



Ohio Administrative Code Rule 3339-15-06 Intellectual property.

Effective: October 1, 2022

(A) General

(1) In the course of research, teaching, and service activities at Miami university, faculty, staff, and students sometimes create intellectual property which may be protectable by copyright, patent, or other means. Miami university seeks to establish an environment in which the creation of intellectual property is suitably recognized as an academic achievement and in which the benefits of intellectual property to the creators, the university, and the general public are optimized.

(2) It is important that the university and the creators of intellectual property assist each other in identifying, evaluating, and protecting this property. The following policy outlines the procedures for handling of intellectual property in ways which will be beneficial to the creators, the university and the public, and also describes the rights and responsibilities of the university and the creators of the intellectual property.

(B) Copyrights

(1) The right of ownership by a faculty member, staff member, or student to his or her own writings, productions, art, videotapes, computer programs, or other works is recognized by the university. Thus, the individual generally is vested with the copyright privilege and receives all royalties which result.

(2) There are exceptions to this general rule, however, and the university will claim ownership:

(a) If called for in an external grant or contract, or specified in the terms of a gift, under which the copyrightable material was produced.

(b) If the faculty member, staff member, or student creates a copyrightable work in the course of performing an explicit university assignment or commission to create such a work.



(3) Situations also may arise in which faculty, staff, or students wish to include in copyrighted commercial products materials generated by Miami university support services. In such cases, in return for unrestricted outside use of the material, the university is entitled to seek reimbursement for development and production costs. The amount of possible reimbursement shall be reasonable and come from, and not exceed a portion of, royalties available to the faculty member, staff member or student.

(4) Miami university wishes to facilitate the use of computer-assisted teaching and on line classes in order to encourage creative and cutting-edge technology usage in the university's educational activities. To that end, the university acknowledges that faculty members that create computing tools and on-line classes shall be sole owner of the copyright to such classroom materials. The university shall not be able to use any such classroom materials without the consent of the faculty member. However, it shall be deemed a violation of rule 3339-3-11 of the Administrative Code for the faculty member to sell the classroom materials to any other institution of higher education while the faculty member is employed by Miami university unless the faculty member obtains the consent required by rule 3339-3-11 of the Administrative Code. In the event that the faculty member is no longer employed by the university, then the faculty member shall remove the classroom materials from Miami university's computer resources.

(5) However, ownership of computing tools and on-line classes is subject to the two exceptions to the general copyright rule set forth above. In addition, if the faculty member utilizes significant university resources in the creation of the classroom materials, then the copyright shall be jointly owned by the faculty member and Miami university and the following rules shall apply:

(a) Miami university cannot utilize the classroom materials in any class at Miami university while the faculty member is employed by Miami university without the faculty member's permission;

(b) in the event that the faculty member is no longer employed by Miami university, the faculty member and Miami university, without the other's permission, shall both be permitted a perpetual, royalty-free license to use the classroom materials for teaching and research purposes only;

(c) Miami university has exclusive authority to market and sell the classroom materials and their



content to third parties, but Miami university shall provide fifty percent of all net proceeds (i.e., gross revenue minus costs of sale) received from the sale of the classroom materials to the faculty member. In the event that there is more than one faculty member then it shall be up to the faculty members to determine their individual portion of the fifty-percent share.

(6) For purposes of this rule, "significant university resources" shall be defined to mean that the classroom materials were developed with the use of any substantial Miami university-purchased hardware/software (excluding standard personal computing software/hardware), or if the classroom materials were developed during leave time granted by Miami university specifically for the development of the classroom materials, or if the classroom materials were developed with substantial assistance from Miami university's information technology personnel.

(7) This rule is not intended to apply to minor usage of computing technology in traditional classroom teaching (e.g., posting of a syllabus electronically would not transfer ownership to the university.)

(8) Application of this policy, including whether "significant university resources" have been utilized, shall be determined by the provost following discussions with the affected faculty member(s) and a sincere effort to find a mutually agreeable determination. The provost may, at his or her discretion, appoint a committee to review the matter and provide advice to him or her. Faculty members who dispute a determination of the provost shall have the right of appeal to the committee on faculty rights and responsibilities and the president.

(C) Patents

(1) General

(a) In accord with the section 3345.14 of the Revised Code, the university claims all rights to discoveries or inventions, including associated patents, resulting from research or investigation conducted in any facility of the university. The university also has the rights to patentable discoveries or inventions resulting from re-search or investigation financed in whole or in part by the university, or by an agent outside the university under a contract with or grant to the university.



(b) The Revised Code of the state of Ohio permits the board of trustees to retain, assign, license, transfer, sell, or otherwise dispose of rights to, interests in, and income from any such discoveries, inventions, or patents to any individual, firm, association, corporation, or governmental agency, or to any faculty member, employee, or student of the university.

(c) It is the intent of the university not to claim rights in an invention resulting from work not supported by the university or its sponsors or to which the university's contribution is negligible. Therefore, except as provided above, faculty, staff, and students of the university are entitled to apply for, hold, and dispose of patents to their own discoveries, inventions and developments free from any claim or interest of the university.

(2) Patent -application procedure - general

(a) When an inventor associated with the university believes an invention or discovery might be patentable, a written disclosure of the invention or discovery should be submitted to the vice president for research and innovation. A standard invention disclosure form is available from the office for the advancement of research and scholarship. The written disclosure should bear the endorsement and comments of the department chair or unit supervisor, and divisional dean or vice president. It should include a statement of the circumstances under which the invention was made, and a statement as to its commercial possibilities.

(b) The vice president for research and innovation shall have the responsibility to recommend to the provost and vice president for finance and business services whether the securing of a patent is in the interest of Miami university and in the public interest. In this evaluation, the associate provost for research generally will consult with the university attorney and individuals outside the university who are knowledgeable in the field of the invention. If the invention or discovery has arisen under the sponsorship of industry, the university's agreement with industry generally will include a granting of some rights regarding licensing of resulting patents, as well as a commitment by the sponsoring company to its funding of a patent application. Thus, the associate provost for research necessarily will consult with the sponsoring company in evaluating prospects for a patent in such instances.

(c) The university also may use the services of a patent evaluation and management firm, such as the



research corporation, to assist in the evaluation of invention disclosures, in filing patent applications, and in marketing and managing subsequent patents, unless the terms of an agreement with a sponsor of the research dictate otherwise.

(3) Patent application procedures for projects funded by external agencies

(a) If the research results from a project sponsored by an outside agency through a grant or contract to the university, the provisions of the grant or contract will prevail. Where such provisions provide for retention of some or all patent rights with the university, the same procedures will be followed with respect to the retained patent rights as those provided for nonsponsored research. Disclosure of all such inventions within the university should follow the same procedures described above as the first step in complying with such patent terms in grants and contracts.

(b) In the development of agreements for research with corporations and other private groups, accommodations should be made to recognize both the proprietary rights of the corporation, and the obligation of the university to publish and disseminate research in oral and written form. Where appropriate, such publications may be delayed, but such delay should not be excessive. If a sponsor requires exclusive rights to or interest in a discovery made under a grant or contract, this request will need to be reported to and approved by the board of trustees.

(c) The Miami university proposal approval form will be used to secure university approval for patent agreements with outside funding agencies at the time of acceptance of a proposal. The office for the advancement of research and scholarship has the responsibility of coordinating the proposal approval process for the university, and facilitating discussions involving the investigator, the department or division, the associate provost for research, and representatives of the finance and business services division.

(d) Faculty, staff, and students may not independently enter into agreements concerning Miami university patent rights on inventions. Such agreements are appropriate only when the individual is acting as an independent consultant to a public or private agency or sponsor.

(4) University decision as to patenting



(a) If, after consultation, the vice president for research and innovation determines that it is in the best interests of the university to file a patent application, he or she will recommend to the provost and the vice president for finance and business services that a patent application be filed. Depending upon the circumstances, the vice president for research and innovation may recommend that the application be filed by the university itself, by the sponsoring company on behalf of the university, or by a patent management firm such as research corporation on behalf of the university.

(b) If, after consultation, the vice president for research and innovation determines that it is not in the best interests of the university to file a patent application, he or she will make that recommendation to the provost and the vice president for finance and business services and also will inform the inventor of that recommendation. The inventor may then request the university to waive all or part of its rights in the invention to the inventor. The university shall respond to such a request within a reasonable time period, and, at its discretion, may waive all or part of its rights in the invention, i.e., assign title or grant an exclusive or partially exclusive license to the inventor. Grant of such a waiver by the university shall not be unreasonably denied. Any such assignment shall be subject to the sponsor's rights or approval. The university will retain rights and benefits which are in the best interests of the university; as a minimum, these retained rights will include an irrevocable, nonexclusive, paid-up license to practice the invention for the university's purposes.

(c) The associate provost for research through the provost and vice president for finance and business services will recommend that the board of trustees take appropriate action.

(5) Sharing of royalties

(a) Miami university's policy is to share royalties generated by patents with the faculty, staff, and student creators of inventions according to the following model. Royalty provisions of this policy apply to "net royalties" received by Miami university from the patent. Net royalties are defined as gross royalties, minus the cost incurred in obtaining the patent, the cost of utilizing a patent management firm, and any litigation expenses.

(b) The net royalties totaling up to one hundred thousand dollars first received will be divided equally between the university and the inventors; for the second one hundred thousand dollars a sixty per cent university, forty per cent inventor split will be utilized; for the third one hundred thousand



dollars a seventy per cent university, thirty per cent inventor split; and for royalties in excess of three hundred thousand dollars, an eighty per cent university, twenty per cent inventor split will be utilized. If more than one inventor is involved, the university must receive in writing a statement signed by all inventors agreeing how the share of the royalties to be received by the inventors should be divided.

(c) Royalties accruing to the university under this patent policy will be used by the university to support faculty research and patent development.

(d) Acknowledgement: This policy is modeled after the intellectual property policy developed by the university of New Mexico, and borrows language from that policy with permission of the university of New Mexico.