

## Cary Institute of Ecosystem Studies Intellectual Property Policy

**General Policy Statement** – This document describes the Cary Institute of Ecosystem Studies' policies for intellectual property. Its objectives are:

- To enable Cary Institute to foster the free and creative expression and exchange of ideas and comment;
- To preserve traditional Cary Institute practices and privileges with respect to the publication of intellectual property;
- To establish principles and procedures for sharing income derived from copyrightable material produced at Cary Institute;
- To protect both the creator and Cary Institute.
- This policy encompasses anyone employed by Cary Institute who creates intellectual property.

**Purpose** – This policy reflects the following goals:

- To create an environment that encourages the generation of new knowledge.
- To facilitate the wide transfer of useful inventions and writings to society.
- To motivate the creation and dissemination of intellectual property by providing appropriate financial rewards to creators and the institute, and administrative assistance to the creator.
- To ensure that research decisions and the operations of the Institute are independent of any financial return from the creation of intellectual property.

**Underlying Principles** –

- There exists a historical tradition allowing authors to retain ownership of intellectual property rights.
- That any proceeds received from the creation of intellectual property be shared 50-50 between the developer and the Institute, if the work on the creation is part of an institutional assignment. Under normal circumstances, royalties from scholarly activities are not included and may be retained by the creator (example: Cary Conference book).
- That any proceeds received from the creation of intellectual property that is done on the creator's personal time, which is not assigned by the institute as a work project, where the employee made no more than incidental use of the Institute's resources, and is not the result of a funded project will belong to the creator.
- Cary Institute resources are to be used solely for Institute purposes and not for personal gain or personal commercial advantage nor for any other non-Institute purposes unless prior approval is obtained from the President\*. Therefore, if the creator of an item of intellectual property makes significant use of the services (for example- use of laboratory space and supplies, long distance phone service), or staff (use of administration or research support staff time) of the Institute to create the work, he or she shall disclose the work to the President and the Compliance Officer. (If you are in doubt, please check with the President or Compliance Officer). In the case of the President, disclosure will be to the Chair of the Board and the Compliance Officer.

**Definitions** –

- *Intellectual property* - property that can be protected under federal law (patent, copyright, trademark, trade secret, etc.), including **copyrightable works, ideas, discoveries, and inventions. Examples includes books, sound recordings, web products, photographs,**

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**a new type of mousetrap, or a cure for a disease - any creation that might be developed on a proprietary basis.**

- *Institute* – Cary Institute of Ecosystem Studies.
- *Creator* – any person or persons who create an item of intellectual property.
- *Institutional Works* – works that are supported by a specific allocation of Institute funds or that are created at the direction of the Institute for a specific Institute purpose. Institutional works also include works whose authorship cannot be attributed to one or a discrete number of authors but are the result of simultaneous or sequential contributions over time by multiple employees. For example, software tools developed and improved over time by multiple contributors where authorship is not appropriately attributed to a single or defined group of authors would constitute institutional work. The mere fact that multiple individuals have contributed to the creation of a work, however, will not cause the work to be considered an institutional work.
- *Incidental Use* - Institute resources, including facilities, personnel, equipment, or confidential information cannot be used in other than a purely incidental way for non-Institute purposes. More than incidental use of institute resources includes the use of specialized, research-related facilities, equipment or supplies which are provided for academic purposes and support staff time. The occasional and infrequent use of routinely available, office-type equipment (ex. computers), commercially available software and reference material is not considered more than incidental use.

### Provisions –

- Ownership of intellectual property, created as a result of work conducted under an agreement with an external sponsor, shall be owned as specified in the agreement.
- If the Institute provides funds (not including PI salary) for a particular project, ownership will be agreed upon before the project is undertaken.
- Unless specifically prohibited by the terms of a funded agreement, and after discussion with the President of the Institute, the creator of any intellectual property may choose to place his or her creation in the public domain. In this case, both the creator and the Institute waive all ownership rights to the property.
- The Institute will retain ownership of works created as institutional works.
- The Institute may assign ownership to the intellectual property as allowed by law, subject to the rights of sponsors and to the retention of the Institution of a license which, at minimum, allows the Institute the right to use the intellectual property on a perpetual, royalty free, non-exclusive basis.

### General Procedures –

- The creator of any intellectual property that is developed under a sponsored research agreement is required to make a reasonably prompt written disclosure in accordance with the terms and conditions of the agreement.
- The creator of any intellectual property that is or might be owned by the institute (either fully or partially) is required to make prompt written disclosure to the Compliance Officer.
- If there is a possibility that a patent or invention will be the result of an individual's research, it must be disclosed to the Compliance Officer immediately. In cases of federally funded research, the Bayh-Dole Act requires that the institution notify the federal awarding agency of all patents and inventions resulting from funded research.

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Therefore, it is the responsibility of the researcher to notify the Compliance Officer of any patents and/or inventions resulted from research activities so that the proper institutional and federal authorities may be notified.

- All persons engaged in the creative activity are encouraged to keep regular notebooks and records in accordance with good lab practices.
- Questions of ownership or other matters pertaining to this policy shall be resolved by the President\* in consultation with the Compliance Officer. No assignment, license or other agreement may be entered into or will be considered valid with respect to intellectual property owned by the Institute or developed under the terms of a sponsored research agreement except by an official specifically authorized to do so.

### **Acceptance by Employees –**

I have reviewed and understand the above policy and agree to follow the policy and procedures described above. I understand that it is my responsibility to notify the Compliance Officer of the existence or possible existence of any patents and/or inventions resulting from my research or my assigned institutional duties.

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(Signed)

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(Date)

\*In the event the President's intellectual property is involved, authorization and approval will be requested from the Chair of the Board after consultation with the Compliance Officer.