

POLICY PROPOSAL
TITLE 4, CHAPTER 12, SECTION 7.4
Intellectual Property, Research and Entrepreneurial Activity

The language below replaces the current language in the Section.

Section 7. Administration

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4. Institution Implementation Options. Each institution may elect any of the following options regarding Intellectual Property.

a. Commercialization Through 501(c)(3) Entity. Each institution may license, assign or convey any right, title, or interest it may have in Intellectual Property to a 501(c)(3) entity, including an affiliated nonprofit corporation as set forth in Title 4, Chapter 10, Section 10 of the Board of Regents Handbook, if the 501(c)(3) entity is:

- i. created for the sole benefit of the institution;**
- ii. obligated to act at all times in the best interests of the institution;**
- iii. prohibited from pledging funds of the Board of Regents, NSHE, the institution, or the State of Nevada;**
- iv. directed to use its best efforts to commercialize Intellectual Property and to conduct any commercialization and related activities in compliance with all applicable state and federal laws, including the "Bayh-Dole Act," as set forth in 35 U.S.C. §§ 200-212; and**
- iv. required to fully indemnify and hold harmless the Board of Regents, NSHE, the institution, and State of Nevada, and their officers, employees, and agents from and against any and all liabilities, judgements, and/or expenses, including attorney fees, arising either directly or indirectly, from any act or failure to act regarding the commercialization of Intellectual Property with third parties.**

b. Third Party Transfers. To promote commercialization of the Intellectual Property, the 501(c)(3) entity may license, assign or convey any right, title, or interest in its Intellectual Property to a thirty party. Any such transfer must have the consent of the Intellectual Property Administrator and the institution's President and occur pursuant to a written agreement that is both reviewed by the institution's General Counsel and expressly contains the following condition: the third party must diligently pursue and use its best efforts to commercialize the Intellectual Property and the 501(c)(3) entity may revoke the transfer if it determines that the third party is failing to use its best efforts.

c. Conveyance To Faculty. If an institution determines that it has no interest in the commercialization of Intellectual Property, upon the approval of the Intellectual Property Administrator and the institution's President, it may convey the Intellectual Property to one or more faculty members who created the Intellectual Property to manage and develop it as a private venture. Any such conveyance must

be pursuant to a written agreement reviewed by the institution's General Counsel and provide for an agreed-upon sharing of value received for the conveyance between the institution and the faculty member(s).

d. Release To Public Domain. If an institution determines that it is in its best interests, upon approval of the Intellectual Property Administrator and the institution's President, it may release or abandon Intellectual Property to the public domain.