



TO: Regents Governance Committee

FROM: Annalissa Philbin
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DATE: March 21, 2024

RE: Recommended Changes to Regent Policy 5.J:
Intellectual Property Policy on Discoveries and Patents for their Protection
and Commercialization

This item proposes amending Regent Policy 5.J in order to (1) reflect how the management of technology transfer at the University of Colorado has changed in practice since Regent Policy 5.J was last updated in 2006; (2) increase clarity around when the University of Colorado owns discoveries made by its employees or made using University of Colorado resources; and (3) allow each Campus to determine the appropriate distribution of net receipts from the commercialization of discoveries among relevant stakeholders, but maintaining a minimum amount that must be shared with the inventors or creators of the relevant discovery.

A. Responsibility for Implementation of Technology Transfer

Until 2016, the implementation of technology transfer under Regent Policy 5.J was managed at the System level under the direction of the Associate Vice President for Technology Transfer as the Principal Technology Transfer Officer. However, in 2016, technology transfer operations was moved to the campuses, with the President designating a separate Principal Technology Transfer Officer for each campus. Staff recommends making certain changes to Regent Policy 5.J to reflect the changes to how technology transfer has been operating in practice since 2016.

The staff proposes adding a new definition of “Principal Technology Transfer Officer” to reflect that the University may appoint one *or more* members of the University staff to serve as the Principal Technology Transfer Officer, with the intent that the University will make such appointments in related Administrative Policy Statement 1013, which is also in the process of being revised.

Further, the staff also proposes amending the Section entitled “Principal Technology Transfer Officer” to reflect that the University may employ one *or more* members of its staff to serve as the Principal Technology Transfer Officer under Regent Policy 5.J.

B. Clarifying Ownership of University Discoveries

Regent Policy 5.J has not been updated since 2006. Since 2006, the University has continually been interpreting the language of the policy to determine when it will take ownership of Discoveries made by its employees or made using University resources, and many of the proposed revisions to Regent Policy 5.J are meant to clarify when the University will take ownership of Discoveries based on how the policy is currently being

interpreted, including increasing clarity over when the University owns Discoveries made by visiting researchers and students.

Staff recommends revising the definitions for the terms, “Discovery or Discoveries,” “Discovery Expenses,” “Included Persons,” and “Substantial Use of University Resources”; removing the defined term, “Collaborator or Collaborators” as being unnecessary; replacing the term “discoveries in which the University has an interest” with the simpler term, “University Discoveries”; and adding new terms, “Intellectual Property,” “Net Receipts,” “Principal Technology Transfer Officer,” “Sponsored Program,” “Visiting Scholar,” “Visiting Scholar Agreement,” and “Work Responsibilities.”

Staff recommends removing the section entitled, “Scope of Policy,” and instead recommends adding two new sections, “University Ownership” and “Ownership of Student Discoveries,” that clearly define when the University owns Discoveries. These two sections include provisions that have been included in APS 1013: Intellectual Property Policy on Discoveries and Patents for Their Protection and Commercialization, but which really should be included in Regent Policy. The proposed revisions are intended to make it more clear when the University owns Discoveries made by its employees, students, volunteers, and visiting scholars.

Staff further recommends revisions to the section entitled, “Responsibilities of Participating Parties,” to clarify the responsibilities of Included Persons with respect to the Discovery commercialization process to be implemented by the University, and proposes retitling this section, “Responsibilities of Included Persons.”

Staff further recommends removing the section entitled, “Committee on University Discoveries,” as this is an outdated committee that no longer exists. Rather, staff recommends including a new section, “Dispute Resolution,” that requires that the University create a process to address any disputes that may arise related to the implementation of this policy, with the intent that each Campus will develop a dispute resolution process that is appropriate for that Campus.

C. Distribution of Net Receipts

In light of the fact that the Campuses each determine how technology transfer is managed for that Campus, staff proposes that each Campus be provided the authority to determine how Net Receipts from the commercialization of University Discoveries be distributed among relevant stakeholders. The proposed revisions delegate this authority to the University, with the intent that the University will revise APS 1013 to further delegate this authority to the Campuses. However, the staff also proposes that the Regent Policy establish a minimum amount that must be distributed to the inventors or creators of the Discovery that generates the Net Receipts.

Under Regent Policy 2.N, these proposed changes to Regent Policy will be discussed by the Governance Committee on March 21, 2024; will be noticed publicly to the full board on April 11-12, 2024; and will be further discussed by the Governance Committee at its May 23, 2024, meeting. Accordingly, the proposed changes to Regent Policy could be considered at the June 20-21, 2024, Board of Regents meeting.