, and curiosity about the existing art on campus through programs and events for students, alumni, faculty, staff, and community members.

Enhance Existing Sites: These projects feature suggestions by campus meeting participants and stakeholders where art is desired, including atriums and the tunnels connecting the student residences to the dining hall.

Integrated Art: These projects engage artists to integrate into the design of facilities and landscapes to create memorable places and amplify campus character.

Socially Engaged and Interdisciplinary Projects: These projects focus on opportunities for artists to work with students, faculty, and staff from various disciplines to create art experiences.

IV. MISSION AND VISION OF PUBLIC ART

The Public Art program enriches the cultural, intellectual, and scholarly life of the campus and the Wyoming community.

V. TYPES OF PUBLIC ART AND DEFINED PROPERTY PROPOSALS CONSIDERED

Acquisition methods of public art include the following:

- A. University generated, which are solicited proposals for public art including:
 - 1. An artist may be commissioned by the University.

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2. An artwork may be purchased by the University.
3. An artwork may be loaned to the University.

University Generated public art will be solicited via requests for qualifications, requests for proposals, invitational selection, or direct selection.

- B.** Open source generated, which are unsolicited proposals presented to the University including:
1. An existing artwork, which may be given as a gift or loan to the University.
 2. A commissioned artwork, which may be given as a loan or gift to the University.

VI. SELECTION PROCESSES FOR PROJECTS

A. Funds Available for the Project

Prior to selection of the project, the Public Art Committee shall provide written confirmation to the President that funds are available and earmarked for the entire project, including installation, and shall identify the funding source.

B. Determination of Selection Committee

The Public Art Committee will appoint an Artist Selection Committee for each public art project or group of projects to select the artist(s) and the project for a specific site. The Committee shall include representatives from the Public Art Committee, departments or units occupying the building or adjacent area, and other individuals deemed essential to the selection process by the committee.

C. Selection Processes

1. **Open source applications:** The application process for an open-source art project includes submitting a written description of the proposed project and the desired timeframe to be on view; visuals that clearly convey the proposed project; a summary of why this project is important for the University of Wyoming and how it addresses the public art plan; information about the artist(s) involved with the project, including bio/resume and samples of previous work; a detailed budget that outlines the total project costs, including maintenance; percentage of funds that have been raised, how much need to be

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raised, and all confirmed funding sources; a maintenance plan; the proposed site, if one has been predetermined; and the implementation timeline.

- 2. Commissioning artworks:** Calls for artists to apply for opportunities are posted widely through:
 - a.** Request for qualifications (RFQ) where artists are invited to submit images, a resume, and a brief statement or letter of intent regarding their interest in and approach to the project.
 - b.** Request for proposals (RFP) where artists are invited to submit conceptual proposals for works of art.
- 3. Invitational selection:** A group of artists is invited to submit their qualifications and a panel selects from this group. The presentation may be assembled based on nominations from arts professionals, as well as curatorial input from the public art staff and Public Art Committee.
- 4. Direct selection:** In rare instances, an artist might be selected directly to create a proposal.

D. Selection Procedure

The Artist Selection Committee selects the artist(s) and the project and submits it to the Public Art Committee, and, upon recommendation of the Committee, the UW President makes the final selection.

VII. CRITERIA FOR SELECTION

All public art or defined property shall be judged against the following criteria:

- A.** The relationship of the proposed project to the University's public art vision and goals as outlined in the University of Wyoming's Public Art Plan.
- B.** The feasibility of implementing the project.
 - 1.** The artist or entity proposing the artwork demonstrated they are capable of implementing the project.
 - 2.** The proposed site is appropriate for the project and is related to the site's use and operations.

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3. The implementation schedule is realistic.
4. The project complements other university activities.
5. The project requires input from an architect, engineer, conservator, or other specialist.
6. If the project needs to be reviewed by another government agency or other organizations, when and how the review will take place.
7. The level of maintenance required.

VIII. EXEMPTIONS

This regulation shall not apply to the established academic programs in the UW Student Union Gallery, UW Art Museum, College or Department galleries, including exterior space of the Visual Arts building, or student exhibitions.

If a new University building project is state-funded, the University can select to opt in to the Wyoming Art in Public Buildings program and 1% of the total construction costs for the new building project (not to exceed \$100,000) will be used to acquire works of art for permanent installation at the project site pursuant to W.S. 16-6-802. The Public Art Committee, in consultation with the University's Facilities Construction Department, shall make a recommendation to the President on whether to opt in. The President, in consultation with the Facilities Contracting Committee of the Board of Trustees, shall make the final determination on whether to opt in to W.S. 16-6-802. If the University opts in to the state program, this regulation shall not apply.

IX. DISCLAIMER

The University endeavors to maintain the public art per the original agreement but shall reserve the right to remove, reinstall, store, move, or dispose of the object at the discretion of the University and in discussion with the artist and his/her Estate. The University is obligated to retain the artwork in its original form and not alter, change, or otherwise reconfigure the work.

Responsible Division/Unit: Office of the President

Source: None

Links: <http://www.uwyo.edu/regs-policies>

Draft 4-2-21 FULL REDLINE

Associated Regulations, Policies, and Forms: None

History:

UW Regulation 1-102(I)(M), Attachment C adopted Minutes of the Trustees, January 17, 2014
Moved to new UW Regulation 6-10 on 6/12/2019 Board of Trustees meeting (effective 7/1/2019)

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Faculty Senate approved as amended 2-22-21



UNIVERSITY OF WYOMING REGULATIONS

Subject: University of Wyoming Public Art

Number: UW Regulation 6-10

I. PURPOSE

To outline the process for acquisitions, proposals, evaluation, and installation of public art.

II. DEFINITIONS

Defined Property: The placement of donated trees, benches, monuments, tables, and similar donated structures.

Donation: A work of public art or defined property which is donated to the University through the UW Foundation upon recommendation of the Public Art Committee and if accepted by the UW President.

Direct Selection: A work of public art purchased or commissioned from an individual artist by the University upon recommendation of the Public Art Committee.

Limited-Term Installations: Public art or defined property that may or may not be the property of the University and is installed for a specified period.

Open Competition: A work of public art selected through a competition or request for proposals for a commissioning. These commissions may include faculty, staff, students, and external artists.

Permanent Installations: Installations of public art or defined property that are the permanent property of the University and are intended to be installed for an extended period or in perpetuity.

Public Art: Art objects placed in a shared, publicly accessible space. Categories of public art may include functional, expressive, or installation art donated or commissioned, or otherwise acquired that are prominent and located in public space. Art media may include but is not limited to sculptures, painting, murals, photography, drawings, prints, mixed

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media, electronic media, gardens, including fountains and seating, and may include but is not limited to objects in clay, fiber, textiles, wood, metal, plastic, or other material.

Public Art Committee: The Committee that advises the President on matters relating to the selection, location, cost, financing, and installation of art and defined property in the public spaces of the university. The Committee shall consist of ~~the an Art Museum representative Director,~~ the Department of Visual and Literary Arts Head, an Art and Art History Program faculty member, an ASUW representative, a student representative, ~~a faculty member approved by Faculty Senate,~~ a Staff Senate representative, the Vice President for Finance and Administration, a UW Foundation representative, a Student Life representative, and two individuals accomplished in art or design who are not employed by the University. Terms shall be two (2) years in length, shall be staggered, and shall coincide with the University's fiscal year (July 1 to June 30). Committee members will be appointed by the President of the University.

III. PROJECT TYPES

Engagement and Education: These projects focus on ideas to create awareness, excitement, and curiosity about the existing art on campus through programs and events for students, alumni, faculty, staff, and community members.

Enhance Existing Sites: These projects feature suggestions by campus meeting participants and stakeholders where art is desired, including atriums and the tunnels connecting the student residences to the dining hall.

Integrated Art: These projects engage artists to integrate into the design of facilities and landscapes to create memorable places and amplify campus character.

Socially Engaged and Interdisciplinary Projects: These projects focus on opportunities for artists to work with students, faculty, and staff from various disciplines to create art experiences.

IV. MISSION AND VISION OF PUBLIC ART

The Public Art program enriches the cultural, intellectual, and scholarly life of the campus and the Wyoming community.

V. TYPES OF PUBLIC ART AND DEFINED PROPERTY PROPOSALS CONSIDERED

Acquisition methods of public art include the following:

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A. University generated, which are solicited proposals for public art including:

- 1. An artist may be commissioned by the University.**
- 2. An artwork may be purchased by the University.**
- 3. An artwork may be loaned to the University.**

University Generated public art will be solicited via requests for qualifications, requests for proposals, invitational selection, or direct selection.

B. Open source generated, which are unsolicited proposals presented to the University including:

- 1. An existing artwork, which may be given as a gift or loan to the University.**
- 2. A commissioned artwork, which may be given as a loan or gift to the University.**

VI. SELECTION PROCESSES FOR PROJECTS

A. Funds Available for the Project

Prior to selection of the project, the Public Art Committee shall provide written confirmation to the President that funds are available and earmarked for the entire project, including installation, and shall identify the funding source.

B. Determination of Selection Committee

The Public Art Committee will appoint an Artist Selection Committee for each public art project or group of projects to select the artist(s) and the project for a specific site. The Committee shall include representatives from the Public Art Committee, departments or units occupying the building or adjacent area, and other individuals deemed essential to the selection process by the committee.

C. Selection Processes

- 1. Open source applications:** The application process for an open-source art project includes submitting a written description of the proposed project and the desired timeframe to be on view; visuals that clearly convey the proposed project; a summary of why this project is important for the University of

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Wyoming and how it addresses the public art plan; information about the artist(s) involved with the project, including bio/resume and samples of previous work; a detailed budget that outlines the total project costs, including maintenance; percentage of funds that have been raised, how much need to be raised, and all confirmed funding sources; a maintenance plan; the proposed site, if one has been predetermined; and the implementation timeline.

2. Commissioning artworks: Calls for artists to apply for opportunities are posted widely through:

a. Request for qualifications (RFQ) where artists are invited to submit images, a resume, and a brief statement or letter of intent regarding their interest in and approach to the project.

b. Request for proposals (RFP) where artists are invited to submit conceptual proposals for works of art.

3. Invitational selection: A group of artists is invited to submit their qualifications and a panel selects from this group. The presentation may be assembled based on nominations from arts professionals, as well as curatorial input from the public art staff and Public Art Committee.

4. Direct selection: In rare instances, an artist might be selected directly to create a proposal.

D. Selection Procedure

1. The Artist Selection Committee selects the artist(s) and the project and submits it to the Public Art Committee, and, upon recommendation of the Committee, the UW President makes the final selection.

2. Minutes of all discussions by the Public Art Committee shall be made public.

3. Artist Selection Committee and Public Art Committee to generate a recommendation to the UW President based on a majority vote.

VII. CRITERIA FOR SELECTION

All public art or defined property shall be judged against the following criteria:

A. The relationship of the proposed project to the University's public art vision and goals, as outlined in the Public Art Committee's "University of Wyoming Public Art Plan."

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B. The feasibility of implementing the project.

1. The artist or entity proposing the artwork demonstrated they are capable of implementing the project.
2. The proposed site is appropriate for the project and is related to the site's use and operations.
3. The implementation schedule is realistic.
4. The project complements other university activities.
5. The project requires input from an architect, engineer, conservator, or other specialist.
6. If the project needs to be reviewed by another government agency or other organizations, when and how the review will take place.
7. If non-committee stakeholders dispute a PAC's recommendation, a discussion shall ensue that includes the PAC.
8. The level of maintenance required.

VIII. EXEMPTIONS

This regulation shall not apply to the established academic programs in the UW Student Union Gallery, UW Art Museum, College or Department galleries, including exterior space of the Visual Arts building, or student exhibitions.

If a new University building project is state-funded, the University can select to opt in to the Wyoming Art in Public Buildings program and 1% of the total construction costs for the new building project (not to exceed \$100,000) will be used to acquire works of art for permanent installation at the project site pursuant to W.S. 16-6-802. The Public Art Committee, in consultation with the University's Facilities Construction Department, shall make a recommendation to the President on whether to opt in. The President, in consultation with the Facilities Contracting Committee of the Board of Trustees, shall make the final determination on whether to opt in to W.S. 16-6-802. If the University opts in to the state program, this regulation shall not apply.

IX. DISCLAIMER

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180 The University endeavors to maintain the public art per the original agreement but shall
181 reserve the right to remove, reinstall, store, move, or dispose of the object at the discretion
182 of the University and in discussion with the artist and his/her Estate. The University is
183 obligated to retain the artwork in its original form and not alter, change, or otherwise
184 reconfigure the work.

Responsible Division/Unit: Office of the President

Source: None

Links: <http://www.uwyo.edu/regs-policies>

Associated Regulations, Policies, and Forms: None

History:

UW Regulation 1-102(I)(M), Attachment C adopted Minutes of the Trustees, January 17, 2014

Moved to new UW Regulation 6-10 on 6/12/2019 Board of Trustees meeting (effective 7/1/2019)

AGENDA ITEM TITLE: Approval of modifications to UW Regulation 9-1 (University Intellectual Property), Brown/Evans

SESSION TYPE:

☐ Work Session

☐ Education Session

☐ Information Item

☒ Other:

[Committee of the Whole – Items for Approval]

☒ *Attachments are provided with the narrative.*

APPLIES TO STRATEGIC PLAN:

☒ Yes (select below):

☐ Driving Excellence

☐ Inspiring Students

☐ Impacting Communities

☒ High-Performing University

☐ No [Regular Business]

EXECUTIVE SUMMARY:

At the September 2016 Board of Trustees meeting, the Board approved review by UW Administration of UW's current regulatory structure, to include the following:

- 1) Phasing out presidential directives;
- 2) Defining regulation versus policy/procedure;
- 3) Creating a new "look" and format for the regulations; and
- 4) Updating the substance of the regulations, policies, and procedures as needed, including determining whether there are any substantive gaps.

At the January 2017 Board of Trustees meeting, the University proposed 12 sections for the new ***Governing Regulations and Standard Administrative Policies and Procedures website***.

Section 1: Governance and Structure

Section 2: Academic Affairs

Section 3: Athletics

Section 4: Diversity and Equal Opportunity

Section 5: Employment and Ethics

Section 6: Facilities

Section 7: Finance and Business

Section 8: Information Technology

Section 9: Research and Economic Development

Section 10: Safety and Security

Section 11: Student Affairs

Section 12: University Relations

The new structure will involve three levels of policies:

- 1) Governing Regulations (Level A)
- 2) Standard Administrative Policies and Procedures (Level B)
- 3) Department/Unit Administrative Policies and Procedures (Level C)

Attached is the following Section 9 Research regulation (with a summary of the proposed modifications):

- **UW Regulation 9-1 (University Intellectual Property):** Modifications to account for the changing landscape of intellectual property and to provide clarity to all University

employees regarding ownership over patentable and copyrightable creations, academic course materials, and scholarship.

To facilitate review of this Regulation, Interim President Neil Theobald charged a Working Group to develop recommendations with respect to University intellectual property. The Working Group's recommendations were incorporated into the final version, except for the section on distribution, which was modified to include a tiered structure. Importantly, this structure still captures the Working Group's recommendation to retain the 60% distribution to the creator, which is an important tool for recruitment of high-level academic talent to the institution.

Per the routing process for UW Regulations, the proposed modifications to the regulations were provided to the President's Cabinet, Deans and Directors, Faculty Senate, Staff Senate, ASUW, and the Internal Auditor.

The Trustees Regulation Committee will discuss this item at the April 2021 Board of Trustees conference call and recommend full Board action, if appropriate.

PRIOR RELATED BOARD DISCUSSIONS/ACTIONS:

None.

WHY THIS ITEM IS BEFORE THE BOARD:

UW Regulation 1-101 requires that the Board approve modifications to UW Regulations.

ACTION REQUIRED AT THIS BOARD MEETING:

Board approval, modification, or disapproval of the recommended modifications to the Regulations.

PROPOSED MOTION:

"I move to authorize modifications to UW Regulation 9-1, as presented to the Board"

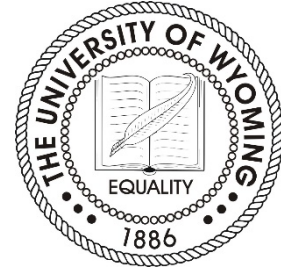
PRESIDENT'S RECOMMENDATION:

The president recommends approval.

UNIVERSITY OF WYOMING REGULATIONS

Subject: ~~Patents and Copyrights~~ University Intellectual Property

Number: UW Regulation 9-1



I. GENERAL INFORMATION

~~The~~ The Provost and Vice President for Academic Affairs and the Vice President for Research and Economic Development ~~is~~ are the University of Wyoming ~~officer~~ officers responsible for articulating policy and procedures concerning patentable inventions and copyrightable works in which the University may have or assert an interest.-

~~I. POLICY~~

~~The University is dedicated to instruction, research,~~

II. PURPOSE

To establish ownership of copyrights, protectable discoveries and other intellectual property rights and to provide guidelines for the extension of knowledge to distribution of income received for the public. It is dissemination of those works. While the policy University claims ownership of intellectual property on behalf of the University to carry out its scholarly work in State, the underlying purpose of such claim of ownership is an open and free atmosphere, and where individuals are able to freely publish results obtained from this work. -Research done primarily in anticipation of profit is incompatible with the aims of the University. However, the University recognizes that patentable inventions and copyrightable materials are conceived or created during the course of research, instruction, and study conducted by faculty and students using University facilities.- These policies have been established to ensure that inventions and materials in which the University may have an interest are utilized in a manner consistent with the public good.

~~II.III. POLICY~~ OBJECTIVES

The principal objectives of the University ~~patent and copyright policies~~ Intellectual Property Policy set forth herein include the following:

- A. To provide incentive to creative intellectual effort by University employees, students, and others associated with the University;
- B. To establish principles for determining the respective interests of the ~~inventors or authors~~ Creators, the University, and sponsors with respect to ~~inventions, discoveries, or other creative works~~ Intellectual Property;
- C. To enable the University to develop procedures by which the significance of

~~inventions, discoveries and other creative works~~ Intellectual Property may be determined and, if practicable, commercially utilized;

D. To provide the means for placing in the public realm the results of research, while safeguarding the interests of the ~~inventor or author~~ Creator, the University, and the sponsor; and

E. To recognize the right of the ~~inventor or author~~ Creator to financial benefits, when applicable, from Intellectual Property.

IV. **DEFINITIONS**~~an invention, discovery~~

Academic Course Materials: Works created primarily for the instruction of students or for continuing education and certification programs. Such works may include, but are not limited to, slides and presentation content used in classes, class notes, exercises and assignments, syllabi and examinations. These works do not include software, and materials prepared with significant University resources and facilities including, but not limited to, laboratories, studios, specialized equipment, production facilities, or specialized computing resources.

Creator: An inventor as defined under the United States patent laws, an author as defined under the United States copyright laws, or other ~~creative~~ creator in accordance with the United States intellectual property laws.

Intellectual Property: Includes all works, work-, product, designs, developments, discoveries, improvements, inventions, composition of matter, machines, manufacture, materials, methods, processes, diagrams, documentation, reports, evaluations, creations, expressions, algorithms, computer programs, applications, specifications, upgrades, revisions, modifications, and related written or otherwise reproducible materials, whether patentable, copyrightable or not, and all forms of legally recognized intellectual property rights, including copyrights, patents, trade secrets, trademarks, service marks, logos, and other identifiers, mask works, plant variety protection and tangible research property, together with any associated goodwill, supporting technology or know-how.

Research: For purposes of this Regulation, "research" is the studious inquiry or examination conducted with the avowed purpose of creating and adding to the knowledge in a field and thereby advancing theory and principles; expansion of ideas, theories, and principles and the interpretation of developed information and the provision of further insights; or improvement and/or facilitation of the application and utilization of knowledge within an applied professional field.

Software: The source code and/or object code of computer applications and subroutine libraries.

University Facilities: Any facility, including equipment and material, available to the

individual as a direct result of the individual's affiliation with the University, and which would not be available to a non-affiliated individual on the same basis.

University Resources: University facilities, equipment, funds, or funds under the control of or administered by the University but not to include: office space, library facilities, ordinary access to computers and networks, or salary.

Works of Authorship: Includes, but is not limited to: textbooks; scholarly articles; literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculpture works, motion pictures and other audiovisual works; sound recordings; and architectural works.

III.V. COVERAGE

The University's ~~patent and copyright~~Intellectual Property policies contained herein apply to all University employees and students conducting research and development that furthers the University's mission and is for the public good. Notwithstanding the provisions below, "Work[s] made for hire," as that term is defined by the U.S. Copyright laws of 1976, are the sole and exclusive property of the University, and employees have no patent, copyright, royalty or any other interest in such work(s). -The ~~patent and copyright~~Intellectual Property policies of the University, as amended from time to time, shall be deemed to be a part of the conditions of employment of every University employee. Polices regarding the income distribution related to University Intellectual Property do not apply to works for hire.

IV. DEFINITIONS

Personal Time: ~~For purposes of this Regulation, an individual's "personal time" shall mean time other than that devoted to normal or assigned functions relating to teaching, research, extension, or service on University premises, or other functions in which University facilities are utilized.~~

Research: ~~For purposes of this Regulation, "research" is the studious inquiry or examination conducted with the avowed purpose of creating and adding to the knowledge in a field and thereby advancing theory and principles; expansion of ideas, theories, and principles and the interpretation of developed information and the provision of further insights; or improvement and/or facilitation of the application and utilization of knowledge within an applied professional field.~~

University Facilities: ~~Any facility, including equipment and material, available to the individual as a direct result of the individual's affiliation with the University, and which would not be available to a non-affiliated individual on the same basis.~~

XII.VI. PATENT INTELLECTUAL PROPERTY OWNERSHIP

A. Patent Ownership

With the exception of ~~inventions or discoveries made on an individual's patentable~~

Intellectual Property not within the scope of the employee's duties and created on personal time, every ~~invention or discovery~~ patentable work of Intellectual Property or part thereof which results from research or other activities carried out at the University, or which is developed with the aid of the University's facilities or employees, or with funds administered by the University, is the property of the University of Wyoming, and, as a condition of employment, ~~and in keeping with the Student Code of Conduct,~~ is hereby assigned by the ~~inventor~~ Creator to the University in accordance with these policies. ~~-Income earned as a consequence of patenting and/or licensing such inventions or discoveries~~ Intellectual Property shall be distributed in accordance with Section VII, this Regulation. Income from Patents and/or Licenses.

All ~~Inventions or discoveries~~ patentable Intellectual Property made or conceived of by University employees ~~or students which are~~ including those created ~~or developed entirely on personal time, and which do not involve~~ but within the use of University resources, facilities or materials, ~~shall be the exclusive property~~ employee's scope of the employee or student duties

~~All inventions or discoveries made or conceived of by University employees or students~~ shall be disclosed in accordance with ~~Section XII hereof~~ this Regulation, and the ~~individual responsible~~ Creator for such invention or discovery shall adequately demonstrate the relative extent to which the ~~inventor's~~ Creator's personal time and resources and the University's resources, facilities, and materials were utilized. ~~-In each instance in which it is adequately demonstrated that such invention or discovery~~ patentable Intellectual Property was made exclusively on personal time and not within the scope of duties, utilizing no University resources, facilities or materials, the University shall acknowledge in writing that the ~~invention~~ patentable Intellectual Property is the sole property of the ~~inventor~~ Creator.

If ~~an individual~~ a Creator so desires, however, ~~inventions or discoveries~~ patentable Intellectual Property made exclusively on personal time and not within the Creator's scope of duties, utilizing no University resources, facilities, or materials, may be assigned to the University for patent evaluation, registration, administration or protection.

After consultation with the inventor, the

The University may, in choose at its sole discretion and upon such terms as it deems appropriate, cause any rights which it may have to a discovery ~~discontinue patent prosecution or invention~~ maintenance (or any other form of protection) for a technology for any reason. Some examples of why the University might choose to be released and transferred ~~discontinue efforts to the inventor. Such action may be expected~~ protect a technology include, but are not limited to, if the University believes that a discovery or invention is one that is non--patentable or that does not warrant further evaluation as to patentability, or if a discovery or invention is returned to the University after negative evaluation by its patent evaluation agent(s), if any. After consultation with the Creator, the University may, in its sole discretion cause any rights which it may have to a patentable Intellectual Property to be

released and transferred to the Creator in exchange for recoupment of patent expenses spent on protecting the invention (including maintenance fees a patent or patents issued). In event of an assignment or release, the University shall retain a royalty-free perpetual non-exclusive license for the use of any such invention or discovery patentable Intellectual Property.

II. FROM PATENTS AND/OR LICENSES

~~Whenever the rights in and to an invention or discovery or a work of authorship as described in Sections XV and XVI hereof are owned by the University, and the University patents, copyrights, sells, licenses or otherwise provides for use of such inventions, discoveries or works by an outside user, then any net income or royalties received by the University shall be distributed sixty percent (60%) to the inventor/author and forty percent (40%) to the University.~~

~~Of that amount retained by the University, one half shall be paid to the department or college in which the invention or discovery originated, and one half shall be paid into a University research and development fund, the purpose of which shall be to stimulate and encourage creative enterprise by University and students. Expenditures from this fund shall be authorized by the Vice President for Research and Economic Development after consultation with the Research Advisory Committee.~~

1. Income from Patents and/or Licenses

Income from patents and licenses will be distributed as allocated below. The allocation formula recognizes all forms of cash payments, including royalties and various fees from licensing. After recoupment of legal costs, and subtraction of certain costs outlined below, a percentage of the proceeds that the University receives from the licensing of inventions and discoveries will be paid to the Inventor, the Office of Research and Economic Development, and the University, as specified below. The Vice President for Research and Economic Development, in consultation with the President, will oversee the distribution of the University's funds according to a Standard Administrative Policy and Procedure (SAP), which will designate the distribution of these funds to the Inventor's department, the Inventor's college or school, and a fund dedicated to high priority strategic research initiatives.

A deduction of fifteen percent (15%) to cover operating expenses incurred by the Wyoming Technology Transfer and Research Products Center will be taken annually from the gross license revenue, with funds exceeding the annual Wyoming Technology Transfer and Research Products Center budget moving into a fund dedicated to high priority strategic research initiatives, as determined by the Vice President for Research and Economic Development, in consultation with the President. Additionally, all out- of-pocket payments or obligations (and in some cases, a reasonable reserve for anticipated future expenses) attributable to protecting (including defense against infringement or enforcement actions), marketing, licensing or administering the intellectual property may be deducted from such income. Income then remaining is the net income, which is distributed

as set forth below.

So long as the cumulative net income (i.e., the net income from all years) is less than or equal to five million U.S. dollars (\$5,000,000), then the distribution will be allocated as follows:

- Sixty percent (60%) of the net income to the Inventor.
- Twenty percent (20%) of the net income to the Office of Research and Economic Development.
- Twenty percent (20%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds five million U.S. dollars (\$5,000,000) but is less than or equal to ten million U.S. dollars (\$10,000,000), then any further distribution will be allocated as follows:

- Fifty percent (50%) of the net income to the Inventor.
- Twenty-five percent (25%) of the net income to the Office of Research and Economic Development.
- Twenty-five percent (25%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds ten million U.S. dollars (\$10,000,000) but is less than or equal to twenty million U.S. dollars (\$20,000,000), then any further distribution will be allocated as follows:

- Forty percent (40%) of the net income to the Inventor.
- Eighteen percent (18%) of the net income to the Office of Research and Economic Development.
- Forty-two percent (42%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds twenty million U.S. dollars (\$20,000,000), then any further distribution will be allocated as follows:

- Thirty-five percent (35%) of the net income to the Inventor.
- Thirteen percent (13%) of the net income to the Office of Research and Economic Development.
- Fifty-two percent (52%) of the net income to the University (distribution determined by an accompanying Standard Administrative Policy and Procedure as outlined above.)

If there is more than one Inventor, the applicable royalty percentage will be divided equitably among the Inventors. For the avoidance of doubt, to the extent a difference exists between the Inventor(s) identified in the Invention disclosure

and the Inventor(s) identified in any resulting patent application, the latter shall control.

If there is more than one school, department, or center in which the Inventor(s) serves, the applicable income will be distributed to the school, department, or center that administered the academic year salary at the time of the disclosure. The University will review the proposed distribution plan, in light of the declarations of department, school, and center affiliations declared at the time of Invention disclosure to the University as well as the sources of salary support at the time of disclosure. Income will be split equally among all Inventors (unless otherwise stipulated on the disclosure form) and, where necessary, will be split among the departments, schools, or centers according to the source of salary support (unless otherwise stipulated on the disclosure form and agreed upon by all the affected unit heads). In the case of student Inventors, distributions to departments and schools will be split according to the source of salary support for the student at the time of disclosure. In cases where students receive no salary, distributions will go to the department and school that housed the student's work. When multiple disclosures are used to develop a single patent or license, then the income is split equally across the disclosures unless a different distribution is agreed upon by all those affected (Inventors, unit heads, etc.). In cases of dispute, the Vice President for Research and Economic Development, or designee, will mediate among the parties and, if necessary, propose a distribution plan for approval to the President.

If the Invention or Discovery is the result of sponsored research and the sponsor regulates the distribution of income, such specific regulations shall take precedence over University policy with respect to distribution of the license revenue.

With respect to any patent matter in which another institution or an outside agency shall share in the income derived from the patent rights, distribution of income shall be made first to the other institution according to agreed-upon terms, and then to the Inventor according to this Regulation.

2. Specific Conditions Governing Sponsored Research

a. Government Sponsored Research

Patents on inventions arising from research financed by the United States Government are controlled by the terms of the supporting grants and contracts, and applicable Federal laws and regulations. ~~–Except as provided by Federal law or by government–~~supported grants or contracts, when no patent rights are claimed or when patent rights are waived by the United States Government, patents arising from government–sponsored research are controlled by patent and copyright

policies set forth herein.

b. ~~Non-~~Government Sponsored Research

The University must ensure that its facilities and the results of the research of its employees and students are applied in a manner which best serves the interests of the public. ~~Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out by or through the University must be considered. -The University will normally reserve ownership of patents on inventions arising out of research supported in whole or in part by grants or contracts with nongovernmental organizations or firms. -Contracts or agreements which are entered into between the University and nongovernmental organizations or agencies should contain clauses setting forth such a reservation, unless deviations therefrom are requested by the sponsor and approved by the Vice President for Research Advisory Committee, and Economic Development.~~ In the interest of fair treatment to the sponsor and in consideration for such sponsor's investment, special provisions regarding patent rights may be negotiated by the University, provided that the University retains the perpetual, non~~-~~exclusive right to use the invention for its own research, educational, and service purposes, without payment of royalty fees. ~~In such cases, in the interest of discharging the University's obligation to the public in the application of its facilities and its -employees' and students' time and talent, the University will require the sponsor to use due diligence in the commercial use of the invention, and the University will retain the right to publish the results of the research involved after a period of time reasonably necessary to protect the rights of the parties and to allow for the filing of a patent application. Exceptions to this section may be authorized by the Vice President for Economic Development.~~

B. Copyright Ownership

All copyrights in Works of Authorship, whose Creators are academic personnel, except for works for hire, software and patentable Intellectual Property, remain with their Creators. Works of authorship created by non-academic personnel within the scope of their employment are owned by the University. The University may execute a written agreement waiving its rights, if any, in and to such material. The distribution of royalties, if any, is a matter of arrangement between the Creator and his or her publishers or licensees. The University also supports the creation and dissemination of academic or scholarly publications for the purpose of open access, subject to the arrangement between the Creator and their publishers or licensees. Works of Authorship owned by the University including; works for hire, software, or other patentable Intellectual Property shall be subject to these policies and may

be disseminated through open access with the approval of the Vice President for Economic Development.

1. Computer Software

All copyrights in and to computer software, including but not limited to programs, operating systems, procedures, and associated manuals, which result from activities carried out at the University, and which are developed with the aid of or for use with University hardware shall be the sole property of the University of Wyoming. The terms and conditions regarding patentable Intellectual Property, including but not limited to the distribution of income, shall apply to computer software of the type described herein.

2. Academic Course Materials

The University makes no claim to copyright ownership for noncommissioned academic course materials initiated and completed by academic personnel. However, for those created within the employee's scope of duties, the University will claim a perpetual, nonexclusive, worldwide, royalty-free license to use the Academic Course Materials for any of the University's teaching and educational purposes as well as for administrative purposes for accreditation.

C. Service Mark, Trademark, and Trade Name Ownership

Service marks, trademarks and trade names with respect to products resulting from or arising out of research, instruction, or other activities carried out at the University or developed with the aid of its resources, facilities or staff, shall be the property of the University. Without express authorization from the President or the President's designee, no steps shall be taken to secure such trademarks, trade names or service marks by usage or registration. The University reserves the right to register such marks as it deems appropriate, and to license the use of such marks, provided that the income from such licensing shall be used to support the research and educational programs of the University as defined herein.

D. Students

Undergraduate and graduate students enrolled in degree or certificate programs at the University own the patentable Intellectual Property they create if it was created:

1. For a course in which the student is enrolled;
2. During extracurricular activities directly unrelated to research projects being undertaken at the University;

3. While using the resources and facilities of the University commonly provided for a student's use and for which a student has paid tuition and fees;
4. While using resources and facilities of the University available to the non-University community with or without an associated fee;
5. Or a combination of 1–4, unless:
 - a. The student is also an employee of the University either on a work-for-hire basis or as part of University faculty-led research and the patentable Intellectual Property is developed within the course and scope of his or her employment as stated in Section V above, in which case Subsection 1 above shall apply;
 - b. The student participates in a University research project where ownership and control of the resulting patentable Intellectual Property rights created under the project have already been defined via agreement to a governmental, philanthropic, corporate, or other sponsor or collaborator;
 - c. The student jointly creates the patentable Intellectual Property with a non-student, in which case Section VI excluding this subsection (D)—and applicable law dictate ownership of patentable Intellectual Property as if the student was a non-student described above in subsection (A).

VII. PUBLICATION -

A major function of the University is the advancement and dissemination of knowledge. Any practice which unnecessarily restricts the publication of results of scholarly ~~or~~ scientific work is to be avoided. ~~It is recognized, however, that the full development of useful inventions or discoveries~~ Intellectual Property may be dependent upon the securing of patent protection which will enable the commercial utilization of the ~~discoveries or inventions.~~ Intellectual Property. Accordingly, under certain circumstances it may be necessary to delay for a minimum period the publication of results of research.

—If a sponsor proposes to support a research effort, and the rights to any patentable invention or copyrightable Intellectual Property resulting therefrom will belong to said sponsor, the research agreement with respect to publication shall include language to accomplish the following: ~~First, the sponsor must agree that the results of the research may be published by the investigators. Second, to not jeopardize patent applications, the University and the investigators may agree that any proposed publication will be submitted to the sponsor with a written notice of intent to submit for publication. The notice will advise the sponsor that if, within a period of no more than ninety (90) days from the date of such notice, the sponsor fails to request a delay, the investigators and University shall be free to proceed immediately with the publication. If, however, the sponsor provides timely notice~~

to the University that a delay is desired, the submission of the manuscript to a publisher or other public disclosure shall be withheld for the period requested, but in no event shall the total period of delay be longer than one (1) year following the date of the notice of intent to submit for publication. -Such a period will permit the sponsor to have the necessary patent applications prepared and filed, and does not unduly restrict the dissemination of scientific knowledge. Exceptions to this section may be authorized by the Vice President for Economic Development.

XIII.VIII. AVOIDANCE OF CONFLICTS

Conflicts involving ~~patentable inventions and discoveries~~Intellectual Property ownership may arise when University employees or students enter into personal consulting agreements with outside firms and organizations. -The agreements which business firms generally wish to have executed by those who are to serve in a consulting capacity frequently contain provisions requiring the licensing or assignment of the consultant's ~~inventions and patents~~Intellectual Property to that business firm.- Such provisions may apply to areas in which the individual's University work lies, and thus may come into conflict with the terms and conditions of this policy.

Prior to signing any consulting agreement which deals with patent rights, trade secrets, or the like, if any University time, facilities, materials or other resources are to be involved in the carrying out of such consulting work, University employees or students must submit the proposed agreement to the Wyoming Technology Transfer and Research Advisory CommitteeProducts Center and obtain a waiver of University rights, or otherwise modify the agreement to conform with these policies.

XIV.IX. DUTY TO DISCLOSE ~~DISCOVERIES AND INVENTIONS~~INTELLECTUAL PROPERTY

All individuals whose ~~discoveries and inventions~~Intellectual Property are covered by these policies have a duty to promptly disclose the same to the ~~Research Advisory Committee through the~~ Vice President for Research and Economic Development.— through the Wyoming Technology Transfer and Research Products Center.

The duty of disclosure arises as soon as the individual has reason to believe, based on his or her own knowledge or upon information supplied by others, that the ~~discovery or invention may be patentable. Certainty about patentability is not required before a disclosure is made.~~ Intellectual Property may be subject to this Policy. Certainty about patentability or copyright ability is not required before a disclosure is made. Prior to any verbal or other disclosure of Intellectual Property, whether formal or informal, to a non-University third party, individuals must disclose the Intellectual Property to the Wyoming Technology Transfer and Research Products Center. Examples of disclosures to non-University third parties include, but are not limited to, potential non-University collaborators, conference

presentations, poster sessions, journal publications, conference roundtable discussions, and discussions with potential third party sponsoring entities for support of continued work on the Intellectual Property.

Individuals shall execute such declarations, assignments, or other documents as may be necessary in the course of patent evaluation, registration, administration, or enforcement in order to ensure that title in such inventions shall be held by the University, or by such other parties as may be appropriate under the circumstances. Employees and students who do not promptly disclose shall be subject to disciplinary action.

XV.X. WYOMING TECHNOLOGY TRANSFER AND RESEARCH ADVISORY COMMITTEE PRODUCTS CENTER

The Wyoming Technology Transfer and Research Advisory Committee Products Center shall review and recommend to the Vice President for Research and Economic Development or the Vice President's designee the procedures for the implementation of these policies; shall resolve questions of invention Intellectual Property ownership that may arise between the University and its faculty, staff, or students; shall recommend to the Vice President for Research and Economic Development the expenditure of the University research and development fund funds from patent and/or licenses; and shall make such recommendations as are deemed appropriate to encourage disclosure and to assure prompt and expeditious handling, evaluation, and prosecution of patent opportunities.

XVI.XI. PATENT MANAGEMENT

The President, or the President's designee

The Wyoming Technology Transfer and Research Products Center, in consultation with the Office of General Counsel, is authorized to negotiate with reputable agencies or firms to secure arrangements for patent management, including competent evaluation of invention disclosures, expeditious filing of applications on patents, and licensing and administration of patents.

III. COPYRIGHT OWNERSHIP

Except as provided in Sections IV, XV and XVI of this Regulation, all rights to copyrightable material shall be the property of the creator. The University may execute a written agreement waiving its rights, if any, in and to such material. The distribution of royalties, if any, is a matter of arrangement between the creator and his or her publishers or licensees.

IV. COMPUTER SOFTWARE

All copyrights in and to computer software, including but not limited to programs, operating systems, procedures, and associated manuals, which result from research activities carried out at the University, and which are developed with the aid of or for use with University hardware shall be the sole property of the University of Wyoming. The terms and conditions of Sections I through XII of this Regulation, including but not limited to Section VII which describes the distribution of income, shall apply to computer software of the type described herein. Section VII does not apply to works for hire.

~~V. VIDEOTAPED PRODUCTIONS~~

~~All copyrights in and to videotaped courses of instruction or other audio-visual productions which result from research or other activities carried out at the University, and which are produced with the aid of the University's facilities or staff or with funds administered by the University, shall be the sole property of the University. Any individual contemplating the development and production of a videotaped course of instruction or other audio-visual production must secure the prior approval of the Vice President for Academic Affairs, or designee. All of the foregoing terms and conditions of this Regulation, with the exception of Section VII, shall apply to videotaped courses of instruction of the type described herein. The means of remuneration, and the distribution of income earned from the development of such a course or production, shall be agreed upon in writing prior to the development or production of same. Remuneration and distribution of income do not apply to works for hire.~~

~~VI. SERVICE MARK, TRADE MARK AND TRADE NAME OWNERSHIP~~

~~Service marks, trade marks and trade names with respect to products resulting from or arising out of research or other activities carried out at the University or developed with the aid of its resources, facilities or staff, shall be the property of the University. Without express authorization from the President or the President's designee, no steps shall be taken to secure such trade marks, trade names or service marks by usage or registration. The University reserves the right to register such marks as it deems appropriate, and to license the use of such marks, provided that the income from such licensing shall be used to support the research and educational programs of the University as defined herein.~~

~~XVII. XII. EXCEPTIONS~~

Exceptions to any of the above policies may be authorized by the President or the ~~President's designee following a favorable review and recommendation from the Research Advisory Committee. Before recommending such an exception, the Committee should determine that, President's designee if~~ on the basis of the evidence available, such exception is consistent with the University's responsibilities to the public interest.

Responsible Division/Unit: Office of Research and Economic Development

Source: None

Links: <http://www.uwyo.edu/regs-policies>

Associated Regulations, Policies, and Forms: None

History:

University 641, Revision 3; adopted 7/17/2008 Board of Trustees meeting

Revisions adopted 5/10/2013 Board of Trustees meeting

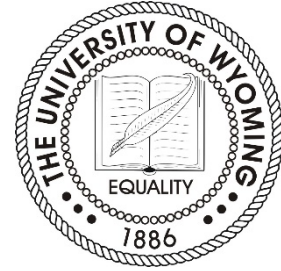
Revisions adopted 9/12/2014 Board of Trustees meeting

Reformatted 7/1/2018: previously UW Regulation 3-641, now UW Regulation 9-1

UNIVERSITY OF WYOMING REGULATIONS

Subject: University Intellectual Property

Number: UW Regulation 9-1



I. GENERAL INFORMATION

The Provost and Vice President for Academic Affairs and the Vice President for Research and Economic Development are the University of Wyoming officers responsible for articulating policy and procedures concerning patentable inventions and copyrightable works in which the University may have or assert an interest.

II. PURPOSE

To establish ownership of copyrights, protectable discoveries and other intellectual property rights and to provide guidelines for the distribution of income received for the dissemination of those works. While the University claims ownership of intellectual property on behalf of the State, the underlying purpose of such claim of ownership is an open and free atmosphere, and where individuals are able to freely publish results obtained from this work. Research done primarily in anticipation of profit is incompatible with the aims of the University. However, the University recognizes that patentable inventions and copyrightable materials are conceived or created during the course of research, instruction, and study conducted by faculty and students. These policies have been established to ensure that inventions and materials in which the University may have an interest are utilized in a manner consistent with the public good.

III. POLICY OBJECTIVES

The principal objectives of the University Intellectual Property Policy set forth herein include the following:

- A. To provide incentive to creative intellectual effort by University employees, students, and others associated with the University;
- B. To establish principles for determining the respective interests of the Creators, the University, and sponsors with respect to Intellectual Property;
- C. To enable the University to develop procedures by which the significance of Intellectual Property may be determined and, if practicable, commercially utilized;
- D. To provide the means for placing in the public realm the results of research, while safeguarding the interests of the Creator, the University, and the sponsor; and

- E. To recognize the right of the Creator to financial benefits, when applicable, from Intellectual Property.

IV. DEFINITIONS

Academic Course Materials: Works created primarily for the instruction of students or for continuing education and certification programs. Such works may include, but are not limited to, slides and presentation content used in classes, class notes, exercises and assignments, syllabi and examinations. These works do not include software, and materials prepared with significant University resources and facilities including, but not limited to, laboratories, studios, specialized equipment, production facilities, or specialized computing resources.

Creator: An inventor as defined under the United States patent laws, an author as defined under the United States copyright laws, or other creator in accordance with the United States intellectual property laws.

Intellectual Property: Includes all works, work product, designs, developments, discoveries, improvements, inventions, composition of matter, machines, manufacture, materials, methods, processes, diagrams, documentation, reports, evaluations, creations, expressions, algorithms, computer programs, applications, specifications, upgrades, revisions, modifications, and related written or otherwise reproducible materials, whether patentable, copyrightable or not, and all forms of legally recognized intellectual property rights, including copyrights, patents, trade secrets, trademarks, service marks, logos, and other identifiers, mask works, plant variety protection and tangible research property, together with any associated goodwill, supporting technology or know-how.

Research: For purposes of this Regulation, "research" is the studious inquiry or examination conducted with the avowed purpose of creating and adding to the knowledge in a field and thereby advancing theory and principles; expansion of ideas, theories, and principles and the interpretation of developed information and the provision of further insights; or improvement and/or facilitation of the application and utilization of knowledge within an applied professional field.

Software: The source code and/or object code of computer applications and subroutine libraries.

University Facilities: Any facility, including equipment and material, available to the individual as a direct result of the individual's affiliation with the University, and which would not be available to a non-affiliated individual on the same basis.

University Resources: University facilities, equipment, funds, or funds under the control of or administered by the University but not to include: office space, library facilities, ordinary access to computers and networks, or salary.

Works of Authorship: Includes, but is not limited to: textbooks; scholarly articles; literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculpture works, motion pictures and other audiovisual works; sound recordings; and architectural works.

V. COVERAGE

The University's Intellectual Property policies contained herein apply to all University employees and students conducting research and development that furthers the University's mission and is for the public good. Notwithstanding the provisions below, "Work[s] made for hire," as that term is defined by the U.S. Copyright laws of 1976, are the sole and exclusive property of the University, and employees have no patent, copyright, royalty or any other interest in such work(s). The Intellectual Property policies of the University, as amended from time to time, shall be deemed to be a part of the conditions of employment of every University employee. Policies regarding the income distribution related to University Intellectual Property do not apply to works for hire.

VI. INTELLECTUAL PROPERTY OWNERSHIP

A. Patent Ownership

With the exception of patentable Intellectual Property not within the scope of the employee's duties and created on personal time, every patentable work of Intellectual Property or part thereof which results from research or other activities carried out at the University, or which is developed with the aid of the University's facilities or employees, or with funds administered by the University, is the property of the University of Wyoming, and, as a condition of employment, is hereby assigned by the Creator to the University in accordance with these policies. Income earned as a consequence of patenting and/or licensing such Intellectual Property shall be distributed in accordance with this Regulation.

All patentable Intellectual Property made or conceived of by University employees including those created on personal time but within the employee's scope of duties shall be disclosed in accordance with this Regulation, and the Creator for such invention or discovery shall adequately demonstrate the relative extent to which the Creator's personal time and resources and the University's resources, facilities, and materials were utilized. In each instance in which it is adequately demonstrated that such patentable Intellectual Property was made exclusively on personal time and not within the scope of duties, utilizing no University resources, facilities or materials, the University shall acknowledge in writing that the patentable Intellectual Property is the sole property of the Creator.

If a Creator so desires, however, patentable Intellectual Property made exclusively

on personal time and not within the Creator's scope of duties, utilizing no University resources, facilities, or materials, may be assigned to the University for patent evaluation, registration, administration or protection.

The University may choose at its discretion to discontinue patent prosecution or maintenance (or any other form of protection) for a technology for any reason. Some examples of why the University might choose to discontinue efforts to protect a technology include, but are not limited to, if the University believes that a discovery or invention is one that is non-patentable or that does not warrant further evaluation as to patentability, or if a discovery or invention is returned to the University after negative evaluation by its patent evaluation agent(s), if any. After consultation with the Creator, the University may, in its sole discretion cause any rights which it may have to a patentable Intellectual Property to be released and transferred to the Creator in exchange for recoupment of patent expenses spent on protecting the invention (including maintenance fees a patent or patents issued). In event of an assignment or release, the University shall retain a royalty-free perpetual non-exclusive license for the use of any such patentable Intellectual Property.

1. Income from Patents and/or Licenses

Income from patents and licenses will be distributed as allocated below. The allocation formula recognizes all forms of cash payments, including royalties and various fees from licensing. After recoupment of legal costs, and subtraction of certain costs outlined below, a percentage of the proceeds that the University receives from the licensing of inventions and discoveries will be paid to the Inventor, the Office of Research and Economic Development, and the University, as specified below. The Vice President for Research and Economic Development, in consultation with the President, will oversee the distribution of the University's funds according to a Standard Administrative Policy and Procedure (SAP), which will designate the distribution of these funds to the Inventor's department, the Inventor's college or school, and a fund dedicated to high priority strategic research initiatives.

A deduction of fifteen percent (15%) to cover operating expenses incurred by the Wyoming Technology Transfer and Research Products Center will be taken annually from the gross license revenue, with funds exceeding the annual Wyoming Technology Transfer and Research Products Center budget moving into a fund dedicated to high priority strategic research initiatives, as determined by the Vice President for Research and Economic Development, in consultation with the President. Additionally, all out- of-pocket payments or obligations (and in some cases, a reasonable reserve for anticipated future expenses) attributable to protecting (including defense against infringement or enforcement actions), marketing, licensing or administering the intellectual property may be deducted from such income. Income then remaining is the net income, which is distributed as set forth below.

So long as the cumulative net income (i.e., the net income from all years) is less than or equal to five million U.S. dollars (\$5,000,000), then the distribution will be allocated as follows:

- Sixty percent (60%) of the net income to the Inventor.
- Twenty percent (20%) of the net income to the Office of Research and Economic Development.
- Twenty percent (20%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds five million U.S. dollars (\$5,000,000) but is less than or equal to ten million U.S. dollars (\$10,000,000), then any further distribution will be allocated as follows:

- Fifty percent (50%) of the net income to the Inventor.
- Twenty-five percent (25%) of the net income to the Office of Research and Economic Development.
- Twenty-five percent (25%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds ten million U.S. dollars (\$10,000,000) but is less than or equal to twenty million U.S. dollars (\$20,000,000), then any further distribution will be allocated as follows:

- Forty percent (40%) of the net income to the Inventor.
- Eighteen percent (18%) of the net income to the Office of Research and Economic Development.
- Forty-two percent (42%) of the net income to the University (distribution determined by an accompanying SAP as outlined above).

When the cumulative net income exceeds twenty million U.S. dollars (\$20,000,000), then any further distribution will be allocated as follows:

- Thirty-five percent (35%) of the net income to the Inventor.
- Thirteen percent (13%) of the net income to the Office of Research and Economic Development.
- Fifty-two percent (52%) of the net income to the University (distribution determined by an accompanying Standard Administrative Policy and Procedure as outlined above.)

If there is more than one Inventor, the applicable royalty percentage will be divided equitably among the Inventors. For the avoidance of doubt, to the extent a difference exists between the Inventor(s) identified in the Invention disclosure and the Inventor(s) identified in any resulting patent application, the latter shall control.

If there is more than one school, department, or center in which the Inventor(s) serves, the applicable income will be distributed to the school, department, or center that administered the academic year salary at the time of the disclosure. The University will review the proposed distribution plan, in light of the declarations of department, school, and center affiliations declared at the time of Invention disclosure to the University as well as the sources of salary support at the time of disclosure. Income will be split equally among all Inventors (unless otherwise stipulated on the disclosure form) and, where necessary, will be split among the departments, schools, or centers according to the source of salary support (unless otherwise stipulated on the disclosure form and agreed upon by all the affected unit heads). In the case of student Inventors, distributions to departments and schools will be split according to the source of salary support for the student at the time of disclosure. In cases where students receive no salary, distributions will go to the department and school that housed the student's work. When multiple disclosures are used to develop a single patent or license, then the income is split equally across the disclosures unless a different distribution is agreed upon by all those affected (Inventors, unit heads, etc.). In cases of dispute, the Vice President for Research and Economic Development, or designee, will mediate among the parties and, if necessary, propose a distribution plan for approval to the President.

If the Invention or Discovery is the result of sponsored research and the sponsor regulates the distribution of income, such specific regulations shall take precedence over University policy with respect to distribution of the license revenue.

With respect to any patent matter in which another institution or an outside agency shall share in the income derived from the patent rights, distribution of income shall be made first to the other institution according to agreed-upon terms, and then to the Inventor according to this Regulation.

2. Specific Conditions Governing Sponsored Research

a. Government Sponsored Research

Patents on inventions arising from research financed by the United States Government are controlled by the terms of the supporting grants and contracts, and applicable Federal laws and regulations. Except as provided by Federal law or by government-supported grants or contracts, when no patent rights are claimed or when patent rights are waived by the United States Government, patents arising from government-sponsored research are controlled by patent and copyright policies set forth herein.

b. Non-Government Sponsored Research

The University must ensure that its facilities and the results of the research of its employees and students are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out by or through the University must be considered. The University will normally reserve ownership of patents on inventions arising out of research supported in whole or in part by grants or contracts with nongovernmental organizations or firms. Contracts or agreements which are entered into between the University and nongovernmental organizations or agencies should contain clauses setting forth such a reservation, unless deviations therefrom are requested by the sponsor and approved by the Vice President for Research and Economic Development. In the interest of fair treatment to the sponsor and in consideration for such sponsor's investment, special provisions regarding patent rights may be negotiated by the University, provided that the University retains the perpetual, non-exclusive right to use the invention for its own research, educational, and service purposes, without payment of royalty fees. In such cases, in the interest of discharging the University's obligation to the public in the application of its facilities and its employees' and students' time and talent, the University will require the sponsor to use due diligence in the commercial use of the invention, and the University will retain the right to publish the results of the research involved after a period of time reasonably necessary to protect the rights of the parties and to allow for the filing of a patent application. Exceptions to this section may be authorized by the Vice President for Economic Development.

B. Copyright Ownership

All copyrights in Works of Authorship, whose Creators are academic personnel, except for works for hire, software and patentable Intellectual Property, remain with their Creators. Works of authorship created by non-academic personnel within the scope of their employment are owned by the University. The University may execute a written agreement waiving its rights, if any, in and to such material. The distribution of royalties, if any, is a matter of arrangement between the Creator and his or her publishers or licensees. The University also supports the creation and dissemination of academic or scholarly publications for the purpose of open access, subject to the arrangement between the Creator and their publishers or licensees. Works of Authorship owned by the University including; works for hire, software, or other patentable Intellectual Property shall be subject to these policies and may be disseminated through open access with the approval of the Vice President for Economic Development.

1. Computer Software

All copyrights in and to computer software, including but not limited to programs, operating systems, procedures, and associated manuals, which result from activities carried out at the University, and which are developed with the aid of or for use with University hardware shall be the sole property of the University of Wyoming. The terms and conditions regarding patentable Intellectual Property, including but not limited to the distribution of income, shall apply to computer software of the type described herein.

2. Academic Course Materials

The University makes no claim to copyright ownership for noncommissioned academic course materials initiated and completed by academic personnel. However, for those created within the employee's scope of duties, the University will claim a perpetual, nonexclusive, worldwide, royalty-free license to use the Academic Course Materials for any of the University's teaching and educational purposes as well as for administrative purposes for accreditation.

C. Service Mark, Trademark, and Trade Name Ownership

Service marks, trademarks and trade names with respect to products resulting from or arising out of research, instruction, or other activities carried out at the University or developed with the aid of its resources, facilities or staff, shall be the property of the University. Without express authorization from the President or the President's designee, no steps shall be taken to secure such trademarks, trade names or service marks by usage or registration. The University reserves the right to register such marks as it deems appropriate, and to license the use of such marks, provided that the income from such licensing shall be used to support the research and educational programs of the University as defined herein.

D. Students

Undergraduate and graduate students enrolled in degree or certificate programs at the University own the patentable Intellectual Property they create if it was created:

1. For a course in which the student is enrolled;
2. During extracurricular activities directly unrelated to research projects being undertaken at the University;
3. While using the resources and facilities of the University commonly provided for a student's use and for which a student has paid tuition and fees;

4. While using resources and facilities of the University available to the non-University community with or without an associated fee;
5. Or a combination of 1–4, unless:
 - a. The student is also an employee of the University either on a work-for-hire basis or as part of University faculty-led research and the patentable Intellectual Property is developed within the course and scope of his or her employment as stated in Section V above, in which case Subsection 1 above shall apply;
 - b. The student participates in a University research project where ownership and control of the resulting patentable Intellectual Property rights created under the project have already been defined via agreement to a governmental, philanthropic, corporate, or other sponsor or collaborator;
 - c. The student jointly creates the patentable Intellectual Property with a non-student, in which case Section VI excluding this subsection (D)—and applicable law dictate ownership of patentable Intellectual Property as if the student was a non-student described above in subsection (A).

VII. PUBLICATION

A major function of the University is the advancement and dissemination of knowledge. Any practice which unnecessarily restricts the publication of results of scholarly or scientific work is to be avoided. It is recognized, however, that the full development of useful Intellectual Property may be dependent upon the securing of patent protection which will enable the commercial utilization of the Intellectual Property. Accordingly, under certain circumstances it may be necessary to delay for a minimum period the publication of results of research.

If a sponsor proposes to support a research effort, and the rights to any patentable or copyrightable Intellectual Property resulting therefrom will belong to said sponsor, the research agreement with respect to publication shall include language to accomplish the following: First, the sponsor must agree that the results of the research may be published by the investigators. Second, to not jeopardize patent applications, the University and the investigators may agree that any proposed publication will be submitted to the sponsor with a written notice of intent to submit for publication. The notice will advise the sponsor that if, within a period of no more than ninety (90) days from the date of such notice, the sponsor fails to request a delay, the investigators and University shall be free to proceed immediately with the publication. If, however, the sponsor provides timely notice to the University that a delay is desired, the submission of the manuscript to a publisher or other public disclosure shall be withheld for the period requested, but in no event shall the total period of delay be longer than one (1) year following the date of the notice of intent to submit for publication.

Such a period will permit the sponsor to have the necessary patent applications prepared and filed, and does not unduly restrict the dissemination of scientific knowledge. Exceptions to this section may be authorized by the Vice President for Economic Development.

VIII. AVOIDANCE OF CONFLICTS

Conflicts involving Intellectual Property ownership may arise when University employees or students enter into personal consulting agreements with outside firms and organizations. The agreements which business firms generally wish to have executed by those who are to serve in a consulting capacity frequently contain provisions requiring the licensing or assignment of the consultant's Intellectual Property to that business firm. Such provisions may apply to areas in which the individual's University work lies, and thus may come into conflict with the terms and conditions of this policy.

Prior to signing any consulting agreement which deals with patent rights, trade secrets, or the like, if any University time, facilities, materials or other resources are to be involved in the carrying out of such consulting work, University employees or students must submit the proposed agreement to the Wyoming Technology Transfer and Research Products Center and obtain a waiver of University rights, or otherwise modify the agreement to conform with these policies.

IX. DUTY TO DISCLOSE INTELLECTUAL PROPERTY

All individuals whose Intellectual Property are covered by these policies have a duty to promptly disclose the same to the Vice President for Research and Economic Development through the Wyoming Technology Transfer and Research Products Center.

The duty of disclosure arises as soon as the individual has reason to believe, based on his or her own knowledge or upon information supplied by others, that the Intellectual Property may be subject to this Policy. Certainty about patentability or copyright ability is not required before a disclosure is made. Prior to any verbal or other disclosure of Intellectual Property, whether formal or informal, to a non-University third party, individuals must disclose the Intellectual Property to the Wyoming Technology Transfer and Research Products Center. Examples of disclosures to non-University third parties include, but are not limited to, potential non-University collaborators, conference presentations, poster sessions, journal publications, conference roundtable discussions, and discussions with potential third party sponsoring entities for support of continued work on the Intellectual Property.

Individuals shall execute such declarations, assignments, or other documents as may be necessary in the course of patent evaluation, registration, administration, or enforcement in order to ensure that title in such inventions shall be held by the University, or by such other parties as may be appropriate under the circumstances. Employees and students who do not promptly disclose shall be subject to disciplinary action.

X. WYOMING TECHNOLOGY TRANSFER AND RESEARCH PRODUCTS CENTER

The Wyoming Technology Transfer and Research Products Center shall review and recommend to the Vice President for Research and Economic Development or the Vice President's designee the procedures for the implementation of these policies; shall resolve questions of Intellectual Property ownership that may arise between the University and its faculty, staff, or students; shall recommend to the Vice President for Research and Economic Development the expenditure of funds from patent and/or licenses; and shall make such recommendations as are deemed appropriate to encourage disclosure and to assure prompt and expeditious handling, evaluation, and prosecution of patent opportunities.

XI. PATENT MANAGEMENT

The Wyoming Technology Transfer and Research Products Center, in consultation with the Office of General Counsel, is authorized to negotiate with reputable agencies or firms to secure arrangements for patent management, including competent evaluation of invention disclosures, expeditious filing of applications on patents, and licensing and administration of patents.

XII. EXCEPTIONS

Exceptions to any of the above policies may be authorized by the President or the President's designee if on the basis of the evidence available, such exception is consistent with the University's responsibilities to the public interest.

Responsible Division/Unit: Office of Research and Economic Development

Source: None

Links: <http://www.uwyo.edu/regs-policies>

Associated Regulations, Policies, and Forms: None

History:

University 641, Revision 3; adopted 7/17/2008 Board of Trustees meeting

Revisions adopted 5/10/2013 Board of Trustees meeting

Revisions adopted 9/12/2014 Board of Trustees meeting

Reformatted 7/1/2018: previously UW Regulation 3-641, now UW Regulation 9-1

UW Regulation 9-1 (Patents and Copyrights) Report to Acting President Theobald

June 1, 2020

I. The Charge

Acting President Theobald charged Vice President and General Counsel, Tara Evans to review recent efforts to revise UW Regulation 9-1 (Patents and Copyrights), to develop recommendations with respect to University intellectual property, and to present a report by June 1, 2020.

II. Working Group Formation and Meetings

President Theobald and Vice President Evans formed a Working Group consisting of faculty members, department heads, deans and administrators to provide input. The Working Group members were:

Faculty Members: Rudi Michalak, Faculty Senate Chair-Elect, David Bagley, Faculty Fellow, Academic Affairs; Cynthia Weinig, Professor, Botany

Department Heads: Scott Turpen, Department Head, Music; Denny Coon, Department Head, Petroleum Engineering

Deans: Kem Krueger: Dean, School of Pharmacy

Administrators: Tara Evans: Vice President/General Counsel (Chair); Jim Ahern: Associate Vice Provost For Graduate Education; Jerry Fife, Interim Senior Director, Sponsored Programs; Victoria Bryant, Director, Wyoming Technology Transfer and Research Products Center

The Working Group met May 8, 2020, May 15, 2020, May 22, 2020 and May 29, 2020 with electronic communications during the intervening times. At the initial meeting an historical account of the regulation review and revision process to date was presented and the group identified key challenges to consider. The remainder of this report examines areas of agreement identified by the group as well as provides recommendations from the group upon which complete agreement may not have been achieved. When agreement was not reached, majority and minority recommendations are both presented.

III. Areas of Agreement with Respect to University Intellectual Property

The group agreed that:

1. The University of Wyoming must update UW Regulation 9-1 to account for the changing landscape of intellectual property and to provide clarity to all University employees regarding ownership over patentable and copyrightable creations.
2. The extent of University resource use by the creator is an appropriate criterion for assigning ownership and protecting the institution's interests in inventions (identified as "patentable Intellectual Property" in the draft update to UW Regulation 9-1).
3. In most instances, the rights of ownership in academic course materials should rest with their creators, the faculty.

4. The University should maintain a perpetual license to use academic course materials for any of the university's teaching and educational purposes as well as for administrative purposes such as accreditation.
5. The rights of ownership in scholarship (identified as “works of authorship” in the draft update to UW Regulation 9-1) should remain with their creators.
6. The distribution of income from patents as it exists in the current regulation is appropriate and should not be modified.

IV. Charge 1: Protection of Inventions (Patentable Intellectual Property)

Background. The current regulation assigns the University ownership of all patentable inventions developed by faculty and other employees, except those developed on an individual's personal time and without any use of institutional facilities or employees. While the regulation is appropriate, existing terms can lead to confusion and do not address situations where the creator may be utilizing institutional resources while on their personal time. The majority opinion of the working group, therefore, is that UW Regulation 9-1 should be clarified to better delineate where University ownership over patentable intellectual property will result.

Majority Recommendation. ***Clarify existing policy that establishes University ownership of patentable intellectual property that is created with the “use of University Resources” by defining University Resources. Add further specification that inventions created “within the scope of the employee’s duties” are also University owned.***

The majority of the group agreed that:

1. Existing regulations that establish institutional ownership over patentable intellectual property created with the use of “University Resources” are appropriate, but lack clarity.
2. To provide clarity to employees and address many circumstances not currently contemplated by the existing regulation, the working group recommends defining the key term “University Resources.” The working group further recommends the following terminology as an appropriate definition for the term:
Facilities, equipment, funds, or funds under the control of or administered by the University but not to include: office space, library facilities, ordinary access to computers and networks, or salary.
3. Establishing ownership over patentable intellectual property created “within the scope of the employee’s duties,” removes the ambiguity associated with the term “Personal Time” and facilitates the protection of inventions created with University support.

Minority Opinion. ***Do not establish University ownership over patentable intellectual property that is created “within the scope of the employee’s duties.”***

The minority opinion does not support establishing University ownership over patentable intellectual property created “within the scope of the employee’s duties.” Rather, the minority posits that the inclusion of the phrase “use of University Resources” adequately addresses situations where employees have created patentable intellectual property in which the University has made a contribution that

warrants ownership. Specifically, the University has not taken a role in the employee's training or development of expertise and therefore has not contributed to the intellectual underpinnings of the work, as is potentially implied by the phrase of "within the scope of the employee's duties." The minority also indicated that institutional ownership based on "within the scope of the employee's duties" is unnecessary, because employees are readily aware of work that is performed within or outside of their scope of duties.

V. Charge 2: Ownership of Academic Course Materials

Background. The current regulation states that videotaped courses of instruction or other audio-visual productions are the sole property of the University but otherwise does not adequately address the ownership of academic course materials developed by faculty while employed by the institution. As a result, many academic course materials are currently included in works-for-hire policies, and are owned by the institution. The working group unanimously agreed that UW Regulation 9-1 should be modified to establish faculty as the owners of academic course materials they have created and to provide the University with a perpetual license to utilize them for limited educational purposes of the institution.

Unanimous Recommendation. *Modify policy to provide ownership of academic course materials to their creators, and reserve a perpetual license for the institution to utilize such materials for teaching, education and accreditation.*

The working group agreed that:

1. Creator faculty members should be the owners of their academic course materials, including those developed while employed by the institution. Providing this ownership will incentivize academic innovation and further the academic mission of the institution.
2. By updating the policy to provide the institution with a perpetual license to utilize these academic course materials, the institution shall be able to meet its educational, teaching, and accreditation needs without unduly burdening the faculty's rights in their materials.
3. To provide clarity to employees and address many circumstances not contemplated by the current regulations, the working group recommends the inclusion of the following policy statement:
The University makes no claim to copyright ownership for noncommissioned academic course materials initiated and completed by academic personnel. However, for those created within the scope of employment, the University will claim a perpetual, nonexclusive, worldwide, royalty-free license to use the Academic Course Materials for any of the University's teaching and educational purposes as well as for administrative purposes for accreditation.

Additional Thoughts.

1. The working group discussed the implications of placing a time limitation on the license provided to the institution, however, ultimately decided doing so would be impractical.
2. The working group also noted that much of the academic course material becomes outdated within a relatively short period of time. As a result, perpetual licensure effectively lasts until the institution has determined the material has become outdated.

3. The working group noted that the institution's use of licensed academic course materials will require additional steps to ensure that faculty are utilizing electronic delivery/recording methods related to these materials.
4. Internal policies should be developed to work with departing faculty to review academic course materials, especially those pertaining to foundational courses where content does not change substantially with time. In particular, the working group recommends that unit heads have the responsibility for ensuring that academic course materials are retained for future use.

VI. Charge 3: Ownership of Scholarship (Works of Authorship)

Background. The current regulation assigns ownership of copyrightable materials to their creators, however, does not adequately define or provide examples of works that are covered by the policy. Additionally, the regulation does not make a policy distinction between works created by academic personnel (i.e. faculty) versus non-academic personnel (staff). As a result, there is general confusion as to the applicability of the policy. The working group agreed that UW Regulation 9-1 should be updated to provide clarity related to these concerns.

Unanimous Recommendation. *Clarify existing policy that academic personnel shall be the owners of Works of Authorship they have created. Additionally, the regulation should clarify that the University shall own Works of Authorship created by non-academic personnel and within the scope of their employment. Finally, a non-exhaustive list of examples of "Works of Authorship" should be included in the regulation to provide clarity to all employees.*

The working group agreed that:

1. Scholarship, or "Works of Authorship" should remain the property of the academic personnel who created them. Similar to Academic Course Materials, providing this ownership will incentivize academic innovation and further the academic mission of the institution.
2. Works of Authorship created by non-academic personnel within the scope of their employment should be owned by the institution. This concept reinforces policies on works-for-hire and protects the institution's investment in resources devoted to the works created by non-academic employees.
3. By defining Works of Authorship and providing examples, the regulation will provide clarity to employees and better delineate policy nuances related to copyrightable works.

VII. Charge 4: Distribution of Income from Patents

Background. The current University regulation provides that distribution of net income or royalties received by the University related to patents shall be distributed sixty percent (60%) to the inventor/author and forty percent (40%) to the University. The existing regulation further prescribes that half of the University's share shall be provided to the originating department or college while the other half shall be paid into a research and development fund.

Unanimous Recommendation. *Maintain the current distribution of income from patents; 60% to the inventor/author and 40% to the University.*

The working group agreed that:

1. The current regulation on the distribution of income from patents reflects a modern approach when compared nationally, and is clear and concise.
2. While other institutions have implemented a tiered approach based on the amount of net proceeds earned by the patent, the committee believes such a policy would over complicate the process and may not truly incentivize efforts from the creator.
3. While the distribution to the inventor (60%) may be slightly high when compared nationally, the rate serves as an important tool for the recruitment of high level academic talent to the institution.

VIII. Additional Recommendation

Through the working group's review of several other institution's regulations, the group identified the effectiveness of including a strong institutional policy statement through the inclusion of a preamble to the intellectual property regulations. In particular, the group identified the University of Illinois' General Rules Concerning University Organization and Procedure Article III Section 1 as a well written example and recommends institutional leadership consider the inclusion of similar verbiage into the updated University of Wyoming Regulation 9-1.