

Interactions with Company Employees

Not everyone you will encounter in your career will be an employee of the University of Oregon or be free of obligations to another Employer. This has an effect on the ownership and management of intellectual property, for example patents, copyrights in software, and technical information that is created at the University. It also affects the resulting obligations of everyone involved. We want to make you aware of this in advance in case this is important to you.

Unlike an industrial employer, the University has both a teaching and a research mission that allows individuals having diverse commitments access to our research enterprise. We encourage such interaction of people through the University, and the creation of a less structured environment than industry. We do this in order to enhance creativity and the sharing of information in the pursuit of academic goals.

It is increasingly difficult to attract and retain faculty in certain disciplines. A growing trend in departments at the University is the appointment of individuals as Adjunct Faculty, and the encouragement of outside visitors to interact with people at the University. These individuals have expertise that a department considers important to its education and research mission. Adjunct faculty or visitors participate in research and may advise students in their thesis or dissertation work. However they are generally not employees of the University. This means that unless a written agreement exists to the contrary with them or their employer, the ownership of their intellectual property either remains with them, or must be assigned to their employer.

In the case that an individual is a company employee, and the company requires them to assign their intellectual property to the company, then without a written agreement to the contrary between the University and the company, the following defaults apply:

- **Inventions:** If the company employee is a co-inventor of a patentable invention, the company would be a co-owner of any patent claiming that invention. The pursuit of such a patent would have to be done with the cooperation of both the company and UO. Thereafter, in the U.S., each owner has an equal undivided right in the patent without having to account to the other owners, i.e., they can commercialize or publish the invention claimed without further discussion with each other.

If you are working under other industry funding in which the University has an obligation to let the industry sponsor have first right to negotiate for patent rights arising from your research, then allowing the visitor to participate in the research may create problems between the University and the sponsor.

- **Copyrights:** If the company employee fixes original expression in a tangible medium, such as writing a portion of code as part of a code base intended to be a joint work, then the company would be a Co-Author of the copyright in the work. If the work is not intended to be joint, only the company owns the copyright in the employee's portion of the work. In Joint Works, each Author has an equal undivided interest with accountability to all other Authors. For example, the Authors may act independently in modifying the code base, publishing, or engaging in commercial transactions, but they must account to, and share with, the other Authors regarding profits. If the work is not joint, then perhaps aside from an implied license to do exactly what the collaboration was intended to do, the University does not have any rights in the company employee's contribution. For example, distribution or publication of the company's portion of the code for academic purposes may not be possible.
- **Technical information:** If a company employee helps create technical information, such as the results from a model of the behavior of packet traffic on the internet or the performance of a new class of circuit designs, then the information is either jointly-developed or freely available to each party. The outcome depends on the intent of the collaboration. This means the information is either jointly owned or unrestricted (considered published). In either case, the company is free to treat the information as its own and incorporate the information in their business activity in any way they wish, as is the university member. An exception may occur when one collaborator informs another that certain technical information he or she is about to disclose is confidential.

If you are working under other industry funding typically the sponsor has the right to review "publication" before information is disseminated to other companies or the public. Allowing the visitor to participate in the research may be a form of publication that creates problems between the University research group and the sponsor.

Education and the creation of new knowledge are the primary goals of the academic enterprise. Company employees often have expertise and experience that are valuable additions to those goals. The departments feel that making the opportunity for students to interact with and learn from these individuals outweighs the complexities added to the issues of intellectual property ownership. However departments recognize that individuals receiving their education at the University may have secondary goals involving the commercialization of research in which they may be involved. These goals may be incompatible with working with faculty and visitors who are employees of companies, or may limit the nature of the interaction with those faculty and visitors. Questions may be addressed to either the department chair, or to the chair's internal committee.