

CRO Agenda Item - Ownership of Student Developed Inventions

Attached is a document that has been prepared to assist the campus technology transfer offices in making ownership determinations of student developed inventions. We have discovered, however, that there are some situations where, even with the assistance of the document, application of the policy has been difficult or there has been disagreement.

We are working to clarify the university's policy as it relates to ownership of student developed inventions. To that end, I would appreciate your input on what you believe the university's policy should be for inventions developed by students under each of the below scenarios. Specifically, I want to know who you believe should own the rights to the invention and what you believe the university should require of the students in terms of disclosing the invention or other reporting.

1. The invention was developed by a student as part of a university class project, excluding sponsored research, using no greater university resources than those generally available to all other students within the class or than those available to the student as part of his/her enrollment with the university.
2. The invention was developed by a student as part of a university approved student competition using no greater university resources than those generally available to all other students within the competition or than those available to the student as part of his/her enrollment with the university. The student shall be entitled to receive any monetary or other prize awarded to the student for his/her performance under such competition in accordance with the rules of the competition and such prize shall not be considered compensation under Section 100.020, C.2 of the Collected Rules & Regulations.
3. The invention was developed by a student as part of a university approved extracurricular activity, using no greater university resources than those generally available to all other students participating in the activity or than those available to the student as part of his/her enrollment with the university.
4. The invention was developed by a student on his/her own free time, outside of any university class or sponsored activity, and using no greater university resources than those generally available to all other students as part of their enrollment with the university.

In addition to the above, if you can think of other examples of situations that could be impacted, either positively or negatively, by the university's policy on student developed inventions, please bring those thoughts to the meeting as well.

Interpretive Analysis of the University's Collected Rules & Regulations in Regard to Student Developed Inventions

A. Reporting of Inventions. Every invention made by a student of the University engaged in academic work utilizing facilities of the University shall be reported to the University [100.020 D.2.a.(1)]. However, not every invention required to be reported under Section 100.020 D.2.a.(1) will require assignment to the University.

B. Determination of "Employee". As it relates to the Patent and Plant Variety Regulations, a student shall be deemed an employee of the University if any of the following conditions are met:

1. A [student] is receiving compensation from the University for services rendered, regardless of whether full-time or part-time. [100.020, C.2.]
2. A [student] is receiving compensation paid through the University from any funds placed in its hands for distribution. [100.020, C.2.]
3. A student or graduate assistant with or without monetary compensation is working on any project under the direction and control of the University [100.020, C.2.]. In making a determination of whether the project is under the direction and control of the University, you should consider all relevant factors including, but not limited to, the following:
 - (a) Whether the University established eligibility criteria for participation in the project.
 - (b) Whether the University selects the participants from among those eligible.
 - (c) Degree of presence or lack of presence at the project site by a faculty advisor, University supervisor, or other University employee.
 - (d) Extent of supervision exercised by a faculty advisor, University supervisor, or other University employee.
 - (e) Degree to which University-provided tools, equipment, and supplies were utilized in the development of the invention.
 - (f) Degree to which University-provided funds were used in the development of the invention.
 - (g) Existence and terms of any signed agreement required as a condition of participation.

C. Assignment Required. If any of the conditions of B.1-3 above are met, the student would meet the definition of employee in Section 100.020, C.2. and, therefore, would be required to assign his/her invention to the University when the following are also met:

1. The invention was developed in the course of the employee's service to the University [100.020, D.1.a.]; and
2. The invention was made within the general scope of his/her duties as employee of the University [100.020, D.1.a.]. For the invention to be considered made

within the general scope of the employee's duties for the University, either of the following conditions must be met:

- (1) The employee's duties include research or investigation, and the invention arose in the course of such research or investigation and is relevant to the general field of an inquiry to which the student was assigned. [100.020, D.1.a.(1)]; or
- (2) The invention was in a substantial degree made or developed through the use of University facilities or financing, or on University time, or through the aid of University information not available to the public. [100.020, D.1.a.(2)]

D. Assignment Not Required. If none of the conditions of B. 1-3 above are met, the student would not meet the definition of employee in Section 100.020, C.2. and, therefore, would not be required to assign his/her invention to the University.