

# Update: Interim Revisions of The Campus Intellectual Property Policy

Robert Dooling  
Chair of the Campus IP Committee

## Brief History of the IP policy:

- Current IP policy based on a 2003 USM template that is badly out of date and needs revision
- Several years ago the VPR appointed an IP Committee to:
  - Shorten the policy
  - Make it more coherent and understandable
  - Amend it to reflect recent legal decisions
- A proposed revision met with Senate criticism last fall
- The IP Committee has been addressing these issues during the past year.

# The Bayh-Dole Act of 1980

- Prior to 1980, the government owned what was created from federal grants
- Bayh-Dole act gives ownership of IP to universities if:
  - They share income with the inventors
  - Use the remainder for scientific research and education
  - Inventors assign their rights to the University
- Much of our Campus research is governed by the Bayh-Dole Act
- Because of Bayh-Dole, the University has reporting requirements to the government on inventions arising from government sponsored research
- For instance, those regulations require, in part, that the University own all rights in any software developed with federal funding (as data) and disclose all software to the funding agency.

## Senate Concerns Raised on Revised IP Policy as Presented in Nov 2015

- Copyright
- On-line courses
- Software
- Revenue sharing
- Scope of Employment

# Copyright

Current Policy	The Univ does not claim copyright in traditional scholarly works except when not doing so would contrary to law or regulation.
Revision 2015	The Univ holds copyright in scholarly works, but transfers ownership back to personnel in most instances.
Proposed Revision 2016	The Univ does not claim copyright in traditional scholarly works except when not doing so would be contrary to law or regulation.

# On-Line Courses

Current Policy	Ownership determined by written agreement between Univ and Personnel
Revision 2015	Ownership determined by written agreement between Univ and Personnel
Proposed Revision 2016	On-line Courses, Programs, and Materials are treated as a traditional scholarly works in which creators hold copyright, but grant the Univ a free right to use for as long as Univ wants to. Written agreements no longer required

# Software

Current Policy	Software treated under a separate section from patents and inventions but simply repeats the language in the patent and invention section
Revision 2015	Eliminates separate section for software with software treated as an invention under patent law
Proposed Revision 2016	Software treated under invention section; creators may request that it be treated under the traditional scholarly work and copyright – DISCUSSION CONTINUING

# Revenue Sharing

Current Policy	Many steps - too cumbersome
Revision 2015	<ul style="list-style-type: none"><li>▪ First \$5,000 to creator</li><li>▪ Reimburse Univ for patent costs</li><li>▪ For next \$100k (25% creator, 25% to Univ, 50% to Dept)</li><li>▪ Over \$100k (28% creator, 32% Univ/OTC)</li></ul>
Proposed Revision 2016	<ul style="list-style-type: none"><li>▪ Net revenue defined as gross revenue less unreimbursed patent costs</li><li>▪ All Subsequent Net Revenue:<ul style="list-style-type: none"><li>▪ 50% to Creator(s),</li><li>▪ 25% to Dept,</li><li>▪ 25% to Univ/OTC</li></ul></li><li>▪ DISCUSSION CONTINING</li></ul>

# Scope of Employment

Current Policy	Term applies to staff but not to faculty
Revision 2015	Term applied to all employees
Proposed Revision 2016	'Scope of Employment' term dropped and replaced with the concept of Univ directed work



## Some key elements remaining unchanged

- *Students own all rights, title, and interests in inventions, software, research data, and tangible research materials they create in performance of their academic work.*
- *The policy remains exceedingly flexible in that any requirement of the policy can be waived by the VPR except when doing so would be contrary to law or regulation.*
- *The policy requires an IP Committee consisting of faculty, staff, and students to advise VPR/Campus on specific issues and any need for policy changes.*