Chapter 30 – University of Iowa Intellectual Property Policy

(Amended 2/28/05; 12/09; 8/17; 1/19)

Effective August 2017 January 2019, this policy has been revised. For individual changes, see the redlined version.

30.1 Intellectual Property Policy Statement

The University's policy on intellectual property pertains to inventions and copyrightable works created by its faculty members, staff members, postdoctoral appointees, students, and visiting scientists/scholars. Because there are differences between the legal and academic treatment of copyrightable works and inventions, the University provides two companion policy statements: an Inventions Policy and a Copyright Policy.

As used in this policy, "visiting scientists/scholars" means persons who are not University employees, appointees, or students, but who may nevertheless visit the University to engage in research, scientific, scholarly, or related activities; "Unit" means a department, center, institute, or other similar administrative unit.

30.2 Administration of Intellectual Property Policy

The University of Iowa Intellectual Property Policy, comprising its Inventions Policy and its Copyright Policy, shall be administered under the oversight of the Vice President for Research and Economic DevelopmentResearch. The Vice President shall appoint an Intellectual Property Committee. The role of the Intellectual Property Committee shall be to advise the Vice President for Research and Economic DevelopmentResearch regarding intellectual property matters including, but not limited to,
the resolution of disputes arising from the application of the policy; in addition, the committee shall advise the Vice President of any need for altering the policy or its administrative implementation. In appointing members of the Intellectual Property Committee, the Vice President shall seek to include members from all constituencies affected by the policy. The Vice President will seek advice prior to appointing committee members from such established groups as the Faculty Senate, the Research Council, the Staff Council, Undergraduate Student Government, and Graduate and Professional Student Government.

This policy shall apply prospectively to all inventions and copyright works disclosed on or after the date of its approval, February 28, 2005. Distribution of proceeds and income for inventions and copyrightable works disclosed to the University of Iowa Research Foundation prior to such an amendment shall continue to follow the distribution in effect on the date the invention or copyrightable work was disclosed.

30.3 University of Iowa Inventions Policy

(Amended 12/09; 8/17; 1/19)

a. Introduction.

(1) Inventions and nature of a patent. An "invention" is generally anything that is created, discovered, or devised with some novel, useful, and non-obvious characteristics, and which is therefore potentially patentable under United States patent law. "Patent protection" provides the owner with a limited period of time in which the owner can exclude others from making, using, offering to sell, or selling the invention. The resulting temporary exclusive rights to the invention can provide an incentive for a patent owner or a licensee to invest the resources required to advance the invention toward commercialization and use by the public. In return for offering temporary exclusive rights to the owner of a patent, a government requires the owner of the patent to make details of the invention available to the public in the patent document. Under United States law, the life of a patent extends 20 years from the date of application.

A "patent" is the grant of a property right by a government to the owner of an invention. Unlike copyright protections, patent rights do not follow automatically from the act of creation. The inventor or the patent's owner generally must request patent protection from the government of each country in which a patent is desired. The Patent Office in each country then will examine the application against its own laws and regulations and will — in due course — either deny or allow the grant of a patent in its jurisdiction. Because patent laws and
associated administrative procedures are fairly complex, patent applications generally are prepared and prosecuted by specialists working on behalf of the inventor or owner.

(2) Inventions eligible for patent protection. In the United States, an invention or discovery may be eligible for patent protection if it is a process, a machine, a manufactured object, a composition of matter, or a new use or improvement of any of the preceding.

If an invention meets the threshold eligibility conditions for patenting, it still must meet additional criteria in order to earn a patent. Under U.S. law, a patented invention must be useful, novel, not obvious, and supported by adequate information.

(3) Nature of inventorship. To be named as an "inventor" on a patent, an individual must have made an original contribution to the conceptualization of the invention as it is defined in the patent. The aspects of a patent that assert the defining elements of an invention are called the "claims" of the patent. If an individual has made a contribution to the conceptualization of any one defining claim of a patent, then he or she is an "inventor" of the claimed invention. If any individual is responsible for all the claims of a patent, then he or she is the sole inventor of the patent. In any other situation, the patent will have more than one co-inventor. One is not an inventor if his or her contribution was limited to "reducing to practice" the conception of the invention.

(4) Objectives of the University of Iowa Inventions Policy. The primary objective of the University of Iowa Inventions Policy is to enable the public to use and benefit from inventions originating at the University. In pursuing this objective, the University will seek to manage inventions in a way that advances the missions of the institution, including research and scholarship. The Inventions Policy further provides a framework for the orderly transfer of inventions to the private sector in exchange for equitable compensation to the institution as well as to individual inventors. In keeping with the University's objectives, the policy directs that portions of the institutional earnings from qualifying inventions will support research broadly across campus, research related to the qualifying inventions, and administrative efforts to secure and manage additional intellectual property rights.

b. Policy.

(1) Summary of the Inventions Policy. Through its designee, the University of Iowa Research Foundation (UIRF), the University has ownership of rights in qualifying inventions made by its employees and appointees. In a limited number of situations, the University, through its designee, has ownership of rights in qualifying inventions made by students and visiting
scientists/scholars. Earnings from qualifying inventions subject to this policy will be distributed according to the provisions of this policy.

(2) Applicability of the Inventions Policy. The policy applies to inventions meeting either of the criteria below. For convenience, inventions meeting either of these criteria will be designated as "qualifying inventions."

(a) Inventions made by University employees or postdoctoral appointees in the scope of their employment or appointment, including inventions which can be viewed as an extension of the inventor's/inventors' University research.

(b) Inventions enabled by significant use of University resources when made by University employees, postdoctoral appointees, students whose inventive contribution did not arise from employment by the University, or visiting scientists/scholars not employed by the University. In both paragraph (a) above and paragraph (b), "employees" includes faculty members, staff members, part-time employees, and student employees.

The following, when customarily provided to inventors in their respective disciplines and units, shall not be considered significant use of University resources: salary, developmental assignment or award, library resources, computers, communications technologies, secretarial services, assigned offices, and utilities.

Significant use of University resources may include: use of substantial funds received by the University through a contract or grant, use of funds allocated from internal discretionary pools, assistance of support staff outside of the inventor's department or unit, or assistance of support staff from the inventor's department when such assistance is greater than that normally provided others in the department. Significant use of University resources also may include use of shared research equipment or facilities, or use of preexisting intellectual property in which the University has rights.

(3) Role of the University of Iowa Research Foundation. The University of Iowa designates the University of Iowa Research Foundation (UIRF) as the owner of its patent rights and manager of its interests in qualifying inventions.

(4) Disclosure required. Any individual who believes that he or she has made, or contributed to the making of, a qualifying invention must disclose the invention in writing to the UIRF on the Invention Disclosure Form provided by the UIRF.

(5) University rights in qualifying inventions. On behalf of the University, the UIRF assumes ownership of rights in qualifying inventions. In order for the UIRF to assume ownership,
inventors subject to this policy assign to the UIRF their entire right in the qualifying invention and provide reasonable assistance to the UIRF in obtaining patent protection and in commercializing the qualifying invention. In the case of qualifying inventions arising from federal research support, such ownership by the UIRF is necessary to enable the University to meet its obligations to the federal government under sponsored research awards and federal law. Inventors agree, at the time of and by internally routing sponsored projects, to comply with this policy, and the certifications made by principal investigators during that routing process include a present assignment of rights in qualifying inventions. The University's right to require assignment of rights in qualifying inventions from its employees or appointees is understood as a condition of employment or appointment. The University includes a present assignment of rights in qualifying inventions in its hiring documents for new appointments, renewals, and changes in appointment, and expects all other current employees who are not currently the subject of such hiring documents to make such an assignment via University systems. Similarly, the limited right of the University to claim ownership of rights in qualifying inventions made by non-employee students and by visiting scientists/scholars is understood as a condition of their access to and significant use of University resources. The University includes obtains a present assignment of rights in qualifying inventions in its during the enrollment document-process for students. Visiting scientists/scholars must sign a visiting scientist/scholar agreement acknowledging in writing their awareness of this policy and making a present assignment of rights in qualifying inventions before having access to and significantly using University resources.

No inventor of a qualifying invention has the authority to assign, license, or otherwise dispose of an existing or future qualifying invention except to the University or its designee pursuant to this policy. Faculty and staff who engage in outside consulting or other external activities are responsible for ensuring that any agreements relating to those activities are not in conflict with this policy, with any applicable University of Iowa Health Care policies, or with the University's rights or ownership interests in any qualifying inventions. Such faculty and staff are encouraged to work with the UIRF on the possibility of creating an inter-institutional agreement for the management of inventions and/or patents which are or could be jointly owned by the UIRF and the external entity for whom the faculty or staff is consulting.

If the UIRF informs in writing the University inventor(s) that it does not wish to file a patent application in any territory based on a disclosure by the inventor(s), the inventor(s) may request from the UIRF an opportunity to take on the prosecution of the patent application. The inventor(s) may request that the UIRF waive its rights to the invention in the territory(ies) in
which the UIRF has elected not to file. The UIRF will not unreasonably deny such a request. However, any waiver of rights will be subject to the interests of any third parties, including, but not limited to, sponsors of the research leading to the invention. In addition, any waiver of the institution's rights in the patent application will expressly allow the University to continue to use the invention for research purposes and will be limited to the scope of the invention as disclosed and as used as a basis for the UIRF's determination not to file an application in the territory(ies). The UIRF waiver of institutional interest in an invention may result in personal ownership of the invention by University inventor(s) who wish to conduct further research on the invention within the institution. Such inventor(s) should be mindful that use of personally owned patents in an institutional setting may create a conflict of interest requiring disclosure and management under the institution's policies pertaining to conflict of interest (https://coi.research.uiowa.edu).

(6) Licensure of inventions assigned to the UIRF. Consistent with the objectives of this policy and subject to the rights of any other parties, the UIRF will seek diligently to license to others the rights in qualifying inventions assigned to it.

(7) Distribution of proceeds of licensure. The UIRF shall receive all payments due under a license and shall distribute such earnings under the terms of this policy within 45 days from the end of the quarter in which the earnings were received. Prior to any distribution, the UIRF shall recover any out-of-pocket expenses incurred by (a) the UIRF, (b) colleges, and/or (c) Units in applying for the licensed patent(s), maintaining the licensed patent(s), defending the licensed patent(s), developing the invention for marketing, and marketing the invention to potential licensees. Also prior to any distribution under this policy, the UIRF shall make any payments to others required by agreements, including but not limited to inter-institutional agreements for the management of jointly owned patents. Gross UIRF earnings, less its out-of-pocket expenses, less payments required to others, are designated as "distributable income."

Distributable income shall be allocated as follows:

(a) The first $100,000 of distributable, cumulative income earned under a single license will go to the inventor(s).

(ba) After the first $100,000 is distributed to the inventor(s), any further distributable income will be allocated as follows unless income in any fiscal year triggers the conditions of V-30.3b(7)(cb) below:

(i) 25% of distributable income to University inventor(s)

(ii) 25% of distributable income to the UIRF
(iii) 20% of distributable income to an institutional "research enrichment fund" (REF) administered on a discretionary basis by the University of Iowa Vice President for Research and Economic Development.

(iv) 15% of distributable income to the department (or, in the absence of a department, the comparable center/institute/unit) from which the invention arose (or, in the absence of a Unit, to the college).

(v) 15% of distributable income to the college from which the invention arose (or, in the absence of a college, to the REF).

(b) In the event that income from a single license or licensure of a single patent or set of patents exceeds $10 million in any single fiscal year, the University itself shall be granted a share of distributable income in that year, it being understood that the University President shall determine the use of such institutional share, which shall include the establishment of an endowment to support the long-term operations of the UIRF. In any year in which an institutional share is awarded, the shares allocated to the UIRF, REF, college, and Unit will be reduced. The share allocated to inventor(s) shall remain at 25 percent. In the event that distributable income from a single license or from licensure of a single patent or set of patents exceeds additional thresholds over $10 million, the institutional allocation for that year shall grow while the allocations to the UIRF, REF, Unit, and college will be further reduced. The following summarizes the intention of the policy:

(i) When annual income is greater than $10 million, the next $5 million in annual income shall be distributed as follows:

   (A) Inventor(s) 25%
   (B) UIRF 20%
   (C) REF 16%
   (D) Unit from which the invention arose 12% (or, in the absence of a Unit, to the college)
   (E) College (or, in the absence of a college, to the REF) 12%
   (F) University 15%

(ii) The next $10 million in annual income shall be distributed as follows:

   (A) Inventor(s) 25%
   (B) UIRF 17%
   (C) REF 13%
(D) Unit from which the invention arose 10% (or, in the absence of a Unit, to the college)
(E) College (or, in the absence of a college, to the REF) 10%
(F) University 25%

(iii) Any further income in that year shall be distributed as:

(A) Inventor(s) 25%
(B) UIRF 13%
(C) REF 11%
(D) Unit from which the invention arose 8% (or, in the absence of a Unit, to the college)
(E) College (or, in the absence of a college, to the REF) 8%
(F) University 35%

(c) A college and/or Unit may elect to contribute to the out-of-pocket expenses for a particular invention in exchange for a larger share of distributable income. The amount of such increase will be negotiated between the UIRF and the college and/or Unit and acknowledged in writing by the Vice President for Research and the inventors. The share allocated to the college and/or Unit may increase by up to 5%, with a corresponding reduction in the share allocated to the REF.

(d) With respect to the University inventor share under V-30.3b(7)(a) or (b) above, prior to the first distribution of any revenue for a qualifying invention:

(i) University inventors may unanimously agree in writing to share a portion of their distributable income with a University employee, appointee, or student who made a contribution to the qualifying invention even though such contribution did not rise to the legal standard of inventorship.

(ii) Any individual University inventor may permanently waive in writing and assign their share of distributable income to the Unit receiving a share under V-30.3b(7)(a) or (b) above.

(iii) In the event of more than one University inventor, the University inventors will receive equal portions of the share of distributable income unless there is a modifying written agreement signed by all University inventors and approved by the UIRF.

(e) With respect to the Unit, center, institute, and/or unit or college share under V-30.3b(7)(a) or (b) above:
(i) In the event of more than one University inventor from different Units or colleges, such Units or colleges will receive portions of the share of distributable income equivalent to the share received by their inventor.

(ii) In the event of a University inventor with affiliations to multiple Units or colleges, the contribution of each Unit or college to the invention will determine what portion of the share of distributable income each Unit or college will receive. At the time of invention disclosure, the UIRF will provide the inventor with the opportunity to designate such Unit(s) or college(s) or Unit(s), and in the absence of such designation, the Unit or college share will be allocated to the inventor’s primary department and the college share will be allocated to the inventor’s primary college.

(iii) The UIRF will notify each Unit or college identified in (ii) above. A Unit or college disagreeing with a University inventor’s determination may appeal the determination using the same appeal process available to inventors under 30.3c(2).

(c) In the event that income from a single license or licensure of a single patent or set of patents exceeds $10 million in any single fiscal year, the University itself shall be granted a share of distributable income in that year, it being understood that the University President shall determine the use of such institutional share. In any year in which an institutional share is awarded, the shares allocated to the UIRF, REF, college, and department will be reduced. The share allocated to inventor(s) shall remain at 25 percent. In the event that distributable income from a single license or from licensure of a single patent or set of patents exceeds additional thresholds over $10 million, the institutional allocation for that year shall grow while the allocations to the UIRF, REF, department, and college will be further reduced. The following summarizes the intention of the policy:

(i) When annual income is greater than $10 million, the next $5 million in annual income shall be distributed as follows:

(A) Inventor(s) 25%
(B) UIRF 20%
(C) REF 16%
(D) Department (or, in the absence of a department, the comparable center/institute/unit) 12%
(E) College (or, in the absence of a college, to the REF) 12%
(F) University 15%

(ii) The next $10 million in annual income shall be distributed as follows:
(A) Inventor(s) 25%
(B) UIRF 17%
(C) REF 13%
(D) Department (or, in the absence of a department, the comparable center/institute/unit) 10%
(E) College (or, in the absence of a college, to the REF) 10%
(F) University 25%

(iii) Any further income in that year shall be distributed as:

(A) Inventor(s) 25%
(B) UIRF 13%
(C) REF 11%
(D) Department (or, in the absence of a department, the comparable center/institute/unit) 8%
(E) College (or, in the absence of a college, to the REF) 8%
(F) University 35%

(fc) Additional considerations. The UIRF shall fund its annual operating expense from its share of earnings and reimbursements. The board of the UIRF shall work with the President and the CFO of the University to identify additional contingent funding sources to supplement shortfalls in earnings generated directly by the UIRF to ensure on-going, stable operations. Excess earnings from prior years shall be used to create and maintain an operating reserve and litigation reserve adequate to perpetually sustain its operations. These reserves may be used to fund operating shortfalls. The UIRF shall from its share of earnings maintain an operating reserve and a litigation reserve adequate to perpetually sustain its operations. The board of the UIRF shall, at any time when low UIRF earnings jeopardize the UIRF’s reserves, work with the President of the University to identify and implement other means to maintain adequate reserves, such as shifting funds from other revenue streams.

When more than one University inventor is named on any licensed patent, the inventors will receive equal portions of the share of distributable income allocated to that patent unless there is a modifying written agreement signed by all inventors and approved by the UIRF.

If an inventor is appointed in more than one department, the related departmental shares
will be equivalent to the share each contributes to the inventor’s salary. If the appointing departments are in different colleges, the related collegiate shares will be pro-rated on the same basis as the departmental shares. From time to time, it may be appropriate to allocate a portion of income otherwise granted to an academic department to an organized research unit. Any share granted to a "center," "institute," or other similar, formally acknowledged organized research unit will be determined by the Vice President for Research and Economic Development after consultation with the organization’s director as well as relevant academic officers. In making any such determination, the Vice President for Research and Economic Development should consider the optimal means of advancing research at the institution.

c. Administration of the Inventions Policy.

(1) Inventions Advisory Group. The University of Iowa Intellectual Property Policy, of which this Inventions Policy is a component, shall be administered under the oversight of the Vice President for Research and Economic Development. The Vice President shall be advised on matters pertaining to the Inventions Policy by the Inventions Advisory Group, a subcommittee of the University of Iowa Intellectual Property Committee. The Intellectual Property Committee, the responsibilities and composition of which are set forth above in V-30.2 of the University’s overarching Intellectual Property Policy, shall be appointed by the Vice President for Research and Economic Development, who also shall designate those of its members who will comprise the Inventions Advisory Group. The Vice President for Research and Economic Development will consult with the Executive Vice President and Provost when designating members of the Inventions Advisory Group.

The role of the Inventions Advisory Group shall be to advise and make recommendations to the Vice President for Research and Economic Development regarding patent matters, including, but not limited to, the following:

(a) Resolution of disputes concerning the application and interpretation of the Inventions Policy;

(b) Amendments to the Inventions Policy resulting from technological and legislative changes affecting inventions and patents generally; and

(c) Changes to administrative procedures involved in the implementation of the Inventions Policy.

In addition, the Inventions Advisory Group shall provide a forum to which faculty, staff, students, and visiting scientists/scholars may refer questions and recommendations about
the Inventions Policy. Further, the Inventions Advisory Committee may advise the UIRF on the disposition of selected invention disclosures.

The day-to-day administration of the Inventions Policy will be performed on behalf of the University by the UIRF, under the supervision of the Vice President for Research and Economic Development.

(2) Appeal process. Any University faculty member, staff member, postdoctoral scholar, student, or visiting scientist/scholar who believes he or she is adversely affected by any action or non-action of the UIRF pursuant to the Inventions Policy, or any Unit or college contesting an inventor's determination under 30.3b(7)(e)(iii), may appeal such action or non-action in writing to the Vice President for Research and Economic Development, who shall consult with the Inventions Advisory Committee in considering the appeal. The resulting decision of the Vice President for Research and Economic Development may be appealed in writing to the President of the University. Where the action or non-action forming the basis for the dispute is that of the Vice President for Research and Economic Development rather than the UIRF, appeal may be made in writing directly to the President of the University.

The foregoing process does not preclude the use of either informal means to resolve the dispute or applicable grievance procedures normally available to the individual based on his or her University status. (See III-28 Conflict Management Resources for University Staff; III-29 Faculty Dispute Procedures; III-30 Student Employee Grievance Procedures; and III-31 Appeals by Employees to Board of Regents.)

d. Examples.

(1) Case P1: Faculty member A makes an invention while working under the terms of a federal research grant. The UIRF assumes ownership of the related rights in the qualifying invention. (See V-30.3b(2)(a) and V-30.3b(5).)

(2) Case P2: Faculty member B is an acknowledged expert in cancer therapy. Working at her desk at home on Saturday, she designs a chemical compound that may fight non-Hodgkins Lymphoma. The UIRF assumes ownership of the related rights because B's design work is determined to be within the scope of her University employment and the design can be viewed as an extension of B's University research. (See V-30.3b(2)(a) and V-30.3b(5).)

(3) Case P3: Researcher C is spending a year-long leave at the University. C is not an employee of the University but is assigned a laboratory at the University and is provided access to
University research equipment. Working in a University laboratory, C invents a device for monitoring airflow in a wind tunnel. The UIRF assumes ownership of the related rights in the qualifying invention. (See V-30.3b(2)(b) and V-30.3b(5).) Note that prior to beginning work at the University, C must sign a visiting scientist/scholar agreement acknowledging awareness of the University's Inventions Policy and making a present assignment of rights in qualifying inventions.

(4) Case P4: As a result of a class assignment, Student D invents a novel method of manufacturing a fine chemical. The UIRF's review of D's obligatory disclosure determines that D did not make significant use of University resources in making the invention. The UIRF may not assume ownership of the related rights in the invention. (See V-30.3b(2)(b).)

(5) Case P5: Working on her dissertation in her adviser's laboratory, Student E invents a novel method for the manufacture of a pharmaceutical agent. Review of E's obligatory disclosure determines that E did make significant use of University resources in making the invention. The UIRF assumes ownership of the related rights in the qualifying invention. (See V-30.3b(2)(b) and V-30.3b(5).)

(6) Case P6: Faculty member F makes an invention in collaboration with a colleague at another university. By application of its own patent policy, the employer of F's collaborator has an ownership right in the resulting patent because of the collaborator's inventive contribution. Similarly, the UIRF has an ownership right in the resulting patent as a result of F's inventive contribution. The UIRF and the employer of F's collaborator enter into an "inter-institutional agreement" (IIA) specifying that the joint ownership rights shall be licensed together and that any earnings from such a joint license will be divided equally. In the event the UIRF is designated in the IIA as the manager of the jointly owned patent, it would receive earnings attributable to both parties. After out-of-pocket expenses are recovered, the UIRF would disburse to its partner university its share of earnings, with the retained remainder treated as distributable income under this policy. (See V-30.3b(5).)

(7) Case P7: While conducting research with a faculty member in his or her laboratory on an institutionally or federally funded research project, Student G, though not an employee, discovers a new gene editing technique. The UIRF’s review of G’s obligatory disclosure determines that G did make significant use of University resources in making the invention. The UIRF assumes ownership of the related rights in the qualifying invention. (See V-30.3b(2)(b).)

(8) Case P8: Faculty member H develops a new medical device concept in the course of conducting research at the University. In order to maximize the probability that this concept will
be successfully reduced to practice, it is desirable for H to consult in a personal capacity with a medical device industry technology partner, company X. Company X has the specialized resources required to translate device concepts into commercial products, and will be capable of developing successful products with the personal consulting assistance of H. In order to implement this strategy, (an) interparty agreement(s) must first be reached between H, company X, and the UIRF that address(es) inventions and/or patents which are or could be jointly owned by the UIRF and company X, including the licensing and commercialization thereof. (See V-30.3b(5).)

(9) Case P9: Company Y develops a new medical device. In order to maximize the probability that this device will be successfully adopted by the medical community, it is desirable for Company Y to engage faculty member I in a personal capacity as a consultant. The consultation is outside the scope of I's University employment and does not use University resources. The UIRF may not assume ownership of rights in inventions made by I while consulting with Company Y. (See V-30.3b(2)(a) and (b).)

30.4 University of Iowa Copyright Policy

(Amended 8/17; 1/19)

a. Introduction.

(1) What is copyright? A copyright is a form of intellectual property protection provided by law for certain original works including written works, software, and selected audio, visual, or performed compositions. More detailed information on copyrights is available at https://www.copyright.gov.

The copyright protects the particular form of expression rather than the subject matter or content of the work. One cannot copyright an idea, only the particular expression of the idea. Unlike patent protection, copyright protection exists from the time an original work is created, and vests immediately when the work is fixed in a "tangible medium" for the first time. Such tangible media might include paper, a computer disk, or granite.

Holding a copyright allows the owner certain exclusive prerogatives including the right to reproduce and distribute the protected material, the right to prepare "derivative works" based on the protected material, and (in the case of various artistic works) the right to display or perform the protected work. The owner of a copyright may convey to others all or some of the
rights inherent in the copyright. For example, the owner of a copyright may "assign" all interest in the protected material to another. Alternatively, the owner of a copyright may grant a limited "permission" that allows another to use the protected material. In some cases, the owner of a copyright may grant a "license" to another that specifies the nature of any permitted uses of the copyright material.

(2) Importance of an academic copyright policy. Members of the University community — faculty, staff, and students — create each day large volumes of material that are subject to copyright protection. These various creations include such dissimilar works as scholarly monographs and journal articles, musical compositions, novels, textbooks, lectures, class outlines, poems, administrative software, dances, paintings, experimental software, promotional brochures, administrative correspondence, sculptures, multimedia teaching materials, videotapes, and policy documents. Many of these works have various functions and origins within the academic context. Some works arise directly from the pursuit of scholarly or creative activity and serve to convey the results of these activities; other works do not. Because copyright law and its policy-based application at the University will attribute both ownership rights and the associated rights to control subsequent uses of the protected works, an academic copyright policy must carefully balance a number of important objectives. These objectives must accommodate the various functions and origins of copyright works created at the institution.

(3) Objective of the University of Iowa Copyright Policy. The objective of the University's Copyright Policy is to advance the mission of the University by:

(a) Encouraging and supporting the exercise of academic freedom, innovation, and creativity;

(b) Structuring the rights of ownership and the rights to use copyright materials created by members of the University community in a way that:
   
   (i) Enables the timely dissemination of materials resulting from the scholarship, teaching, research, and creative activities of faculty, staff, and students;

   (ii) Permits the University to retain a copyright in and/or use materials created by members of the University community under certain circumstances;

   (iii) Permits the University to meet contractual obligations to outside entities; and

   (iv) Accommodates and is consistent with related University policies; and

(c) Assuring compliance with applicable laws and regulations in the management of copyright materials.

b. Policy.
(1) Summary of the Copyright Policy. In order to meet the preceding various objectives, this policy allocates the ownership of copyrightable works created by faculty, staff, and students. Consistent with academic tradition and the expressed desire to encourage dissemination of the results of scholarship and research, the University agrees that in most cases, individual creators of copyrightable works of scholarship, research, or pedagogy, as well as creators of original works of art and literature, typically will hold personal copyright ownership of those works. The policy also specifies a limited body of works that will be owned by the University. In some cases, "individual" ownership might be distributed over a group of joint authors or creators. In other cases, an individual or group of individuals might hold joint ownership with the University.

(2) Application of the Copyright Policy.

(a) Individual ownership of copyrights. The University does not claim ownership of copyright in pedagogical, scholarly, artistic, or research works regardless of the mode of expression except when a work is described in section V-30.4b(2)(b) below. Therefore, in those instances where the University does not claim ownership of a copyright, the copyright will be owned by those defined as authors or creators under copyright law unless there is a contrary contractual or statutory obligation. This disclaimer of University ownership interest in copyright materials applies to faculty and staff employees of the University, postdoctoral scholars, and to students when the works are created in the course of their educational pursuits. However, for works created by a student solely in the course of the student's employment by the University, the University may claim ownership if section V-30.4.b(2)(b) applies. Similarly, the University claims no ownership of copyright in any work created by University employees outside the scope of any employment within the University — except the University may claim ownership if V-30.4b(2)(b) applies. By way of illustration, see V-30.4d below, Cases C1 through C4.

The University understands that academic authors may be asked to assign to a publisher the personal copyright ownership in works treated in this section of the policy. The Board of Regents, State of Iowa, encourages academic authors to seek to retain such personal ownership in the articles and reports they publish in scholarly journals and equivalent publications. The Regents policy does not encourage academic authors to seek to retain personal ownership in published works when doing so would not be feasible or when efforts to retain personal ownership would impede eventual publication of the work (see http://www.iowaregents.edu/plans-and-policies/board-policy-manual/43-patents-and-copyrights/). The University is prepared to assist faculty members, staff members,
students, and postdoctoral appointees wishing to retain personal ownership of works that may be published in scholarly journals and the like.

(b) University ownership of copyrights. The University has ownership, or the right to obtain ownership by assignment, of copyright in:

(i) Any particular and identifiable work created pursuant to either an oral or written agreement between the creator and the University (see V-30.4d, Case C6);

(ii) Works created in the context of carrying out administrative duties for the University (see V-30.4d, Case C7);

(iii) Any work created by a team of faculty, staff, postdoctoral scholars, and/or students of such size or over such an extended period of time that determination of a discrete number of creators would be impossible, impractical, or potentially unfair (see V-30.4d, Case C8);

(iv) Any work created under the terms of a contract or other binding agreement with an entity, other than the University, when such contract or agreement requires University ownership of the work (see V-30.4d, Case C9);

(v) Any work created with a significant use of University resources (see V-30.4d, Cases C10, C11, and C12). For these purposes:

(A) The following, when customarily provided to authors or creators in their respective discipline and unit, shall not be considered significant use of University resources: salary, developmental assignment or award, library resources, computers, communications technologies, secretarial services, assigned offices and laboratories, and utilities.

(B) Significant use of University resources may include: use of substantial funds received by the University through a contract or grant, use of funds allocated for distance learning programs, assistance of support staff outside of the creator's department or unit, or assistance of support staff from the creator's department unit when such assistance is greater than that normally provided others in the department unit. Significant use of University resources also may include use of shared research equipment or facilities including use of University media production facilities, or use of preexisting intellectual property in which the University has rights. The University may determine that it has an ownership interest in a particular copyright work developed with grant or contract funding when creation of the specific work in question was an identified objective of the grant or contract. Given this
rationale, specific journal articles, monograph, or textbooks arising from grant or contract funding commonly would not be construed as identified objectives of the grant or contract but would be treated as academic benefits of having worked under grant or contract funding. In the event that creation of a copyrighted work, such as a textbook, is an identified objective of a grant or contract, the institution will, when permitted by such grant or contract, make a reasonable accommodation with the author consistent with established academic tradition.

(vi) Any work created by professional and scientific staff members, merit staff members, or student employees whenever such work is the product of their assigned tasks or is a reasonably expected product of their employment. Works made by professional, scientific, and merit staff members generally are subject to institutional ownership because they are either "assigned tasks" or "reasonably expected outcomes" of employment. However, the University acknowledges that a limited number of professional staff members have certain prerogatives to set their own research, scholarly, pedagogical, or creative tasks. Accordingly, the University is prepared to acknowledge personal ownership of works arising from these professional endeavors subject to other conditions of this policy. (See V-30.4d, Cases C5, C13, and C14.)

In any case where the University has the right to ownership under the provisions of this V-30.4b(2)(b), the University may require all persons who are employed by the University and who might otherwise have a potential claim to such work to execute a document as a condition of their employment in which they 1) state they have no rights to the work, or 2) assign to the University those rights they may hold. Any University employee who makes an assignment of a work to the University can request and will be granted a non-exclusive royalty-free license to reproduce, adapt, perform, or display the assigned work for his or her own scholarly, research, or creative purposes.

(c) Disclosure. Personally owned copyright works subject to V-30.4b(2)(a) of this policy need not be disclosed. However, certain works created subject to V-30.4b(2)(b) of this policy should be disclosed. The creator of any work in which the University may have an ownership interest under V-30.4b(2)(b) of the Copyright Policy shall disclose the work promptly in writing to the UIRF using the disclosure form provided by that group. Such disclosure shall be made as soon as possible when any of the following criteria apply: 1) a third party has a contractual basis for asserting a right to use the work (e.g., as a consequence of a sponsored-research agreement); 2) a third party has expressed interest in obtaining rights to use the work; 3) the creator(s) of the work believe that a third party
could become interested in obtaining rights to use the work if made aware of an opportunity to do so; 4) the creator(s) of the work wish to assert personal copyright ownership in the work and so wish to request an institutional determination of their personal standing under the terms of this policy.

In those cases when a disclosure is made in order to request a determination of copyright ownership, the UIRF will provide a copy of the disclosure to the Vice President for Research and Economic Development and to the appropriate academic and/or administrative official(s) familiar with the circumstances in which the work in question was created. Such official(s) then in turn will provide the UIRF any available information relevant to the questions of copyright ownership, rights to any proceeds, and other issues deemed relevant to the situation. The UIRF shall then prepare an assessment for the Vice President for Research and Economic Development. The final determination on these questions shall be the responsibility of the Vice President for Research and Economic Development, subject to the right of the creator(s) to appeal any such determination to the President of the University as provided in V-30.4c(2) below. Upon final resolution of the issues raised by the disclosure, the creator(s) and the University, where appropriate, will execute such agreements as are necessary to document clearly the rights and responsibilities of the parties.

(d) Distribution of income. The UIRF shall receive all payments due under a license and shall distribute such earnings under the terms of this policy within 45 days from the end of the quarter in which the earnings were received. Prior to any distribution the UIRF shall recover any out-of-pocket expenses incurred by UIRF, colleges, or Units, in applying for the licensed copyrights(s), maintaining the licensed copyright(s), defending the licensed copyright(s), developing the copyright(s) for marketing, and marketing the copyright(s) to potential licensees. Also prior to any distribution under this policy, the UIRF shall make any payments to others required by agreements, including but not limited to inter-institutional agreements for the management of jointly owned copyrights. Gross UIRF earnings, less its out-of-pocket expenses, less payments required to others, is designated as "distributable income." Distributable income shall be allocated as outlined below. For clarity, please note the following: 1) The distribution protocols outlined do not apply to personally owned copyright but only to copyrights owned by the UIRF on behalf of the institution; 2) in order to qualify for a share of distributable income allocated to "author(s)," an individual must have held a mutually acknowledged ownership interest in the copyright to the subject work and must have assigned any legitimate copyright ownership he or she held to the UIRF; 3)
in the event that no authors have assigned personal copyright ownership to the UIRF, no author(s)’ share will be allocated. In this case, all distributable income shall be allocated pro rata to the other recipient groups under V-30.4b(2)(d)(ii)(i) or (ii) below:

(i) The first $100,000 of distributable, cumulative income will go to the author(s).

(ii) After the first $100,000 is distributed to the author(s), any further distributable income will be allocated as follows unless income in any fiscal year triggers the conditions of V-30.4.b(2)(d)(iii) below:

(A) 25% of distributable income to University author(s)

(B) 25% of distributable income to the UIRF

(C) 20% of distributable income to an institutional "research enrichment fund" (REF) administered on a discretionary basis by the Vice President for Research and Economic Development

(D) 15% of distributable income to the department (or, in the absence of a department, the comparable center/institute/Unit) from which the copyright arose (or, in the absence of a Unit, to the college)

(E) 15% of distributable income to the college from which the copyright arose (or, in the absence of a college, to the REF)

(ii) In the event that income from a single license or licensure of a single copyright or set of copyrights exceeds $10 million in any single fiscal year, the University itself shall be granted a share of distributable income in that year, it being understood that the University President shall determine the use of such institutional share. In any year in which an institutional share is awarded, the shares allocated to the UIRF, REF, college, and Unit will be reduced. The share allocated to author(s) shall remain at 25 percent. In the event that distributable income from a single license or from licensure of a single work or set of works exceeds additional thresholds over $10 million, the institutional allocation for that year shall grow while the allocations to the UIRF, REF, Unit, and college will be further reduced. The following summarizes the intention of the policy:

(A) When annual income is greater than $10 million, the next $5 million in annual income shall be distributed as follows:

(I) Author(s) 25%

(II) UIRF 20%

(III) REF 16%
(IV) Unit from which the copyright arose 12% (or, in the absence of a Unit, to the college)

(V) College (or, in the absence of a college, to the REF) 12%

(VI) University 15%

(B) The next $10 million in annual income shall be distributed as follows:

(I) Author(s) 25%

(II) UIRF 17%

(III) REF 13%

(IV) Unit from which the copyright arose 10% (or, in the absence of a Unit, to the college)

(V) College (or, in the absence of a college, to the REF) 10%

(VI) University 25%

(C) Any further income in that year shall be distributed as:

(I) Author(s) 25%

(II) UIRF 13%

(III) REF 11%

(IV) Unit from which the copyright arose 8% (or, in the absence of a Unit, to the college)

(E) College (or, in the absence of a college, to the REF) 8%

(F) University 35%

(iii) A college and/or Unit may elect to contribute to the out-of-pocket expenses for a particular copyright in exchange for a larger share of distributable income. The amount of such increase will be negotiated between UIRF and the college or Unit and acknowledged in writing by the Vice President for Research and the authors. The share allocated to the college and/or Unit may increase by up to 5%, with a corresponding reduction in the share allocated to the REF.

(iv) With respect to the University author share under V-30.4.b(2)(d)(i) or (ii) above, prior to the first distribution of any revenue for a given work:
(A) University authors may unanimously agree in writing to share a portion of their distributable income with a University employee, appointee, or student who made a contribution to the work even though such contribution did not rise to the legal standard of authorship.

(B) Any individual University author may permanently waive in writing their share of distributable income to the Unit receiving a share under V-30.4b(2)(d)(i) or (ii) above.

(C) In the event of more than one University author, the University authors will receive equal portions of the share of distributable income unless there is a modifying written agreement signed by all University authors and approved by the UIRF.

(D) The Vice President for Research, in consultation with the Unit from which the copyright arose, shall determine the distribution to some or all identified University authors under V-30.4b(2)(b)(iii).

(v) With respect to the Unit, center, institute, and/or unit or the college share under V-30.4b(2)(d)(i) or (ii) above:

(A) In the event of more than one University author from different Units or colleges, such Units or colleges will receive portions of the share of distributable income equivalent to the share received by their author.

(B) In the event of a University author with affiliations to multiple Units or colleges, the contribution of each Unit or college to the copyright will determine what portion of the share of distributable income each Unit or college will receive. At the time of copyright disclosure, the UIRF will provide the author with the opportunity to designate such Unit(s) or college(s), and in the absence of such designation, the Unit share will be allocated to the author’s primary department and the college share will be allocated to the inventor’s primary college.

(C) The UIRF will notify each Unit or college identified in (B) above. A Unit or college disagreeing with a University author’s determination may appeal the decision using the same appeal process available to authors under 30.4c(2).

(iii) In the event that income from a single license or licensure of a single copyright or set of copyrights exceeds $10 million in any single fiscal year, the University itself shall be granted a share of distributable income in that year, it being understood that the University President shall determine the use of such institutional share. In any year in which an institutional share is awarded, the shares allocated to the UIRF, REF, college, and department will be reduced. The share allocated to author(s) shall remain at 25
percent. In the event that distributable income from a single license or from licensure of a single work or set of works exceeds additional thresholds over $10 million, the institutional allocation for that year shall grow while the allocations to the UIRF, REF, department, and college will be further reduced. The following summarizes the intention of the policy:

(A) When annual income is greater than $10 million, the next $5 million in annual income shall be distributed as follows:

(I) Author(s) 25%

(II) UIRF 20%

(III) REF 16%

(IV) Department (or, in the absence of a department, the comparable center/institute/unit) 12%

(V) College (or, in the absence of a college, to the REF) 12%

(VI) University 15%

(B) The next $10 million in annual income shall be distributed as follows:

(I) Author(s) 25%

(II) UIRF 17%

(III) REF 13%

(IV) Department (or, in the absence of a department, the comparable center/institute/unit) 10%

(V) College (or, in the absence of a college, to the REF) 10%

(VI) University 25%

(C) Any further income in that year shall be distributed as:

(I) Author(s) 25%

(II) UIRF 13%

(III) REF 11%

(IV) Department (or, in the absence of a department, the comparable center/institute/unit) 8%

(V) College (or, in the absence of a college, to the REF) 8%
(VI) University 35%

(iv) Additional considerations. The UIRF shall fund its annual operating expense from its share of earnings and reimbursements. The board of the UIRF shall work with the President and the CFO of the University to identify additional contingent funding sources to supplement shortfalls in earnings generated directly by the UIRF to ensure on-going, stable operations. Excess earnings from prior years shall be used to create and maintain an operating reserve and litigation reserve adequate to perpetually sustain its operations. These reserves may be used to fund operating shortfalls. The UIRF shall from its share of earnings maintain an operating reserve and a litigation reserve adequate to perpetually sustain its operations. The board of the UIRF shall, at any time when low UIRF earnings jeopardize the UIRF’s reserves, work with the President of the University to identify and implement other means to maintain adequate reserves, such as shifting funds from other revenue streams.

(e) Handling copyright works that may be subject to patent protections. Certain works — particularly software — may be subject to both copyright protection and patent protection. In the event that a work created at the University is subject to both copyright protection and patent protection, a finding under this policy that copyright to the work will be owned by the author or authors will not obviate the University’s right to claim ownership in any associated patent or patents. The University’s rights in patentable inventions are defined in the University of Iowa Inventions Policy (see V-30.3 above).

c. Administration of Copyright Policy.

(1) Copyright Advisory Group. The University of Iowa Intellectual Property Policy, of which this Copyright Policy is a component, shall be administered under the oversight of the Vice President for Research and Economic Development. The Vice President shall be advised on matters pertaining to the Copyright Policy by the Copyright Advisory Group, a subcommittee of the University of Iowa Intellectual Property Committee. The Intellectual Property Committee, the responsibilities and composition of which are set forth above in V-30.2 of the University’s overarching Intellectual Property Policy, shall be appointed by the Vice President for Research and Economic Development, who also shall designate those of its members who will comprise the Copyright Advisory Group. The Vice President for Research and Economic Development will consult with the Executive Vice President and Provost when designating members of the Copyright Advisory Group.
The role of the Copyright Advisory Group shall be to advise and make recommendations to the Vice President for Research and Economic Development regarding copyright matters, including, but not limited to, the following:

(a) Resolution of disputes concerning the application and interpretation of the Copyright Policy;

(b) Amendments to the Copyright Policy resulting from technological and legislative changes affecting copyright; and

(c) Changes to administrative procedures involved in the implementation of the Copyright Policy.

In addition, the Copyright Advisory Group shall provide a forum to which faculty, staff, and students may refer questions and recommendations about the Copyright Policy.

The day-to-day administration of the Copyright Policy will be performed on behalf of the University by the UIRF, under the supervision of the Vice President for Research and Economic Development.

(2) Appeal process. Any University faculty member, staff member, postdoctoral scholar, or student who believes he or she is adversely affected by any action or non-action of the UIRF pursuant to the Copyright Policy, or any Unit contesting an author’s determination under 30.4b(2)(d)(v)(C) may appeal such action or non-action in writing to the Vice President for Research and Economic Development, who shall consult with the Copyright Advisory Committee in considering the appeal. The resulting decision of the Vice President for Research and Economic Development may be appealed in writing to the President of the University. Where the action or non-action forming the basis for the dispute is that of the Vice President for Research and Economic Development rather than the UIRF, appeal may be made in writing directly to the President of the University.

The foregoing process does not preclude the use of either informal means to resolve the dispute or applicable grievance procedures normally available to the individual based on his or her University status. (See III-28 Conflict Management Resources for University Staff; III-29 Faculty Dispute Procedures; III-30 Student Employee Grievance Procedures; and III-31 Appeals by Employees to Board of Regents.)
d. Examples. The following examples illustrate how the policy would apply to specific situations and are accompanied by references to the governing policy sections.

(1) Case C1: Faculty member A writes an article using a computer and supplies provided by the University. Copyright in the article belongs to A. Faculty member A may choose to assign ownership of this copyright to a journal as part of a publication agreement without institutional involvement. (See V-30.4b(2)(a).)

(2) Case C2: Faculty member B creates a painting using supplies and facilities of the University customarily provided to other faculty members in the uUnit. Copyright in the painting belongs to B. (See V-30.4b(2)(a).)

(3) Case C3: Graduate student C writes a dissertation while serving as a University research assistant. The student owns the copyright in the dissertation since it is an academic requirement. (See V-30.4b(2)(a).)

(4) Case C4: Staff member D, a nurse, writes a novel at home. Copyright in the novel is owned by D since the work was not created within the scope of University employment. (See V-30.4b(2)(a).)

(5) Case C5: Staff member E, a senior research associate, writes a journal article based on original research conceived by and conducted by E. E owns the copyright in the journal article since it is a scholarly work and is not a specified outcome of E's employment by the University. (See V-30.4b(2)(a) and V-30.4b(2)(b)(i).)

(6) Case C6: The executive officer of an academic department asks faculty colleague F to write a summary of the department's history for inclusion in the University's General Catalog. F agrees to do so. Copyright of the summary history belongs to the University since it is a specific work created as a consequence of an agreement between faculty member F and a colleague acting on behalf of the institution. (See V-30.4b(2)(b)(i).)

(7) Case C7: Faculty member G drafts a report for the University as part of an academic review of a department at the University. Copyright of the report belongs to the University since G created it while carrying out an administrative assignment from the University. (See V-30.4b(2)(b)(ii).)

(8) Case C8: Beginning ten years ago, faculty member H worked collaboratively with faculty and staff colleagues to develop successive versions of software designed to control a research apparatus in H's laboratory. The various collaborators did not document their individual contributions to the software and memory of any specific individual contributions to the earlier work has faded. Copyright of the current version of the software belongs to the University
since any assessment of individual copyright ownership of the current software would be impractical and could result in an unfair determination. The failure to document individual contributions would not, itself, generate institutional ownership, but in this instance documenting the contributions might have made recovery of forgotten facts easier. (See V-30.4b(2)(b)(iii).)

(9) Case C9: Faculty researcher J is principal investigator on an institutional contract with a private company. The contract is for the creation of software to manage power plants. The terms of the contract provide that the corporate sponsor will have an option to license the software created under the contract. The University subcontracts with company X to collaborate with J and create a portion of the software, with that subcontract designating company X’s created portion as a work made for hire. While J and the University may be the owners of the copyright in the collective software under copyright law, J has the obligation to assign J’s ownership portion to the institution so that the University may meet the contractual requirement to offer the corporate sponsor an option to the work. (See V-30.4(b)(2)(b)(iv).)

(10) Case C10: Faculty researcher K is principal investigator on a federal grant that provides significant funding to meet the proposed objective: development of a particular piece of medical imaging software. The terms of the federal award neither compel nor empower the University to take ownership of the copyright in the resultant software. Even so, the University has a policy-based opportunity to require K to assign copyright ownership in the software to the institution since use of the grant funds constitutes "significant use of University resources." In assessing its rights to request assignment of a copyright because of the use of grant funds, the University will consider requesting assignment only of copyrights to works specified as objectives of the grant-funded work. In this example, the University would not seek ownership of the copyright in other related works such as journal articles, monographs, or textbooks that may arise from the grant funding since these works are not commonly construed as identified objectives of the grant. To avoid any dispute, faculty member G should work with the Vice President for Research and Economic Development prior to distribution of any grant funds to lay the groundwork for the future resolution of any potential conflicting copyright claims.

(11) Case C11: Faculty member L is principal investigator of a grant that provides faculty member F with travel funds to visit a library in a foreign country so that F can do research. Later F produces an article based upon this research. Even though faculty member F’s efforts were supported by a grant, the copyright belongs to F. Even if preparation of a publication is a specified objective of a grant, the University will not seek assignment of the copyright in that work.
(12) Case C12: Faculty member M begins to create a copyrightable web-based work that will help high school students select a college. After three months, M realizes that the work cannot be completed without substantial use of University staff computer experts. M requests and receives permission to have access to this expertise. Faculty member M would have been entitled to the copyright in work under this policy if there had been no infusion of substantial resources; however, because of the infusion of University resources, the University may have a claim. Faculty member M should consult with the Vice President for Research and Economic Development at the time assistance is requested to lay the groundwork for the future resolution of any potential conflicting copyright claims. (See V-30.4b(2)(b)(v).)

(13) Case C13: N, a professional staff writer at the University, prepares original text for a brochure describing research in a college. Even though N prepared original text, the University owns the copyright in the brochure material since it is a reasonably expected product of N's employment. (See V-30.4b(2)(b)(vi).)

(14) Case C14: Undergraduate student O is an hourly-wage, graphics designer in a University unit. In the course of this work, O prepares a poster for an institutional lecture series. Even though O is a student, the University owns the copyright in the poster design since it was prepared as a consequence of O's employment by the institution and not as part of O's educational pursuits. (See V-30.4b(2)(b)(vi).)