

## USM Bylaws, Policies and Procedures of the Board of Regents



### IV-2.20 – POLICY ON CLASSIFIED AND PROPRIETARY WORK

(Approved by the Board of Regents, June 16, 2017)

#### I. Purpose

The mission of the University System of Maryland (USM) is to generate and disseminate knowledge. USM interests and purposes are well served by the conduct of extramurally sponsored activities. Sponsors may operate within a classified or proprietary environment, while the USM functions on the principles of free inquiry and open expression. To serve the common interests of both the USM and external sponsors, it is necessary to have reasonable and workable guidelines for collaborative work, which facilitate mutually-beneficial arrangements with sponsors while protecting the basic tenets of the USM. To that end, this Policy describes the USM's general policy regarding sponsored activities involving classified or proprietary work, defines the elements to be considered by institutional presidents before approving exceptions in specific circumstances, and outlines reporting requirements for exceptions.

#### II. Policy

It is the USM's general policy that instruction, research, and services will be accomplished openly and without prohibitions on the publication and dissemination of the results of academic and research activities. This section establishes the basis, under this general policy, on which USM institutions will enter into contractual agreements with governmental or private sponsors. It also establishes the basis for acceptance of graduate theses and dissertations.

- A. The USM enters into no contractual agreement that restrains it from disclosing the existence of the agreement, the nature of the work, or the identity of the sponsor.
- B. USM neither conducts federal classified work nor permits the use of facilities or resources for such work on any of its campuses. When it is determined, consistent with the interests of both the USM and the United States, that it is appropriate to engage in classified work, such work must be conducted at off-campus sites.
- C. Only in exceptional circumstances may USM institutions enter into agreements (for non-classified work) that bar investigator(s) from publishing or otherwise disclosing findings publicly. With the concurrence of the investigator(s), the institution may agree to delay publication for a maximum of 90 days to allow sponsors to

## **USM Bylaws, Policies and Procedures of the Board of Regents**

determine whether their proprietary information may be publicized, or whether they will exercise their rights under patent clause agreements with the institution. The institution, with the concurrence of the investigator(s), may agree to an additional delay of publication of up to 90 days, for a total maximum publication delay of 180 days.

- D. USM institutions shall accept no graduate theses or dissertations that cannot be made public. The provisions stated in item C above for delaying public disclosure also apply to graduate theses and dissertations; therefore, institutions will not permit a student to defend any thesis or dissertation which contains proprietary information until the time period allowed by item C has expired.
- E. The USM recognizes that some publishable work can best be accomplished if an investigator(s) has access to a sponsor's proprietary information or materials. The institution and investigator(s) may agree to use reasonable efforts to protect such information or materials from disclosure, but they cannot accept liability if such efforts fail.
- F. This Policy does not apply to consulting or other activities conducted off-campus, or without the use of USM institution facilities or resources and when performing consulting activities independent of the employment relationship with the USM institution. Consulting activities must conform to the USM's separate policy on consulting (Policy on Professional Commitment of Faculty – II-3.10).
- G. In highly unusual circumstances, institution presidents may grant exceptions to this Policy. Each institution must adopt policies and procedures that assure serious consideration of the following issues prior to presidential approval of an exception for a specific project:
  - a) The proposed work fits within the institution's mission and meets its ethical standards;
  - b) National interests (security, public health, etc.) have been considered;
  - c) Any classified or proprietary work restrictions will not adversely affect the academic progress of any student involved in the work;
  - d) Any faculty member involved in the work understands the implications of performing work that may not be immediately publishable in a publicly available format, and possible impact on academic/professional progress;
  - e) All research policies and procedures, including general safety and

## **USM Bylaws, Policies and Procedures of the Board of Regents**

security, Institutional Review Board (IRB), Institutional Animal Care and Use Committee (IACUC), environmental considerations, and IT and data security have been carefully evaluated and appropriately articulated in the agreement;

- f) Proper documentation is provided that protects the institution, and accepted security measures are put in place to assure that any on-campus work does not place the institution at undue risk; and
- g) Other special circumstances relevant to a specific project or program are documented.

H. No classified or proprietary work in which a USM institution is involved shall violate any federal or state laws, regulations or guidelines on ethics or protection of privacy with respect to any person involved in the work as a participant, investigator or subject.

### **III. Reporting**

Each institution will provide an annual report to the USM Chancellor on all exceptions made pursuant to this Policy, providing justification for the approval of the classified or proprietary research project. The Chancellor will make an annual report to the Board of Regents specifying exceptions granted under these provisions.

### **IV. Definition**

For the purpose of this policy, proprietary information or materials means unclassified information or materials that can be made public or that can be disseminated only with the approval of an individual or organization external to the USM.

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