

6. Publication and Disclosure to Third Parties

a) Once an invention is identified as potentially patentable, premature publication, public use, or disclosure of an invention can jeopardize the rights of the employee, or the university or its assignee to secure patent protection - particularly patent protection in other countries. In close consultation with the employee inventor and for the benefit of employee inventor, University, and possible licensee, there shall be no publicity or disclosure concerning the invention until patent applications have been filed. the OC shall act in a timely fashion in such cases so as to not unreasonably delay employee publications. All publicity, public reports, interviews, news releases, speeches, public disclosures, or public demonstrations of the invention subsequent to the filing of the application shall have prior clearance in writing from the University or its assignee.

b) This section shall not be applicable to sponsorship agreements that impose different obligations on disclosure.

7. Management of Patents

Patent protection, prosecution and commercialization through licensing are complex and expensive endeavors requiring active participation by the inventors and the University over a period of twenty (20) years after patent filing. For inventions that were enabled through sponsored research, the federal, state, or private sponsoring agency must be notified and allowed the right to patent the invention. If there was no enabling sponsored research, or the sponsor or the University declines to pursue the invention, then the invention rights will be returned to the inventor.

8. Division of Patent Royalties

a) All monetary proceeds from the commercialization of University-owned inventions are the property of the University or its assignee. The University or its designee will collect and distribute royalties, fees, equity interests, or dividends to inventors and the University in accordance with the procedures established by the University.

- (1) The University or its designee will deduct the costs of obtaining and maintaining legal protection, for each invention, to arrive at “adjusted income” unless other arrangements, agreed to by all parties that share in the income, are made by the relevant campuses, research unit or program in advance of the expense and agreed to with the OC. Such arrangements may include contracted marketing, licensing and business development. In such cases, any agreed upon expenses will be deducted to arrive at adjusted income.
- (2) The Office of Commercialization will deduct twenty percent (20%) from adjusted income and the remainder will be “net income.” This deduction is directed toward covering the expenses (excluding direct patent expenses) for administering the OC and provides initial funds for patent prosecution for other inventions without obvious commercial partners.
- (3) Net income will be distributed according to the following schedule.

Cumulative Net Income	Inventor/Contributor	University
\$1-\$10,000	100%	
Above \$10,000	50%	50%

University’s portion of the share will be distributed as follows:

30% to the University

20% to the college and department (or relevant campuses, research unit, or Program when appropriate) to be equally split between the two

- (4) With consideration to other University priorities and policies, the University or its designee will distribute one-third of its share to the Office of the Vice President for Research to be invested in further research and technology efforts for the University, one-third of its share to be managed and maintained by the OC as an “enforcement fund” to be used for legal claims against University intellectual property, and the remaining one-third of its share to be used by the OC towards a “commercialization fund” to be reinvested in commercialization activities and projects.
- (5) The OC enforcement fund allocation will be deducted only when necessary to maintain a \$150,000 balance for all inventions under this section; the distribution to the OC Enforcement Fund will cease while the Fund maintains a \$150,000 balance and the University share will then be distributed equally to the vice president for Research and the OC Commercialization Fund. Any enforcement expenses incurred above \$150,000 would be shared by all parties that share in the income, in the proportion of their share of income, for that specific invention and will be deducted as legal expense in step IV.G.8.a.1. Any net proceeds, after expenses, earned as a result of enforcement will be used to first replenish the enforcement fund. Any net proceeds remaining after replenishing the Enforcement Fund will be added to adjusted income.

An advisory body comprising a representative from each of the inventor/creator/breeder groups contributing to the OC enforcement fund and other appropriate faculty and administrators will make recommendations on the use of the OC enforcement fund to the president via the Office of Commercialization. The president may then make recommendations to the Board of Regents who have the final authority to initiate a legal action on behalf of WSU.

- b) In the event of multiple inventors, the inventors will agree among themselves as to the distribution of the income accruing to the inventors; distribution of the inventors’ share shall be made only upon receipt of a signed agreement among the inventors.
- c) The University or its designee may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to royalty and/or monetary consideration as a part of an agreement relating to inventions or Copyrighted Works. Any equity interests acquired pursuant to this section shall be held and managed by the Washington State University’s designee. Neither the Washington State University nor its designee acts as a fiduciary for any person concerning equity nor other consideration received under the terms of this regulation. Upon liquidation, the proceeds from the equity interests held by the University designee will be distributed according to the schedule in section IV.G.8.a.

9. Public Released Agricultural Research Center Plant Varieties

a) The research and development, patent or plant variety protection, and public release of plant varieties requires the cooperation of the plant breeder(s), funding agency (USDA), Variety Release Committees, WSU Agricultural Research Center (ARC), Washington State Crop Improvement Association (WSCIA) or similar commodity groups, and the OC. The distribution of research fees and royalties will follow this schedule:

b) Seed Propagated Crops

- (1) In the case of contracted marketing, licensing and business development, all monies remaining after contractor expense will be distributed to WSU.
- (2) The University or its designee will then deduct the costs of obtaining and maintaining legal protection, for each plant variety to arrive at “adjusted income”.

(3) Ten percent (10%) of the adjusted income capped at twenty thousand (\$20,000) per fiscal year per seed propagated variety, will be retained by the OC as an “enforcement fund for all Seed Propagated Crops” to be used for legal claims against University intellectual property related to seed propagated crops to arrive at “net income”. The OC Enforcement Fund allocation will be deducted only when necessary to maintain a one hundred fifty thousand (\$150,000) balance for all seed propagated crops; ten percent (10%) of the adjusted income distribution to the OC Enforcement Fund will cease while the Fund maintains a one hundred fifty thousand (\$150,000) balance and the adjusted income will then be equal to the net income. Any enforcement expenses incurred above one hundred fifty thousand (\$150,000) would be shared by all parties that share in the income, in the proportion of their share of income, for that specific seed propagated variety. Any net proceeds, after expenses, earned as a result of enforcement will be used to first replenish the Enforcement Fund. Any net proceeds remaining after replenishing the Enforcement Fund will be added to adjusted income.

An advisory body comprising a representative from each of the inventor/creator/breeder groups contributing to the OC Enforcement Fund and other appropriate faculty and administrators will make recommendations on the use of the OC Enforcement Fund to the president via the Office of Commercialization. The president may then make recommendations to the Board of Regents who have the final authority to initiate a legal action on behalf of WSU.

(4) Seventy percent (70%) of the net income will be distributed to the Agricultural Research Center for enhancement of seed propagated variety programs in consultation with the breeders that generated the income for this category.

(5) The remaining thirty percent (30%) of the net income will be distributed

10% to the OC

10% to WSU-ARC

10% to plant breeder(s)/contributor(s)

c) Vegetatively Propagated Crops

(1) In the case of contracted marketing, licensing and business development, all monies remaining after contractor expense will be distributed to WSU.

(2) The University or its designee will then deduct the costs of obtaining and maintaining legal protection, for each plant variety to arrive at “adjusted income”.

(3) Ten percent (10%) of the adjusted income, capped at twenty thousand (\$20,000) per fiscal year per vegetatively propagated variety, will be retained by the OC as an “enforcement fund for all vegetatively propagated crops” to be used for legal claims against University intellectual property related to vegetatively propagated crops to arrive at “net income”. The OC enforcement fund allocation will be deducted only when necessary to maintain a one hundred fifty thousand (\$150,000) balance for all vegetatively propagated crops; ten percent (10%) of the adjusted income distribution to the OC enforcement fund will cease while the fund maintains a one hundred fifty thousand (\$150,000) balance and the adjusted income will then be equal to the net income. Any enforcement expenses incurred above one hundred fifty thousand (\$150,000) would be shared by all parties that share in the income, in the proportion of their share of the income, for that specific vegetatively propagated variety. Any net proceeds, after expenses, earned as a result of enforcement will be used to first replenish the Enforcement Fund. Any net proceeds remaining after replenishing the Enforcement Fund will be added to adjusted income.

An advisory body comprising a representative from each of the inventor/creator/breeder groups contributing to the OC enforcement fund and other appropriate faculty and administrators will

make recommendations on the use of the OC enforcement fund to the president via the Office of Commercialization. The president may then make recommendations to the Board of Regents who have the final authority to initiate a legal action on behalf of WSU.

(4) Fifty percent (50%) of the net income will be distributed to the Agricultural Research Center for enhancement of vegetatively propagated variety programs in consultation with the breeders that generated the income for this category,

(5) The remaining fifty percent (50%) of the net income will be distributed as follows:

10% to the OC

10% to WSU-ARC

30% for breeder(s)/contributor(s)

IV H. Copyright Policy

The United States government grants a copyright to the author or creator of original works of authorship. Copyrights for works created after January 1, 1978, are granted for the term of the author's life and an additional seventy (70) years. In the case of a work made for hire, the term of the copyright is ninety-five (95) years from the year of first publication or one hundred twenty (120) years from the year of creation, whichever expires first. The copyright allows the author or persons assigned rights for the author to rightfully withhold others from copying or using the works without permission. A copyright is automatically secured when the work is created or "fixed" in a tangible medium. No publication or registration or other action in the Copyright Office is required; however, it is required that a copyright be registered before a lawsuit is brought. Refer to the U.S. Copyright Office at <http://lcweb.loc.gov/copyright> for further information.

1. Copyright Policy Objectives

The University encourages the publication of scholarly works as an inherent part of its educational mission. In this connection, it acknowledges the right of faculty, staff, and students to prepare and publish, through individual initiative, architectural designs, photographs and slides, illustrations, computer software, multimedia presentations, sound recordings, video productions, telecasts, music, grant proposals, scholarly publications, and other material. The following statement of University policy on ownership of copyrightable material is provided to clarify the respective rights and responsibilities of individuals and the University in this important area. OC will administer the policy.

2. Copyright Ownership

a) University Ownership of Copyrighted Works

- (1) **Work Made for Hire.** Except as otherwise provided in the Employee Ownership of Copyrighted Works section of this Policy, IV.H.2.b of this manual or as otherwise provided in WSU policy, the University shall own all copyrightable works that were created as a "work made for hire." "Work made for hire," as defined by the Copyright Act, includes (1) works prepared by University employees within the employee's scope of employment, or (2) works not created within the employee's scope of employment but that are specially commissioned by the University pursuant to a written agreement that is signed by both the University and the employee.
- (2) **Sponsored Agreements.** The University shall have the right to perform its obligations with respect to copyrightable works, data, prototypes, and other intellectual property under any contract, grant, or other arrangement with third parties, including sponsored research agreements, license