

1. Objectives and Purposes

The State Board of Education, on behalf of the State of Idaho, and the Board of Regents, on behalf of the University of Idaho, (hereinafter collectively referred to as the “Board”) recognizes intellectual property, including patentable inventions and copyrightable works, may be the natural outgrowth of the educational, research, and outreach missions of Idaho’s postsecondary education institutions. The Board is dedicated to promoting the beneficial use of such intellectual property for Idaho and the nation. This intellectual property policy seeks to balance the institutional obligation to preserve open access and inquiry with the concomitant obligation to foster and advance the dissemination and use of institutional intellectual property for the public benefit, which may occur through development of protectable discoveries and inventions through rigorous scientific investigation and research, and the development, acquisition, and licensing of patents and other intellectual property for the economic growth and development of Idaho and the nation.

In furtherance of this objective, institutions when assigning, transferring, selling or licensing inventions, or patents or other intellectual property owned by the institutions, shall do so:

- a. to entities that make, market and sell products or services or that contractually agree to do so in connection with the licensed or transferred intellectual property;
- b. where the primary purpose of such assignment, transfer, sale or license directly aids and promotes the further development and commercialization of licensed products or services by such entity, and is not intended primarily for the purpose of further licensing or sublicensing such invention or patent to third parties for monetary gain only;
- c. where necessary for the institution to perform or have performed sponsored research or other institutional activities, including compliance with applicable requirements of law or contract associated with such research or other activity; or
- d. where the transferee is a non-profit entity engaged in research and education and the assignment, transfer, sale or license promotes further research and education for the public good and does not unduly impact use of the intellectual property to contribute to economic growth and development.

Any such transfer of institution intellectual property shall be made in accordance with the Idaho Institution Technology Licensing Guidelines, adopted by the Board June 2013.

2. Intellectual Property

- a. Definition. Intellectual property includes, but is not limited to, any invention, discovery, creation, know-how, trade secret, technology, scientific or technological development, plant variety, research data, mark, design, mask

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work, work of authorship, and computer software regardless of whether subject to protection under patent, trademark, copyright or other laws.

- b. Claim of ownership interest. The Board, on behalf of the State of Idaho, through and by Idaho's postsecondary educational institutions under the governance of the Board (hereinafter referred to as "institutions") claims ownership of any intellectual property developed under any of the following circumstances:
 - i. Arising from any work performed by an employee of any institution during the course of their duties to the institution;
 - ii. Arising from any use by an employee of an institution or other person use of Board or institution resources not openly available to members of the general public including, but not limited to, laboratories, studios, equipment, production facilities, office space, personnel, or specialized computing resources; or
 - iii. Arising from any work performed by an employee of an institution under contract in a program or project sponsored by an institution or between institutions or a closely related research foundation.
- c. Disclaimer of ownership interest. The Board claims no ownership interest in any intellectual property developed by the employee(s) or other person(s), including but not limited to contractor(s) of an institution under the following circumstances:
 - i. When the work is performed outside the assigned duties of the employee/other person; and
 - ii. When the employee/other person is without benefit of Board or institution facilities except libraries.
- d. Policy review. Institutional policies setting out technology transfer administration, including evaluating, financing, assignment, marketing, protection, and the division and use of royalties, as well as amendments thereto, must be submitted to the Board for its review and approval.
- e. Condition of employment. Institution employees and contractors, as a condition of employment or contract, shall adhere to this policy and the Board approved institutional policy on intellectual property and shall assign to the institution all right, title, and interest in intellectual property to which the Board claims ownership under this policy or the institution claims ownership under its institutional policy and shall assign any related applications for legal protection of such intellectual property.

3. Copyrights

- a. Notwithstanding Section 2.c. of this Policy, when institution employees/other persons are specially ordered or commissioned to produce specific work, the institution reserves the right to seek and obtain registration of copyright for such works in the name of the State of Idaho or the institution or to use such work without securing a copyright registration.
- b. Except as noted in Section 3.a. above, neither the Board nor any institution is required to claim an ownership interest in works submitted for publication, performance or display by institution employees/other persons. Instead, institutions subject to this policy may elect, by contract or institutional policy, to claim an interest in copyrightable material produced, in whole or part, by their employees or other persons subject to this policy. Institutional policy shall provide for institutional ownership in circumstances including, but not limited to, the following:
 - i. In cases of specific contracts providing for institutional ownership,
 - ii. In cases where the constituent institution or sponsor may employ personnel for the purpose of producing a specific work,
 - iii. Where institutional ownership is deemed necessary in order to reflect the contribution of the institution to the work, or
 - iv. Where a sponsored agreement requires institutional ownership.

4. Intellectual Property Transfer

- a. The Board delegates to the institutions the right to transfer, convey, license, or disclaim, in accordance with the Institution Technology Licensing Guidelines, rights in intellectual properties developed within each respective institution. This policy allows the institutions to effect knowledge transfer and foster economic growth and development. Under this policy, each respective institution may:
 - i. Grant any or all intellectual property rights to affiliated research foundations for further development or transfer.
 - ii. Sell, assign, transfer, or exclusively or non-exclusively license intellectual property rights owned by the institution to for-profit, non-profit, and/or governmental entities that make, market and sell products or services or that contractually agree to do so in connection with the transferred or licensed intellectual property, or where the primary purpose of such assignment, transfer, sale or license directly aids and promotes the further development of

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- the intellectual property or commercialization of products or services or the underlying intellectual property by such entity. However, such assignment, transfer, sale or license to third parties must not be for monetary gain only.
- iii. Sell assign, transfer, or exclusively or non-exclusively license to institution employees or other persons subject to this policy.
 - iv. Collect and disburse license payments in accordance with institutional policy to inventors and their departments and colleges, as well as to their institutions.
 - v. Permit institutional employees the right to participate in ownership and governance of for-profit, non-profit, and/or governmental entities that licensed institutional intellectual property to produce and market products and technology based on or derived from the license of the intellectual property, subject to the conflict of interest policies set forth in Idaho State Board of Education Governing Policies and Procedures, Section I.G. and II.Q.
- b. Each institution shall develop an institutional policy on technology transfer. At a minimum, an institution's policy shall include:
- i. The name of the institutional position (or office) with the authority and responsibility for carrying out the policy and binding the institution contractually.
 - ii. Policy and plans for patent acquisition (i.e., who initiates, who pays the lawyers, and an enumeration of the duties, responsibilities, and a process for settling debates).
 - iii. The range of allowable institutional involvement in the transfer process (i.e., from licensing to acceptance of institutional ownership interests, continued development in institutional facilities for the benefit of the licensee, business planning or production assistance).
 - iv. The requirement that institution employees and other persons subject to this Board policy make a present assignment to the institution of rights, including future rights, in intellectual property to which the Board claims ownership by this policy and/or the institution claims ownership by its institutional policy and in any related applications for legal protection of such intellectual property.
- c. At the request of the Board the appropriate officer of each institution shall report on technology transfer activities that have occurred at the institution and the general effectiveness of the institution in deploying technology. Institutions should report performance data through the annual Association of University Technology Licensing survey. The report shall also indicate whether any

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employees of the institution or its respective research foundation have a financial interest in the entity to which the intellectual property rights were conveyed. Terms of any license or technology transfer contract will be made available in confidence upon request for inspection by the Board.