MONTANA BOARD OF REGENTS OF HIGHER EDUCATION
Policy and Procedures Manual

SUBJECT: RESEARCH AND PUBLIC SERVICE
Policy 407 – University System Employee Equity Interest and/or Business Participation
Approved: September 23, 2005; Updated: December 19, 2013

I. Purpose

A. The board of regents recognizes that the objectives of the technology transfer and intellectual property development activities of the Montana university system (MUS) units are to facilitate the efficient transfer of knowledge and technology from the units to the private sector in service of the public interest; to support the discovery of new knowledge and technology and attract resources for the support of unit programs; to enhance student learning opportunities and to promote local, regional and national economic development. The board also recognizes that the efficient transfer of technology to private business entities will often be enhanced by the active and continuing involvement of the inventor of the intellectual property that is transferred to the company. The goal of this policy is to allow intellectual property created by university system employees to be disseminated and utilized in a fashion mutually advantageous to the state, the university system, the business entity and the employee.

B. This policy implements the provisions of 20-25-109 MCA which requires the board of regents to approve:

1. an MUS employee's ownership of an equity interest or participation in intellectual property conceived, created, discovered, invented or developed by the employee; or
2. an MUS employee serving as a member of the board of directors or other governing board of or as a director, officer or employee of a business entity that either: (a) has an agreement with the MUS or with any other Montana state agency or political subdivision that relates to the research, development, licensing, or exploitation of the intellectual property; or (b) shares an ownership interest in the intellectual property with the MUS.

II. Definition

A. "Business entity" as used in this policy means a business that (i) has or wishes to negotiate an agreement with a MUS unit or any other public entity relating to the research, development, licensing or commercial exploitation of intellectual property developed by an employee inventor; or (ii) shares an ownership interest in intellectual property with a unit of the MUS.

B. "Intellectual property" as used in this policy means: "inventions, discoveries, and creations that may be eligible for copyright or patent." The term also includes other economic development activity of a proprietary nature, including but not limited to business practices, ideas, processes, or arrangements that may not be eligible for either patent or copyright but for which the possibility of profitable commercialization exists."

C. "Employee inventor or creator" as used in this policy means an employee who, as part of the employee's authorized work for the MUS, conceives, creates, discovers, invents, or develops intellectual property.

III. Employee Activities Requiring Approval

A. MUS units must obtain approval for an employee inventor or creator to engage in any of the following activities with a business entity:

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1. employee inventor or creator ownership, or award of an equity interest or similar participation in the ownership, of a business entity;
2. employee inventor or creator participation as a director, officer, or as a member of the board of directors or other governing board of a business entity; or
3. employment of the employee inventor or creator by the business entity.

IV. Board Approval

A. A request for board approval should contain:

1. the name of the employee and the business entity involved;
2. the relationship or activity outlined under section III for which approval is being sought
3. a statement of how the approval of the relationship will further the goals and objectives of the technology transfer and intellectual property development activities of the unit and provides public benefit; and
4. for an employee inventor or creator seeking approval pursuant to policy 407 section III (A) (ii) or (iii), a statement indicating that the business entity either:
   (a) has an agreement with the MUS or with any other Montana state agency or political subdivision that relates to the research, development, licensing, or exploitation of the intellectual property; or
   (b) shares an ownership interest in the intellectual property with the MUS.

V. Other Policies

If an employee's equity interest or financial participation in the commercial development of intellectual property is established pursuant to regents' policies 401.2 (patents and inventions), 401.3 (copyright) or 406 (ownership of electronic course material), it shall be deemed approved by the board. Employee inventors receiving approval under this policy will comply with the employing units' policies governing conflict of interest and conflict of commitment as applicable to the activities approved under this policy.

VI. Reports

Each unit shall file a report no later than December 31 of each year with the commissioner identifying all employees who have an equity interest in or serve as employees, officers, or members of the board of directors of business entities that have agreements with the system relating to the research, development, licensing or exploitation of intellectual property in which the system has an ownership interest. The report shall identify the employee, the business entity and the activities approved under this policy. Once the relationship has been reported, the unit will only report changes to the previous year's report.

History:

ITEM 113-110-R1101 and Memo, Board of Regents Policy and Procedures Manual: Research and Public Service, University System/Employee Joint Ventures (New), approved by the Board of Regents on January 18, 2002; as revised September 23, 2005 (Approval of University System Employee Equity Interest and/or Business Participation, Item 128-115-R0905). Editorial change, December 19, 2013 (removed Specific Joint Ventures Approved).