

## NOTICE OF REGULATION REPEAL

March 10, 2006

### DEPARTMENT OF EDUCATION

Division of Universities  
University of North Florida

### REGULATION TITLE:

Copyrights and Patents

### REGULATION NO.:

6C9-2.010

### SUMMARY:

The repeal is being undertaken in order to update the University Regulations in accordance with current University practice and procedure.

### FULL TEXT:

The full text of the regulation for repeal is attached.

### AUTHORITY:

Resolution of the Florida Board of Governors dated January 7, 2003 and Florida Statutes 1001.74 and 1004.23.

### UNIVERSITY OFFICIAL INITIATING THE REPEALED REGULATION:

Thomas Serwatka, Vice President and Chief of Staff

### INDIVIDUAL TO BE CONTACTED REGARDING THE REPEALED REGULATION:

Stephanie Howell, Paralegal, Office of the General Counsel, [showell@unf.edu](mailto:showell@unf.edu), phone (904)620-2828; fax (904)620-1044; Building 1, Room 2400, 4567 St. Johns Bluff Road South, Jacksonville, FL 32224.

***Any comments regarding the repeal of the regulation must be sent in writing to the contact person on or before Friday, March 24, 2006 (14 days from the date of posting this Notice) to receive full consideration.***

## **6C9-2.010 Copyrights and Patents.**

(1) Definitions. The following definitions shall apply for purposes of interpreting and implementing this rule:

(a) A “work” includes any copyrightable material such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works.

(b) An “invention” includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any trademark used in connection with these items.

(c) “University support” includes the use of University funds, personnel, facilities, equipment, materials, or technological information; and includes such support provided by other public or private organizations when it is arranged, administered, and/or controlled by the University.

(d) “Employee” means all General Faculty, Administrative and Professional, USPS, and OPS employees of the University, in-unit or non-unit, regardless of classification or source of funding of the position.

(2) General.

(a) The University of North Florida shall have the authority to take any action necessary to secure letters of patents, copyrights, and trademarks, on any such work products produced by an employee of the University as described below, and to enforce its rights therein. Any resulting patents are the property of the University and the inventor shall share in the proceeds therefrom.

(b) All University profits derived from patents, copyrights, or trademarks shall be deposited in the “Sponsored Research Development Fund” for the further distribution as prescribed by the Board of Regents and the University of North Florida policy.

(3) Copyrights.

(a) Independent Efforts. A work made in the course of independent efforts is the property of the employee, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this section, the term independent efforts means that:

1. The idea(s) came from the employee;
2. The work was not made with the use of University support; and
3. The University is not held responsible for any opinions expressed in the work.

(b) University-Supported Efforts. If the work was not made in the course of independent efforts, the work is the property of the University. However, in keeping with tradition, it is not the intent of the University to assert rights to copyrightable works the intended purpose of which is to disseminate the results of academic research, curricular improvements, creative work or scholarly study.

(c) Disclosure.

1. The employee shall disclose to the President or Director of Sponsored Research any work made in the course of University-supported efforts, together with an outline of the project and the conditions under which it was done.

2. The President or Director of Sponsored Research shall gather information to assess the relative equities of the employee and the University in the work.

3. Within twenty (20) days after such disclosure, the President or Director of Sponsored Research will inform the employee whether the University seeks an interest in the work, and a written contract shall thereafter be negotiated to reflect the interests of both parties, including provisions relating to the equities of the employee and allocating proceeds resulting from such work.

4. All such agreements shall comport with and satisfy any pre-existing commitments to outside sponsoring contractors, but the employee and the University shall not commit any act which would tend to defeat the University's or employee's interest in the work and shall take any necessary steps to protect such interests.

(4) Patents.

(a) Disclosure. An employee shall disclose all inventions which the employee may develop or discover while an employee of the State University System. With respect to inventions made during the course of approved outside employment, the employee may delay such disclosure, when necessary to protect the outside employer's interest, until the decision has been made by the outside employer whether to seek a patent.

(b) Independent Efforts. The University shall not seek a letter of patent on a product resulting from an investigation performed by a university employee outside of the field in which the investigator is employed by the University and at his own expense and on his own time.

(c) University-Supported Efforts. An invention which is made in the field or discipline in which the employee is employed by the University or by using University support is the property of the University and the employee shall share in the proceeds therefrom.

(d) Outside Employment.

1. While an employee may, in accordance with Section 240.283, F.S., and the pertinent collective bargaining agreement, engage in outside employment pursuant to a consulting agreement, requirements that an employee waive the employee's or University's rights to any inventions which arise during the course of such outside employment must be approved by the President or the Director of Sponsored Research.

2. An employee who proposes to engage in such outside employment shall furnish a copy of this rule and, if applicable, the pertinent collective bargaining agreement, to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

(e) Reporting Procedures.

1. The employee shall report to the President or Director of Sponsored Research the nature of the invention or discovery, together with an outline of the project and the conditions under which it was done. Within twenty (20) days of each disclosure, the President or Director of Sponsored Research shall inform the employee whether the University intends to assert its interest in the patent.

2. The President or Director of Sponsored Research shall conduct an investigation which shall assess the respective equities of the employee and the University in the invention, and determine its importance and the extent to which the University should be involved in its protection, development, and promotion.

3. The employee shall be informed as to whether the University will seek the patent within 120 days from the date of the disclosure to the President or Director of Sponsored

Research and the University shall thereafter proceed to prosecute the patent in a timely manner.

4. The division, between the University and the employee, of proceeds generated by the licensing or assignment of an invention, shall be negotiated and reflected in a written contract between the University and the employee. All such agreements shall comport with and satisfy any pre-existing commitments to outside sponsored contractors, but the employee shall not commit any act which would tend to defeat the University's interest in the matter, and the University shall take any necessary steps to protect such interest.

(f) Release of Rights.

1. The University reserves the right to enter into contract with recognized patent management and development agencies for the purpose of patent application, patent development, and patent management. In such cases, the terms of the contract shall provide for a distribution of the proceeds from the disposal of the patent between the contracting parties and the discoverer or inventor.

2. At any stage of making the patent applications, or in the commercial application of an invention, if the University has not otherwise assigned to a third party the right to pursue its interests, it may withdraw. At the request of the employee in such case, the University shall return the patent rights to the employee, in which case the patent shall be the employee's property, and none of the costs incurred by the University or on its behalf shall be assessed against the employee.

3. All assignments or releases of inventions, including patent rights, by the President or Director of Sponsored Research to the employee shall contain the provisions that such invention, if patented by the employee, shall be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the University.

4. In the event a Sponsored Research contractor has been offered the option to apply for the patent to an invention or other rights in an invention, the University will use its good offices in an effort to obtain the contractor's decision regarding the exercise of such rights within 120 days.

5. Execution of Documents. The University and the employee shall sign an agreement individually recognizing the terms of this rule.

6. Responsibility. The authority and responsibility for administration and implementation of this rule is delegated to the Director of Sponsored Research.

*Specific Authority 120.53(1)(a), 240.227(1) FS. Law Implemented 120.53(1)(a), 240.227(1), 240.229 FS. History—New 6-1-93.*