



# Policy on Inventions, Patents, and Innovation Transfer

<b>Responsible Officer:</b>	VP – Research and Innovation
<b>Responsible Office:</b>	RI - Research and Innovation
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## I. POLICY SUMMARY

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The University of California (“University”) is a major driver of economic and social prosperity in the State of California. This is primarily accomplished through the education of a highly trained workforce, the publication of research results, and the development of societal solutions through research and service initiatives. The University strives to manage intellectual property assets for the long-term benefit of both the University and the people of the State of California.

This policy supports the practical application of University research and the [Regents Policy on Innovation Transfer & Entrepreneurship](#) by establishing the University’s ownership of intellectual property, facilitating legal protection under applicable intellectual property laws, promoting campus innovation transfer, and committing to an equitable distribution of intellectual property commercialization income.

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## II. DEFINITIONS

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**Intellectual Property:** broadly defined to include inventions, discoveries, developments, improvements, systems, methods, processes, and materials, as well as copyrightable works retained by the University under the [Copyright Ownership Policy](#) or

[Ownership of Course Materials Policy](#). For the avoidance of doubt, Intellectual Property excludes scholarly and aesthetic works transferred to academic authors under the [Copyright Ownership Policy](#).

Intellectual Property includes legally recognized rights in patents, registered or unregistered copyrights, registered or unregistered trademarks, service marks, trade secrets, and plant variety protection certificates. It also includes the physical embodiments of intellectual effort, for example, models, organisms, machines, devices, designs, apparatus, instrumentation, circuits, biological materials, chemicals, other compositions of matter, and plants. Future advances in science and the arts may result in new structures for intellectual property protection and they also fall within this policy.

**University IP:** all Intellectual Property created: 1) within the course or scope of University employment, 2) using University Research Facilities, or 3) using gifts, grants, or contracts received by or through the University.

**Inventor:** an individual covered by this policy who meets the criteria for inventorship under [United States patent laws](#) and regulations.

**Invention:** a unique or novel device, method, composition, process, machine, manufacture, design, or composition of matter, or any new and useful improvements, or any variety of plant which is or may be patentable under [United States patent laws](#) and regulations.

**Net Commercialization Income:** gross income received in consideration for a license or option, less the costs of patenting, protecting, and preserving patent and other property rights, maintaining and/or prosecuting Intellectual Property, litigation and audit expenses, the marketing and licensing of Intellectual Property rights, payments to third parties and such other costs, or taxes.

**University Research Facilities:** University premises or resources dedicated in whole or in part to the performance of research.

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### III. POLICY TEXT

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**A. Copyright and Course Material Policies.** This policy is not intended to modify the ownership rights provided in the University policies regarding [copyright ownership](#) or [course material](#) ownership.

**B. Ownership.** The University owns University IP. This ownership statement fulfills in part the requirements imposed by federal, state, and sponsor policies or regulations, including [California Labor Code sections 2860 and 2870](#). The [Patent Acknowledgment](#) is the document that confirms the University's ownership of Inventions and all University employees must sign the [Patent Acknowledgment](#) at the time of hiring.

**C. Income Distribution.** Subject to previous versions of this policy and the University's contractual obligations, the University agrees to pay Inventor(s) 35% of the University's Net Commercialization Income from Inventions. [Bayh-Dole](#) regulations require the University uses remaining Net Commercialization Income from Inventions for scientific research, development, and education. When two or more Inventors are eligible to receive Net Commercialization Income for the same Invention, each Inventor shares equally, unless all Inventors agree in writing to a different sharing arrangement. The distribution of Net Commercialization Income from non-Invention University IP is determined at the campus or Laboratory level. The DOE Laboratory may establish separate royalty distribution formulas, subject to approval by the President.

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### IV. COMPLIANCE / RESPONSIBILITIES

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As a public, state-funded university, the University must manage its assets fairly and prioritize its mission of research, education, and public service. Decisions related to patenting and commercialization will be made in the campus' sole and absolute discretion using processes developed and administered at the campus level. All commercialization decisions must take into account the University's status as a 501(c)(3) organization, and be compliant with other University policies, applicable laws, and third-party obligations. To support the University's research and education purposes, all licenses and grants of rights must include a retained right for the University and other non-profits to practice University IP.

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### V. PROCEDURES

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**A. Patent Acknowledgment.** As stated in the Policy Text, all University employees must sign the [Patent Acknowledgment](#) at the time of hiring. Only employees who have signed the Patent Acknowledgment may perform under University gifts, grants, or contracts. Individuals not employed by the University but who use University Research Facilities, or who perform under University gifts, grants, or contracts are also subject to this Policy and must sign the [Patent Acknowledgment](#) prior to accessing such facilities or performing such work. Thereafter, all individuals subject to this Policy must provide to University any additional documents necessary for entering into commercialization agreements and/or obtaining legal protection for University IP. All individuals subject to this Policy are responsible for ensuring that any employment/consulting agreements with third parties do not conflict with their preexisting and ongoing obligations to the University.

Campus Chancellors, the Vice President, Agriculture and Natural Resources, Laboratory Director and/or their delegates may authorize exemptions and exceptions from signing the [Patent Acknowledgment](#), provided that such exemptions or exceptions are consistent with other University policies, applicable laws, and third-party obligations.

**B. Reporting.** All individuals subject to this Policy must promptly report and fully disclose all Inventions to the authorized licensing office.

**C. Income.** Net Commercialization Income under this policy will be distributed at least once per year based on income and costs from the previous year. In the event of any significant future expense such as litigation, actual or imminent, or any other action to protect patent rights, the University may withhold distributions to cover costs until resolution of the matter.

**D. Exceptions.** In special circumstances, it may be in the best interests of the University to enter into agreements that require exceptions to this policy. Campus Chancellors, the Vice President, Agriculture and Natural Resources, Laboratory Director and/or their delegates may authorize such exceptions in accordance with other University policies, applicable laws, and third-party obligations.

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## VI. RELATED INFORMATION

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[Regents Policy on Innovation Transfer & Entrepreneurship](#)

[United States Patent Laws](#)

[Bayh-Dole Act](#)

[California Labor Code Section 2860 and 2870](#)

[Copyright Ownership Policy](#)

[Ownership of Course Materials](#)

[Patent Acknowledgment](#)

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## VII. FREQUENTLY ASKED QUESTIONS

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Not applicable

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## VIII. REVISION HISTORY

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**January XX, 2023:** To implement Section A (Governance) of the [Regents Policy on Innovation Transfer & Entrepreneurship](#), this policy gives campuses sole authority and discretion to execute its innovation transfer programs. Also, this policy addresses unpatentable intellectual property which can generate commercialization income.

This Policy is also reformatted to meet Web Content Accessibility Guidelines (WCAG) 2.0. This policy rescinds the Patent Policies dated October 1, 1997.