

MUSC Intellectual Property Policy

For ROIs Completed BEFORE July 01, 2008

Note: The section displayed here has been extracted from pages 35-40 of the MUSC Handbook.

1746 Pursuant to the Final Rule notice of 42 CFR Parts 50 and 93 Public Health Service Policies on
1747 Research Misconduct in the May 17, 2005 Federal Register effective June 16, 2005, MUSC, as
1748 the awardee or applicant "institution," has complied with the necessary assurance to the
1749 Department of Health and Human Services (HHS) that there are both policies and procedures in
1750 place. Specific details on compliance and assurances, inquiries and investigations, and other
1751 institutional responsibilities are consonant with 42 CFR Subpart C, § 93.300-319 of the Federal
1752 Register's Rules and Regulations.

1753
1754 MUSC Policies and Procedures for Responding to Allegations of Research Misconduct may be
1755 accessed at <http://research.musc.edu/ori/ric/home.htm> . Both the inquiry and the investigative
1756 phases as well as administrative actions in the event of a finding of misconduct are included.
1757 Information at this Office of Research Integrity website supersedes the Faculty Handbook in the
1758 event of a discrepancy. (8/12/2005)

1759 1760 **10.04 Intellectual Property Policy**

1761 1762 10.04a Basic Objectives

1763 The Medical University of South Carolina is a non-profit institution striving to improve human
1764 health and welfare by engaging in the investigation, prevention, and treatment of disease and in
1765 the education of health care professionals. The intellectual endeavors and activities of its
1766 employees and trainees may result in products of a tangible nature for which the University and
1767 the employee or trainee may deem it advantageous to enter these products into commerce. These
1768 products may be the subject of a patent application or a copyrightable work or other tangible
1769 material and are known collectively as "Intellectual Property." MUSC has an affiliation with the
1770 MUSC Foundation for Research Development to manage the identification, evaluation,
1771 protection, marketing, and licensing and/or sale of such Intellectual Property on behalf of MUSC
1772 and for the benefit of the public.

1773 This policy is intended to:

- 1774 (1) provide an incentive to creative intellectual effort and the advancement of knowledge for
1775 the welfare of the people, particularly the people of South Carolina;
- 1776 (2) insure that the respective interests of the employee or trainee, the University, and
1777 supporting sponsor, and society are considered and protected through the development of
1778 fair contracts and procedures,
- 1779 (3) assist the employee or trainee and the University to realize tangible benefits from
1780 Intellectual Property; and
- 1781 (4) advance and encourage further research within the University with whatever funds accrue
1782 to the University from Intellectual Property resulting from University research.

1783 1784 10.04b Definitions

- 1785 (1) "University" shall mean the Medical University of South Carolina.
- 1786 (2) "Staff" shall mean any member of the faculty, administration, staff, or student body; or
1787 classified employee, postdoctoral fellow, clinical fellow, visiting scientist or clinician.
- 1788 (3) "Inventor" shall mean any staff member who shall conceive or reduce to practice an
1789 invention while engaged in University activities.
- 1790 (4) "Author" shall mean any staff member who prepares any University copyrightable work.
- 1791 (5) "Contributor" shall mean any staff member who shall have contributed substantially to the
1792 existence of any item of Intellectual Property.
- 1793 (6) "University Activities" shall mean activities engaged in by a member of the staff by: (a)
1794 written assignment of the University administration; (b) contractual agreement with the
1795 University or any sponsor; (c) material use of facilities (other than its libraries), materials, or
1796 other resources of the University.
- 1797 (8) "Intellectual Property" shall mean inventions, University copyrightable works, and
1798 tangible results of research.

- 1799 (9) "Invention" shall mean "...any new and useful process, machine, manufacture or
1800 composition of matter or any new and useful improvement thereof..." as defined under the
1801 Patent Laws of the United States.
- 1802 (10) "University Copyrightable Work" shall mean any work subject to copyright under the laws
1803 of the United States (or any foreign country) including any written works, musical or
1804 dramatic compositions, photographs, films, transparencies or other visual aids, video or
1805 audio tapes and cassettes, sound recordings, computer software, algorithms, drawings,
1806 blueprints or other graphic works and sculptural works that result from University activities.
1807 Nothing herein shall be construed to include within University copyrightable works those
1808 written works or visual aids that are prepared as a part of a faculty member's obligation to
1809 produce scholarly works such as books, journal articles, abstracts, films, sound recordings,
1810 and photographs that in academic institutions have traditionally been the property of the
1811 individual faculty member unless such written works or visual aids are the express subject of
1812 a written work assignment or agreement between the staff member and the University or
1813 sponsor. However, computer software and algorithms are regarded as University property.
- 1814 (11) "Tangible Results of Research" shall mean any tangible material other than an invention or
1815 University copyrightable work that results from University activities by any member of the
1816 staff. Such tangible material shall include, but not be limited to, antibodies, cell lines, new
1817 microorganisms, plant lines, or progeny thereof; recombinant or other biological materials;
1818 chemical compounds; devices; machines; or models.
- 1819 (12) "Sponsor" shall mean any individual or organization that by written agreement with the
1820 University shall finance in whole or part any University activities.
- 1821 (13) "Net Proceeds" or "Annual Net Royalty" shall mean the net amount received by the
1822 University in each fiscal year from the sale, licensing or other disposition of any Intellectual
1823 Property, initially owned in whole or part by the University after deduction of all costs
1824 reasonably attributable to the protection and distribution of such Intellectual Property,
1825 including any reasonable expense of patent or copyright prosecution, maintenance,
1826 interference proceedings, litigation, marketing or other dissemination and licensing. The
1827 costs of protection and distribution shall be assessed at a rate of 15% on the first \$200,000 of
1828 total, cumulative income plus any out-of-pocket expenses.
- 1829 (14) "MUSC Foundation for Research Development (FRD)" shall mean the Medical University
1830 of South Carolina Foundation for Research Development, Inc.

1831
1832 10.05 Composition of the Committee:

- 1833 (1) The Committee on Intellectual Property ("Committee") shall consist of the Associate Provost
1834 for Research, who shall serve as an active member, and five members of the full-time faculty,
1835 one of which shall be a representative from the Faculty Senate. A representative from the
1836 Office of Research Administration, the Foundation for Research Development and the
1837 General Counsel shall serve as non-voting members of the "Committee." Four faculty
1838 members of the "Committee" shall be recommended by the Associate Provost for Research,
1839 and the Chair of the Faculty Senate shall appoint their representative. Initially one faculty
1840 member shall be appointed for a term of one year, one for two years, one for three years and
1841 one for four years. Thereafter each faculty appointment shall be for a term of four years with
1842 the exception of the Faculty Senate Representative who shall serve for one year. A quorum
1843 of the Committee shall be at least three members eligible to vote; and, excepting
1844 adjournment, every action by the Committee shall require the presence of a quorum. The
1845 Office of Research Administration shall provide administrative support for the Committee.
- 1846 (2) Powers and Duties of the "Committee": The powers and duties of the "Committee" shall be:
1847 (a) to interpret and apply these Policies and Procedures; (b) upon request of the Associate
1848 Provost for Research or the Vice President for Finance and Administration, to review any
1849 agreement with a Sponsor other than the state or federal government; (c) upon request of the
1850 Associate Provost for Research or the Vice President for Finance and Administration, to
1851 review any agreement providing any individual or organization with rights to Intellectual

1852 Property to which the University has rights of ownership; and (d) to report on the activities of
1853 the "Committee" to the Associate Provost for Research, including the "Committee's"
1854 recommendations, if any, for amendment of these policies and (e) to serve as a faculty
1855 advisory group to the Foundation for Research Development.
1856

1857 10.06 Coverage

1858 These policies shall apply as a condition of appointment or employment by the University to
1859 every member of the staff, who during the period of their appointment or employment by the
1860 University shall: (a) conceive or first reduce to practice actually or constructively, any invention;
1861 (b) prepare any University copyrightable work; or (c) contribute substantially to the existence of
1862 any tangible result of research. These policies replace the Patent Policy Statement adopted
1863 December 12, 1980, and also apply to an Intellectual Property disclosed to the "Committee" after
1864 adoption of this Policy.
1865

1866 10.07 Disclosure of Intellectual Property

1867 Every staff member shall, in writing and in reasonable detail, give the "FRD" prompt notice of
1868 any: (a) invention; (b) University copyrightable work; or (c) tangible results of research which or
1869 he or she shall desire to have patented, copyrighted or made available to the investigators or the
1870 public by commercial or other means, or shall believe or have reason to believe is patentable,
1871 copyrightable, or of value to other investigators or the public, or otherwise of commercial value.
1872

1873 10.08 Ownership of Inventions

1874 The rights of ownership to all inventions which shall result from University activities shall be the
1875 property of the University; provided, however, that:

- 1876 a. Within the ninety (90) days next following disclosure of an invention to the University
1877 under the preceding Section 5 (or such further period of time as may be agreed upon by
1878 the inventor and the "FRD"), the "FRD" shall determine, and advise the inventor in
1879 writing, whether such rights shall be retained by the University, conditionally retained by
1880 the University or shall be released to the inventor; and
- 1881 b. The rights of ownership to every invention conceived by any member of the
1882 University's staff while engaged in other than University activities shall be the property
1883 of that person.
1884

1885 10.09 Ownership of Copyrightable Works

1886 The rights of ownership to all copyrightable works prepared while the staff member is engaged
1887 in University activities shall be the property of the University; provided however that:

- 1888 (1) Within the ninety (90) days following disclosure of copyrightable work to the University
1889 under the preceding Section 10.09 (or such further period of time as may be agreed upon by
1890 the author and the "FRD"), the "FRD" shall determine, and advise the author, in writing,
1891 whether such rights shall be retained by the University, conditionally retained by the
1892 University or shall be released to the author; and
- 1893 (2) Copyrightable works prepared by a member of the staff while engaged in activities other
1894 than University activities shall be the property of the author.
1895

1896 10.10 Ownership of Tangible Results of Research

1897 All tangible results of research shall be the property of the University.
1898

1899 10.11 Sponsorship of Intellectual Property

1900 The rights of ownership to each item of Intellectual Property produced during activities
1901 conducted pursuant to any agreement between the University and any sponsor shall be
1902 determined in accordance with such agreement; however, it shall be the policy of the University
1903 to retain title to Intellectual Property whenever possible under state or federal law. Any
1904 agreement with a sponsor pertaining to the ownership of Intellectual Property and assignment

1905 thereof shall be made between the University and the sponsor in advance of the research or other
1906 activity that produces the Intellectual Property.

1907
1908 10.12 Disagreements

1909 Resolution of any disagreements over the rights of ownership to any Intellectual Property will
1910 first be heard by the "Committee." Unresolved disputes shall be determined solely by recourse
1911 to the standard Medical University of South Carolina Faculty Grievance and Appeal Procedures.

1912
1913 10.13 Seeking a Patent or Copyright

1914 Whenever the "FRD" shall determine to seek the patenting or copyrighting of any Invention or
1915 University copyrightable work, the University shall, without expense to the inventor or author
1916 provide such professional services as it shall deem to be necessary or desirable for such purpose,
1917 and which may include the services of an independent patent organization. The inventor or
1918 author is obligated to cooperate fully in such effort, including his or her execution of all
1919 necessary or desirable agreements, applications, and other forms and instruments. If, at any time
1920 subsequently, the University shall terminate its effort to seek such patent or copyright, it shall
1921 promptly give written notice thereof to the inventor or author who thereupon to the extent
1922 allowed by law or any sponsorship agreement shall be free at his or her or his expense to
1923 develop, license, and otherwise use the invention, patent application, patent or copyright. In this
1924 event the inventor or author shall receive all benefits of any development, licensing or other use
1925 of the invention, patent application, patent or copyright except that the University shall be
1926 entitled to recovery of associated costs.

1927 As an incentive to promote patenting of inventions made in the course of University activities,
1928 the University shall make a nominal cash award to each inventor upon filing of a patent
1929 application. The amount of such award shall be two hundred and fifty dollars (\$250.00) per
1930 patent to be divided equally among the inventors in the case of multiple inventors on one patent.

1931
1932 10.14 Transfer or Sale of Tangible Results of Research

1933 Tangible results of research may not be transferred or sold to any party outside the University
1934 before: (a) a disclosure of the tangible results of research has been submitted to the "FRD" and
1935 (b) the Contributor(s) has been notified by the "FRD" of any required conditions of such transfer
1936 or sale. Such notification shall be made within thirty (30) days following the disclosure of
1937 tangible results of research.

1938
1939 10.15 Promotion and Licensing

1940 In interpreting and applying these policies, the Committee and "FRD" shall, by such means as
1941 they shall deem to be most effective and appropriate in each case, act to bring to the public all
1942 Intellectual Property to which the University has rights of ownership in whole or part. Such
1943 means may include, but shall not be limited to, agreements for the development, patenting,
1944 copyrighting, promotion, licensing, printing, distributing or manufacturing of any Intellectual
1945 Property; and in every case the University shall advise the inventor, author, or contributor of the
1946 terms of any such proposed agreement. No agreements will be entered into by the University
1947 without the review of all inventors, authors or contributors. Any disagreement between the
1948 University and the inventor(s), author(s) or contributor(s) concerning a proposed agreement will
1949 be resolved in a timely fashion by the "Committee" and, if necessary the Grievance and Appeal
1950 Procedure as stated in Section 10.12.

1951
1952 10.16 Proceeds from Distribution of Intellectual Property

1953 The Net Proceeds or Annual Net Royalty received by the University from any Intellectual
1954 Property initially owned in whole or part by the University in accordance with Sections 10.08,
1955 10.09, and 10.10 shall be apportioned and paid over by the University in accordance with the
1956 following schedules:

1957 (1) Patent Proceeds:

	Percentage (%) to			
	Net Proceeds	University or	Inventor's	Royalty
	Royalty (\$)	Inventor	Laboratory	Department Account
1958				
1959				
1960	First \$50,000	35	35	15 15
1961	\$50,000 to			
1962	\$100,000	30	30	15 25
1963	Over \$100,000	25	30	15 30
1964				

(2) Copyright Proceeds: Proceeds from the sale, licensing or distribution of University copyrightable works shall be distributed proportionate to the contribution of the author(s) and the University in accordance with the following equities.

	Percentage (%) to			
	Net Proceeds	University or	Author's	Royalty
	Royalty (\$)	Author	Laboratory	Account
1965				
1966				
1967	First \$50,000	70	15	15
1968	\$50,000 to			
1969	\$100,000	50	25	25
1970	Over \$100,000	35	30	35
1971				
1972				
1973				
1974				

If the development of a copyrightable work is supported by a sponsor other than the University or is the result of a contractual agreement, the University and the author must adhere to the conditions of the award and/or the terms of the contractual agreement. Where no special contractual agreement requirements prevail, royalties derived will be handled in the manner provided in Section 10.16, Subsection 1. The University must approve of such contracts.

(3) Tangible Results of Research Proceeds: To the extent allowed by law, where any tangible result of research is not within the scope of the claims of a patent, patent application, or copyright, each contributor shall share in any net proceed or annual net income to the same extent an inventor shares in patent proceeds pursuant to Section 10.16, Subsection 1.

In the case of patent, copyright or tangible results of research proceeds where there is more than one inventor, author or contributor, the payment apportioned under said schedules to the inventor, author or contributor shall be divided: (a) equally among all such inventors, authors, or contributors; or (b) in accordance with any written agreement signed by the inventors, authors or contributors. Payment by the University pursuant to any apportionment made to any inventor, author or contributors in accordance with this Section shall not be terminated for the reason that such inventor, author or collaborator shall cease to be a staff member. In the event of the death of a staff member any such payment shall remain a part of the staff member's estate. It is recognized that in some cases more than one invention may contribute to a royalty and that the contribution may not be equal. In the absence of written agreement by the inventors, authors or contributors, the University may, but is not obligated to, attempt to provide arbitration, but otherwise the University will treat the inventions as equal, dividing the royalties first by invention and then by inventors to each invention. Laboratory and department shares will be divided in direct proportion to inventor shares in such multi-inventor cases.

It is recognized that in multi-inventor cases some, but not all, inventors may leave the University or may not have been a university employee at the time of the invention. In this instance, the inventor's laboratory shares will remain with those remaining inventors unless the departing inventor moves to a not-for-profit institution and conducts research as described below. The University may, but is not obligated to, provide arbitration or other legal aid in the event of disputes with non-University inventors; such costs are attributable to the costs of the invention and will be recovered first from the royalties.

In the event that an inventor, author or contributor changes departments within the University, the department shares shall move to the new department. Funds previously earned by the former department shall remain in their account. In the event that an inventor or contributor leaves the University for another academic institution or other not-for-profit institution, then the laboratory

2011 shares shall follow the inventor or contributor provided that the inventor or contributor has a
2012 laboratory and conducts research, but the department shares shall remain payable to the
2013 department. If an inventor or contributor leaves the University to join a for-profit organization,
2014 the Associate Provost for Research shall decide whether or not the laboratory shares shall remain
2015 at MUSC or follow the inventor, author or contributor. No funds other than those shares directly
2016 payable to the inventor, author or contributor shall follow an inventor, author or contributor to a
2017 for-profit corporation or other employment. If an inventor or contributor subsequently moves to a
2018 not-for-profit institution, the laboratory shares earned subsequent to the move will then move to
2019 the new place of employment for his/her use in research as above. If a department ceases to
2020 exist, their shares shall accrue to the University Royalty Income Account until and unless the
2021 inventor, author, or contributor joins a new University department.

2022 Should an inventor become disabled while a University employee, then 50% of the laboratory
2023 share will be added to the inventor's share with the remainder being added to the department
2024 share.

2025 For any patent, copyright or tangible results of research producing income in a fiscal year, the
2026 University shall provide to the inventors, authors, or contributors eligible to receive a share of
2027 the income, an accounting of the disposition of such income.

2028 That share of income accruing to the University Royalty Income Account shall be administered
2029 by the Associate Provost for Research with the advice of the University Research Council for the
2030 primary purpose of advancing and encouraging further research and intellectual property
2031 development within the University.

2032
2033 **10.17 Sponsors: Other Organizations**
2034 If and when any conflict shall arise between these Policies and any condition or conditions of (a)
2035 any proposed grant from or contract with any organization offering to act as a sponsor or (b) the
2036 patent, copyright or intellectual property policies and procedures of any other organization to
2037 which any joint appointment or any affiliation or consulting agreement is made, such conflict
2038 shall be referred to the Committee. Following consideration of the conflict the Committee shall
2039 recommend a course of action to the University administration. It is incumbent on the University
2040 to take all reasonable steps, including but not limited to appropriate legal action, to protect and
2041 advocate issues on its behalf and those of the inventor, author or contributor in the event of
2042 conflicts with sponsors.

2043
2044 **10.18 Release of Rights of Ownership**
2045 Subject to the approval of the Associate Provost for Research, the "FRD" may, for reasons and
2046 upon terms deemed to be satisfactory by it, release on behalf of the University at any time any
2047 invention, patent, patent application, University copyrightable work, copyright or right of
2048 ownership to tangible results of research to its inventor, author or contributor.

2049 **11. FACULTY DEVELOPMENT**

2050 **11.01 Sabbatical Leave**
2051 A faculty member holding the rank of Professor or Associate Professor who has rendered six or
2052 more years of satisfactory service to MUSC may be granted sabbatical leave in order to study or
2053 undertake further training. Sabbatical leave is for the primary purpose of enhancing the value of
2054 the professional status of the faculty member in further service to the Medical University. The
2055 period for sabbatical leave may be for up to one year. Salary support during this period will be at
2056 the rate of one month for each year of service to MUSC, up to a maximum of twelve months
2057 salary.

2058
2059 A sabbatical leave may be granted by the Board upon recommendation by the President,
2060 following approval by the Department Chair, the Dean of the College concerned, and the Vice
2061 President for Academic Affairs and Provost, and with the understanding that the faculty member
2062 will return to active service MUSC when such leave has ended.
2063