

V. University Policies

A. Code of Professional Ethics for the Faculty

I. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end they devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although they may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

II. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly standards of the discipline. They demonstrate respect for the student as an individual, and adhere to their proper role as intellectual guide and counselor. They also avoid any personal exploitation of students, staff, colleagues and others and will not abuse their position as members of the academic profession. They make every reasonable effort to foster honest academic conduct and to ensure that the evaluation of students reflects their true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation of students, staff, colleagues and others for their private professional advantage and acknowledge significant assistance from them. They protect their academic freedom.

III. As colleagues, professors have obligations that derive from common membership in the community of scholars. They respect and defend the free inquiry of their associates. In the exchange of criticism and ideas they show due respect for the opinions of others. They acknowledge academic debts and strive to be objective in their professional judgment of colleagues. They accept a share of faculty responsibilities for the governance of their institution.

IV. As a member of their institution, professors seek above all to be effective teachers and scholars. Although they observe the stated regulations of their institution, provided they do not contravene academic freedom, they maintain their right to criticize and seek revision. They determine the amount and character of the work done outside the institution with due regard to their paramount responsibilities within it. When considering the interruption or termination of service, they recognize the effect of the decision upon the program of the institution and give due notice of their intentions.

V. As a member of the community, professors have the rights and obligations of any citizen. They measure the urgency of these obligations in the light of responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as a private person they avoid creating the impression that they speak or act for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

VI. As members of the faculty, professors respect the rights of others, regardless of gender; race; age; physical and language handicap; prior civil disability; sexual and religious preference; marital and socio-economic status; or national origin, citizenship and allegiance. Professors avoid such extraneous considerations in the evaluation of peers, students, or in the assignment of duties and responsibilities in the University. Professors promote the ideals of a learning environment that fosters individual rights and encourages mutual respect.

B. Personnel Policies

The University has established formal policies and procedures for decisions involving faculty appointment, promotion, and tenure. Standards, criteria, and procedural guidelines are contained in the "Academic Personnel Policy of the University of Massachusetts" (see below). These policies are consistent with AAUP standards for promotion and tenure and traditions of faculty primary responsibility in matters of faculty status. An annual memorandum from the Provost provides supplemental instructions on the process for recommending personnel actions. Many schools and colleges provide supplemental guidance to the faculty as well. An annual workshop for probationary faculty is run by the Center for Teaching. All faculty members are encouraged to inform themselves about faculty personnel policies.

1. Academic Personnel Policy of the University of Massachusetts (Doc. T76 - 081) ("Red Book")

ARTICLE I. Authority, Duration, Definitions

Section 1.1

These academic personnel policies and procedural standards are promulgated by the Trustees of the University of Massachusetts under the authority of Massachusetts General Laws, Chapter 75. They shall remain in effect until amended, modified, or revoked by action of the Trustees, the right to do which is hereby reserved.

Section 1.2

Amendments and modifications to these academic personnel policies may be recommended by any appropriate campus governance unit and shall be submitted for the appropriate governance review on all other campuses of the University prior to submission to the Trustees.

Section 1.3

Unless otherwise specified herein, these academic personnel policies and procedural standards shall apply to the following personnel actions: appointments, reappointments, promotions, the award of tenure, alterations of the tenure decision year, sabbatical leaves, and salary adjustments. The standards and criteria herein shall apply to all departmental recommendations and subsequent reviews and decisions initiated after the date of this document.

Section 1.4

Within the framework of the established allocation of primary responsibility and these University-wide policies and procedural standards, the separate campuses of the University may develop supplementary academic personnel policies which are subject to the approval of the Board of Trustees.

Section 1.5

The term department or departmental level as used in this document refers to the first organizational unit of the faculty.

Section 1.6

The term major personnel action as used in Section 6.4 refers to reappointments through the tenure decision year, promotions to the ranks of Associate Professor and Professor, and the award of tenure.

Section 1.7

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as have acquired a peculiar and appropriate meaning shall be construed and understood according to such meaning. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular. As used in these policies and procedural standards, the following terms shall have the meaning herein given unless otherwise expressly provided:

"Academic position" - A position as a lecturer, instructor, assistant professor, associate professor, or professor and all positions of like title, but bearing a specific designation such as adjunct, visiting, clinical, research, part-time, Commonwealth, etc.

"Academic year" - Except for the University of Massachusetts at Worcester, that period of time commencing with the beginning of the first week of classes in the fall and ending with commencement exercises, including any intersessions occurring during said period.

"Basic file" - The compilation of all relevant material related to the individual under consideration for a personnel action, and all recommendations based thereon necessary for a decision.

"Credit toward tenure" - The amount of time in yearly segments credited toward a faculty member's tenure decision year.

"Faculty member" - A member of the professional staff of the University who holds an academic position.

"Faculty" - As used in this document, is the departmental, collegiate, or campus group exercising primary responsibility in academic matters and in matters of faculty status, the membership of which is determined according to campus governance.

"Primary responsibility" - As defined in Trustee Document T73-098, is the capacity to initiate recommendations, after appropriate consultation, which will be overruled only by written reasons stated in detail. Faculty primary responsibility is the capacity of the faculty to initiate recommendations in academic matters and in matters of faculty status.

"Probationary period" - The period during which a faculty member can enjoy full-time regular academic appointments without being awarded tenure, not including a terminal appointment as provided for in Section 6.2 (h).

"Professional staff" - All officers of the University and all persons (except those whose duties are clerical, custodial, security, labor, maintenance and the like) employed by the Commonwealth in the service of the University for teaching, research, administration, extension, enforcement, control laws and regulatory services, technical and specialized support staff, and such related activities as shall be determined by the Trustees.

"Tenure" - The right of a faculty member to continuous employment in an academic position until retirement age, subject to dismissal or suspension only as established in Trustee policy.

"Tenure decision year" - The academic year during which a faculty member is considered for an appointment with tenure.

ARTICLE II. Academic Freedom, Equal Opportunity, and Affirmative Action

Section 2.1

Academic freedom, equal opportunity, and affirmative action are principles to be honored throughout the University, but they are particularly significant in academic personnel policy.

Section 2.2

The standards and interpretations of the American Association of University Professors on matters of academic freedom as set forth in the 1940 Statement of Principles on Academic Freedom and Tenure shall serve as the basic guidelines for the maintenance of academic freedom.

Section 2.3

These standards and interpretations as to academic freedom shall apply to all persons who are members of the professional staff of the University who perform teaching or research functions whether or not such persons occupy "academic positions" as that term is defined herein. No member of the professional staff of the University shall be dismissed, suspended or denied employment, or otherwise penalized, if said action would constitute a breach or infringement of said standards and interpretations as to academic freedom.

Section 2.4

In all personnel decisions, there shall be equal opportunity for all persons without regard to race, color, religion, sex, age or national origin. Consistent with this principle, affirmative action shall be taken to seek and maintain adequate representation of women and minority group members throughout the University. All applicable federal and state laws and regulations relating to equal employment opportunity and affirmative action are incorporated herewith, together with campus and University plans and procedures which have been promulgated to implement such laws and regulations.

ARTICLE III. Roles and Responsibilities in Personnel Matters

Section 3.1

The faculty has primary responsibility in matters of faculty status, such as appointments, reappointments, promotions, tenure and salary adjustments. The faculty also has primary responsibility in academic matters, and shall, whenever appropriate, relate the two in making personnel recommendations. The faculty shall exercise its primary responsibility as follows:

- a) At the departmental level, the faculty shall establish, subject to campus policy and governance procedures, the procedure for the exercise of primary responsibility in matters of faculty status and academic matters. The procedure shall be designed so as to assure that departmental faculty participate, through a personnel committee or such other committee as may be agreed upon, in the discharge of their primary responsibility.

- b) In each college or school, there shall be a personnel committee of the faculty to review departmental recommendations. The committee shall be chosen by procedures established on each campus in a manner designed to represent the interests of the faculty of each college or school.

- c) At the campus level, the faculty shall be involved, in accordance with established governance procedures, in the further development of personnel policies and procedures. The faculty initiates written recommendations in matters of appointment, reappointment, promotion, or tenure, acting through established personnel procedures and according to approved policy. In exercising its primary responsibility of peer review, the faculty has the obligation to present a clear, complete and convincing case for the recommendations so as to assure the faculty member of a complete presentation of his or her qualifications and achievements, and so as to provide the basis both for full reviews of the recommendation, and for the decision.

Section 3.2

The Board of Trustees has the statutory authority to make decisions in matters of faculty status and may delegate that authority only to appropriate administrative officials (Mass. G.L. c.75

§3A). The President has been delegated the authority to appoint members of the faculty to tenure with the concurrence of the Board of Trustees. Within the framework of Trustee policy, the chancellors have been delegated the authority to make decisions in all matters of faculty status. Any re-delegation of appointing authority to the Provost or other academic administrative officials is subject to the approval of the Board of Trustees.

Section 3.3

Academic administrative officials below the level of the delegated appointing authority are responsible for the review of the faculty recommendations. Such a review shall be based on an evaluation of the strength of the evidence in the basic file regarding the qualifications of the individual, and whenever appropriate, the justification of the recommendation within the context of long-range plans. Any such review shall result in an additional written recommendation which shall specifically address the original faculty recommendation in the context of established standards and criteria. The decision of the delegated appointing authority shall be made on the same basis. In making personnel reviews and decisions, all academic administrative officials shall act according to approved policy and through established personnel procedures. No academic administrative official shall make a recommendation or decision which is counter to the original faculty recommendation without compelling reasons in written detail which shall specifically address the content of that recommendation as well as the established standards and criteria. In addition, the President, in making tenure decisions, should disagree with the campus recommendation only in rare instances.

Section 3.4

Students will also be assured the opportunity to participate in the personnel process, through contributing to the evaluation of a faculty member's effectiveness, particularly in teaching. Procedures for student participation shall be determined on each campus.

Section 3.5

In academic personnel matters, the Department Chairperson/Head is responsible for the proper procedures at the departmental level, as outlined in Section 6.4 (a-f), as well as for the following:

- a) Coordinating all administrative matters relating to personnel actions, such as negotiations for initial appointment, notification of impending review, maintenance of personnel files, compilation of the basic file of material to support a recommendation, and notification of action.
- b) Keeping faculty members informed as to their status, rights, and responsibilities.
- c) Developing and maintaining, with appropriate faculty participation as stipulated under Section 3.1 (a), long-range plans for the department within the context of the current and long-range needs of the college or school and the campus, and keeping the department informed of the status of those plans.
- d) Providing the departmental personnel committee with information appropriate for the consideration described in Section 4.2.

Section 3.6

In academic personnel matters, the Dean is responsible for the proper procedures at the school or college level, as outlined in Section 6.4 (f), as well as for the following:

- a) Ensuring that general criteria and procedural standards are consistently employed in all departments within the college, school, or similarly designated academic unit.
- b) Reviewing departmental plans and developing and maintaining, with appropriate faculty participation, long-range plans for the college or school within the context of the current and long-range needs of the campus, and keeping the school or college informed of the status of those plans.

c) Ensuring the establishment of a college or school personnel committee.

Section 3.7

In academic personnel matters, the Provost is responsible for the following:

a) Ensuring that general criteria and procedural standards are consistently employed in all colleges and schools of the campus.

b) Reviewing college and school plans and developing and maintaining, with appropriate faculty participation, long-range plans for the campus, within the context of the long-range needs of the University, and keeping the campus informed of the status of those plans.

Section 3.8

In academic personnel matters, the Chancellor is responsible for:

a) Ensuring adherence to the proper procedures at the campus level, as outlined in Section 6.4 (g).

b) Reviewing the campus plans within the context of the current and long-range need of the University.

Section 3.9

In academic personnel matters, the President is responsible for:

a) Ensuring adherence to the proper procedures at the University level, as outlined in Section 6.4 (h).

b) Ensuring that general criteria and procedural standards are consistently employed throughout the University.

c) Reviewing the long-range plans of each campus, and developing and maintaining, with appropriate faculty participation, long-range plans for the University as a whole, and keeping the University informed of the status of those plans.

ARTICLE IV. Standards and Criteria for Personnel Reviews, Recommendations and Decisions

Section 4.1

High professional standards must be the basis for all personnel decisions. Personnel recommendations and decisions shall be made only after a review of all of the qualifications and all the contributions of the individual in the areas of teaching; of research; creative or professional activity; and of service. All three areas must be considered, but the relative weight to be given to each may be determined in the light of the duties of the faculty member.

Section 4.2

For personnel recommendations and decisions, consideration must also be given to the relationship of the recommended personnel action to the following:

a) program plans at the department, college, campus, and University level;

b) flexibility as affected by rank and tenure distributions and anticipated retirement dates;

c) departmental affirmative action goals, considering the nature of the positive contribution that affirmative action is able to make to the diversity of perspective that is essential to the well-being of the department and the University community.

For new appointments, reappointments through the tenure decision year, and for the award of tenure, these considerations must be given in writing as established in Section 6.4 (e).

Section 4.3

The standards and criteria described in this document and any standards and criteria established in Trustee-approved campus personnel policies shall be the only standards and criteria used in making and reviewing personnel recommendations.

Section 4.4

Regular academic appointments at the University are made for full-time service at the ranks of Instructor, Assistant Professor, Associate Professor, and Professor. The following general criteria shall apply to all candidates for such appointments:

- a) For an appointment as an Instructor, a candidate must have made substantial progress toward the completion of all requirements for the terminal degree in his or her field of academic specialization, or possess equivalent professional experience that is appropriate to the position to be filled. The candidate must also give promise of academic or professional development and achievement.
- b) For an appointment as an Assistant Professor, a candidate must possess the appropriate terminal degree, or equivalent professional experience. If the candidate has held a faculty appointment at another college or university, he or she must also have a record of achievement in the field of academic specialization. In addition, the candidate must show promise of continuing professional development and achievement.
- c) For an appointment as an Associate Professor, a candidate must possess the appropriate terminal degree, or equivalent professional experience, and must have had considerable academic or professional experience beyond the level which would warrant an appointment as Assistant Professor; must have a record of achievement sufficient to have gained recognition on and off campus from scholars or professionals in his or her field; and must show promise of continuing professional development and achievement.
- d) For an appointment as a Professor, a candidate must possess the appropriate terminal degree, or equivalent professional experience; and must have a record of achievement sufficient to have gained substantial recognition on and off campus from scholars or professionals in his or her field; and must show significant potential for continuing professional achievement.

Section 4.5

The general criteria for reappointment at regular academic ranks shall be the following:

- a) Evidence of continuing achievement and growth since initial appointment.
- b) Reasonable assurance of continuing professional development consistent with the ability to reach the level for eventual promotion to the next higher rank.
- c) Consideration of the relationships as stated in Section 4.2.

Section 4.6

Recommendations for promotion shall be based on qualifications and contributions in the areas of teaching; of research, creative, or professional activity; and of service; and on the following considerations:

- a) For promotion to Assistant Professor, the faculty member must possess the appropriate terminal degree, or equivalent professional experience, and have a record of achievement in the field of academic specialization. In addition, the candidate must show promise of continuing professional development and achievement.
- b) For promotion to Associate Professor, the faculty member must have a record of achievement sufficient to have gained recognition on and off campus among scholars or professionals in his or her field; and must show promise of continuing professional development and achievement.
- c) For promotion to Professor, the faculty member must have a record of achievement sufficient to have gained substantial recognition on and off campus from scholars or professionals in his or her field; and must show significant potential for continuing professional achievement.

Section 4.7

All appointments and reappointments to regular academic positions without the award of tenure are probationary. The probationary period is an opportunity for the faculty member to demonstrate the qualifications for reappointment, promotion, and the award of tenure. During the probationary period, the faculty member should have access to information on the substantive and procedural standards generally employed in decisions affecting reappointment, promotion, and the award of tenure.

Section 4.8

No regular academic appointment without tenure shall carry with it any assurance, explicit or implicit, of a reappointment, a promotion, or the eventual award of tenure. Such actions must be based on a positive recommendation in accordance with procedures and standards established in articles II, III, IV, and VI.

Section 4.9

The award of tenure can be made only by the President with the concurrence of the Board of Trustees. Consideration of a candidate for tenure shall be based on the following:

- a) Convincing evidence of excellence in at least two, and strength in the third, of the areas of teaching; of research, creative or professional activity; and of service, such as to demonstrate the possession of qualities appropriate to a member of the faculty occupying a permanent position.
- b) Reasonable assurance of continuing development and achievement leading to further contributions to the University.
- c) The relationships as stated in Section 4.2

Recommendations for the granting of tenure without promotion to Associate Professor must be accompanied by compelling reasons stated in detail.

Section 4.10

The criteria for an initial appointment with tenure shall be those established for the rank involved and those for the award of tenure.

Section 4.11

Special academic appointments include appointments with the titles of lecturer, adjunct (all ranks), clinical (all ranks), and visiting (all ranks). Each campus may develop definitions, criteria, and procedures for making special academic appointments subject to the concurrence of the Board of Trustees and within the following University wide guidelines:

- a) Special academic appointments are not considered probationary and holders cannot be awarded tenure.
- b) The responsibilities of a faculty member on a special academic appointment need not include the three functions of teaching; of research, creative or professional activity; and of service; but may be limited to any one of these areas as determined by mutual agreement between the faculty member, the Department Chairperson/Head and the Dean.
- c) In most cases, the term of a special academic appointment does not exceed one year, and in no case shall it exceed five years.
- d) Full-time, salaried, special academic appointments cannot usually extend beyond a total of six years.
- e) In the event that the holder of a special academic appointment shall apply for a regular academic appointment, the criteria for initial appointment to that rank shall apply. In that case, full-time and/or part-time service, subsequent to the award of the terminal degree, or equivalent professional experience, may count toward the tenure decision year.
- f) The prerogatives of holders of special academic appointments shall be determined on each campus.

Section 4.12

Subject to the availability of funds, there are provisions for salary increments for professional advancement, awards for exceptional contributions, and adjustments for promotions and adjustments of salary inequities. Within the guidelines set for these categories by the President with the concurrence of the Board of Trustees, the Chancellor, in accordance with the appropriate governance procedures, shall determine the criteria and procedures for implementation of salary policy.

Section 4.13

In addition to the provisions of University sabbatical leave policy (T66-049 as amended by T73-065), the general criteria for the award of sabbatical leaves, subject to the availability of funds and a request by the faculty member, are the following:

- a) A record of achievement, service, and contribution during the years of service prior to the leave period that provides reasonable expectation that the objectives of the sabbatical project will be achieved.
- b) A sabbatical leave project which promises to contribute to the development of the faculty member in areas of teaching; of research, creative or scholarly activity; and/or of professional service capability, and hence contribute to the institution as a whole upon the return to the University for at least one year following the academic year in which the sabbatical leave takes place.

Section 4.14

Leaves without pay may be granted by the appointing authority for reasons of health, for advanced study and research, or in connection with temporary employment or service which will be of value to the faculty member and the University. They are not normally granted for more than one year. An extension beyond the second year must be with the approval of the President.

ARTICLE V. Rights of Members of the Faculty in Academic Personnel Matters and Responsibilities as Conditions of Employment

Section 5.1

Policies, criteria, and procedural standards established herein and additional policies, criteria, or procedures established on the campuses shall not infringe upon the following rights of faculty members in personnel matters:

- a) For personnel reviews, recommendations and decisions, the right and the responsibility to present all materials which he or she believes will be essential to an adequate consideration of the case, and the opportunity to supplement the original presentation with additional relevant information in the event that a review indicates shortcomings in the presentation.
- b) The right to have access to information on the current needs and long-range plans of the department, college or school, campus and University.
- c) The right to have extra-departmental service contributions considered at the department level as well as at other levels of review, recommendation and decision.
- d) The right to be considered for tenure if given an appointment or a reappointment through the end of the probationary period.
- e) The right to equitable treatment in personal matters so as to ensure generally consistent recognition to departmental faculty members whose chosen field, overall professional development, period of service on the campus, and quality of contributions, all taken as a whole are judged to be approximately equal.

- f) The right to discuss his or her professional progress and any personnel matter of concern with his or her Department Chairperson/Head; and, if such discussions prove unsatisfactory, with the Dean; and, if still unsatisfied, with the Provost.
- g) The right to be informed of the personnel recommendation made at the department, college or school, and campus level.
- h) The right to notification of non-reappointment as specified in Section 6.7.
- i) The right to discuss reasons for a negative personnel decision at all appropriate administrative levels as specified in Section 6.10.
- j) The right to invoke the grievance procedures, under the conditions specified in Trustee grievance policy.

Section 5.2

Satisfactory fulfillment of the following responsibilities is expected of all members of the faculty as a condition of employment in all parts of the University:

- a) Performance of assigned teaching duties and other instructional activities including counseling and appropriate evaluation of student work.
- b) Scholarly, creative and professional activity adequate, as a minimum, for continuing updating of course content and other instructional and professional activities so as to reflect current developments in the faculty member's academic field.
- c) Participation in the operation and governance of the department, college or school, campus or University to the extent normally expected of all faculty members.
- d) Participation in extension work, continuing education, and other professional outreach service when such service is usually expected of all faculty members of the unit in which the faculty member holds an appointment.

Positive personnel recommendations and decisions must be based on the achievement of appropriate standards as stated in Article IV.

ARTICLE VI. Procedural Standards in Personnel Matters

Section 6.1

The length of initial appointments to regular academic positions and subsequent reappointments must conform to the following guidelines:

- a) Initial appointments and subsequent reappointments at the rank of Instructor shall be for one year. In no case shall service at this rank exceed three years.
- b) Initial appointments and subsequent reappointments at other ranks may vary in length depending upon the qualifications of the individual and the needs of the department, provided that the review described in Section 6.4 (e) shall be made at the time of a reappointment decision which will carry the candidate through the end of the probationary period.
- c) No probationary appointment or reappointment shall exceed a term of four years.

Section 6.2

The timing of personnel recommendations, reviews, and decisions for individuals on probationary appointments shall conform to the following guidelines:

- a) A maximum of three years of credit toward tenure may be awarded at the time of initial appointment to individuals who have had an academic appointment at another college or university subsequent to the attainment of the terminal degree or who have had equivalent professional experience.
- b) The probationary period for a full-time faculty member possessing the terminal degree or equivalent professional experience may not exceed six years.

- c) Designation of the tenure decision year for a full-time Instructor, appointed without the terminal degree or equivalent professional experience, shall be made, upon the recommendation of the department personnel committee or equivalent faculty agency, no later than the beginning of the academic year following the award of the terminal degree.
- d) Designation of the tenure decision year shall, in all other cases, be made at the time of initial appointment.
- e) The tenure decision year may be altered, upon written agreement between the individual and the appointing authority, in the following circumstances:
- 1) When a non-tenured faculty member is named to either a full-time or part-time administrative position which would restrict opportunity for scholarly and professional activity, the duration of the administrative position, up to a maximum of three years, will not be included in the probationary period, provided there has been prior written agreement between the faculty member and the appointing authority.
 - 2) When an non-tenured faculty member is granted a leave without pay, the time spent on leave will not be included in the probationary period, except in unusual circumstances agreed to in writing at the time the leave is approved, and shall not be credited towards eligibility for sabbatical leave.
 - 3) When a non-tenured faculty member, with the approval of the Department Chairperson/Head and the Dean, temporarily transfers from full-time to two-thirds status or less, an adjustment of the tenure decision year may be negotiated. No adjustment will be permitted for a temporary transfer to more than two-thirds status.
- f) In any other circumstances, a request by the faculty member for alteration of the tenure decision year shall require:
- 1) recommendations of the department personnel committee and Chairperson/Head;
 - 2) review and recommendation by appropriate administrative officials;
 - 3) approval by the Chancellor.
- If approved, the redesignated tenure decision year shall be set forth in a written agreement between the individual and the Chancellor.
- g) Consideration of a candidate for an appointment with tenure shall normally be made during the tenure decision year, and only in exceptional circumstances may an award of tenure be considered prior thereto.
- h) If tenure is not granted during the tenure decision year, a terminal appointment for one academic year shall be made, in those cases in which the faculty member does not already hold such an appointment.

Section 6.3

The terms and conditions of every appointment to an academic position shall be stated in, or as part of, the Approved Offer and Acceptance Form, signed by the appropriate administrative officials and countersigned by the candidate, which shall signify his or her understanding and acceptance of said terms and conditions. The terms and conditions shall specify the date of first full-time appointment at the University, credit toward tenure, the expiration of the current appointment in the case of an appointment without tenure, and the tenure decision year in the case of a probationary appointment. No other term or condition, whether implied or stated, whether to the advantage or disadvantage of the candidate, shall have binding force.

The terms and conditions of every reappointment (or any modification thereof) shall be stated in or as part of the Notification, Offer, and Acceptance of Professional Staff Reappointment Form

signed by the appropriate administrative officials, and countersigned by the candidate, which shall signify his or her understanding and acceptance of said terms and conditions. No other term or condition, whether implied or stated, whether to the advantage or disadvantage of the candidate, shall have binding force.

Section 6.4

The process for recommendations, reviews, and decisions for major personnel actions – reappointments through the tenure decision year, promotion to the ranks of Associate Professor and Professor, and the award of tenure - shall conform to the following guidelines. For appointments, these guidelines shall be applied as indicated.

- a) The faculty member shall be advised by the Department Chairperson/Head as early as possible (in cases of reappointment and tenure, at the beginning of the academic year) that a review of his or her contributions will be made for the purposes of a personnel recommendation.
- b) The faculty member shall submit to the Department Chairperson/Head any and all materials, for inclusion in the basic file, which he or she believes will be essential to an adequate consideration of the case.
- c) For appointments at, or promotions to, the ranks of Associate Professor and Professor and for tenure recommendations, the Department Chairperson/Head shall obtain outside letters of reference from a list of scholars and professionals which includes, but is not limited to, those suggested by the faculty member. The confidentiality of such letters shall be governed by appropriate federal and/or state statutes.
- d) The basic file will be studied at all levels where responsibility for recommendation, review or decision has been established. The basic file shall contain the items in b) and c) and the following:
 - 1) vita, bibliography, copies and/or reviews of published works;
 - 2) appropriate evaluations of teaching effectiveness, including but not limited to those of students;
 - 3) evaluations of extra-departmental contributions;
 - 4) recommendations of the department and college or school faculty bodies and of appropriate administrative officials.
- e) At the departmental level, the faculty, acting in accordance with the responsibilities defined in Section 3.1, and the standards and criteria established in Article IV, initiates the personnel action by a recommendation of the departmental personnel committee based on the evidence set forth in the basic file. The Department Chairperson/Head reviews the departmental personnel committee recommendation and a) may endorse it; or b) after consultation, may formulate a contrary recommendation. In considerations of new appointments, reappointments through the tenure decision year, and the award of tenure, these recommendations shall contain written justifications on the basis of the relationships described in Section 4.2. When the recommendation does not accord with departmental long-range plans, reasons for such a departure shall be indicated. When the basic file is forwarded from the departmental level to the Dean, the following will have been added:
 - 1) the recommendation and vote of the department personnel committee (or other agency for the initiation of recommendations);
 - 2) the recommendation of the Department Chairperson/Head;
 - 3) if letters of reference are a part of the basic file, a description of the professional standing of their writers.

A copy of the recommendation of the Department Chairperson/Head shall be sent to the Chairperson of the department personnel committee. Copies of the recommendation of the department personnel committee and of the Chairperson/Head shall be sent to the faculty member.

f) The faculty committee at the school or college level shall review the basic file as forwarded from the departmental level. The school or college committee shall formulate its recommendation in accordance with the responsibilities defined in Section 3.1 and on the basis of the standards and criteria established in Article IV. Prior to a recommendation that may be contrary to either of the recommendations forwarded from the departmental level, the committee shall consult with the department. A copy of the recommendation of the school or college committee shall be sent to the department and to the faculty member.

The Dean, acting in accordance with the responsibilities defined in Section 3.3, reviews the recommendation of the school or college committee together with the remainder of the basic file and formulates an additional written recommendation. Prior to a recommendation that may be contrary to either of the recommendations forwarded from the departmental level, the Dean shall invite the department to provide additional information for the basic file or clarification of the recommendation in question. A copy of the Dean's recommendation shall be sent to the Chairperson of the school or college committee, to the department, and to the faculty member. In considerations of new appointments, reappointments through the tenure decision year, and the award of tenure, the recommendations at the school or college level shall contain written justifications on the basis of the relationships described in Section 4.2. When either of these does not accord with school or college long-range plans, reasons for such departure shall be indicated.

When the basic file is forwarded from the school or college level to the Provost or Chancellor, the following will have been added:

- 1) any additional information provided by the department at the request of the Dean;
- 2) the recommendation and vote of the school or college personnel committee;
- 3) the recommendation of the Dean.

g) At the campus level, the Chancellor, or the Provost as his or her designee, acting in accordance with responsibilities defined in Section 3.3, and on the basis of the standards and criteria established in Article IV, reviews the basic file as forwarded from the Dean, and makes a recommendation or decision. Prior to a recommendation or decision that may be contrary to either recommendation prepared at the school or college level, the Chancellor or Provost shall invite the Dean to provide additional information for the basic file or clarification of the recommendation.

In decisions on new appointments and reappointments through the tenure decision year, the Chancellor shall take into consideration the justifications of the recommendations within the context of campus long-range plans. In recommendations for the award of tenure, the Chancellor's recommendation shall contain written justification on the basis of the relationships described in Section 4.2. When the recommendation does not accord with the campus long-range plans, reasons for such departure shall be indicated.

When the basic file is forwarded with a recommendation for tenure, the following will have been added:

- 1) any additional information provided by the Dean at the request of the Chancellor;
- 2) the recommendation of the Chancellor.

A copy of the recommendation of the Chancellor shall be sent to the Dean, to the

department, and to the faculty member.

h) At the university level, the President, acting in accordance with responsibilities defined in Section 3.3, and on the basis of standards and criteria established in Article IV, reviews the basic file as forwarded from the Chancellor, and with the concurrence of the Board of Trustees, makes the tenure decision. Prior to a negative decision that would be contrary to the recommendation of the Chancellor, the President shall invite the Chancellor to provide additional information for the basic file or clarification of the recommendation. The President shall take into consideration the successive justifications of the recommendation within the context of university long-range plans.

Section 6.5

As established in Sections 4.2 and 6.4 (e), in cases of reappointment through the tenure decision year, and the award of tenure, the justification of the recommendation shall be made within the context of departmental long-range plans. Reviews of the recommendation at the various levels shall be made in the context of school or college, campus, and University plans. If, after an initial recommendation has been submitted by a department, new information and circumstances affecting program plans on the department, school or college, campus and University level develop, and such circumstances might lead to a reversal of the departmental or subsequent recommendation, these shall be communicated to the department and to all intervening reviewers and each level shall have the opportunity to reconsider its recommendation and to comment on the revised plans before action is taken.

Section 6.6

No faculty member or administrative official shall participate directly in any recommendation or decision relating to appointment, reappointment, promotion, tenure, or other condition of employment at the University of any parent, child, spouse, sibling, parent-in-law, sibling-in-law, child-in-law, or stepchild, except under such circumstances as the President of the University may determine as warranting waiver of this prohibition in the best interests of the University. A faculty member or administrative official should withdraw from participation in any personnel recommendation or decision involving potential conflict of interest.

Section 6.7

Notice of non-reappointment shall be given in writing to the faculty member by the appointing authority:

- a) Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if an initial one-year appointment terminates during an academic year, at least three months in advance of its termination.
- b) Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
- c) Not later than August 15 prior to the year of the last academic appointment, after more than two academic years of service; or, if an appointment terminates during an academic year, at least twelve months in advance of its termination.

Section 6.8

Failure to send timely notice of non-reappointment shall entitle the faculty member to a terminal reappointment of one academic year.

Section 6.9

A faculty member, wishing to terminate his or her appointment effective at the end of the academic year, shall give notice in writing at the earliest possible opportunity, but not later than

May 15; or 30 days after receiving notification of the terms of his or her appointment at the University of Massachusetts for the coming year; whichever date occurs later. Waiver of this requirement of notice may be requested by the faculty member and granted by the appointing authority in appropriate circumstances.

Section 6.10

Once a decision has been made by the appointing authority, the candidate may exercise the right of discussion at all administrative levels, beginning on the level where the first adverse recommendation was made. Prior to and at the level of the delegated appointing authority, such discussion may lead to a reconsideration of the recommendation or a change of decision. Beyond the level of the appointing authority, discussion may lead to a request that the appointing authority review the decision. For decisions taken at the level of the President, the right of discussion may be exercised with the President and subsequently with the Chairman of the Faculty and Educational Policy Committee of the Board of Trustees.

2. Affirmative Action and Non-Discrimination Policy

The University of Massachusetts Amherst prohibits discrimination on the basis of race, color, religion, creed, gender, sexual orientation, age, marital status, national origin, mental or physical disability, or veteran status; in any aspect of the access to, admission, or treatment of students in its programs and activities or in employment or application for employment. Furthermore, University policy includes prohibitions of harassment of students and employees, i.e., racial harassment, sexual harassment, and retaliation for filing complaints of discrimination.

Affirmative Action in employment is required for women, racial and ethnic minorities, Vietnam-era veterans, and individuals with disabilities in order to address underrepresentation in the workforce. Inquiries concerning applicable laws, regulations, and policies should be addressed to the Office of Equal Opportunity & Diversity, 305 Whitmore Administration Building, tel. 545-3464.

3. Conflict of Interest and Conflict of Commitment

University faculty and staff are subject to Chapter 268A of Massachusetts General Laws (the State Ethics Code) and to the following policies on conflict of interest and conflict of commitment:

a. Conflict of Interest in Research and Scholarly Activity Policy

A conflict of interest exists *when it can be reasonably determined that an investigator's personal financial concerns could directly and significantly influence the design, conduct, or reporting of sponsored research activities*. Faculty and staff of the University of Massachusetts Amherst (the University) have an obligation to maintain the objectivity of their research, avoiding any conflict of interest. This Conflict of Interest in Research and Scholarly Activity Policy has been developed by the University of Massachusetts Amherst and complies with specific federal agency requirements laid out in Title 42 Code of Federal Regulations (CFR) Part 50, Subpart F, "Responsibilities of Applicants for Promoting Objectivity in Research for Which PHS Funding is Sought" which can be found at

http://grants.nih.gov/grants/compliance/42_CFR_50_Subpart_F.htm. Every investigator participating in PHS or NSF funded research must comply with 42 CFR Part 50 Subpart F.

When the University carries out PHS-funded research through subgrantees, contractors, or collaborators, the University will take reasonable steps to ensure that Investigators working for such entities comply with 42 CFR Part 50 Subpart F, either by requiring those Investigators to comply with the University's Policy or by requiring the entities to provide assurances to the University that will enable the University to comply with this subpart.

University employees are reminded that, in addition to the provisions of this policy, activities of University employees are subject to the provisions addressed in the University of Massachusetts Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures which can be read at <http://www.umass.edu/research/ora/confl.html>

DEFINITIONS: As used in this Policy:

HHS means the United States Department of Health and Human Services, and any components of the Department to which the authority involved may be delegated.

Investigator means the principal investigator and any other person who is responsible for the design, conduct, or reporting of research funded by PHS, or proposed for such funding. For purposes of the requirements of this subpart relating to financial interests, "Investigator" includes the Investigator's spouse and dependent children.

PHS means the Public Health Service, an operating division of the U.S. Department of Health and Human Services, and any components of the PHS to which the authority involved may be delegated.

PHS Awarding Component means the organizational unit of the PHS that funds the research that is subject to 42 CFR Part 50 Subpart F.

Public Health Service Act or PHS Act means the statute codified at 42 U.S.C. 201 et seq.

Research means a systematic investigation designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses basic and applied research and product development. As used in this Policy, the term includes any such activity for which research funding is available from a PHS Awarding Component through a grant or cooperative agreement, whether authorized under the PHS Act or other statutory authority.

Significant Financial Interest means anything of monetary value, including but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights). The term does not include:

- (1) Salary, royalties, or other remuneration from the applicant institution;
- (2) Any ownership interests in the institution, if the institution is an applicant under the SBIR Program;
- (3) Income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
- (4) Income from service on advisory committees or review panels for public or nonprofit entities;
- (5) An equity interest that when aggregated for the Investigator and the Investigator's spouse and dependent children, meets both of the following tests: Does not exceed \$10,000 in value as

determined through reference to public prices or other reasonable measures of fair market value, and does not represent more than a five percent ownership interest in any single entity; or

(6) Salary, royalties or other payments that when aggregated for the Investigator and the Investigator's spouse and dependent children over the next twelve months, are not expected to exceed \$10,000.

Small Business Innovation Research (SBIR) Program is the extramural research program for small business that is established by the Awarding Components of the Public Health Service and certain other Federal agencies under Pub. L. 97-219, the Small Business Innovation Development Act, as amended. For the purposes of 42 CFR Part 50 Subpart F the term SBIR Program includes the Small Business Technology Transfer (STTR) Program, which was established by Pub. L. 102-564.

PROCEDURES: Each investigator covered by this policy will annually report all "significant financial interests" held by themselves, their spouse and dependent children. Disclosures will be made by completing the Disclosure of Significant Financial Interest Form at the end of this document, and sent to the Department Head/Chair's office on an annual basis and when new significant financial interests are acquired. A disclosure form must be completed prior to the submission of an application for PHS or NSF grant or cooperative agreement.

Positive disclosures will be reviewed by the Department Head/Chair and Vice Chancellor for Research, Graduate Education and Economic Development (or designee). Ad hoc reviewers may be consulted on a case-by-case basis. In those cases where, in consultation with a faculty member involved, the Vice Chancellor for Research, Graduate Education and Economic Development and his/her designee determines that a real or apparent conflict exists, one of the following actions will be taken: 1) Accept the sponsored project; 2) Not accept the sponsored project; 3) Accept the sponsored project subject to certain conditions, e.g.,

- (i) public disclosure of significant financial interests;
- (ii) monitoring of research by independent reviewers;
- (iii) modification of the research plan;
- (iv) disqualification from participation in all or a portion of the research funded by the PHS;
- (v) divestiture of significant financial interests; or
- (vi) severance of relationships that create actual or potential conflicts.

Appeal of the decision may be made to the Provost, who will consult with the Investigator and the review committee before making a final determination, within thirty days of the appeal, as to the action to be taken. In all cases, resolution of the actual or apparent conflict of interest will be achieved before the University implements a sponsored project.

Prior to the University's expenditure of any funds under the award, the University will report to the PHS Awarding Component the existence of a conflicting interest (but not the nature of the interest or other details) found by the institution and assure that the interest has been managed, reduced or eliminated in accordance with CFR 42 Part 50, Subpart F. For any interest that the University identifies as conflicting subsequent to the Institution's initial report under the award, the report will be made and the conflicting interest managed, reduced, or eliminated, at least on an interim basis, within sixty days of that identification.

The Institution agrees to make information available, upon request, to the HHS regarding all conflicting interests identified by the Institution and how those interests have been managed, reduced, or eliminated to protect the research from bias.

COMPLIANCE: Failure to comply with the above Policy will subject the Investigator to the University's Scholarly Misconduct Policy which can be read at <http://www.umassp.edu/policy/academic/misconduct.html>. University employees are reminded that if the failure of an Investigator to comply with the conflict of interest policy of the University has biased the design, conduct, or reporting of the PHS-funded research, the University will promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action, or refer the matter to the University for further action, which may include directions to the Institution on how to maintain appropriate objectivity in the funded project.

In any case in which the HHS determines that a PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not disclosed or managed as required by 42 CFR Part 50 Subpart F the Institution must require the Investigator(s) involved to disclose the conflicting interest in each public presentation of the results of the research.

RECORDS: The University will maintain the Disclosure Form and other records of all financial disclosures and all actions taken by the Institution with respect to each conflicting interest for at least three years from the date of submission of the final expenditures report or, where applicable, from other dates specified in 45 CFR 74.53(b) for different situations. Records will be maintained in the Office of the Vice Chancellor for Research, Graduate Education and Economic Development. All disclosures and related documentation are considered confidential, and only those persons involved in the implementation of this policy will have access to such records.

NOTIFICATION TO FEDERAL AGENCIES: As required by PHS, the University will report the existence of a conflict of interest, and its resolution, to the PHS awarding component. As required by NSF, the University will report the existence of a conflict of interest which is unable to be resolved within the University to the NSF Office of the General Counsel.

Disclosure of Significant Financial Interest for Investigators Submitting Applications to National Institutes of Health and National Science Foundation

The following disclosure is made pursuant to the requirements of the PHS rules "Objectivity in Research" (42 CFR Part 50 Subpart F) and NSF rule "The Investigator Financial Disclosure Policy". This disclosure must be updated annually, and whenever new reportable significant financial interests are acquired. University employees are reminded that, in addition to the provisions of this interim policy, activities of state employees are subject to all relevant provisions of Chapter 268A of Massachusetts General Laws, including its prohibition against any financial interest (unless such interest is less than one percent of the stock of a corporation), directly or indirectly, in a contract made by a state agency, in which the Commonwealth or the University is an interested party.

DEFINITIONS:

Significant Financial Interest - Anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights), which would reasonably appear to be affected by the research to be funded. This definition specifically excludes financial interests in business enterprises or entities if the value of such interests, when aggregated for the investigator and the investigator's spouse and dependent children, does not exceed ten thousand dollars per annum in salary, fees or other continuing payments; or ten thousand dollars fair market value equity interests.

Investigator - The Principal Investigator and any other person at the University who is responsible for the design, conduct, or reporting of research educational or service activities funded, or proposed for funding, by the PHS or NSF. Typically this will include the Principal Investigator and co-investigators. For the purposes of this disclosure requirement, the term "investigator" includes the investigator's spouse and dependent children.

*Disclosure: Investigator Name: _____ Dept.: _____
Remuneration:.....Source: _____

Type of Organization(e.g., pharmaceutical firm; biotech firm; engineering company; software company, etc.) _____

Nature of Remuneration that is greater than \$10,000:

Salary _____ Royalties _____ Licensing _____ Consulting _____

Honoraria _____ Other _____

Types of holdings whose fair market value is greater than \$10,000:

Stocks/Stock Options _____

Patents/Copyrights _____

Other _____

Investigator's SignatureDate:

*Please note that a separate form is required for each enterprise or entity in which a significant financial interest is identified

b. Policy on Faculty Consulting and Outside Activities

Faculty members are expected to devote to the University their primary professional loyalty and to direct to the University their time and energy. As they are considered "special state employees" for purposes of the Massachusetts law governing the conduct of public officials and employees (Massachusetts General Laws Ch. 268A), however, they are permitted to engage in limited activities outside of the University during normal working hours, provided such outside activities do not interfere with their primary obligations. The University recognizes that outside activities can be of value to faculty and the University. This Policy is intended to further the mission of the University and to enrich the experiences of the faculty by facilitating appropriately limited outside activities for faculty.

I. Definitions

As used in this Policy, the following words shall have the following meanings:

A. Academic Week - The period of Monday through Friday in each week during the academic year.

B. Outside Activities - Non-academic activities undertaken by a Faculty Member in his or her area of expertise in association with individuals or entities outside the University. Such activities include for example, working as an employee or consultant, or serving as an executive, trustee or director for a company or non-profit organization. Such activities do not include, for example, short-term academic activities undertaken for professional development, such as lectures, participation on governmental or professional society advisory panels or scholarly events, or membership on editorial boards.

C. CVIP - The University Office of Commercial Ventures and Intellectual Property.

D. Faculty Member - A full-time or part-time employee of the University whose principal title is Lecturer, Instructor, Assistant Professor, Associate Professor, or Professor, or any other University employee whose principal duties consist of teaching and conducting academic research.

E. Vice Chancellor for Research - The Vice Chancellor for Research at each campus, or where no such position exists, the Provost (or their designees).

II. Policy

A. Scope of Policy

This Policy applies only to Faculty Members.

B. Outside Activities Permitted

The University ordinarily permits full-time Faculty Members to devote the equivalent of one day within the Academic Week to the performance of Outside Activities. The University ordinarily does not place a specific limit on the amount of time that part-time Faculty Members may devote to the performance of Outside Activities.

C. Restrictions

1. Conflict of Commitment. The primary commitment of any Faculty Member is to the University. Although this Policy permits Faculty Members to perform Outside Activities for one day within the Academic Week, the time and effort devoted by any Faculty Member to Outside

Activities may not interfere with his or her professional commitment to the University. Therefore, in order to monitor such conflicts of commitment, all Faculty Members must receive approval from their Department Chairs before commencing any Outside Activity.

2. Use of Students - Although involvement of students in the Outside activities of Faculty Members under certain circumstances may enrich the students' educational experience, such involvement has the potential to create a conflict of interest when a Faculty Member has a role in supervising a student's research, classes, or graduate teaching work. Therefore, involvement of a student in the Outside Activities of a faculty member who has any role with respect to the academic progress of the student may only be undertaken after disclosure to and approval of the Department Chair. The Department Chair shall promptly inform the Vice Chancellor for Research of all such approvals.

3. Use of University Resources - Faculty Members may not perform Outside Activities with significant use of University facilities and equipment, unless the Faculty Member (i) receives advance written approval of the proposed use from the Department Chair, (ii) academic uses of such facilities and equipment have priority, and (iii) the Faculty Member reimburses the University for the fair market value of such use (as actually charged by the University to other outside users or, in the absence of such documentation, as determined by the Vice Chancellor for Research). The Department Chair shall promptly inform the Vice Chancellor for Research of all such approvals. Use of library facilities, facilities available to the general public, and occasional use of office equipment and office staff will not ordinarily be considered significant use of University facilities and equipment in connection with Outside Activities. Faculty Members are prohibited from using University funds and University-administered funds in connection with Outside Activities. The Vice Chancellor for Research retains authority to overrule departmental approvals for significant use of University resources in connection with an Outside Activity.

4. Activities Involving a Conflict of Interest - In the event a Faculty Member is considering undertaking an Outside Activity that poses an actual or potential Conflict of Interest, as defined by the University Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, the Faculty Member should review and comply with that Policy. In addition, no member of the faculty shall accept or retain employment which would bring him as an expert, or in any other capacity, into conflict with the interests of the University or the Commonwealth. If in the opinion of the faculty member, proposed employment might involve such conflict, he/she shall disclose the relevant facts to his/her department chair and dean.

5. Use of University Name - The name of the University shall not be used in relation to any Outside Activities except to describe the credentials of a Faculty Member and as otherwise permitted under written University policy.

D. Administrative Procedures

1. Disclosure and Approval of Outside Activities - Before the commencement of any Outside Activity subject to this Policy, the University requires a Faculty Member to obtain all necessary approvals (under Section II.C.) from his or her Department Chair. The University shall make available [appropriate forms](http://www.umass.edu/research/ora/faccon.html) (available at <http://www.umass.edu/research/ora/faccon.html>). The University also requires prompt disclosure and approval of material changes in previously disclosed Outside Activities. Each Department Chair shall periodically provide to the applicable Dean a semiannual report on the Outside Activities of Faculty Members within that department, including a description of (i) uses of University facilities and equipment for Outside Activities, together with charges for that use, and (ii) use of students in Outside Activities. The Deans shall provide these reports to the Vice Chancellor for Research and the Director of the University

Office for Commercial Ventures and Intellectual Property. The Vice Chancellor for Research may forward these reports to the Conflicts Committee. The applicable Dean and the Vice Chancellor for Research shall each retain authority to overrule any departmental approvals granted under Section II.C.

2. Intellectual Property Developed in Outside Activities. The University recognizes that difficult issues may arise when Faculty Members develop intellectual property in connection with Outside Activities. At one extreme, the University absolutely prohibits Faculty Members from intentionally using Outside Activities as a means of transferring intellectual property that they developed as employees of the University. Such actions violate State law and University policy. At the other extreme, the University has no desire to make unfair claims of ownership to intellectual property developed in Outside Activities without any connection to the University. Such claims would discourage companies from establishing consulting relationships with Faculty Members. Most situations, however, will fall between these two extremes and may raise legitimate questions about University rights in intellectual property developed in connection with Outside Activities. These complex situations are addressed in the University Intellectual Property Policy. Faculty Members are strongly encouraged to consult with their Department Chairs and the Vice Chancellor for Research, or with the University Office of Commercial Ventures and Intellectual Property, prior to commencing an Outside Activity to ensure that resulting intellectual property is outside the scope of the University Intellectual Property Policy.

3. Standard Form Rider - The CVIP will make available uniform consulting agreement provisions that may be attached to all written agreements to undertake Outside Activities entered into by a Faculty Member. These uniform provisions contain, among other things, a description of the intellectual property rights claimed by the University and a clause protecting the rights of Faculty Members to publish their University research. The uniform provisions are signed by the University, the Faculty Member, and the company, and they legally supersede any contrary provisions in the consulting agreement. The uniform provisions are intended to assist our Faculty Members and to avoid potential misunderstandings and disputes with companies. The University strongly encourages use of this standard form rider.

III. Interpretation and Evaluation

The President or his or her designee will have authority to interpret this Policy. Periodically, but at least every three (3) years, the President or his or her designee will conduct an evaluation of this Policy and formulate amendments for the consideration of the Trustees of the University.

IV. Enforcement

The Vice Chancellor for Research may refer any matter to the appropriate University official for disciplinary or other appropriate action. If a matter involves a Conflict of Interest under the University Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, the Vice Chancellor for Research shall refer the matter to the Conflicts Committee.

V. Appeals

A Faculty Member may request that the Vice Chancellor for Research review any decision of his or her Department Chair to withhold an approval relating to Outside Activities as described in

Section II.C. Decisions by the Vice Chancellor for Research will supersede prior decisions by the Department Chair. If a Faculty Member disagrees with any decision by the Vice Chancellor for Research, the Faculty Member may request an advisory opinion from an ad hoc faculty committee composed of three members appointed by the Chancellor for that campus and three members appointed by the Faculty Senate. The Faculty Member and the Vice Chancellor for Research will each present their views to the committee. The committee will adopt an opinion by vote of a majority of its members. In the event of a deadlock, the committee may adopt two opinions. The committee will transmit its written opinion to the Faculty Member and the Vice Chancellor for Research. If the disagreement persists, the Faculty Member may appeal the matter to the President (or his or her designee). The President will consider written statements by the Faculty Member and the Vice Chancellor for Research, as well the advisory opinion rendered by the ad hoc committee. The decision of the President shall be final within the University. If the Faculty Member disagrees with this final University decision, the Faculty Member may exercise his or her individual legal rights (if any) to pursue the matter in a court of law located in the Commonwealth of Massachusetts.

VI. Other Policies

As noted above, Outside Activities may involve other University policies, such as the Intellectual Property Policy, the Policy on Conflicts of Interest Relating to Intellectual Property and Commercial Ventures, and the Policy on Compensation for Certain Additional Professional Services (to the extent not superseded by this Policy). Faculty Members should refer to these other policies as necessary.

4. Sexual Harassment

The University of Massachusetts Amherst is committed to providing faculty, staff, and students with an environment where they may pursue their careers or studies without being sexually harassed. Sexual harassment, as here defined, is a violation of Title VII of the 1964 Civil Rights Act, and Title I of the Civil Rights Act of 1991. For the purpose of this policy, it is defined as follows: Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work; or 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or 3) such conduct has the purpose or effect or unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working or academic environment. In determining whether an alleged incident constitutes sexual harassment, those entrusted with administering this policy will look at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of a suitable penalty will be made from a finding of fact on a case-by-case basis and from any record of previous sexual harassment by the respondent.

The Office of Equal Opportunity & Diversity is responsible for administering the Sexual Harassment Policy and its procedures. The Director of Equal Opportunity & Diversity, or his/her designee, will serve as Chair of the Sexual Harassment Board. The University's vice chancellors will see that all supervisors on the Amherst campus receive information and training concerning sexual harassment and the responsibilities of supervisors when complaints are

received. Persons with sexual harassment complaints are encouraged to consult first with the Office of Equal Opportunity & Diversity to learn about the options and resources available to them. In some circumstances, informal resolution of a complaint (prior to filing a grievance) may be more satisfactory than directly proceeding to a formal grievance. Agencies for informal resolutions may include, but are not limited to, any one or more of the following: consultation and action at the department level; mediation through the Ombuds Office, the Mediation Project or any other appropriate agency; advice and assistance of legal counsel; advice and assistance of the Department of Public Safety. A copy of the Sexual Harassment Policy may be obtained from the Office of Equal Opportunity & Diversity, 305 Whitmore Building 545-3464.

C. Scholarship Policies

1. Named Professorships and Distinguished University Professors

By authorization of the Board of Trustees of the University, several Named Professorships and Distinguished University Professorships have been established. Faculty on the Amherst campus who hold these distinguished professorships are so identified in the annual Undergraduate Catalog faculty listing.

2. Intellectual Property Policy

The prompt and open dissemination of the results of research and creative work among scholars and, eventually, to the public at large is essential to the University's mission of education and research. The commercial development and distribution of the results of research and creative work to benefit the inventor or creator and the economy is part of the University's mission of public service. This Policy is intended to facilitate the commercial development of intellectual property arising at the University and to provide an incentive to University inventors or creators to participate in such development while acknowledging the University's primary goal of the discovery and dissemination of knowledge.

I. Definitions

As used in this Policy, the following words shall have the following meanings:

- A. Confidential Information - Information that is received by a Covered Individual from a third party under an express or implied obligation of confidence.
- B. Covered Individuals - All staff, faculty members, students, adjunct professors in residence, and any other individuals associated with the University.
- C. Copyrightable Work - A creative work that is protectable under the copyright laws of the United States or other countries. Copyright protection is available for most literary, musical, dramatic, and other types of creative works, including, for example, computer software, teaching materials, multimedia works, proposals, and research reports.
- D. CVIP - The University Office of Commercial Ventures and Intellectual Property, which has primary responsibility for administering the development and commercialization of Intellectual Property through licensing or other arrangements.
- E. Director - The Executive Director of the CVIP.

F. Evaluation Committee or Committee - One of several University committees, each with a particular area of technical expertise, that advises the CVIP and Vice Chancellor for Research in evaluating Inventions, Tangible Research Materials, and Copyrightable Works.

G. Exempted Scholarly Work - A Scholarly Work that falls within certain categories of Copyrightable Works for which academic institutions have historically waived any ownership interest in favor of the author. The University currently recognizes the following categories of Exempted Scholarly Works: textbooks, class notes, research proposals, classroom presentation and instruction, research articles, research monographs, student theses and dissertations, paintings, drawings, sculpture, musical compositions and performances, dramatic works and performances, poetry, and popular fiction and nonfiction. As modern types of works become clearly established as Scholarly Works, so that individual consideration is no longer deemed necessary, the President may expand this list of Exempted Scholarly Works beyond these historically established categories. Except for the limited circumstances described in Sections III.C.1.b. and III.C.1.c. below, Exempted Scholarly Works need not be disclosed to the University and the University automatically waives any ownership interest in such works.

H. Intellectual Property - Inventions, Copyrightable Works, and Tangible Research Materials.

I. Invention - A discovery or development that may be protectable under the patent laws of the United States, the United States Plant Variety Protection Act, or equivalent laws in other countries.

J. Outside Researcher - An individual who performs or directs research for an organization other than the University.

K. President - The President of the University or his or her designee.

L. Public Disclosure or Publicly Disclosed - Any written or oral disclosure of an Invention or Copyrightable Work to any person not under a contractual or fiduciary obligation of confidentiality to the University.

M. Scholarly Work - A Copyrightable Work that has the primary goal of disseminating academic or scholarly knowledge or is a work of artistic expression. As described in Section III.C. below, whether a Copyrightable Work is a Scholarly Work will be determined by the Director and Vice Chancellor for Research on a case-by-case basis (except that Exempted Scholarly Works are automatically considered Scholarly Works). The University waives all ownership interests in Scholarly Works except in the two circumstances described in Sections III.B.2. and III.B.3.

N. Tangible Research Materials or Materials - Tangible biological, chemical, and physical materials or equipment. Examples include cell lines, antibodies, DNA or RNA, chemical samples, plasmids, and prototypes.

O. Vice Chancellor for Research - The Vice Chancellor for Research at each campus, or where no such person exists, the Provost (or their designees).

II. Scope

A. Persons Subject to the Policy

All Covered Individuals are subject to this Policy.

B. Types of Intellectual Property Covered by the Policy

This Policy addresses the three categories of Intellectual Property (Inventions, Copyrightable Works, and Tangible Research Materials) as well as Confidential Information. The President shall have authority to designate additional types of Intellectual Property under this Policy.

III. Policy

A. Participation Agreement

The University has adopted a Participation Agreement, attached as [Exhibit A](#) (available at <http://www.umass.edu/research/intelfac.html>), that confirms acceptance of this Policy by Covered Individuals and assigns to the University all rights in any Intellectual Property in which the University asserts ownership (as described below).

1. Students - Students must sign the [Participation Agreement](#) prior to employment by the University in any research-related position. Such employment would include, for example, an arrangement whereby a student is funded as a research assistant under a government research grant or an industry-sponsored research agreement with the University. Students may also be required to sign the Participation Agreement under other appropriate circumstances, as determined by the Vice Chancellor for Research (for example, as required by the terms of a research grant).

2. Individuals Other Than Students - All Covered Individuals other than students must sign the [Participation Agreement](#). The University will confirm that a valid Participation Agreement is on file before a Covered Individual receives any University-administered funds under a research grant or agreement. The University may also refuse to process any agreement involving that Covered Individual to the extent that the agreement would grant rights in Intellectual Property to an outside party.

B. Ownership of Intellectual Property

Any Covered Individual who invents, creates, or discovers any Intellectual Property will own all rights to such Intellectual Property except as follows:

1. Use of University Resources - The University will own any Intellectual Property (other than Exempted Scholarly Works) that is made, discovered, or created by any Covered Individual who makes significant use of University resources (including University-administered funds or University-funded time, facilities, or equipment) in connection with the development of such Intellectual Property. Use of library facilities, facilities available to the general public, and occasional use of office equipment and office staff will not ordinarily be considered "significant use" of University facilities and equipment. In addition, faculty members will not be considered to have made significant use of University resources if (i) the faculty member receives advance written approval of the proposed use from the Department Chair, (ii) academic uses of facilities and equipment have priority, (iii) the faculty member compensates the University for the fair market value of the facilities and equipment (as actually charged by the University to outside users or, in the absence of such documentation, as determined by the Vice Chancellor for Research), (iv) the faculty member is not using University-committed time because the activities are permitted Outside Activities (under the University Policy on Faculty Consulting and Outside Activities), and (v) the faculty member does not use any University-provided funds or University-administered funds in connection with the activity.

If a Covered Individual makes, creates, or discovers Intellectual Property without significant use of University resources, but the Intellectual Property closely resembles a specific research project that the Covered Individual has conducted at the University, it may appear that the Intellectual Property arose with use of University resources. Under these circumstances, the University and the Covered Individual (or a company for whom the Covered Individual consults) could later argue about ownership of the Intellectual Property because the University might reasonably believe that University resources were in fact used. Such arguments usually arise

after the Intellectual Property has gained substantial commercial value. In order to avoid these potentially litigious situations, the University requires Covered Individuals to disclose to the University any Intellectual Property that closely resembles a specific research project at the University, together with an explanation that the Intellectual Property did not arise through use of University resources. The University may ask the Covered Individual for documentation supporting the claim that there was no significant use of University resources. As described below, if there was no significant use of University resources, the University will give the Covered Individual a written acknowledgment that the University has no ownership interest in that Intellectual Property.

2. University-Commissioned Works - The University will own any Intellectual Property (including Exempted Scholarly Works) that is made, discovered, or created by a Covered Individual who is specifically hired or commissioned by the University for that purpose, unless otherwise provided by written agreement between such individual and the University.

3. Intellectual Property Subject to Contractual Obligations - Ownership of any Intellectual Property (including Exempted Scholarly Works) that is made, discovered, or created in the course of research funded by a sponsor pursuant to a grant or research agreement, or which is subject to a materials transfer agreement, confidential disclosure agreement or other legal obligation affecting ownership, will be governed by the terms of such grant or agreement, as approved by the University, although the University will ordinarily claim ownership.

4. Student Works

a. Generally - As with other Covered Individuals, students shall own any Intellectual Property that they make, discover, or create in the course of research (e.g., thesis or dissertation research) unless (i) the student received financial support from the University in the form of wages, salary, stipend, or grant funds for the research, (ii) the student made significant use of University resources (including University-administered funds or University-funded time, facilities, or equipment) in connection with the research, or (iii) the research was funded by a sponsor pursuant to a grant or sponsored research agreement or is subject to a materials transfer agreement, confidential disclosure agreement, or other legal obligation that restricts ownership of Intellectual Property.

b. Theses and Dissertations- The texts of all student theses and dissertations, and derivative works of these works, are considered Exempted Scholarly Works; therefore, the student will own copyright to the Scholarly Work (unless Sections III.B.2. or III.B.3. apply), subject to a royalty-free license to the University to reproduce and publish the Scholarly Work. As described below, students are allowed to publish their theses and dissertations unless they have agreed in writing to restrictions that preclude or delay publication.

Under certain circumstances, as described in Section III.C.3. below, the University will relinquish its rights in Intellectual Property to the inventor or creator of that Intellectual Property at his or her request.

C. Administrative Procedures - Inventions and Copyrightable Works

A primary goal of the University is the discovery and free dissemination of knowledge for the benefit of the public. The University recognizes, however, that in certain instances the public will only benefit from knowledge that is protected under the patent or copyright laws, which provide an incentive for economic development of that knowledge. The University therefore requests that all Covered Individuals disclose Inventions and Copyrightable Works (other than Exempted Scholarly Works) promptly, in order to allow the University an opportunity to evaluate their commercial potential, and to preserve or enhance their value by filing a patent

application or obtaining a copyright registration. The University has established the following procedures in order to accomplish the dual objectives of disseminating knowledge and maximizing the economic value of that knowledge.

1. Disclosure to the University- Disclosure forms should be submitted to the CVIP or the Vice Chancellor for Research. The Vice Chancellor for Research and the CVIP will exchange copies of all disclosure forms that each receives. The Vice Chancellor for Research will also make available to the campus Office of Grants and Contracts appropriate information to permit required disclosures to research sponsors (e.g., federal agencies). The CVIP will make available appropriate disclosure forms. The treatment of different categories of Intellectual Property is set forth below.

a. Intellectual Property Developed with University Resources or Closely Resembling a Specific University Research Project - All Covered Individuals are encouraged to disclose promptly all Inventions and Copyrightable Works (except Exempted Scholarly Works) that (i) are developed with significant use of University resources or (ii) closely resemble a specific research project in which that faculty member is engaged at the University (see Section III.B.1. above). Although the disclosure of such Inventions and Copyrightable Works is voluntary, if the Covered Individual intends to commercialize such Intellectual Property, disclosure is required reasonably before the Covered Individual takes any action to commercialize such Intellectual Property. Examples of commercial actions include, without limitation, seeking patent or copyright protection, commencing discussions with potential investors or licensees, or transferring the Intellectual Property to a third party.

If a Copyrightable Work is an Exempted Scholarly Work, no disclosure is required under any circumstances. In other cases in which a Covered Individual desires treatment of a Copyrightable Work as a Scholarly Work, the Covered Individual should submit to the CVIP or Vice Chancellor for Research, in addition to the disclosure form, a request for treatment of the work as a Scholarly Work and a brief explanation of why the work should be a Scholarly Work. In the case of an Invention or Copyrightable Work that the Covered Individual claims is not subject to University ownership because the Intellectual Property was developed without significant use of University resources, the Covered Individual should submit to the CVIP or Vice Chancellor for Research, in addition to the disclosure form, a request for confirmation of individual ownership together with documentary evidence which clearly establishes that fact.

b. University-Commissioned Works - In the case of Inventions and Copyrightable Works (including Exempted Scholarly Works) that a Covered Individual is specifically hired or commissioned by the University to develop (see Section III.B.2. above), disclosure of the Intellectual Property is required unless otherwise provided by written agreement between such individual and the University.

c. Intellectual Property Subject to Contractual Obligations (e.g., Sponsored Research Agreements) - In the case of Inventions and Copyrightable Works (including Exempted Scholarly Works) developed in the course of research funded by a sponsor pursuant to a grant or research agreement, or which is subject to a materials transfer agreement, confidential disclosure agreement or other legal obligation requiring disclosure, the disclosure of such Intellectual Property will be governed by the terms of such grant or agreement, as approved by the University, if such terms differ from this Policy.

2. Evaluation and Disposition of Disclosures - The Director and the Vice Chancellor for Research will review, evaluate, and make a disposition of all disclosure forms, and will promptly notify the Covered Individual of their disposition. The evaluation and disposition of a disclosure

will be completed as soon as possible, but for Inventions (and computer software) ordinarily no later than ninety (90) days, and for Copyrightable Works (other than software) ordinarily no later than thirty (30) days after the CVIP or the Vice Chancellor for Research receives a complete and accurate disclosure form and any other information that the CVIP or the Vice Chancellor for Research requests in order to make an informed evaluation of an Invention or Copyrightable Work. Disclosure forms will be evaluated for one or more of the following dispositions, subject to the appeals process described in Section III.C.4. below:

a. Scholarly Work- In the case of a Copyrightable Work that is claimed as a Scholarly Work (but is not an Exempted Scholarly Work), the Director and the Vice Chancellor for Research will decide whether that work is in fact a Scholarly Work.

b. No Use of University Resources - In the case of an Invention or Copyrightable Work that the Covered Individual claims is not subject to University ownership because the Intellectual Property was developed without significant use of University resources, the Director and the Vice Chancellor for Research will decide whether there was in fact significant use of University resources.

c. Evaluation of Commercial Potential: The Evaluation Committees - In the case of an Intellectual Property that the Covered Individual discloses for possible commercialization by the University, the Director and the Vice Chancellor for Research will determine its commercial potential. To assist in this determination, the Director and the Vice Chancellor for Research may consult with patent or copyright counsel and outside experts in particular fields. In addition to these resources, the Director and the Vice Chancellor for Research may seek the advice of various Evaluation Committees with expertise in various fields of research, which Committees the President shall have authority to establish at his or her discretion. Each Committee will be composed of faculty members with relevant expertise, appointed by the Chancellors in consultation with the Director and the Vice Chancellors for Research; a representative from the CVIP; and a Committee Chair, selected by vote of the whole Committee. The Director may invite to any Committee meeting one or more individuals from outside the University with relevant industry experience to advise the Committee.

All intellectual property disclosures shall be considered confidential by the University. The University will inform all members of the Evaluation Committee and all outside experts that the information contained in the disclosures is confidential, and that breach of confidentiality is a violation of University policy that could lead to personnel or other available sanctions or actions and will obtain written acknowledgment of such obligations from these individuals. The Evaluation Committees will establish recusal procedures for members who have a conflict of interest in a particular case.

d. Intellectual Property Subject to Contractual Obligations (e.g., Sponsored Research Agreements) - In the case of Inventions or Copyrightable Works (including Exempted Scholarly Works) that arise in the course of research funded by a sponsor under a grant or research agreement, or which are subject to a materials transfer agreement, confidential disclosure agreement, or other legal obligation affecting evaluation of disclosures, the evaluation process will be governed by the terms of such grant or agreement, as approved by the University, if such terms differ from this Policy.

In the unlikely event that the Director and the Vice Chancellor for Research disagree on the disposition of a disclosed Invention or Copyrightable Work, a final decision shall be made by the President.

3. Request for Relinquishment of Rights - Under certain circumstances, as described below, the University may relinquish its ownership rights in an Invention or Copyrightable Work to the inventor or creator of the Intellectual Property at his or her request.

a. Intellectual Property Developed With University Resources - The University automatically waives its rights in Exempted Scholarly Works. In all other cases, the University will ordinarily waive its ownership rights in favor of the inventor or creator of an Intellectual Property if the Covered Individual has made complete and accurate disclosure of such Intellectual Property in accordance with this Policy and the Director and Vice Chancellor for Research have determined that the Intellectual Property comes under one or more of the following categories (as described in detail in this Policy):

Copyrightable Work that is a Scholarly Work

Intellectual Property developed without significant use of University resources

Intellectual Property that the University has decided not to commercialize

Intellectual Property that the University ceases to use diligent efforts to commercialize

b. University-Commissioned Works - The University will not ordinarily waive its ownership rights in any Intellectual Property (including Exempted Scholarly Works) that is developed by a Covered Individual who is specifically hired or commissioned by the University for that purpose, unless otherwise provided by written agreement between such individual and the University.

c. Intellectual Property Subject to Contractual Obligations - In the case of Intellectual Property (including Exempted Scholarly Works) that is developed in the course of research funded by a sponsor pursuant to a grant or research agreement, or which is subject to a materials transfer agreement, confidential disclosure agreement, or other legal obligation affecting ownership, the relinquishment of any University rights in the Intellectual Property will be governed by the terms of the relevant grant or agreement, as approved by the University, if such terms differ from this Policy. This includes research carried out by faculty members within a center of the University when a separate agreement with the University, approved by the Vice Chancellor for Research and the Director, has been executed by the center. Before a change is made in an ongoing research contract between the center and an outside entity, the Vice Chancellor for Research will consult with faculty members who participate in the contract. A Covered Individual may need a separate waiver or assignment of rights from the other party in order to acquire complete rights to the Intellectual Property.

If certain Intellectual Property is available for relinquishment by the University (as set forth above), the inventor or creator of the Intellectual Property may request in writing that the Director grant a release or assignment of rights. The Director in consultation with the Vice Chancellor for Research will promptly respond to this request. The University will retain a royalty-free, non-exclusive license to use any such Inventions or Copyrightable Works for academic research and teaching. If the University has incurred expenses to obtain legal protection for Intellectual Property (e.g., patent-related expenses), the University may condition its relinquishment of rights to that Intellectual Property through a contract with the Covered Individual to reimburse the University from commercialization revenues.

4. Appeals - If a Covered Individual disagrees with a decision of the Director and the Vice Chancellor for Research under Section III.C.2., such individual may ask for reconsideration by the appropriate Evaluation Committee. The Committee shall review the matter and make its recommendation to the Director and the Vice Chancellor for Research who shall reconsider the matter.

D. Administrative Procedures - Tangible Research Materials

While potential commercial value should not inhibit the free exchange of University-owned Tangible Research Materials for research purposes, the University nonetheless recognizes that such Materials may have significant commercial value. In addition, Tangible Research Materials received by Covered Individuals may be subject to contractual restrictions that severely limit the use and transfer of such Materials, to the detriment of University researchers. The University has therefore established the following procedures to allow the free exchange of Tangible Research Materials, while at the same time respecting the ownership rights of the University, protecting the rights of its researchers, and limiting the liability of the University and its researchers.

1. Transfer to Outside Researcher for Basic Research - If a Covered Individual desires to transfer Materials to an Outside Researcher for use in internal basic research, and not for the development or sale of commercial products, the Covered Individual must use the appropriate University form of Materials Transfer Agreement ("MTA"), which will be provided by the CVIP together with instructions for the use of each form. The various forms of MTA will establish rights and responsibilities regarding the Materials among the University and the Outside Researcher and his or her employer and will minimize future confusion and controversy regarding the use and transfer of the Materials and ownership of Inventions or Materials based on the supplied Materials. Faculty members (but not other Covered Individuals) are authorized to sign these MTAs on behalf of the University provided that (i) the University-form MTA is not altered or revised in any manner and (ii) a signed original of the MTA is sent to the CVIP when the Materials are sent to the Outside Researcher. Alternatively, CVIP representatives are authorized to approve and sign MTAs, even with revisions. If a Covered Individual is involved in a project that requires frequent exchanges of material with an Outside Researcher, the CVIP representative, in consultation with the General Counsel's office, may develop a blanket MTA to cover all exchanges between the Covered Individual and the Outside Researcher for a specific period.

If Materials are developed by a Covered Individual in the course of sponsored research, or are otherwise subject to contractual restrictions (e.g., a materials transfer agreement or confidential disclosure agreement), the transfer of such Materials to an Outside Researcher will be governed by the terms of the relevant agreement, if such terms differ from this Policy.

These procedures also apply to students who leave the University and desire to bring with them Materials that they developed or discovered in the course of their work at the University.

2. Transfer for Commercial Use- Materials may not be transferred to any Outside Researcher for any use other than internal basic research unless the Outside Researcher has obtained a license from the University through the CVIP under the procedures set forth in this Policy. Materials with commercial uses should be disclosed to the CVIP or Vice Chancellor for Research in the same manner as Inventions and will be treated in the same manner as Inventions.

3. Receiving Materials from Outside Researchers - If a Covered Individual receives Materials from an Outside Researcher at another organization (non-profit or commercial), the other organization or researcher may impose serious use and transfer restrictions on the Materials and

may claim an ownership interest in Inventions, Copyrightable Works, or Materials that arise in the course of research performed with such Materials. For this reason, only CVIP representatives are authorized to approve and sign agreements governing receipt of Materials from other organizations. Covered Individuals are encouraged to consult with the CVIP regarding the restrictions applicable to a particular Material from an Outside Researcher before planning to use that Material in their research. Covered Individuals should be aware that, in some instances, these restrictions may be so onerous (e.g., no publications, assignment of inventions) that the CVIP will require modification of the agreement before approval. The CVIP will make available a University-form MTA for receipt of Materials, although the organization supplying the Materials will usually require use of its own MTA.

If Materials are received by a Covered Individual in the course of sponsored research, the transfer of such Materials will be governed by the terms of the applicable sponsored research agreement, if such terms differ from this Policy.

If any MTA restrictions would apply to research performed by students, the affected students must agree to such restrictions in writing.

4. Administrative Procedures - In instances where the approval and signature of a CVIP representative is required for minor changes in the University form, every attempt will be made to complete this process within three business days. If the approval process extends beyond three business days, the Covered Individual may request the intervention of the Vice Chancellor for Research, who will attempt to expedite the process. For more material changes a CVIP representative in consultation with the General Counsel's office will complete the process as soon as practicable. The Vice Chancellor for Research will maintain a record of any such requests and their disposition.

E. Administrative Procedures - Confidential Treatment of Information

While the academic tradition of free dissemination of knowledge for the public benefit is recognized by the University to be of paramount importance, it may be necessary or desirable, under some circumstances, to restrict disclosure of Confidential Information received from a sponsor company or to delay Public Disclosure of an Invention. The University has developed the following procedures to balance these competing interests. The University will ordinarily not agree to maintain University-generated research results as trade secrets.

1. Guidelines Regarding Public Disclosure of Inventions - Internal disclosure of an Invention to the CVIP or Vice Chancellor for Research will not interfere with the ability to patent the Invention. However, Public Disclosure of an Invention prior to filing for a patent application (even one day before) will preclude the availability of patent protection in most countries. This legal rule applies to any non-confidential written or oral disclosure that describes the Invention (e.g., at a scientific meeting, in a journal, or even in an informal discussion with colleagues outside the University). Accordingly, the University strongly encourages Covered Individuals to disclose Inventions to the CVIP as soon as possible, and to delay Public Disclosure of the Invention until the evaluation process is completed and a patent application is filed. The CVIP and Vice Chancellor for Research will attempt to minimize delays in publication, but a delay of up to ninety days is often necessary for evaluation. The CVIP and Vice Chancellor for Research will make every effort to expedite the evaluation process when a Covered Individual indicates that there is a compelling need for rapid publication.

During this interim period, an Invention may be safely disclosed outside of the University under the protection of a Confidential Disclosure Agreement ("CDA"), because disclosures made under an appropriate CDA are not considered Public Disclosures. The University therefore

recommends that all Covered Individuals use the University-form CDA whenever they disclose information relating to an Invention while the Invention is under evaluation by the University, and the University strongly recommends use of the University-form CDA and consultation with the CVIP if a Covered Individual wishes to disclose an Invention to an Outside Researcher associated with a company or other for-profit organization, or directly to such an organization. The CVIP will make available appropriate forms of CDA. Faculty members have authority to sign the University-form CDA on behalf of the University when they will disclose information (but will not receive information), provided they send a fully signed original of the CDA to the CVIP as soon as possible. Alternatively, CVIP representatives are authorized to approve and sign CDAs on behalf of the University.

Covered Individuals should be aware that Public Disclosure of an Invention prior to completion of the evaluation process and filing of a patent application will adversely affect the commercial value of the Invention and therefore may decrease the likelihood that the University will proceed with commercialization of that Invention.

In the case of an Invention or Copyrightable Work that arises in the course of sponsored research or a grant, or which is subject to a materials transfer agreement (MTA), confidential disclosure agreement, or other contractual restriction affecting Public Disclosure, any restrictions on Public Disclosure will be governed by the terms of the grant or agreement with the other party, as approved by the University. If such restrictions would prevent or delay the publication of a student thesis or dissertation, then he or she must agree to such restrictions in writing.

2. Receiving Confidential Information from Outside Researchers - If a Covered Individual receives Confidential Information from an Outside Researcher or organization (non-profit or commercial) in relation to research performed by the Covered Individual at the University, the other organization or researcher may impose serious non-disclosure and non-use obligations on the Confidential Information and may claim an ownership interest in Inventions, Copyrightable Works, or Materials that arise in the course of research performed with such Confidential Information. For this reason, only CVIP representatives are authorized to approve and sign CDAs from other researchers or organizations on behalf of the University. The CVIP will make available a University-form CDA for receipt of Confidential Information, although the organization disclosing the Confidential Information will usually require use of its own form of CDA.

When Confidential Information is received by a Covered Individual in the course of sponsored research, the treatment of such Confidential Information will be governed by the terms of the applicable sponsored research agreement, if such terms differ from this Policy.

If any CDA restrictions would apply to research performed by students, the affected students must agree to such restrictions in writing.

F. Administrative Procedures - Sponsored Research with Commercial Organizations

The Vice Chancellor for Research in consultation with the CVIP shall have responsibility for negotiating, executing, and administering funded research agreements between the University and commercial organizations, in accordance with the University policies on sponsored research. The Vice Chancellor for Research may delegate all or some of these responsibilities to the CVIP. CVIP approval is required for any terms of such agreements that affect rights to Intellectual Property (e.g., option rights, license rights, or assignment of ownership). If any restrictions in a funded research agreement (such as publication delays) would apply to research performed by students, the affected students must agree to such restrictions in writing.

G. Commercialization of University-Owned Intellectual Property

The CVIP in consultation with the Vice Chancellor for Research shall have responsibility for commercial development and administration of all University-owned Intellectual Property. This commercial development will ordinarily occur through licensing of Inventions, Copyrightable Works, or Materials to a company. The CVIP will regularly consult with, seek the advice of, and inform the inventor or creator of the Intellectual Property throughout the commercialization process. The University recognizes that involvement of the inventor or creator at every step of the commercialization process is essential for the successful commercialization of Intellectual Property. The CVIP will use diligent efforts to commercialize the Intellectual Property. If the CVIP is successful in its commercialization efforts, the inventor or creator will share in the economic rewards, as will the department and campus.

The University acknowledges the possibility that, in some situations, a Covered Individual and the University may each have ownership of an important element of Intellectual Property. In these situations, the University and the Covered Individual may achieve the highest value only if the combined Intellectual Property is commercialized. This Policy is not intended to limit the ability of a Covered Individual to contract with the CVIP to accomplish this result, even if the terms of that contract differ from this Policy. In any event, the University and the Covered Individual may each license their respective Intellectual Property separately if they cannot agree on contract terms.

1. Distribution of Non-Equity Revenue Derived from Commercialization - Royalty income and other non-equity revenue derived from the licensing of University-owned Intellectual Property will be distributed at the end of each accounting period as follows:

- a. The University will be reimbursed for any out-of-pocket expenses incurred in obtaining and maintaining patent or copyright protection for a specific item of Intellectual Property, and in evaluating and marketing such Intellectual Property.
- b. The remaining net income will be distributed as follows:

Fifteen percent (15%) to the CVIP to fund patents, CVIP operations, and research grants

Thirty percent (30%) to the inventor or creator

Fifteen percent (15%) to the University entity or entities that provided the resources for development of the Intellectual Property, to fund research and scholarship
Forty percent (40%) to the campus of the inventor or creator to fund research and scholarship

In the case of multiple inventors or creators of commercialized Intellectual Property, their shares will be distributed as they unanimously agree or, in the absence of agreement, in equal portions. If multiple departments or programs are involved, their shares will be distributed in the same manner as the distributions to the inventors or creators within such departments or programs. At the written request of a Covered Individual, the University will furnish an accounting of these expenses and payments, but not more frequently than once each year. Covered Individuals are free to receive additional non-equity compensation directly from a commercial organization (e.g., through a consulting agreement), provided that the Covered Individual complies with other applicable University policies and procedures.

2. Acceptance of Equity - The University may accept an equity interest in a corporation, provided that before the CVIP agrees to accept equity, it must receive the approval of the Vice Chancellor for Research, the Vice President for Economic Development, and the University

Treasurer. A Covered Individual must choose either of the following approaches when negotiations commence between the University and the corporation, but the choice is final once selected. If a transaction is completed before the Covered Individual makes a choice of these approaches, the approach in paragraph b shall apply.

a. Covered Individuals may elect to receive thirty percent (30%) of the equity that the University would otherwise receive in connection with the commercialization of Intellectual Property, in which case the Covered Individual agrees not to receive any other equity interest from the corporation. The Director may waive this restriction in his or her discretion. The University will not receive or hold this equity on behalf of a Covered Individual, but will instruct the corporation to issue the equity directly to the Covered Individual. Covered Individuals must sign any documents required by the corporation (e.g., stock restriction agreements) and must agree to comply with any restrictions placed on the stock by the corporation. If the corporation refuses to issue the stock directly to the Covered Individual, or if the Covered Individual does not sign the necessary documentation, the University will instruct the corporation to issue the equity directly to the University. In such event, the Covered Individual may still receive equity independent of the University.

b. Covered Individuals may elect to receive equity directly from the corporation independent of the University, in which case the Covered Individual agrees not to receive any share of equity that the University may receive in that transaction. Covered Individuals selecting this approach may negotiate with the corporation to receive equity by means of, for example, a consulting agreement or founders stock. Such arrangements may be subject to the University Policy on Conflict of Interest Relating to Intellectual Property and Commercial Ventures.

3. Distribution of Equity Revenue Derived From Commercialization - The University will not receive and hold equity until liquidation on behalf of a Covered Individual. Instead, as explained in the preceding section, a Covered Individual may receive equity directly from a company (either together with the University or independent of the University). The equity received by the University in connection with the commercialization of Intellectual Property will be held until liquidation, with the proceeds distributed as follows:

a. First, to the extent the University is not fully reimbursed for out-of-pocket expenses from non-equity revenue, the University will be reimbursed for any remaining out-of-pocket expenses incurred in obtaining and maintaining patent or copyright protection for a specific item of Intellectual Property, and in evaluating and marketing such Intellectual Property.

b. The remaining proceeds from equity liquidation will be distributed as follows:

Twenty percent (20%) to the CVIP to fund patents, CVIP operations, and research grants

Twenty percent (20%) to the University entity or entities that provided the resources for development of the Intellectual Property, to fund research and scholarship

Sixty percent (60%) to the campus of the inventor or creator to fund research and scholarship

Equity held within the University will be managed by the Treasurer. Equity may also be held on behalf of the University by the University of Massachusetts Foundation, Inc. or another outside investment advisor to minimize potential institutional conflicts of interest.

H. Enforcement

The Director, the Vice Chancellor for Research, or the President may refer any matter to the appropriate University official for disciplinary or other appropriate action.

I. Appeals

If a faculty member disagrees with any decision by the Vice Chancellor for Research or the Director, the faculty member may request an advisory opinion from an ad hoc faculty committee composed of three members appointed by the Chancellor for that campus and three members appointed by the Faculty Senate. The faculty member and the Vice Chancellor for Research will each present their views to the committee. The committee will adopt an opinion by vote of a majority of its members. In the event of a deadlock, the committee may adopt two opinions. The committee will transmit its written opinion to the faculty member, the Vice Chancellor for Research, and the Director. If the disagreement persists, the faculty member may appeal the matter to the President (or his or her designee). The President will consider written statements by the faculty member, the Vice Chancellor for Research, and the Director, as well the advisory opinion rendered by the ad hoc committee. The decision of the President shall be final within the University.

In the case of Covered Individuals other than faculty members, the President shall have authority to overrule any decision of a Vice Chancellor or the Director. The decision of the President shall be final within the University.

If a Covered Individual disagrees with the final University decision, the Covered Individual may exercise his or her individual legal rights to pursue the matter in a court of law located in the Commonwealth of Massachusetts. This acknowledgment by the University that a Faculty Member has the right to pursue a legal claim is not an admission by the University that any Faculty Member actually has any actionable legal claim. Rather, the University seeks to preserve the legal rights of a Faculty Member outside of the collective bargaining process after internal appeals are exhausted.

J. Interpretation of Policy; Exceptions

The Director shall administer this Policy in regular consultation with the Vice Chancellors for Research and the President. The President shall have authority to interpret this Policy and, upon recommendation of the Vice President for Economic Development and in consultation with the General Counsel, may grant exceptions to the Policy in appropriate cases.

K. Reports

The Vice Chancellor for Research shall file with the Faculty Senate an annual report on disclosures and materials transfer agreements, indicating the number received, time involved in processing, and disposition. The report shall present summary statistics and shall maintain the confidentiality of individual disclosures.

3. Disclosure of Research Results

All sponsored activities of the University of Massachusetts must conform to the disclosure policy established by the Board of Trustees on May 10, 1972. "It is the policy of the University of Massachusetts to undertake only those research projects in which the purpose, scope, methods, and results can be fully and freely disclosed." On the basis of this policy, the University will not authorize the acceptance of classified or secret research.

4. Scholarly Misconduct

The university has in force "Guidelines for Procedures for Dealing with Charges of Misconduct in Research and Scholarship Activities." Since the University considers misconduct in scholarly

activities to be injurious to the institution's teaching, research, and public service missions, it treats all charges of misconduct with the utmost seriousness. The "Guidelines" are available from the Office of the Vice Provost for

Research and at <http://www.umass.edu/provost/admin/policies/misconduct.pdf>.

5. Joint Authorship

The "Policy Statement on Joint Authorship" provides guidelines for authorship and co-authorship of scholarly works by collaborators at the University. The "Policy Statement" is available at the Office of the Vice Provost for Research and at

<http://www.umass.edu/research/ogca/policies/jntauth.htm>.

D. Campus Policies

1. Alcoholic Beverages and Controlled Substances

A. The University of Massachusetts Amherst does not condone the use of alcoholic beverages except in accordance with the campus' Alcoholic Beverages Policy. The policy is published in *Undergraduate Rights and Responsibilities*, issued by the Office of the Vice Chancellor for Student Affairs. All members of the University community are expected to comply with the laws of the Commonwealth and with the campus policy concerning consumption of alcoholic beverages. The minimum drinking age in Massachusetts is 21 years.

B. The handling and use of controlled substances must comply with federal and Commonwealth law. Controlled substances are not otherwise permitted on campus. In accordance with the Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, as defined in the act, is prohibited in the workplace, whether on or off University premises, when an employee is directly engaged in the performance of work pursuant to the provisions of a federal grant. A violation of these prohibitions and any applicable regulations under the act may result in discipline up to and including termination.

2. Policy on Environmental Tobacco Smoke

Increasing concern about the effects of environmental tobacco smoke (ETS) on the health and welfare of faculty, staff and students prompts the University to revise the September 1987 policy on use of smoking materials (Senate Document # 86-013) for use by the Amherst campus.

Smoking is allowed only in:

- a) Designated guest rooms of the Campus Center hotel.
- b) Certain University owned and leased individual rooms and apartments, including Residential Halls in accordance with policy established by Housing Services.

3. Operating Policy for Facilities

Purpose

This policy establishes responsibility for the actual repair, maintenance, renovation, remodeling, and construction of campus buildings, grounds, related facilities, and attached equipment with the Physical Plant Division and the Facilities & Campus Planning Division, unless specifically delegated by the Associate Vice Chancellor for Facilities & Campus Services.

Overview

All on-site work involving repair, maintenance, renovation, remodeling, alterations, or construction to campus facilities must be accomplished by or coordinated through these divisions including the development of construction documents and administration of construction contracts. All contractors, once engaged, are also supervised on-site by Physical Plant or Facilities & Campus Planning staff.

Application

This policy applies, but is not limited to, the following:

1. the construction, fabrication, installation, alteration, or painting of partitions, doors, walls, ceilings, floors, shelves, windows, cabinets, air conditioning units, and any other equipment attached to campus buildings;
2. the construction, fabrication, installation, or alteration of utility service systems including electrical, gas, water, sewer, steam and air lines, and all mechanical control systems for these utilities within and outside campus buildings;
3. the routine maintenance, major maintenance, repairs, or installation of all structural, mechanical, electrical, and fire protection systems;
4. the planting and care of trees, shrubs, flowers, lawn areas, and all campus landscape elements and features, except those used for instruction or research purposes;
5. custodial services, refuse collection and disposal, recycling, and snow removal.

Rationale

Work performed by non-facilities personnel often violates campus construction standards, can create hazardous situations, and may result in the ineffective expenditure of funds. If Physical Plant or Facilities & Campus Planning are unaware of the result of such work, records will not be maintained and disruption of services may occur at a later date, or worse, a tradesperson may be physically harmed due to unrecorded alterations or installations. Work of this nature may also circumvent authorization and/or approvals required by the campus, the University, the Board of Trustees, or the state executive or legislative branches. In addition, unauthorized work can violate University agreements with insurance carriers, regulations by various state or federal agencies (including the State Division of Capital Asset Management -DCAM), union agreements, state or federal statutes, local ordinances, and requirements imposed by other regulatory agencies.

E. General Policies

1. Fair Information Practices

The confidentiality of all information in your personnel file(s) ("personal data system" is the term in the statute) is protected by the Massachusetts Fair Information Practices Act (FIPA), the University regulations that the Trustees have promulgated pursuant thereto, and applicable case law. Only you or some other person designated by you may have access to personnel information about you without your permission, or as required by law. Such permission is implied for persons who have a legitimate need for such information for a specific purpose, such as the members of your departmental personnel committee when they are considering a recommendation for personnel action concerning you, plus the administrators who must review the recommendation. Those persons are required to maintain the confidentiality of all such information from anyone not directly involved in the process. You have the unconditional right

of access to all items in your personnel file except for any item(s) for which you have signed a specific waiver of that right, except that the University can withhold data that is the subject of an investigation for a period of one year or until the investigation is concluded, whichever is less. You do not have to give a reason for exercising this right, and it is improper for anyone to request such a reason. You also have the right to copy any and all materials in your file if failure to permit such copying would prevent you from inspecting and reviewing your records; a small fee to cover the costs of reproduction may be charged.

Students enjoy similar rights. Without their permission or as otherwise provided by law, you may not reveal their grades or any similar data about them, not even to their parents. Violations of students' rights to privacy may result in serious disciplinary action.

2. Massachusetts Right to Know Law

The Right to Know Law, Chapter 111 F of the Massachusetts General Laws, enacted in 1983, provides new rights to faculty and staff members and community residents regarding the communication of information on toxic and hazardous substances listed on the Massachusetts substance list. The law covers all faculty and staff members, and community residents who might foreseeable be exposed to hazardous substances used in the workplace; requires Workplace Notices to be posted in a central location in the workplace informing faculty and staff members of their rights; requires the Massachusetts Department of Public Health to establish and maintain the Massachusetts

Substance list (copies of which are on reserve at the campus libraries and at departments using hazardous or toxic substances) and allows coverage of additional substances on evidence of risk to health; mandates that each hazardous or toxic substance be labeled and that a Material Safety Data Sheet (MSDS, which provides information on the substance, safety instructions, and risks to health) be available upon written request; requires an annual training program for faculty and staff members who work with toxic or hazardous substances at the Amherst campus. The training session includes a 35 minute slide-tape program, developed by the Environmental Health and Safety Department, Morrill Science Center, tel. 545-2682, entitled "What You Should Know About the Right to Know Law."

The law requires training for new faculty and staff members who work with toxic or hazardous substances within 30 days of the date of hire. In order to comply with this provision in the law, Environmental Health and Safety's Training Department routinely schedules Right to Know training sessions. Arrangements should be made to attend one of the scheduled sessions within the required 30-day period. Further questions about the Right to Know Law or the training sessions should be directed to the Environmental Health and Safety Office.