

ITEM B.4.b

SUBJECT: INTELLECTUAL PROPERTY POLICY – PROPOSED CHANGES

BACKGROUND:

At the April Board meeting, it was moved to table any changes on the new intellectual property policy that is being drafted in order to have more in-depth discussion of the issue at the May Retreat.

DISCUSSION:

In drafting the initial revisions, each agency and institution formed a committee to review the intellectual property policies. Then, each agency and institution sent a representative to be a member of the Statewide Intellectual Property Review Committee. There have been monthly meetings of the Statewide Committee since the beginning of this year: the first meeting was held on January 10, the second on February 9, 2001, the third on March 9, 2001, and the fourth on April 10, 2001. The Committee is also meeting May 7, 2001, to discuss and make changes to the policy based on comments generated from the April Board Meeting.

IMPACT:

A policy that has a more uniform way of dealing with intellectual property issues, and one that is more proactive than the previous rule. There have been technological changes since the intellectual property rule was last revised, as well as changes to copyright law, with the passage of the Digital Millennium Copyright Act. The policy will also contain a standard distribution of income from commercialization, licensing, and Board-owned copyrightable works.

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A. Intellectual Property

1. Purpose

The Board has a responsibility for and an interest in the advancement of scientific knowledge and creative work that will enhance its educational, research, and service missions and benefit the public it serves. The purpose of this policy is as follows:

- a.** to encourage the development of Intellectual Property for the best interest of the public, the creator of the Intellectual Property, the Board, the Board-governed institution or agency, and the research sponsor;
- b.** to provide timely disclosure and protection of Intellectual Property whether by development, commercialization, or publication, or any combination thereof;
- c.** to allow employees and students maximum scientific and professional freedom with respect to the method of disclosure and publication of their findings, consistent with any legal obligations;
- d.** to provide procedures for the protection of Board Intellectual Property through patents, copyrights and trademarks, and for the licensing of Intellectual Property for commercial application and for the benefit of the public; and
- e.** to allow each institution to manage its own intellectual property on behalf of the Board.

2. Applicability

- a.** Except for specific exemptions as set forth in this policy, this policy is applicable to:
 - (1) all persons employed by the Board or a Board-governed institution, agency, school or office in any capacity whatsoever, and;
 - (2) all persons who use institutional or agency facilities while under the supervision of institutional or agency personnel, including but not limited to visiting faculty, adjunct faculty, undergraduate students, graduate students, post- and pre-doctoral fellows, unless special terms for management of the work of such persons are negotiated by the Board or the institution or agency.

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b. The intellectual property rights of the Board cannot be subordinated to a third party. Employees shall not enter into agreements, express or implied, which compromise the intellectual property rights of the Board. No employee shall engage in any outside employment, such as consulting or summer employment agreements, without affirmative notice to the prospective employer that the intellectual property rights of the Board cannot be subordinated to a third party.

3. Definitions

a. Author: The individual(s) who fixes in tangible medium copyrightable subject matter as defined in Title 17 USC §102, except in the case of a work made for hire. In that case, the employer or other party for whom the work was prepared is considered the author, Title 17 USC §201.

b. Copyrightable Work: An original work of authorship which has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, such as books, textbooks, course materials, refereed literature, journals, software, computer programs, musical works, dramatic works, videos, multimedia products, sound recordings, pictorial and graphical works, etc. Such works also include those of students created in the course of their education, such as dissertations, papers and journal articles. A Copyrightable Work may be the product of a single author or a group of authors who have collaborated on a project. Such works are governed by Title 17 USC §101 et. seq.

(1) Scholarly or Artistic Work: Copyrightable Works are considered a scholarly or artistic work for the purposes of this policy. Textbooks, journal articles, popular nonfiction, novels, poems, musical compositions, or other works of artistic imagination are considered Scholarly or Artistic Works.

c. Designee: In this policy the designee of the chief executive officer may be another employee of the institution or the institution's corporate agent for the purposes of technology transfer.

d. Intellectual Property: Collectively, all creative or intellectual work products, including but not limited to Inventions, Copyrightable Works, Trademarks, Trade Secrets, and Tangible Research Property.

e. Invention: A process, method, discovery, device, plant, composition of matter, or other invention that reasonably appears to qualify for protection under United States patent law (utility patent, plant patent, design patent, certificate of Plant Variety Protection, etc.), whether or not actually patentable. An Invention may be the product of a single inventor or a group of inventors who have collaborated on a project.

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f. Mediated Courseware: Web pages, academic software applications and online course materials.

g. Rights: The property interest possessed under law in a piece of intellectual property. Patents grant to the inventor(s), their heirs, or their assignee the right to exclude others from making, using, offering for sale, selling, or importing the claimed invention, Title 35 USC §154. Copyrights grant to the owner(s) the exclusive rights to reproduce, prepare derivative works of, distribute, perform publicly, or display publicly the copyrighted work, Title 17 USC §106. Plant Variety Protection grants to the breeder(s) or the successor in interest of the breeder the right to exclude others from selling, offering for sale, reproducing, importing, or exporting the plant variety, Title 7 USC §2483.

(1) **Board-Retained Rights:** The Board retains the rights listed above in 3.g. and in particular areas in this document, such as those found in 4.b., 4.c.3, 5.b., 10.a. and 10.b. In addition to those rights, when the Board retains rights, the Board also retains the following rights: the right, on a non-exclusive world-wide, royalty-free basis, to make reproductions of the work to use in teaching, scholarship, and research in the department, campus or within the institutional system; the right to control whether the institution's name or logo is displayed in association with the work; the right to require an appropriate acknowledgement of institutional support of the creation of the work; the right to borrow portions of the work for use in compilations or other composite works; the right to reproduce the work for uses directly related to advancing the mission or maintaining the culture of the college or university; the right to duplicate the work for teaching, scholarship, and research, and the right to make derivative works if the author or co-authors assign copyright ownership to a third party.

h. Significant Resources: Significant Resources shall mean the integral and significant use of institutional effort, funds, space, hardware, connectivity, or facilities administered by the Board or a Board-governed institution or agency, where use was essential and substantial rather than incidental. The provision of resources similarly made available to members of the general public by the Board or Board-governed institutional or agency shall not be construed as constituting significant use of Board or Board-governed institutional or agency resources, except for those instances otherwise stated in this policy.

i. Tangible Research Property: Tangible items produced in the course of research, now known or later developed, include such items as laboratory notebooks, biological

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materials, engineering drawings, integrated circuit chips, computer databases, computer files, computer applications, prototype devices, circuit diagrams, and equipment. Individual items of Tangible Research Property may be associated with one or more intangible properties, such as Inventions, Copyrightable Works and Trademarks. An item of Tangible Research Property may be the product of a single creator or a group of individuals who have collaborated on a project.

j. Title: All the elements constituting legal ownership. Inventors, authors, their heirs, or their assignees are the legal owners of the property rights granted in the U. S. Constitution Article I, §8, clause 8 and as codified in Title 35 USC for patents, Title 7 USC for plant variety protection, Title 17 USC for copyrights, Title 15 USC for trademarks, and the Uniform Trade Secret Act for trade secrets.

k. Trademark (including Service Mark): A distinctive word, design or graphic symbol, or combination word and design, that distinguishes and identifies the goods and services of one party from those of another, such as names or symbols used in conjunction with plant varieties or computer programs.

l. Trade Secret: Information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable under the circumstances to maintain its secrecy.

m. Work for Hire: A Work for Hire is work specifically funded or created at the direction of the institution in the course of the creators' employment, including but not limited to simultaneous or sequential contributions over time by numerous faculty, staff or students. A work may be defined as a Work for Hire as a result of an agreement between an institution and an employee and may be included in a written job description or an employment agreement. For instance, work assigned to programmers is Institutional Work or "work for hire" as defined by law, as is software developed for Board or institutional or agency purposes by employees. Brochures, training programs, CD-ROMs, videos, and manuals which employees are directed to develop are other examples of Institutional Works, or work for hire.

4. Management of Inventions

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a. Requirements of Inventors: All persons covered by this policy are required to abide by their obligations and those of the Board and Board-governed institutions and agencies under research agreements with sponsors.

b. Rights of the Board: The Board owns all inventions as set forth in this policy.

c. Exceptions: The following three paragraphs present the only exceptions to Board ownership of Inventions:

(1) Consulting Exception: Inventions resulting from permissible consulting activities without the use of institutional facilities or resources. Each institution and agency shall include in its intellectual property policy a definition of permissible consulting activity and a process for its approval by the chief executive officer or designee.

(2) CEO Exception: Inventions authorized in writing by the chief executive officer, or designee, when the mission of the institution or agency is better served by such action, provided that the overriding obligations to other parties are met and such exceptions are consistent with other institutional and Board policies.

(3) Sponsored Research Exception: Ownership of an Invention developed in the course of or resulting from research supported by a grant or contract shall be determined in accordance with the terms of the applicable grant or contract, or in the absence of such terms, shall be owned by the Board. When permitted by the sponsor of research, the institution is authorized to relinquish the title to an invention and shall retain the perpetual, non-exclusive, world-wide, royalty-free rights to use the materials for educational, research, and service purposes at any institution or agency under the Board's governance.

d. Assignment: Any person subject to this policy shall, in order to perfect intellectual property rights, execute an invention assignment agreement in a form prescribed by and available from the chief executive officer or designee to set forth effectively the ownership of and rights to inventions. Executed invention assignment agreements shall be maintained as determined by the chief executive officer or designee of the institution or agency.

e. Disclosure, Assignment, and Protection

(1) Disclosure: All persons subject to this policy shall promptly disclose to the chief executive officer or designee any Invention owned by the Board as defined in this policy. Disclosure shall be made on a disclosure form prescribed by and available from the chief executive officer or designee. Such persons shall fully cooperate with the institution or agency in protecting intellectual property rights in the Invention, should the institution or agency determine that such protection is warranted.

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(2) All inventors shall execute appropriate assignment and/or other documents required to set forth effectively the ownership of and rights to Inventions.

(3) The chief executive officer or designee will determine whether the institution or agency desires to commit funding to obtain protection for the Invention, and shall notify the inventor of the decision. The chief executive officer or designee may seek to identify one or more licensees who will bear the cost of obtaining patent protection.

(4) In those instances where the inventor perceives that delay would jeopardize obtaining the appropriate protection for the Invention, the inventor may request that the institution or agency expedite its decision as to whether or not it shall proceed to file a patent application or take other steps to obtain available protection. The institution shall have a minimum of ninety (90) days from date of Inventor's request (longer if allowed by institutional policy) to allow for proper application of protection during which time the inventor shall not publicly disclose details of the invention. The institution or agency shall inform inventor in writing in a timely manner, if institution does not to proceed to file a patent application.

(5) **Release of Ownership to Inventor:** In those instances when the chief officer or designee determines not to commit funding to obtain protection for the Invention, the institution shall notify the inventor and shall release right of ownership and title to the inventor pursuant to the terms of such release as set forth in this policy, or as consistent with an applicable grant or contract funding agreement.

d. Negotiation and Execution of License Agreements for Inventions

(1) **Board Fiscal Policies:** License agreements granting the right to use, develop, or otherwise commercialize Board-owned Inventions are encouraged. Subject to the limits in the Board's fiscal policies_____, the chief executive officer or designee is delegated the primary responsibility for negotiating with parties having an interest in such activities, on behalf of institutions or agencies administering the research from which the Invention was developed.

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(3) **Approval:** Final terms of a license agreement for a Board-owned Invention must be approved by the chief executive officer or designee of the institution or agency.

(4) **Reporting to the Board:** Each institution and agency shall report to the Board annually in October on all license agreements for the prior year. The form and content of such reports shall be uniform in nature as prescribed by the executive director.

f. Obligations to Sponsors

The chief executive officer or designee(s) shall ensure compliance with reporting requirements and other obligations to research sponsors regarding Inventions developed under a research contract or grant, including but not limited to obligations to the United States under federal law.

5. Management of Copyrightable Works

a. Rights of Authors

The Board encourages the preparation and publication of Copyrightable Works that result from teaching, research, and scholarly and artistic endeavors by members of the faculty, staff and student body of Board-governed institutions and agencies and employees of the Board. Authors shall be permitted maximum freedom with respect to their Copyrightable Works, consistent with their obligations to the Board and the Board-governed institution or agency and sponsors.

b. Ownership of Copyrightable Works

(1) Books, Articles, and Similar Works

a. Scholarly or Artistic Works

i. In keeping with academic tradition, and except to the extent required by the terms of any funding agreement, the Board does not claim ownership in textbooks, scholarly, or artistic works, regardless of their form of expression, except for works for hire or those created with significant use of institutional resources as listed in 5.b.2. and 5.b.3.

ii. Mediated courseware that is self-initiated and developed without specific direction by the institution, and does not use Significant Resources as defined by this policy, shall be owned

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by the author unless otherwise agreed. Normally, no royalty, rent or other consideration shall be paid to the employee when that mediated courseware is used for instruction at the institution and such mediated courseware shall not be used or modified without the consent of the creator(s). The mediated courseware shall not be sold, leased, rented or otherwise used in a manner that competes with the for-credit offering of his/her own institution unless that transaction has received the approval of the chief executive officer, or designee.

b. Board Retained Rights

If title to copyrighted works defined within these policies vests in the Board by law or policy, the institution or agency will, on behalf of the Board, upon request and to the extent consistent with its legal obligations, convey copyright to the authors of such Copyrightable Works. If a faculty member retains or is conveyed title to copyright in teaching or course materials that are not works for hire, such as class notes, curriculum guides, CD-ROMs, videos, and multi-media materials, the Board and/or the Board-governed institution or agency shall retain the perpetual, non-exclusive, world-wide, royalty-free rights to use the materials for educational, research, and service purposes at any institution or agency under the Board's governance.

(2) Institutional Works or "Works for Hire"

- i. The Board shall retain ownership of Copyrightable Works created as Works for Hire and works created as institutional rather than personal efforts, that is, created for institutional purposes in the course of the creators' employment, including but not limited to simultaneous or sequential contributions over time by numerous faculty, staff or students. The Board owns all right, title and interest in such Institutional Works.
- ii. The Board shall retain ownership of institution-directed mediated courseware. Institution-directed mediated courseware is courseware that is specifically directed by the Board or Board-governed agency by assigning one or more faculty, staff, or employees to develop the courseware and supplies the faculty, staff, or employees with materials and time to develop the courseware.

(3) Works Developed with Use of Significant Resources

- i. Copyrightable Works that are not Works for Hire but are works that are developed with Significant Resources shall be owned by the Board. As previously stated, the Board recognizes and affirms the traditional academic freedom of its faculty and staff to seek to publish pedagogical, scholarly, or artistic works without restriction. Thus, the Board will not retain ownership to traditional academic, scholarly or artistic works.

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ii. Self-Mediated Courseware that are developed with the use of Significant Resources as defined by this policy shall be owned by the Board, unless otherwise negotiated with the chief executive officer, or designee.

(4) Grants, Contracts or Sponsored Works

Title to Copyrightable Works that are not works for hire but are works that are developed in the course of or resulting from creative or intellectual work products supported by a grant or contract shall be determined in accordance with the terms of the grant or contract. In the absence of such terms and to the extent consistent with copyright law, such works shall be owned by the Board, as provided in these policies.

(5) Obligations of Employees and Others

Persons covered by this policy shall, upon request by the chief executive officer or designee, of the institution or agency, in order to perfect intellectual property rights, execute an assignment agreement in a form prescribed by and available from the chief executive officer or designee to set forth effectively the ownership of and rights to Copyrightable Works. Executed assignment agreements shall be maintained as determined by the chief executive officer or designee of the institution or agency.

c. Disclosure, Assignment, and Protection

(1) Authors of Copyrightable Works that are not owned by the Board or not subject to the terms of a funding agreement own the copyrights in their works and are free to publish them, register the copyright, and to receive any revenues which may result therefrom.

(2) Authors of Copyrightable Works that are owned by the Board under paragraphs 5.b.(2), 5.b.(3) and 5.b.(4) above shall promptly disclose to their chief executive officer or designee any work of authorship covered by this policy, including those made under sponsored research or cooperative arrangements. Disclosure shall be made on a disclosure form prescribed by and available from the chief executive officer or designee and a copy shall be filed with the office designated by the chief executive officer or designee. Such persons shall fully cooperate with the institution or agency in protecting intellectual property rights in the work of authorship. Furthermore, upon request by the chief executive officer or

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designee, in order to perfect intellectual property rights, such persons shall warrant that, to the best of his/her knowledge, the work does not infringe upon any existing copyright or other legal rights, that work not identified as quotations is the expression or creation of the author; and that necessary permission for quotation and the use of third party works has been obtained.

d. Negotiation and Execution of Agreements for Copyrightable Works

Agreements permitting a party to use, develop, or otherwise commercialize Copyrightable Works owned by the Board are encouraged. The chief executive officer, or designee, is delegated primary responsibility for negotiating with third parties having an interest in using, developing or otherwise commercializing Copyrightable Works owned by the Board. Each institution shall report to the Board annually in October all license agreements for the prior year. The form and content of such reports shall be uniform in nature as prescribed by the executive director.

e. Software as Patentable Subject Matter

In recent years, the United States Patent and Trademark Office has determined that software which meets certain technical and legal criteria may be patentable. In the case that software originally thought to be a Copyrightable Work subsequently is determined to be patentable subject matter, ownership and management of the software shall be determined as for Inventions.

6. Distribution of Income from Commercialization and Licensing

a. Income

Income is defined as all royalties, proceeds, dividends, payments or monetary compensation of any sort with the following exceptions: gifts, sponsored research, non-monetary payments, or endowed chairs.

b. Distribution of Income from Inventions

(1) All income from commercialization of Board-owned inventions are the property of the relevant institution or agency. Income received by an institution or agency from commercialization of an Invention will be distributed as follows:

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a. All costs and expenses, including but not limited to, establishing, maintaining, licensing and defending a patent, including all direct costs of prosecuting infringements of patented inventions. Deduct the costs of obtaining legal protection for the invention to arrive at "adjusted income" (when such costs are not provided from other sources).

b. Distribution of the remaining income shall be as follows: to the institution, agency, institutional research office or institutional research foundation (but not to a for-profit management firm or other private agent) an amount not less than fifty percent (50%).

(2) Any other distribution must have the express prior approval of the Board.

(3) In the event of multiple inventors, the inventors will agree among themselves as to the distribution of the income accruing to the inventors; distribution of the inventors' share shall be made only upon receipt of an appropriate signed agreement among the inventors. If the inventors fail to provide the institution with an agreement upon request of the institution, the institution shall distribute the income in equal shares to the inventors. In the event that an inventor is a joint employee of two or more institutions or agencies, or in the event that inventors represent two or more institutions or agencies, the institutions and/or agencies will agree as to the distribution of the income accruing to the institutions and/or agencies, considering such factors as annualized FTE by component and relative contributions of the inventors to the work.

(4) All compensation, in any form, derived from an Invention not defined as income, shall be property of the Board-governed institution or agency.

c. Distribution of Income from Copyrightable Works

All income from commercialization of Copyrightable Works are the property of the institution or agency from which the work emerged. Income received from commercialization of Copyrightable Works will be distributed as follows:

(1) Works for Hire

The relevant institution or agency shall be entitled to all income from distribution or commercialization of Works for Hire.

(2) Works Developed with Significant Use of Resources

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Distribution of income shall be made in accordance with steps described in paragraph 6.b. above.

In the event of multiple authors, the authors will agree among themselves as to the distribution of the income accruing to the authors; distribution of the authors' share shall be made only upon receipt of a signed agreement among the authors. If the authors fail to provide the institution with an agreement upon request of the institution, the institution shall distribute the income in equal shares to the authors. In the event that an author is a joint employee of two or more institutions or agencies, or in the event that authors represent two or more institutions or agencies, the institutions or agencies will agree as to the distribution of the income accruing to each, considering such factors as annualized FTE by institution or agency and relative contributions of the authors to the work.

d. Equity and Other Non-monetary Returns

(1) Board-governed institutions and agencies may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to royalty and/or monetary consideration as a part of an agreement relating to Inventions or Copyrightable Works.

(2) Inventors and authors may, at the option of the institution or agency, receive up to fifty percent (50%) of any equity or other non-monetary consideration received by the institution or agency under this section. However, the institution or agency may choose to receive the consideration under terms that restrict its ability to sell, distribute, or otherwise deal with the equity interests. In such cases, any restrictions on the institution's or agency's interest shall be equally applicable to the interest of the inventor or author, unless waived or varied in writing and signed by the chief executive officer or designee and the inventor (for inventions), or by the chief executive officer, or designee, and the authors (for Copyrightable Works).

(3) Neither the Board nor any Board-governed institutions or agencies acts as a fiduciary for any person concerning equity or other consideration received under the terms of this policy.

7. Trademarks

Generally, a Trademark identifies an athletic, educational, service, public relations, research, or training program of an institution or agency. The Board owns all right, title, and interest in such Trademarks. Subject to the Board's fiscal policies_____, each institution and

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agency shall report to the Board annually in October on all license agreements for the prior year. The form and content of such reports shall be uniform in nature as prescribed by the executive director. Board-governed institutions and agencies may use and license the use of Trademarks related to the particular institution or agency directly or through one or more appropriate agents. All income from the licensing of a Trademark shall belong to the relevant institution or agency.

8. Trade Secrets

This section is applicable only to trade secrets of Board-governed institutions or agencies. Trade secret protection may be available under state law for technical or business information, including formulae, processes and devices used or usable to achieve a competitive advantage in a trade or business and not publicly available. Trade secrets may be retained for specific purposes, such as to allow for the preservation of rights to file a patent application.

9. Tangible Research Property

a. The Board owns all right, title, and interest in Tangible Research Property resulting from a Work-for-Hire or the use of Significant Resources. Ownership of Tangible Research Property pursuant to a grant or contract funding agreement shall be determined in accordance with the grant or contract.

b. For purposes of management of the asset, Tangible Research Property shall be managed as an Invention with distribution of income from the distribution or commercialization of such Tangible Research Property made in accordance with policies regarding inventions.

10. Provisions for Release of Rights to Inventors and Authors

a. Release of Rights: An institution or agency, on behalf of the Board, may, subject to the terms of any applicable grant or contract funding agreements, release to the inventor(s) all the rights, including the title, to an Invention, may release to an author the rights to a Copyrightable Work, and may release to an employee certain items of tangible research property, subject to the Board's retained rights as provided for in paragraph 10.b. below.

b. Retained Rights: The institution or agency shall retain, on behalf of the Board, a perpetual, royalty-free, world-wide, non-exclusive license to all rights granted or created by the patent or copyright for the Invention or Copyrightable Work, and any corresponding patents or copyrights, for research, education, and service purposes.

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11. Departing and Former Employees

Persons who are leaving the employ of the Board or a Board-governed institution or agency shall disclose no later than the last day of employment to the chief executive officer or designee of the institution or agency on a form prescribed by and available from the chief executive officer or designee all work or projects that are Works-for-Hire or Inventions in which the employee has participated as an employee of the Board. Former employees of the Board or a Board-governed institution or agency are under a continuing obligation to make the disclosures and assignments required under this policy. All items or materials, including tangible research property, critical to establishing a point of invention or creation may be maintained by the institution or agency unless released to the employee, pursuant to Section 10 above.

12. Dispute Resolution

Disputes concerning the application of this policy, including but not limited to the ownership of Intellectual Property, shall be submitted to and considered by the chief research officer or designee of the institution or agency under such policies as are adopted by the institution or agency. After due consideration of the information submitted by the parties, the chief research officer or designee shall make a non-binding recommendation, and state the basis therefore, to the chief executive officer or designee of the institution or agency. The chief executive officer, or designee, shall, if requested by the other involved party, appoint a hearing officer who is an attorney licensed in the state of Idaho, who is not an employee at a Board-governed entity, who shall review the entire proceedings thus far, and shall direct other proceedings as he or she shall deem necessary and shall then deliver a recommendation to the chief executive officer, or designee, who shall render a decision. The decision may be appealed to the Board as provided in applicable Board policy.

13. Relationship with Research Foundations

- a.** The Board authorizes each Board-governed institution and agency to cause the creation of one or more non-profit research foundations affiliated with the institution or agency.
- b.** The chief executive officer or designee shall develop a master agreement setting forth the relationship between the institution or agency and the research foundation. The master agreement, and any material changes thereto, shall be subject to prior approval by the Board.

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The master agreement shall set forth, at a minimum, practices and procedures relating to the relationship of the institution or agency with the research foundation and the conduct of the research foundation's business.

c. Board-governed institutions and agencies need not create or use research foundations, or they may use research foundations for the management, transfer, and licensing of some types of intellectual property but not others.

d. Institutions and agencies are authorized to utilize intellectual property management firms in lieu of research foundations for their management and technology transfer activities.

14. Repeal of Institutional and Agency Policies and Adoption of New Policies

a. The chief executive officer or designee of each Board-governed institution and agency shall cause all institutional or agency policies to be reviewed by legal counsel for conflicts with this policy. Such review shall be completed no later than July 1, 2002. Any policies, or portions thereof, found to be in conflict with this policy by the chief executive officer or designee are hereby repealed.

b. The chief executive officer or designee is hereby authorized and required to adopt new policies necessary or desirable to implement this policy at the institutional or agency level. Such policies shall be submitted to the Board as information items no later than July 1, 2002.