1:30 p.m. - 

1. **Roll Call**

2. **Approval of the Minutes of Previous Meetings**

   Will the Board of Trustees approve the minutes of the meetings of the Board held on July 13, 2012; on August 12, 2012; and on August 25-26, 2012?

3. **President’s Report**

2:30 p.m. -

4. **Public Comment**

3:00 p.m. -

5. **Update on the Status of the Implementation of the Freeh Recommendations**

3:15 p.m. -

6. **Reports from Standing Committees**

   Discussion of action and/or information items by the Standing Committees for consideration by the Board of Trustees:

   A. **Committee on Academic Affairs and Student Life** - Marianne E. Alexander, Chair

   B. **Committee on Audit and Risk** - John P. Surma, Chair

   C. **Committee on Finance, Business and Capital Planning** - Linda B. Strumpf, Chair

   1) **Discussion of Consent Agenda Items Provided for Information or Approval of the Committee on Finance, Business and Capital Planning:**

      Information Items -
      a) Centralized Biological Laboratory Electrical Service Upgrades, University Park
      b) Naming of Rooms, Portions of Buildings, and Plazas
      c) Sale of Property at 1275 Penfield Road, State College
      d) Status of Major Construction Programs and Borrowing
      e) Capital Budget Request for Fiscal Year 2013-2014
      f) Summary and Designation of Gifts Received by the University

      Action Items -
      g) Summary of Revisions to Existing Scholarships, Fellowships, Etc.
      h) Acknowledgments of Endowments and Other Major Commitments

      (See Appendix I)
A motion to postpone indefinitely the proposed resolution to rename the Child Care Center at Hort Woods was approved at the meeting.

2) **Proposed Renaming of the Child Care Center at University Park the "Child Care Center at Hort Woods"**

Will the Committee on Finance, Business, and Capital Planning recommend to the Board of Trustees adoption of the following resolution:

RESOLVED, That the childcare center located at the corner of Park Avenue and Allen Road, University Park, is renamed the "Child Care Center at Hort Woods."

3) **Appointment of Non-University Employees to the Penn State Investment Council**

In September 2000, Penn State's Board of Trustees established the Penn State Investment Council to provide direct oversight of the University's endowment and long-term investment program. The Penn State Investment Council, appointed by the Board of Trustees, includes the: Senior Vice President for Finance and Business/Treasurer of the University (Chair); Executive Director, Office of Investment Management; and five to nine non-University members (at least one of whom is a member of the Board of Trustees). The terms are staggered as follows:

- **2012** - **Timothy J. Crowe**, Managing Director, Anchor Point Capital LLC (Coral Gables, FL)
  - **Edward R. Hintz, Jr.**, President, Hintz Capital Management, Inc. (Chatham, NJ)

- **2013** - **Carmen Gigliotti**, Managing Director, Private Equities of DuPont Capital Management (Wilmington, DE)
  - **Colleen Ostrowski**, Vice President and Treasurer, ITT Corporation (Scarsdale, NY)
  - **Linda B. Strumpf**, Chief Investment Officer (Retired), The Helmsley Charitable Trust (New York, NY)

- **2014** - **J. David Rogers**, Chief Executive Officer, J.D. Capital Management (Greenwich, CT)
  - **Gary Glynn**, President and Chief Investment Officer (Retired), US Steel and Carnegie Pension Fund (New York, NY)

It is proposed to appoint Blake Gall and Edward R. Hintz, Jr. to membership with terms expiring in 2015. Mr. Gall is President, MicroPlusPlus Investment Management (Boalsburg, PA) and is former Vice Chairman Quantitative Equities, OFI Institutional Asset Management.

Will the Committee on Finance, Business, and Capital Planning recommend to the Board of Trustees adoption of the following resolution:

RESOLVED, That Blake Gall and Edward R. Hintz, Jr., non-University employees, are appointed to the Penn State Investment Council for terms ending in 2015.
6. **Reports from Standing Committees** (Continued)

C. **Committee on Finance, Business and Capital Planning** (Continued)

4) **Consideration of Request for 2013-2014 Appropriation for Operations**

Will the Committee on Finance, Business, and Capital Planning recommend to the Board of Trustees adoption of the following resolution:

RESOLVED, That the Officers of the University are authorized to submit to the Legislature, appropriate departments, and offices of the Commonwealth of Pennsylvania, a State Appropriation Request for fiscal year 2013-2014 in the amount of $289,548,000.

(*Details concerning the State Appropriation Request for 2013-2014 will be mailed to Trustees under separate cover.)

5) **Proposed Final Plans and Authorization to Award Contracts, West Campus Chilled Water Plant Chiller, University Park**

The West Campus Chilled Water Plant needs to be upgraded with a 3,000 ton chiller and a two-cell cooling tower for increased capacity. Since centralized cooling is much more efficient than cooling buildings individually, existing and new buildings are being added to the campus chilled water system on an ongoing basis.

The scope of the work includes electrical equipment to power the new loads, relocation of office space, a control room on the first level, and restrooms. A small addition to the south side of the building will house grounds maintenance staff and equipment being relocated from within the existing plant.

Will the Committee on Finance, Business and Capital Planning recommend to the Board of Trustees adoption of the following resolutions:

RESOLVED, That the final plans for the West Campus Chilled Water Plant Chiller as designed by the firm of Trefz Engineering, Inc. of Horsham, Pennsylvania, are approved.

FURTHER BE IT RESOLVED, That authorization to award contracts to construct the project be approved at a cost of $16,200,000.

6) **Investment Review of Endowment and Similar Funds as of June 30, 2012**

Appendix II is an informational report on the University’s Endowment and Similar Funds as of June 30, 2012. A brief presentation will be made at the meeting.

(See Appendix II)

7) **Photo Report on Selected Construction Projects**

A photo report on the progress of selected construction projects will be presented at the meeting.
6. **Reports from Standing Committees** (Continued)

D. **Committee on Governance and Long-Range Planning** - James S. Broadhurst, Chair

E. **Committee on Legal and Compliance** - Keith W. Eckel, Chair

F. **Committee on Outreach, Development and Community Relations** - Mark H. Dambly, Chair

7. **Approval of the Intellectual Property Policies**

In accordance with *Standing Order IV*, approval or changes to the University intellectual property policy is reviewed with the Board of Trustees for consideration and final approval.

Intellectual Property created in the instructional realm at Penn State has been the subject of considerable discussion over the past several years. By way of background, in the fall of 2011 the University Faculty Senate proposed a set of seven core principles for guiding the handling of instructional intellectual property.

An ad hoc committee was charged by the then Vice President and Dean for Undergraduate Education and the Vice President for Research and Dean of the Graduate School, to review any University policies impacted by the new guidelines for instructional intellectual property, and to bring them into alignment with the spirit of these principles through necessary revisions and restatements.

This committee considered existing policies, benchmarked them against peer institutions, and provided an interim report on the matter. Additional consultation was sought from the University Faculty Senate and others. The final report and its recommendations, as reflected in Appendix III, were provided to and were positively reviewed by appropriate administrative areas and are recommended to the Board of Trustees for approval.

The proposed changes include:

a) Revisions that are recommended to existing policies AD17, AD20, AD40, AD46; RA11, RA17; RAG12.

b) Creation of a new category of university polices for intellectual property that will be called "IPxx" policies.

c) Conversion of RA11, RA13, RA17; AD17, AD46 into IP01, IP02, IP03, IP04 and IP05, respectively, and RAG12, RAG13, RAG14 and RAG17 into IPG01, IPG02, IPG03 and IPG04, respectively.

d) The newly revised intellectual property agreement.

It is proposed that significant revisions be made to those policies referenced above as well as re-categorization of the policies into three kinds of intellectual property. Intellectual property can be subdivided into: 1) Instructional Intellectual Property, 2) Research Intellectual Property and 3) Scholarly intellectual property. These are defined as follows:

Research intellectual property: the discoveries, inventions and creations with potential commercial value that result from research activities. Most research intellectual property developed at the University can be protected by patents, but some University research intellectual property (i.e., software) is more appropriately protected by copyright. Although some research intellectual property may be protected by trademark or trade secret, it is rare for the University to utilize these methods of protection.
7. **Approval of the Intellectual Property Policies** (Continued)

   Instructional intellectual property: materials produced for instruction in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

   Scholarly intellectual property: materials resulting from scholarly, literary, and artistic work such as journal papers, books, essays, poems, paintings, sculpture, musical scores, etc. in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

   These newly rewritten policies and related guidelines will become a new category of University policies, Intellectual Property Policies, and will supersede those already in place related to intellectual property that are currently contained in administrative (AD), human resource (HR), research administration (RA) and research administration guidelines (RGA).

   Will the Board of Trustees adopt the following resolution:

   **RESOLVED,** That the Board of Trustees approves the changes to the University's intellectual property policies as presented at its meeting on September 14, 2012.

   (See Appendix III)

8. **Legal Matters**

   Stephen S. Dunham, Vice President and General Counsel, will present an informational report on University legal matters and/or policies normally considered by a Standing Committee of the Board.

9. **Announcements by the Chairman of the Board of Trustees**
1. **Centralized Biological Laboratory Electrical Service Upgrades, University Park**

The University is planning to install a new pad mounted transformer outside the Centralized Biological Laboratory as part of a 30-building transformer replacement program. The existing transformer has reached the end of its useful life. The installation will be visually screened with landscaping. The project will also include a new diesel emergency generator to replace the existing generator. The cost estimate for these electrical service upgrades is $1,500,000.

(See Appendix I.1)

2. **Naming of Rooms, Portions of Buildings and Plazas**

The Facilities Naming Committee has made certain recommendations to the President on the naming of rooms, portions of buildings and plazas. In accordance with the Policy on Naming University Facilities, the Board of Trustees is hereby informed that the President has approved the following naming actions:

A. Name the current Learning Center, W117 Olmsted Building, as well as the Spiritual Center and Learning Center (which will be relocated from Olmsted Building) at Penn State Harrisburg in the proposed Student Enrichment Center in recognition of a gift from Russell E. Horn, Sr. The recognition plaques should read:

   Russell E. Horn, Sr. Learning Center
   Russell E. Horn, Sr. Spiritual Center

B. Name the first floor conference room in the Sheetz Center for Entrepreneurial Excellence, Penn State Altoona, in recognition of a commitment from the Ward Foundation. The recognition plaque should read:

   Ward Conference Room from Ward Trucking Employees

3. **Sale of Property at 1275 Penfield Road, State College**

*Standing Order V.*, Paragraph (4)(d), provides that "Proceeds from the sale of land and other real estate gifted to the University for the express purpose of sale," are to be reported to the Board of Trustees for information. The Board of Trustees is advised of the following property transactions:

In November, 2011, the University was gifted a residential property comprised of a 1-story 1,537 square foot residence on .92 acres located at 1275 Penfield Road, State College, Centre County, Pennsylvania from the estate of Ruth L. Pike. As terms of the gift do not obligate the University to retain the property and the University has no use for the property, in July, 2012, the University sold the property to Cristin L. Millett for $395,000. As directed by the estate, net sale proceeds will fund Ruth L. Pike Nutrition Science Fellowships within the Department of Nutritional Sciences of the College of Health and Human Development.

(See Appendix I.2)

4. **Status of Major Construction Programs and Borrowing**

(See Appendix I.3)

5. **Capital Budget Request for Fiscal Year 2013-2014**

Penn State has identified several projects as a priority and annually submits a list of those projects to the Commonwealth's Department of Education for further consideration by the Legislature. In order for the Governor to release funds for capital projects, the projects must have prior authorization and approval by the Legislature. The Capital Budget Request consists of those projects for which the University is seeking authorization for subsequent funding by the Governor.
5. **Capital Budget Request for Fiscal Year 2013-2014** (Continued)

For fiscal year 2013-2014, the University will submit a Capital Budget Request to the Commonwealth for authorization of $333.45 million of which $291.3 million is for construction projects and the remaining $42.15 million is for original equipment.

(See Appendix I.4)

6. **Summary and Designation of Gifts Received by the University**

Appendix I.5 is a summary and designation of gifts received by the University during the period July 1, 2011 through June 30, 2012.

(See Appendix I.5)

7. **Summary of Revisions to Existing Scholarships, Fellowships, Etc. (For the period June 18, 2012 through August 17, 2012)**

Will the Committee on Finance, Business and Capital Planning recommend to the Board of Trustees adoption of the following resolution:

RESOLVED, That the conditions governing certain existing scholarships, fellowships, awards, and similar funds previously established at the University be revoked and that the Officers of the University are authorized to put into effect the revised regulations as requested by the donors.

8. **Acknowledgments of Endowments and Other Major Commitments**

The Committee on Finance, Business and Capital Planning is advised that for the period June 18, 2012, through August 17, 2012, 37 new funds totaling approximately $2,009,865 were accepted by the University, including scholarships, fellowships, etc. All of these items conform to established University policies and regulations.

For the period May 1, 2012 through June 30, 2012, 49 major commitments were accepted by the University totaling approximately $30,623,527.

Will the Committee on Finance, Business and Capital Planning recommend to the Board of Trustees adoption of the following resolutions:

RESOLVED, That the Board of Trustees gratefully acknowledges the generous contributions of the many friends of the University in support of endowments, funds, and other major commitments as reported to the Committee on Finance and Physical Plant at its meeting of September 14, 2012.

FURTHER BE IT RESOLVED, That the Officers of the University are authorized to convey the Board's appreciation to these generous benefactors who provide opportunities for many students to receive a quality education.
1275 Penfield Road - Front

1275 Penfield Road - Rear

Vacant Lot fronting N. Inverary Place
<table>
<thead>
<tr>
<th>Campus</th>
<th>Project Name</th>
<th>Budget Amount</th>
<th>Commonwealth Funding</th>
<th>O&amp;H Amount</th>
<th>Arch/Eng Selection</th>
<th>Final Plan Approval</th>
<th>Start Date</th>
<th>Completion Date</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Altoona</td>
<td>Renovations to PSU Altoona Housing &amp; Foods Building</td>
<td>$5,900,000</td>
<td>$0</td>
<td>$0</td>
<td>N/A</td>
<td>03/11</td>
<td>03/12</td>
<td>06/12</td>
<td>Construction is approximately 92% complete.</td>
</tr>
<tr>
<td>Brandywine</td>
<td>Brandywine Main Building Renovation</td>
<td>$9,300,000</td>
<td>$0</td>
<td>$0</td>
<td>01/12</td>
<td>09/12</td>
<td>05/12</td>
<td>08/12</td>
<td>Construction is approximately 10% complete.</td>
</tr>
<tr>
<td>Hershey</td>
<td>Children’s Hospital</td>
<td>$206,500,000</td>
<td>$14,000,000</td>
<td>$65,000,000</td>
<td>11/05</td>
<td>11/09</td>
<td>03/10</td>
<td>10/12</td>
<td>Construction is approximately 95% complete.</td>
</tr>
<tr>
<td>Harrisburg</td>
<td>Educational Activities Building</td>
<td>$19,500,000</td>
<td>$0</td>
<td>TBD</td>
<td>11/11</td>
<td>09/13</td>
<td>02/13</td>
<td>05/14</td>
<td>Project in design</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>BEB Hub, Building 801 and 7R, Philadelphia Navy Yard</td>
<td>$38,000,000</td>
<td>$30,000,000</td>
<td>$0</td>
<td>08/11</td>
<td>11/12</td>
<td>05/13</td>
<td>08/14</td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>Beaver Stadium Scoreboard Upgrades</td>
<td>$12,700,000</td>
<td>$0</td>
<td>$0</td>
<td>07/11</td>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
<td>Projected for two (2) years.</td>
</tr>
<tr>
<td></td>
<td>Biobehavioral Health Building</td>
<td>$48,100,000</td>
<td>$40,000,000</td>
<td>$0</td>
<td>01/08</td>
<td>07/10</td>
<td>12/10</td>
<td>10/12</td>
<td>Construction is approximately 87% complete.</td>
</tr>
<tr>
<td></td>
<td>Burrowes Building Renovation</td>
<td>TBD</td>
<td>$0</td>
<td>$0</td>
<td>05/12</td>
<td>TBD</td>
<td>TBD</td>
<td>TBD</td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>CEDAR Building Renovations</td>
<td>$8,300,000</td>
<td>$8,300,000</td>
<td>$0</td>
<td>03/11</td>
<td>03/12</td>
<td>03/12</td>
<td>06/13</td>
<td>Construction is approximately 50% complete.</td>
</tr>
<tr>
<td></td>
<td>East Campus Steam Line</td>
<td>$13,500,000</td>
<td>$11,000,000</td>
<td>N/A</td>
<td>03/11</td>
<td>06/11</td>
<td>06/12</td>
<td>06/13</td>
<td>Construction is approximately 80% complete.</td>
</tr>
<tr>
<td></td>
<td>Environmental Improvements BFP Installations</td>
<td>$10,500,000</td>
<td>$7,000,000</td>
<td>N/A</td>
<td>04/08</td>
<td>08/14</td>
<td></td>
<td></td>
<td>Project program is approximately 68% complete.</td>
</tr>
<tr>
<td></td>
<td>Esential Services Program</td>
<td>$11,950,000</td>
<td>$3,000,000</td>
<td>N/A</td>
<td>12/05</td>
<td>12/14</td>
<td></td>
<td></td>
<td>Project program is approximately 68% complete.</td>
</tr>
<tr>
<td></td>
<td>Eva J. Pell Laboratory for Advanced Biological Research</td>
<td>$23,000,000</td>
<td>$0</td>
<td>$0</td>
<td>11/07</td>
<td>11/10</td>
<td>09/11</td>
<td>06/13</td>
<td>Construction is approximately 40% complete.</td>
</tr>
<tr>
<td></td>
<td>Health and Human Development Building</td>
<td>$58,200,000</td>
<td>TBD</td>
<td>$0</td>
<td>01/08</td>
<td>11/12</td>
<td>03/13</td>
<td>05/15</td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>HUB Addition</td>
<td>$31,350,000</td>
<td>$0</td>
<td>03/11</td>
<td>03/13</td>
<td>03/13</td>
<td>05/15</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>IM Building Addition</td>
<td>$24,600,000</td>
<td>$0</td>
<td>01/11</td>
<td>01/13</td>
<td>02/13</td>
<td>06/14</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>McCoy Natakerum Expansion and Indoor Tennis</td>
<td>$65,000,000</td>
<td>$10,000,000</td>
<td>11/11</td>
<td>05/13</td>
<td>TBD</td>
<td>TBD</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>Moore Building Renovation</td>
<td>$21,500,000</td>
<td>$18,000,000</td>
<td>$1,200,000</td>
<td>07/08</td>
<td>03/12</td>
<td>03/12</td>
<td>08/13</td>
<td>Construction is approximately 35% complete.</td>
</tr>
<tr>
<td></td>
<td>MRL Renovations</td>
<td>$10,000,000</td>
<td>$8,200,000</td>
<td>N/A</td>
<td>03/13</td>
<td>03/13</td>
<td>04/14</td>
<td></td>
<td>Project beginning design.</td>
</tr>
<tr>
<td></td>
<td>Mueller and Whitmore Laboratory Renovations</td>
<td>TBD</td>
<td>$0</td>
<td>03/12</td>
<td>05/13</td>
<td>TBD</td>
<td>TBD</td>
<td></td>
<td>Project in programming</td>
</tr>
<tr>
<td></td>
<td>Old Main Building Systems Renovation Phase I</td>
<td>$8,100,000</td>
<td>$1,500,000</td>
<td>09/11</td>
<td>11/12</td>
<td>05/13</td>
<td>05/14</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>Pegula Ice Arena</td>
<td>$99,300,000</td>
<td>$81,000,000</td>
<td>11/10</td>
<td>05/12</td>
<td>01/12</td>
<td>06/13</td>
<td></td>
<td>Construction is approximately 30% complete.</td>
</tr>
<tr>
<td></td>
<td>Recreation Hall Air Conditioning</td>
<td>$5,200,000</td>
<td>$0</td>
<td>01/12</td>
<td>03/13</td>
<td>02/13</td>
<td>08/13</td>
<td></td>
<td>Postponed for one (1) year.</td>
</tr>
<tr>
<td></td>
<td>South Frear Third Floor Renovations</td>
<td>$6,110,000</td>
<td>$2,460,000</td>
<td>$0</td>
<td>N/A</td>
<td>05/11</td>
<td>05/11</td>
<td>01/13</td>
<td>Construction is approximately 83% complete.</td>
</tr>
<tr>
<td></td>
<td>South Frear Phase II Renovations</td>
<td>$18,600,000</td>
<td>$0</td>
<td>01/12</td>
<td>03/13</td>
<td>02/13</td>
<td>10/14</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>South Halls Renovations and New Building</td>
<td>$24,100,000</td>
<td>$0</td>
<td>3/11, 11/11</td>
<td>03/12</td>
<td>05/12</td>
<td>10/14</td>
<td></td>
<td>Construction is approximately 13% complete.</td>
</tr>
<tr>
<td></td>
<td>Steidle Renovation</td>
<td>TBD</td>
<td>$0</td>
<td>03/12</td>
<td>05/13</td>
<td>TBD</td>
<td>TBD</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>Transformer Replacement Program</td>
<td>$6,400,000</td>
<td>$1,000,000</td>
<td>N/A</td>
<td>06/07</td>
<td>TBD</td>
<td>TBD</td>
<td></td>
<td>Project program is approximately 68% complete.</td>
</tr>
<tr>
<td></td>
<td>Water Treatment Plant</td>
<td>$30,000,000</td>
<td>$25,000,000</td>
<td>$0</td>
<td>01/11</td>
<td>05/13</td>
<td>05/13</td>
<td>07/14</td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>WCSP Steam Production Modifications</td>
<td>$48,000,000</td>
<td>$0</td>
<td>01/11</td>
<td>11/12</td>
<td>02/13</td>
<td>10/15</td>
<td></td>
<td>Project in design</td>
</tr>
<tr>
<td></td>
<td>West Campus Chilled Water</td>
<td>$11,900,000</td>
<td>$6,900,000</td>
<td>$0</td>
<td>N/A</td>
<td>03/11</td>
<td>05/11</td>
<td>08/12</td>
<td>Construction is approximately 95% complete.</td>
</tr>
<tr>
<td></td>
<td>West Campus Chilled Water Plant Chiller</td>
<td>$14,900,000</td>
<td>$0</td>
<td>01/12</td>
<td>11/12</td>
<td>11/12</td>
<td>08/14</td>
<td></td>
<td>Project in design</td>
</tr>
</tbody>
</table>

**Summary of University Long-Term Debt (> $5 Million)**

Estimated Bonds, Notes and Capital Leases as of June 30, 2012 (unaudited) $1,011,897

**Authorized Borrowing Status (> $500k)**

Borrowing Authority per May 2007 Board of Trustees $600,000

Capital Leases, Bonds, & Notes Issued ($321,242)

Future Capitalized Leases & Other Anticipated Commitments ($3,800)

Estimated Authority Remaining $274,958
THE PENNSYLVANIA STATE UNIVERSITY
PROPOSED CAPITAL BUDGET REQUEST FOR 2013-2014

<table>
<thead>
<tr>
<th>Priority Number</th>
<th>2013-2014 Construction Projects</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Academic Support Building Addition (Hershey)</td>
<td>$35,000,000</td>
</tr>
</tbody>
</table>

The Academic Support units of the College of Medicine have outgrown the office building they are housed in. Units have been placed in various locations within the Hospital itself and in off-campus facilities to accommodate their space needs. This proposed addition will provide the needed space to allow these units to be co-located. The original Academic Support Building was designed to allow an addition to be constructed without interfering with the ongoing functioning in the facility.

In addition to design and construction of the addition, the project funding will provide for necessary utility upgrades, site improvements and code-related upgrades within the existing building, as required. The addition will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

2. Additional Funds for a Computer Building (University Park) | $10,000,000 |

Funding for an addition to or construction of a new Computer Building was authorized in Act 82 of 2010. Since that time, the University has determined that construction of a new facility is the appropriate direction to pursue. This request will provide the additional funding necessary to design and construct an appropriate facility that is energy efficient and state-of-the-art. This new facility will be located at the University Park Campus.

The funding will provide for design and construction of the building, necessary utility extensions and site improvements.
THE PENNSYLVANIA STATE UNIVERSITY
PROPOSED CAPITAL BUDGET REQUEST FOR 2013-2014

<table>
<thead>
<tr>
<th>Priority Number</th>
<th>2013-2014 Construction Projects</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>Burrowes Building Renewal (University Park)</td>
<td>$40,800,000</td>
</tr>
</tbody>
</table>

Originally constructed in 1940, Burrowes Building was added to in 1967. The 112,000 gross square foot facility has not been significantly renovated since then. The building systems have outlived their useful lives and are in need of complete replacement. Additionally, the building is not air conditioned, resulting in sweltering heat conditions during the summer months to the extent that staff cannot safely work. Interior finishes are worn. The building also has limited accessibility for the disabled.

This project will renew the facility by replacing worn systems, updating electrical services and lighting, replacing heating and adding central chilled water air conditioning, improving the thermal envelope, replacing windows and interior finishes. Accessibility issues will be resolved. Interior space modifications may be needed to meet the needs of the departments and activities housed within the facility. In addition to design and construction, the project funding will provide for necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

4. Capital Renewal, Phase VI (University Park) $40,000,000

This project is part six of an effort to make significant comprehensive upgrades to the buildings at University Park. There are over 600 buildings at the University Park Campus that were constructed from the early 1900’s through the 1970’s. Limited funding for maintenance has allowed only for the support of component replacement of already antiquated systems and piecemeal improvements, leaving many of the older facilities barely acceptable for their programs and occupants. This project will allow the University to replace, install or upgrade as appropriate systems in major academic, research and administrative buildings across campus that were not addressed in the other phases of renewal.

Most of the buildings have exceeded their electrical capacity and the lighting and wiring is old and deteriorating. The age and extensive use of most of the public buildings is noticeable in that flooring is damaged, ceilings are stained, paint and other interior finishes are cracked, peeling and worn, and public restrooms are dingy. This project will allow the University to address these items and will provide an opportunity to address varying safety issues and energy efficiency and conservation. Work may include connection or upgrades to central utility systems, such as chilled water, water, electric, etc.
The University has been assessing its business continuity vulnerability in the event of a catastrophic loss of computer data and systems at University Park. To address this concern, consultants have recommended the development of a mirror site that can be fully operational in moments if such an event should occur. The facility needs to be within an approximate sixty-mile distance of the University Park Campus.

This project will include the acquisition of an appropriate site in the serviceable area that can be readily developed to meet the needs of this type of facility. The facility will house server racks to accommodate the current needs of the University and allow for expansion as the need arises. The site will accommodate outside support space and equipment. Other items included in the project are extension of any and all utilities to the site, clearance/demolition of any existing structures, parking and access roads, specialized security systems, and uninterrupted power systems (UPS) for backup power service in the event of utility power outage.

6. Data Center (Hershey) $24,000,000

Hershey Medical Center’s data center is currently located in an off-campus building with limited access to redundant utility services and that requires significant infrastructure upgrades to keep pace with programmatic needs. Campus planners have recommended this facility be relocated to campus. The new data center will be designed primarily for computer servers/equipment. Only those staff necessary to the functioning of the center will have offices there. The facility will be state-of-the-art, designed to be energy efficient.

The funding will provide for design and construction of the building, necessary utility extensions and site improvements.
## THE PENNSYLVANIA STATE UNIVERSITY
### PROPOSED CAPITAL BUDGET REQUEST FOR 2013-2014

<table>
<thead>
<tr>
<th>Priority Number</th>
<th>2013-2014 Construction Projects</th>
<th>Requested Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>Hosler Building Renewal (University Park)</td>
<td>$42,000,000</td>
</tr>
<tr>
<td>8.</td>
<td>Kostos Building Renewal (Hazleton)</td>
<td>$10,000,000</td>
</tr>
</tbody>
</table>

Hosler Building was constructed in 1950 as the home for the Mineral Industries Department of the College of Earth and Mineral Sciences. Very little has been done to the structure in the ensuing 62 years. The condition of existing building systems is hampering ongoing research and reduces the quality of the undergraduate educational experience.

The funding for this project will renew the facility by replacing worn systems, updating electrical services and lighting, replacing heating and adding central chilled water air conditioning, improving the thermal envelope, replacing windows and interior finishes. Accessibility issues will be addressed. Interior space modifications will be required to meet the needs of the departments and activities housed within the facility, including research activities. In addition to design and construction, the project funding will provide for necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

Kostos Building, constructed in 1970, houses the Campus’s Engineering, Physics, Chemistry and Biology laboratories and many general purpose classrooms. This building has not been significantly updated since its construction. Building systems are worn out, labs are outdated and circulation patterns are problematic.

This project will address these issues by replacing mechanical, plumbing and electrical systems, improving the building envelope, replacing interior finishes, updating the laboratories and modifying spaces to improve circulation. The project funding will provide for design and construction costs related to the building renewal, as well as, necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.
THE PENNSYLVANIA STATE UNIVERSITY
PROPOSED CAPITAL BUDGET REQUEST FOR 2013-2014

<table>
<thead>
<tr>
<th>Priority Number</th>
<th>2013-2014 Construction Projects</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>Michael Baker, Jr. Engineering &amp; Science Building Renewal (Beaver)</td>
<td>$7,000,000</td>
</tr>
</tbody>
</table>

The Baker Engineering & Science Building was constructed in 1968 and houses various undergraduate laboratories and general purpose classrooms. The building systems are beyond the end of their useful lives and need to be replaced. The laboratories have not been updated. Interior finishes are worn.

This project will address these issues by replacing mechanical, plumbing and electrical systems, improving the building envelope, replacing interior finishes and updating the laboratories. The project funding will provide for design and construction costs related to the building renewal, as well as, necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

10. Oswald Tower Renewal (University Park) | $12,000,000

Constructed in 1973, Oswald Tower has significant building issues that need addressed. This project will replace mechanical, plumbing and electrical systems, improve the building envelope, replace interior finishes and bring the building up to current building code standards. Interior space layouts may be modified to accommodate better use of available space.

The project funding will provide for design and construction costs related to the building renewal, as well as, necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.
The Ruhl Student/Community Center was constructed in 1977. It is home to student-related support offices such as, the Bursar, student Admissions and Student Activities. Also, the Campus Director of Business Services is located here. The building is in need of renewal. The Multi-Purpose Building was constructed in 1970. Health and Physical Education activities reside here. This building is also in need of renewal.

The proposed project will address the mechanical, electrical, plumbing and exterior envelope system deficiencies of each building. Funding will be used for design and construction costs related to the building renewal, as well as, necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

Vairo Library was constructed in 1980. The building’s design is unique and attractive. However the design has created shortcomings in the operation and use of the building. The building lacks accessibility for the physically challenged except through the loading dock area at the rear of the building. Patrons then must use a freight elevator originally designed for library activities to gain access to the upper floor. This elevator is accessible from the upper floor only through the library, the main occupant of the building. On the lower floor are classrooms and non-intensive labs, and a student lounge.

This project will address these shortcomings and renew building systems, which have not been updated since the buildings construction. It will allow replacement of mechanical, electrical, plumbing and exterior envelope systems. Funding will be used for design and construction costs related to the building renewal, as well as, necessary utility upgrades and extensions, site improvements and code-related upgrades. The renewal will meet all current building code requirements and provide for barrier-free access as required by the Americans with Disabilities Act and related codes.

2013-2014 Total Construction Projects $291,300,000
## THE PENNSYLVANIA STATE UNIVERSITY
### PROPOSED CAPITAL BUDGET REQUEST FOR 2013-2014

<table>
<thead>
<tr>
<th>Priority Number</th>
<th>2013-2014 Original Equipment</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Academic Support Building Addition (Hershey)</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>2</td>
<td>Additional Funds for a Computer Building (University Park)</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>3</td>
<td>Burrowes Building Renewal (University Park)</td>
<td>$4,100,000</td>
</tr>
<tr>
<td>4</td>
<td>Capital Renewal, Phase VI (University Park)</td>
<td>$6,000,000</td>
</tr>
<tr>
<td>5</td>
<td>Data Center (Hershey)</td>
<td>$2,400,000</td>
</tr>
<tr>
<td>6</td>
<td>General Computing Tier III Data Center (w/in 60 mi. of University Park)</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>7</td>
<td>Hosler Building Renewal (University Park)</td>
<td>$8,400,000</td>
</tr>
<tr>
<td>8</td>
<td>Kostos Building Renewal (Hazleton)</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>9</td>
<td>Michael Baker, Jr. Engineering &amp; Science Building Renewal (Beaver)</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>10</td>
<td>Oswald Tower Renewal (University Park)</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>11</td>
<td>Ruhl Student/Community Center &amp; Multi-Purpose Buildings Renewal (York)</td>
<td>$850,000</td>
</tr>
<tr>
<td>12</td>
<td>Vairo Library Renewal (Brandywine)</td>
<td>$1,800,000</td>
</tr>
</tbody>
</table>

**2013-2014 Total Original Equipment**

$42,150,000

**2013-2014 TOTAL REQUESTED**

$333,450,000
<table>
<thead>
<tr>
<th>Type</th>
<th>This Year Year-To-Date (As of 6/30/12)</th>
<th>Last Year Year-To-Date (As of 6/30/11)</th>
<th>Change Year-To-Date (From 2011 - 2012)</th>
<th>Last Fiscal Year Grand Totals (7/01/10 - 6/30/11)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gifts</td>
<td>Dollars</td>
<td>Gifts</td>
<td>Dollars</td>
</tr>
<tr>
<td>ALUMNI</td>
<td>135,622</td>
<td>70,938,849</td>
<td>130,401</td>
<td>131,831,232</td>
</tr>
<tr>
<td>FRIENDS</td>
<td>166,319</td>
<td>33,882,402</td>
<td>158,734</td>
<td>38,941,068</td>
</tr>
<tr>
<td>CORPORATIONS</td>
<td>13,454</td>
<td>60,515,159</td>
<td>13,972</td>
<td>51,623,338</td>
</tr>
<tr>
<td>FOUNDATIONS</td>
<td>1,352</td>
<td>21,869,335</td>
<td>1,896</td>
<td>30,508,043</td>
</tr>
<tr>
<td>TOTALS</td>
<td>323,271</td>
<td>$208,677,042</td>
<td>308,118</td>
<td>$275,005,117</td>
</tr>
<tr>
<td>Purpose of Gift</td>
<td>This Year Year-To-Date (As of 6/30/12)</td>
<td>Last Year Year-To-Date (As of 6/30/11)</td>
<td>Change Year-To-Date (From 2011 - 2012)</td>
<td>Last Fiscal Year Grand Totals (7/01/10 - 6/30/11)</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------</td>
<td>--------------------------------------</td>
<td>--------------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Gifts</td>
<td>Dollars</td>
<td>Gifts</td>
<td>Dollars</td>
</tr>
<tr>
<td>UNRESTRICTED</td>
<td>8,162</td>
<td>1,699,142</td>
<td>8,492</td>
<td>1,037,967</td>
</tr>
<tr>
<td>ACADEMIC DIVISIONS</td>
<td>17,215</td>
<td>4,892,462</td>
<td>18,326</td>
<td>5,189,038</td>
</tr>
<tr>
<td>FACULTY RESOURCES</td>
<td>596</td>
<td>4,141,951</td>
<td>544</td>
<td>26,727,797</td>
</tr>
<tr>
<td>RESEARCH</td>
<td>4,005</td>
<td>30,366,271</td>
<td>4,075</td>
<td>34,966,841</td>
</tr>
<tr>
<td>PUBLIC SVC &amp; EXT</td>
<td>22,648</td>
<td>4,744,902</td>
<td>23,023</td>
<td>4,642,801</td>
</tr>
<tr>
<td>LIBRARY</td>
<td>1,622</td>
<td>410,709</td>
<td>1,720</td>
<td>303,301</td>
</tr>
<tr>
<td>PHYS. PLANT MAINT.</td>
<td>248</td>
<td>21,149</td>
<td>177</td>
<td>30,908</td>
</tr>
<tr>
<td>STUDENT AID</td>
<td>53,078</td>
<td>46,565,716</td>
<td>51,162</td>
<td>60,804,513</td>
</tr>
<tr>
<td>SCHOLARSHIPS</td>
<td>17,410</td>
<td>23,140,100</td>
<td>15,619</td>
<td>34,291,054</td>
</tr>
<tr>
<td>STUDENT LOANS</td>
<td>410</td>
<td>140,745</td>
<td>176</td>
<td>1,050,558</td>
</tr>
<tr>
<td>GRADUATE FELLOWSHIPS</td>
<td>757</td>
<td>3,040,145</td>
<td>778</td>
<td>4,122,515</td>
</tr>
<tr>
<td>ATHLETIC GRT-IN-AID</td>
<td>34,501</td>
<td>20,244,726</td>
<td>34,589</td>
<td>21,340,386</td>
</tr>
<tr>
<td>PROP/BLDG/EQUIP</td>
<td>8,750</td>
<td>70,754,463</td>
<td>8,712</td>
<td>76,360,451</td>
</tr>
<tr>
<td>OTHER PURPOSES</td>
<td>206,947</td>
<td>45,080,277</td>
<td>191,887</td>
<td>64,941,500</td>
</tr>
<tr>
<td>TOTALS</td>
<td>323,271</td>
<td>$208,677,042</td>
<td>308,118</td>
<td>$275,005,117</td>
</tr>
<tr>
<td>Area</td>
<td>This Year-To-Date</td>
<td>Last Year-To-Date</td>
<td>Change in YTD Totals</td>
<td>Last Fiscal Year Grand Totals</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>----------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td></td>
<td>Gifts</td>
<td>Dollars</td>
<td>Gifts</td>
<td>Dollars</td>
</tr>
<tr>
<td>ANCHORAGE</td>
<td>1,159</td>
<td>892,825</td>
<td>1,357</td>
<td>405,694</td>
</tr>
<tr>
<td>AGRICULTURAL SCIENCES</td>
<td>4,702</td>
<td>7,606,048</td>
<td>4,910</td>
<td>7,929,711</td>
</tr>
<tr>
<td>ALTOONA</td>
<td>2,249</td>
<td>1,551,288</td>
<td>2,344</td>
<td>1,698,553</td>
</tr>
<tr>
<td>ARTS &amp; ARCHITECTURE</td>
<td>6,338</td>
<td>2,959,619</td>
<td>712</td>
<td>17,202,277</td>
</tr>
<tr>
<td>BEAVER</td>
<td>1,029</td>
<td>428,613</td>
<td>385</td>
<td>258,158</td>
</tr>
<tr>
<td>BERKS</td>
<td>2,249</td>
<td>1,551,288</td>
<td>2,344</td>
<td>1,698,553</td>
</tr>
<tr>
<td>BRANDYWINE</td>
<td>1,454</td>
<td>1,380,689</td>
<td>1,626</td>
<td>1,846,389</td>
</tr>
<tr>
<td>COMMUNICATIONS</td>
<td>9,869</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>DICKINSON SCHOOL OF LAW</td>
<td>502</td>
<td>237,652</td>
<td>546</td>
<td>437,752</td>
</tr>
<tr>
<td>DUBOIS</td>
<td>2,726</td>
<td>941,382</td>
<td>375</td>
<td>914,971</td>
</tr>
<tr>
<td>EARTH &amp; MINERAL SCIENCES</td>
<td>817</td>
<td>724,431</td>
<td>860</td>
<td>851,005</td>
</tr>
<tr>
<td>THE EBERLY COLLEGE OF SCIENCE</td>
<td>574</td>
<td>3,034,649</td>
<td>1,846,389</td>
<td>3,842,038</td>
</tr>
<tr>
<td>EDUCATIONAL EQUITY</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>ENGINEERING</td>
<td>502</td>
<td>237,652</td>
<td>546</td>
<td>437,752</td>
</tr>
<tr>
<td>FAYETTE, THE EBERLY CAMPUS</td>
<td>817</td>
<td>724,431</td>
<td>860</td>
<td>851,005</td>
</tr>
<tr>
<td>GREAT VALLEY</td>
<td>574</td>
<td>3,034,649</td>
<td>1,846,389</td>
<td>3,842,038</td>
</tr>
<tr>
<td>GREATER ALLEGHENY</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>HARRISBURG</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>HAZLETON</td>
<td>574</td>
<td>3,034,649</td>
<td>1,846,389</td>
<td>3,842,038</td>
</tr>
<tr>
<td>HEALTH &amp; HUMAN DEVELOPMENT</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>HERSHEY</td>
<td>574</td>
<td>3,034,649</td>
<td>1,846,389</td>
<td>3,842,038</td>
</tr>
<tr>
<td>INFORMATION SCIENCES &amp; TECHNOLOGY</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>INTERCOLLEGIATE ATHLETICS</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>LEHIGH VALLEY</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>LIBERAL ARTS</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>MONT ALTO</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>NEW KENSINGTON</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>OUTREACH</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>RESEARCH &amp; GRADUATE SCHOOL</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>SCHREYER HONORS COLLEGE</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>SCHUYLLIAN</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>THE Smeal COLLEGE OF BUSINESS</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>STUDENT AFFAIRS</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>UNDERGRADUATE EDUCATION</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>UNIVERSITY LIBRARIES</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>UNIVERSITY WIDE</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>WILKES-BARRE</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>WORTHINGTON SCRANTON</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>YORK</td>
<td>9,899</td>
<td>23,615,476</td>
<td>10,672</td>
<td>18,881,421</td>
</tr>
<tr>
<td>TOTAL</td>
<td>323,271</td>
<td>308,118</td>
<td>308,118</td>
<td>275,005,117</td>
</tr>
</tbody>
</table>

Total Year-To-Date Change in YTD Totals: $66,328,075
Endowment & Similar Funds
Investment Review for Fiscal 2012
Submitted September 2012

This cover page provides a summary overview of the Pennsylvania State University Endowment and Similar Funds for Fiscal Year 2012. The second page summarizes Endowment-related data that is discussed on the remaining pages, along with in depth Endowment performance analysis.

Executive Overview

Endowment Performance
Annualized net investment returns for the Penn State University Endowment (adjusted for the impact of gifts and spending, and after external investment management expenses) are shown below for periods ending June 30, 2012:

<table>
<thead>
<tr>
<th>Fiscal 12</th>
<th>3 Years</th>
<th>5 Years</th>
<th>10 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.5%</td>
<td>13.4%</td>
<td>2.6%</td>
<td>7.5%</td>
</tr>
</tbody>
</table>

Endowment & Similar Funds Market Value (pg 3)
Penn State University’s Endowment was valued at $1,765 million as of June 30, 2012, with an additional $90 million in Similar Funds.

Review of Investment Markets (pg 4)
The graph below compares respective returns for 12-months ending June 30, 2012 and June 30, 2011 for the S&P500, MSCI All Country World (ACW) ex-US, 91-day US Treasury Bills, Barclays Aggregate Bond, and publicly-traded Real Estate Investment Trusts (REITs) Indexes. As shown below, both US and non-US public equity returns for Fiscal 2012 trailed their 2011 performances, while domestic real estate (REITs) outperformed all other asset classes shown below. For both years, bonds were positive while T-Bill returns were again negligible.

Investment Diversification and Asset Mix (pg 5)
At fiscal year-end, 55% of Endowment assets were invested in public equities (domestic and foreign), 20% in fixed income/cash, and 25% in private capital partnerships (venture capital, private buyouts, real estate, and natural resources).

Comparative Fund Performance (pg 6)
Penn State’s Endowment returned 3.5% net for the year ending June 30, 2012 versus 3.8% for the Passive Policy Portfolio, while the Endowment’s 3- and 5-yr relative performance was somewhat better than the respective passive benchmarks.

Endowment Liquidity (pg 7)
With more than one-half of assets convertible to cash in a matter of days, the Endowment maintains adequate liquidity to satisfy anticipated cash requirements.

Endowment Performance and Spending (pg 8)
The Penn State Endowment’s average annual net returns of 7.5% and 8.4% over the last 10 and 20 years, respectively, have allowed the Endowment to maintain inflation-adjusted spending while achieving long-term intergenerational equity.
5-Year Endowment Facts and Figures

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Investment Performance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Endowment¹</td>
<td>3.5%</td>
<td>23.2%</td>
<td>14.3%</td>
<td>-20.1%</td>
<td>-1.9%</td>
</tr>
<tr>
<td>(annualized net returns)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Market Values</strong> ($ millions)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Endowment¹</td>
<td>1,765.0</td>
<td>1,708.4</td>
<td>1,341.5</td>
<td>1,183.9</td>
<td>1,487.9</td>
</tr>
<tr>
<td>Similar Funds²</td>
<td>90.0</td>
<td>122.7</td>
<td>97.6</td>
<td>97.4</td>
<td>127.7</td>
</tr>
<tr>
<td>Endowment and Similar Funds</td>
<td>1,855.0</td>
<td>1,831.1</td>
<td>1,439.1</td>
<td>1,281.3</td>
<td>1,615.6</td>
</tr>
<tr>
<td>Gifts &amp; Other Additions ($ mils)</td>
<td>76.2</td>
<td>136.3</td>
<td>62.5</td>
<td>61.2</td>
<td>47.8</td>
</tr>
<tr>
<td>Current Spending ($ mils)</td>
<td>70.8</td>
<td>66.0</td>
<td>63.4</td>
<td>65.1</td>
<td>60.4</td>
</tr>
</tbody>
</table>

1) Endowment assets over which Penn State’s Office of Investment Management (OIM) has investment responsibility, as approved by the Penn State Investment Council (PSIC).

2) Similar Funds — includes donor-restricted and deferred gifts, plus funds in transit to Endowment.

Penn State Investment Council (PSIC) Meetings

March 2, 2012:

- Investing $20 million in Saba Capital Offshore Fund
- Investing $25 million in Och-Ziff Master Fund / OZ Overseas Fund II
- Committing $15 million to New Spring Growth Capital III, L.P.
- Committing $5 million to Charles River Partnership XV, L.P.
- Committing $10 million to OCM Opportunities Fund IX, L.P.
- Committing $10 million to NGP Natural Resources X, L.P.

June 22, 2012:

- Committing $5 million to Commonfund Capital Venture Partners X, L.P.
- Committing $15 million to TPG Credit Strategies II, L.P.
- Committing $5 million to Mayfield XIV, L.P.
- Investing $40 million in Bristol Investment Partners Fund
- Investing $30 million in BlueCrest All Blue Fund
- Investing $30 million in Balestra Global Fund
- Investing $50 million to Brandywine Global Fixed Income Fund
- Investing $50 million in Colchester Global Investors Fund

Please note that commitments made to Limited Partnerships (LPs) are not immediately invested and are called (paid in) over several years until commitment is satisfied, except as noted.
Endowment and Similar Funds Market Value

As of June 30, 2012, Penn State’s Endowment was valued at $1,765.0 million. Non-pooled assets — charitable remainder trusts, charitable gift annuities, and other life income funds in addition to some donor restricted funds, as well as cash in transit to the Endowment — accounted for an additional $90.0 million, bringing Penn State’s Endowment and Similar Funds to $1,855.0 million. The annual market values for the University’s Endowment and Similar Funds for each of the last five fiscal years ending June 30 are shown below:

Endowment and Similar Funds Market Value
Fiscal Years Ending June 30
($ millions)

<table>
<thead>
<tr>
<th></th>
<th>Endowment</th>
<th>Similar Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>1,616</td>
<td>128</td>
</tr>
<tr>
<td>2009</td>
<td>1,488</td>
<td>1,281</td>
</tr>
<tr>
<td>2010</td>
<td>1,439</td>
<td>97</td>
</tr>
<tr>
<td>2011</td>
<td>1,831</td>
<td>123</td>
</tr>
<tr>
<td>2012</td>
<td>1,855</td>
<td>90</td>
</tr>
</tbody>
</table>

From the graph above:

The Endowment and Similar Funds’ total value increased by $23.9 million during fiscal 2012. As seen in the table on page 2, new gifts added to the Pool over the last 12 months totaled $76.2 million, while Endowment program support (spending) amounted to $70.8 million.

The total Endowment’s $239.4 million increase over the last five years reflects new gift contributions and reinvested investment earnings, after providing cumulative program support of $325.7 million.

Inflows of new gifts, along with positive investment returns, have resulted in a cumulative 14.82% increase in the Endowment’s value, net of spending, from June 30, 2008 to June 30, 2012.
Review of Investment Markets in Fiscal 2012

Following a year of strong double-digit gains, global equities in Fiscal 2012 trailed fixed income returns, while non-US indexes sharply lagged US equity markets. The performance of investment markets that directly impact Penn State University’s Endowment is discussed below.

US Equities

The S&P 500 returned 5.4% for the 12 months ending June 30, 2012, compared to 30.7% for Fiscal 2011, while the more broadly-based Russell 3000 Index returned 3.8% and 32.4%, respectively. Small-capitalization stocks, as measured by the Russell 2000 Index, returned -2.1% versus 37.4% last year. The Nasdaq Index’s return of 5.8% lagged the broad domestic indexes in Fiscal 2012, as well as its 2011 return of 31.5%.

Non-US Equities

Equities outside the United States generally lagged those in the US as the Morgan Stanley All Country World (ACW) Index ex-US returned -14.1% for the 12-month period ending June 30, 2012. This was sharply below its Fiscal 2011 return of 30.3%. Emerging market equities in developing countries returned -15.7% over the last 12 months, far below their 28.2% return in Fiscal 2011.

Fixed Income

Barclays Capital Aggregate Bond Index (various maturities of US Government and non-government domestic bonds) returned 7.5% in Fiscal 2012 versus 3.9% in 2011. US Long-Term Treasury Bonds returned 32.3% in Fiscal 2012 versus -1.1% a year earlier.

For Fiscal 2012, 91-day Treasury Bills again earned 0.1% versus 0.2% for Fiscal 2011. Global Treasury Inflation Protected Securities (TIPS) returned 4.7% in Fiscal 2012 compared to 15.1% in Fiscal 2011.

Real Estate

Publicly-traded Real Estate Investment Trusts (REITs) returned 12.5% for the Fiscal year ended June 30, 2012 compared to 34.1% in 2011. Privately-held real estate investment partnerships, as measured by the largely commercial property NCREIF Index, returned 13.4% in Fiscal 2012 compared to 16.0% in 2011.

Alternatives

Private Equity Buyouts and Venture Capital continued earning double-digit gains, averaging returns of 10.8% and 12.8%, respectively, for the 12 months ending March 31, 2012 (private capital partnerships are reported on a 3-month lag). In the previous 12-month period ending March 2011, Private Equity returned 21.3%, while Venture Capital was at 18.4%. By comparison, the Russell 2000 Index of small-capitalization stocks returned -0.2% for the 12 months ending March 31, 2012 and 25.8% for the year ending March 31, 2011.

Economic and Market Outlook

In the 12 months ending June 30, 2012, global equity markets softened relative to 2011, with US equities outpacing non-US indexes. Fixed income markets provided a fifth consecutive year of positive returns, as the Federal Reserve continued to hold down interest rates to alleviate credit market distress brought on by the decline in housing prices and the accompanying consumer deleveraging. Looking ahead, expectations for domestic corporate profits are leveling off in the face of a slowly recovering world economy, especially in the European developed countries.

Penn State’s well-diversified Endowment portfolio — consisting of public equities, private partnerships, bonds, and hedge funds in addition to inflation-sensitive “real assets” — continues to be the most appropriate investment approach for long-term growth and sustainable spending.
Investment Diversification and Asset Mix

Asset allocation is a primary determinant of investment performance and risk control. The Endowment’s asset mix combines three very broad asset categories - public equities, private capital, and fixed income - to maximize potential returns, while tempering volatility. Reflecting a desire to support generous spending and the need to preserve purchasing power in light of changing market and economic conditions, the Penn State Investment Council (PSIC) regularly reviews the Endowment’s investment policy.

In the graph below, the three macro investment categories – public equities, fixed income, and private capital – are shown in the outermost ring with their June 30, 2012 allocations of 55%, 20%, and 25%, respectively.

At a more granular level, the Endowment’s diversified portfolio includes a variety of asset classes that comprise the three macro categories, as shown by the slices within the inner pie (percentages are rounded):

- **55% in Public Equities** includes publicly-traded US (38%) and non-US (10%) common stocks, and equity-oriented hedge funds (7%).
- **20% in Fixed Income** includes 15% in nominal bonds (largely US government and investment grade corporate bonds), 2% in fixed income oriented hedge funds, and 3% in Global Treasury Inflation Protected Securities (Global TIPS).
- **25% in Private Capital** includes the following private partnerships: 15% private equity (venture capital, leveraged buy-outs, distressed-debt), and 10% in total real assets (private and public real estate, and energy).

The individual asset classes above represent market values as of June 30, 2012; however, the percentages fluctuate over time depending on market trends and allocations approved by the Penn State Investment Council.

The approximately 80% currently allocated to public equities and private capital is intended to take advantage of capital growth and purchasing power protection offered by equity-type investments. On the other hand, the 20% invested in fixed income is intended to provide diversification and stability during times of market turbulence.
Endowment Performance Compared to Passive Portfolio

The Endowment’s investment performance is measured against a hypothetical Passive Portfolio, comprised of three broad asset categories: Public Equities, Private Capital, and Fixed Income. This passive portfolio serves as a blended benchmark against which the performance of the actual, actively-managed Endowment is monitored. In the table below, the respective static weightings of the three major asset categories, along with respective sub categories, are associated with corresponding market benchmarks to generate Passive Portfolio returns over 1-, 3-, and 5-year horizons:

<table>
<thead>
<tr>
<th>Asset Class</th>
<th>Benchmark</th>
<th>% Weighting</th>
<th>1 Year</th>
<th>3 Years</th>
<th>5 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Equities (listed on stock exchanges)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>US Equities</td>
<td>Russell 3000 Index</td>
<td>40</td>
<td>3.8</td>
<td>16.7</td>
<td>0.4</td>
</tr>
<tr>
<td>Non-US Equities</td>
<td>MSCI All Country World ex US Index</td>
<td>15</td>
<td>-14.1</td>
<td>7.4</td>
<td>-4.2</td>
</tr>
<tr>
<td>Private Capital (non-marketable alternatives)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private Equity</td>
<td>CA Private Equity Composite</td>
<td>15</td>
<td>10.8</td>
<td>18.2</td>
<td>7.0</td>
</tr>
<tr>
<td>Venture Capital</td>
<td>CA Venture Capital Composite</td>
<td>5</td>
<td>12.8</td>
<td>12.6</td>
<td>5.6</td>
</tr>
<tr>
<td>Private Real Estate</td>
<td>NCREIF Index</td>
<td>5</td>
<td>13.4</td>
<td>6.0</td>
<td>2.9</td>
</tr>
<tr>
<td>Fixed Income/Cash</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total US Bonds</td>
<td>Barclays Aggregate Bonds</td>
<td>20</td>
<td>7.5</td>
<td>6.9</td>
<td>6.8</td>
</tr>
<tr>
<td>Total Passive Portfolio (net)</td>
<td></td>
<td>100%</td>
<td>3.8%</td>
<td>12.9%</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Note: the above categories / sub-categories are very broad and are assumed to be constant over the entire 5-yr period, much like a traditional balanced portfolio. As shown on the previous page, the actual endowment portfolio is comprised of several separate portfolios whose periodic weights vary as a result of fluctuating market returns.

As shown above, Penn State’s Endowment returned 3.5% net for Fiscal 2012, slightly less than the 3.8% return of the Passive Portfolio. For the trailing 3- and 5-years, the Passive Portfolio would have realized annualized returns of 12.8% and 2.4%, respectively.

By comparison, the Endowment’s actual 3- and 5-year returns outperformed in each of those periods, netting 13.4% and 2.6%, respectively. Overall, this shows that the Endowment’s investment managers augmented the performance relative to passive benchmarks.

The Passive Portfolio provides a guidepost to help achieve long-term results that are consistent with the twin objectives of purchasing-power preservation, along with stable endowment spending. The Endowment’s performance varies from the static Passive Portfolio as a consequence of several factors, including but not limited to the following: timing of cash-flows into and out of the Endowment, tactical shifts in asset mix, and individual investment manager performance.
Endowment Liquidity

The financial crisis that erupted in 2008 was characterized, among other considerations, by lack of liquidity. Many institutions were unable to meet current obligations due to lack of available cash. This was exacerbated by their inability to readily convert some assets to cash because of reduced trading volumes in various financial instruments.

In the graph below, Endowment assets are classified according to how quickly they can be converted to cash. Most securities listed on exchanges or traded over-the-counter, and held at our custodian bank in separately managed accounts, can be liquidated on a daily basis (typically 1- and 3-day settlement for bonds and stocks, respectively). Commingled portfolios, i.e., collectively-managed investment pools of publicly-traded securities, are eligible for purchase or sale at least once a month. Hedge fund partnerships are typically open for at least partial liquidation once a year, with some having more and/or less frequent liquidity “windows.” Non-marketable partnerships are considered illiquid primarily because of the inherent inability of limited partners to transact at will.

Observations from the blue (left) bars of each of the four pairs above for the period ending June 30, 2012:

- 54% percent of Endowment assets are invested in stocks and bonds that can be converted to cash in a matter of days. Of this, about 2% is held in money market accounts, along with approximately 9% in “securitized cash” (i.e., fully collateralized equities/treasuries futures), to minimize the possibility that more illiquid assets would need to be liquidated in order to satisfy day-to-day and/or unforeseen cash requirements.

- Commingled portfolios, primarily non-US public equity, comprise 11% of Endowment assets and can be converted to cash within 30 days or, in some cases, sooner.

- 9% of Endowment assets are invested in seven hedge fund partnerships and can be at least partially converted to cash annually or in some cases quarterly.

- 26% percent of Endowment assets are invested in more than 100 different partnership funds or other non-marketable investments which are conservatively considered illiquid because of uncertain timing of future cash flows.

The foregoing indicates that the Endowment maintains sufficient liquidity to satisfy anticipated cash requirements.

Increased Liquidity and Investment Performance

As shown above, the liquidity profile of Penn State’s Endowment changed slightly from the end of Fiscal 2011 (tan bars) to the end of Fiscal 2012 (grayish-blue bars). Daily liquidity increased from 51% to 54%, while monthly liquidity decreased from 16% to 11% and yearly liquidity remained at 9%. Illiquid non-marketable alternative assets increased from 24% to 26% of Endowment assets in Fiscal 2012, owing largely to market value appreciation in some illiquid holdings.
Long-Term Endowment Growth and Spending

In the chart below, the top line represents the cumulative net investment return of the Penn State Endowment over the last 20 years, during which the Endowment’s investment return averaged 8.4% per year. The layers illustrate investment return apportioned to program support (spending) and inflation (as measured by the Higher Education Price Index [HEPI]), with the remaining residual representing net, real (inflation-adjusted) growth.

The Endowment’s primary investment goal is to earn a long-term rate of return sufficient to support current spending and to preserve future purchasing power. This two-pronged objective is illustrated by apportioning total nominal (i.e., before adjusting for inflation) investment return (top line above) into discrete layers, representing program support and inflation, along with a residual layer corresponding to net real growth. Because investment returns periodically fluctuate (illustrated by the jagged topography above), real growth, which nets out program support and inflation from total endowment return, oscillates across the horizontal “intergenerational equity” line. While market fluctuations have caused the growth layer to swing positive and negative, “intergenerational equity” has largely been achieved.

Two Very Different Decades of Market Performance

The variable nature of investment returns is characterized in the table below which bifurcates the last 20 years into two successive 10-year periods, whose respective investment returns differed widely. The 10 years ending June 2002 (second row) benefitted from an extended equity bull market during the 1990’s, while the 10 years ending June 2012 (first row) suffered two large sell-offs in equities. The substantial return disparity is reflected by comparing the S&P 500’s 10-year average return for the decade ending June 30, 2012 (5.6%) versus June 30, 2002 (11.4%) below:

<table>
<thead>
<tr>
<th>10-Year Periods</th>
<th>Annual Nominal Returns</th>
<th>Annual Real Returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ending June 30</td>
<td>S&amp;P 500</td>
<td>Bond Index</td>
</tr>
<tr>
<td>2002 to 2012</td>
<td>5.6%</td>
<td>5.3%</td>
</tr>
<tr>
<td>1992 to 2002</td>
<td>11.4%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Diff (percentage points)</td>
<td>-5.8%p</td>
<td>-2.0%p</td>
</tr>
</tbody>
</table>

As shown by the negative differentials in the last row above, investment returns for the most recent 10 years lagged those for the previous 10 years in every instance. The Endowment’s 7.5% annualized return for the 10 years ending June 30, 2012 lagged its prior 10-year period return of 9.2% by 1.7%p (percentage points), net of fees. At the same time, the S&P 500’s 5.6% annualized return was hampered by two severe bear markets and trailed its 11.4% pace for the 10-year period ending June 2002 by a meaningful 5.8%p. Barclays Aggregate Bond Index returned 5.3% for the June 30, 2012 10-year period versus 7.3% for the prior 10-year period.

On an inflation-adjusted basis relative to HEPI (boxed column in middle of above table), the Endowment’s net real return difference was -2.0%p, compared to real differences of -6.1%p for stocks and -2.3%p for bonds (last row of the right three columns above). Over the past decade, decreased public equity exposure along with increased “alternative investments” has enabled the Endowment to outperform both stocks and bonds (nominal and real) for the 10 years ending June 2012, when overall investment returns were substantially lower than the prior 10-year period.
Second Report of the ad hoc Committee on Instructional Intellectual Property

Spring 2012

Committee members:

Mike Furlough, Associate Dean for Research and Scholarly Communications, University Libraries
Ron Huss, Associate VP for Research and Technology Transfer
John Nichols, Professor Emeritus, College of Communications
Peter Schiffer (chair), Associate VP for Research, Director of Strategic Initiatives, and Professor of Physics
Ann Taylor, Director, John A. Dutton e-Education Institute
Beverly Vandiver, Associate Professor of Education
Brent Yarnal, Professor and Associate Head of Geography

Cristi Crestani, Administrative Support Assistant
Preamble to Second Report

This report is a modification of the original ad hoc Committee report submitted to Vice Presidents Robert Pangborn and Hank Foley in December 2011. The changes to the report reflect input and feedback from their reading of the original report. This modified report includes suggested revised language for all GURU policies that were recommended for alteration in the original report. The full list of policies that bear on instructional intellectual property is given in the table below, along with the recommendation of the Committee.

<table>
<thead>
<tr>
<th>GURU Policy</th>
<th>Policy Title</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD17</td>
<td>Royalty Payments for Course Materials</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>AD20</td>
<td>Computer and Network Security</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>AD40</td>
<td>Classroom Note-Taking Services</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>AD46</td>
<td>Policy Governing Copyright Clearance</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>HR91</td>
<td>Conflict of Interest</td>
<td>To be superseded by new policies on conflict</td>
</tr>
<tr>
<td></td>
<td></td>
<td>of commitment and external activities</td>
</tr>
<tr>
<td>IPA</td>
<td>University Intellectual Property Agreement</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>RA11</td>
<td>Patents and Copyrights (Intellectual Property)</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>RA12</td>
<td>Technology Transfer and Entrepreneurial Activity (Faculty Research)</td>
<td>To be superseded by new policies on conflict of commitment and external activities</td>
</tr>
<tr>
<td>RA13</td>
<td>Co-Authorship of Scholarly Reports, Papers and Publications</td>
<td>Not recommended for change at this time</td>
</tr>
<tr>
<td>RA17</td>
<td>Courseware</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>RAG12</td>
<td>Faculty Guidance on Student IP Rights</td>
<td>Revisions suggested in this report</td>
</tr>
<tr>
<td>RAG13</td>
<td>Special Student IP Agreement Forms</td>
<td>Not recommended for change at this time</td>
</tr>
<tr>
<td>RAG14</td>
<td>What to Expect When Licensing a Penn State Technology Into A Start-up Company</td>
<td>Not recommended for change at this time</td>
</tr>
<tr>
<td>RAG15</td>
<td>Faculty Consulting Agreements</td>
<td>To be superseded by new policies on conflict of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>commitment and external activities</td>
</tr>
<tr>
<td>RAG17</td>
<td>Acceptance of Donated Intellectual Property By The Pennsylvania State University</td>
<td>Not recommended for change at this time</td>
</tr>
</tbody>
</table>

A draft of this second report has been reviewed by the Administrative Council on Undergraduate Education, Karen Pollack (Director of Academic Affairs, Undergraduate Programs, Penn State Online, The World Campus), the Faculty Senate Officers, and the Senate Committees on Faculty Affairs and Research. The report has also been reviewed by the Office of General Counsel. Proposed changes to AD20 have been reviewed by Kevin Morooney (Vice Provost for Information Technology) and Kathy Kimball (Director of Computer and Network Security).

The Committee’s recommendation is that these revised policies be adopted and that the changes be publicized to the University Community. In the future, all members of the Community should be made aware of the existence of intellectual property issues as part of their introduction to the University.

(Appendix III)
Introduction

Intellectual Property (IP) created in the instructional realm at Penn State has been the subject of considerable discussion over the past several years. Most recently, instructional IP was the focus of a task force charged by the Faculty Senate Chair that developed seven core principles as recommendations for how Penn State should approach related issues (see http://senate.psu.edu/agenda/2010-2011/apr2011/appd_revised.pdf).

The present report stems from the July 8, 2011 memo from then President Graham Spanier directing the offices of the Vice President and Dean for Undergraduate Education and the Vice President for Research and Dean of the Graduate School to “review extant policies on course materials, courseware, and other instruction-related intellectual property to identify needed revisions, updating or development, consistent with advancing the general “principles” outlined by the Senate task force.” Vice Presidents Pangborn and Foley charged an ad hoc Committee in August 2011 to undertake this review and make recommendations to them for appropriate changes to Penn State Policy. This report is the result of the work of that Committee, and it was prepared after consultation with officers of the Faculty Senate, the Office of the General Counsel, and representatives of the World Campus, and after benchmarking the policies of peer institutions. In addition, many of the Committee members had experience with the topic and with previous discussions of possible changes.

The ad hoc Committee developed several overall findings and recommendations listed below. In addition to these recommendations, the Committee has specific advice for changes to existing University policies that is shared in this report. While the Committee attempted to take a holistic view of the University’s IP policies, the main focus was on instructional IP and on advancing the Senate’s Core Principles for instructional IP. Many of the recommendations do touch on other aspects of IP policies, but they should not be considered to comprise a comprehensive strategic review of IP policy for the entire University.

Summary of Issues and Recommendations

1. Current intellectual property policies at Penn State often do not make a clear distinction between the different types of intellectual property. Since different policies apply to different types of intellectual property, a number of issues would be clarified by including the following definitions within GURU:

   Research intellectual property: the discoveries, inventions and creations with potential commercial value that result from research activities. Most research intellectual property developed at the University can be protected by patents, but some University research intellectual property (i.e., software) is more appropriately protected by copyright. Although some research intellectual property may be protected by trademark or trade secret, it is rare for the University to utilize these methods of protection.

   Instructional intellectual property: materials produced for instruction in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

   Scholarly intellectual property: materials resulting from scholarly, literary, and artistic work such as journal papers, books, essays, poems, paintings, sculpture, musical scores, etc. in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

   The Penn State Intellectual Property Agreement that is signed by all new employees should be changed to allow for these distinctions. The natural home for the definitions within GURU would be policy RA11, which could also be revised to define University policy for each type of intellectual property.

(Appendix III)
To be consistent with the Core Principles, ownership of all instructional intellectual property and scholarly intellectual property should rest with the creator, with the University retaining non-exclusive, royalty-free rights to use all such property created while the creator was a member of the University community, except in the case of University-directed works, for which the University retains ownership. In cases of University-directed works, the creators of instructional intellectual property should retain the non-exclusive, royalty-free right to use the materials for their own purposes outside of the University. Rights of members of the University community to create and use scholarly and instructional intellectual property should naturally remain subject to University policies on consulting activity and other activities external to the University, as well as to any unique contractual obligations related to the production of scholarly or instructional materials. Furthermore, changes to the University’s IP policies should include consideration that University employees might engage in efforts outside of the scope of their employment, and that, through such activities, they could generate IP on which the University has no claim.

2. Penn State currently has three documents relevant to IP policy that are not readily available or widely known. These include the 1982 “Copyright Handbook” and the 1991 “Intellectual Property Policies & Procedures” (also known as the “blue book”) that are only available in hardcopy, and the “University Policies Governing Technology Transfer & Entrepreneurial Activity” that is available at http://www.research.psu.edu/osp/manage-awards/tech-transfer-policies, but does not appear to be extensively linked to other Penn State web pages. All three of these documents contain numerous statements that are redundant when one considers the content of current GURU policies. In addition, their status as Penn State policy is unclear. Furthermore, they contain statements that directly oppose the intent of the “Core Principles” for instructional IP. All three of these documents should be officially relegated to the status of historical reference materials to be considered as context for prior Penn State policy, but no longer as valid expressions of current Penn State policy. The references to them within GURU policies should also be removed.

3. Current instructional IP policy at Penn State does not make clear distinctions among faculty, staff, and students and how the policies apply to those different groups. A significant amount of instruction at Penn State is conducted by students and employees without faculty status, and various members of the staff can play critical roles in the development of course materials, but many of the relevant policies are stated to apply specifically to faculty members. All IP policies should cover any differences in application of the policies to faculty, staff, and students. The current Penn State “Intellectual Property Agreement” is one model for how the University can address the different groups.

4. Current instructional IP policy at Penn State does not adequately address issues related to recording of instructional activities. Significant issues arise when instructional activities, either in classrooms or online, are recorded. Such recordings can take many forms and the ownership and control of such recordings are currently addressed in GURU only in the context of external note-taking services (AD40). That policy should be expanded to include any form of recorded classroom activity, and it should also address subsequent use of the recordings both in terms of ownership and privacy concerns.

5. Core Principle 7, regarding open courseware and the sharing of instructional intellectual property, does not require any explicit change in current Penn State policies. While the current University Strategic Plan (e.g., Strategy 6.2) encourages the Penn State community to contribute to open educational resource initiatives, Penn State does not have any explicit statement of institutional expectations for how creators of instructional materials should share those materials internally. The creation of such a statement within a revised RA11 would be helpful guidance for the University community. This issue may be particularly important within the University when the same class is taught by different instructors in the same department or when similar classes are taught in different departments or on different campuses.
An explicit statement of institutional expectations regarding open courseware would also be helpful in guiding the external sharing of instructional intellectual property. The Committee noted that other institutions (such as MIT and Stanford) have devoted considerable effort and received extensive publicity for making their courses available as open educational resources (OER). Additionally, some Penn State academic units have already embraced the concept of OER by creating initiatives through which faculty members contribute their work voluntarily for use by teachers and learners around the world who cannot afford to enroll in formal classes, or who do not need to earn academic credit. Such initiatives are also proving to be a valuable way to attract prospective learners by providing them with an opportunity to review the quality and scope of our instructional materials. One such example is the College of Earth and Mineral Sciences OER initiative found at http://open.ems.psu.edu.

6. **Current IP policy at Penn State is spread over several sections of GURU, with a concentration within the Research policies, and this spread creates a number of issues.** The diffusion of IP policy causes difficulty for faculty and staff trying to find the appropriate policy. Furthermore, because instructional IP is not a research topic, the placement of policies within the Research category may create a perception that instructional intellectual property is not valued. As a solution to this problem, all IP policies and guidelines within GURU should be separated into a new section of GURU (labeled as “IP”). The new sections would include RA11, RA13, RA17, AD17, and AD46 as IP policies, and RAG12, RAG13, RAG14, and RAG17 as IP guidelines.

<table>
<thead>
<tr>
<th>Current GURU Policy/Guideline</th>
<th>Recommended New GURU Policy/Guideline</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA11</td>
<td>IP01</td>
</tr>
<tr>
<td>RA13</td>
<td>IP02</td>
</tr>
<tr>
<td>RA17</td>
<td>IP03</td>
</tr>
<tr>
<td>AD17</td>
<td>IP04</td>
</tr>
<tr>
<td>AD46</td>
<td>IP05</td>
</tr>
<tr>
<td>RAG12</td>
<td>IPG01</td>
</tr>
<tr>
<td>RAG13</td>
<td>IPG02</td>
</tr>
<tr>
<td>RAG14</td>
<td>IPG03</td>
</tr>
<tr>
<td>RAG17</td>
<td>IPG04</td>
</tr>
</tbody>
</table>

7. **Many of the issues surrounding instructional IP are related to conflict of interest and conflict of commitment policies.** A separate task force has been developing replacements for Penn State’s current policies: HR80, HR91, RA12 and RAG15. The present Committee is not recommending changes to the policies to be replaced, but it has reviewed the proposed replacement policies, and does not find conflicts with the Core Principles. Our understanding is that the replacement policies will soon be finalized and posted on GURU.
A draft version of this report has been reviewed by Blannie Bowen (Vice Provost for Academic Affairs), Yvonne Gaudelius (Assistant Vice President and Associate Dean for Undergraduate Education), Karen Pollack (Director of Academic Affairs, Undergraduate Programs, Penn State Online, The World Campus), and Rick Shearer (Director, World Campus Learning Design), and their input has been incorporated in the report. In addition, the Committee Chair held a meeting with the Faculty Senate Officers, held a separate meeting with the Chair-Elect of the Faculty Senate (Larry Backer), and took questions and input from the Senate Committees on Faculty Affairs, Research, and Outreach after the report was drafted. The input from each of those meetings has been included in this report. The report has not yet been reviewed by the Office of General Counsel due to scheduling constraints, and we strongly recommend such a review before final implementation of the recommendations. Due to the broad implications of the recommendations, the Committee suggests that final implementation should include additional consultation with various stakeholders such as the Faculty Senate.

Below are the specific recommendations for changes to current GURU policies. In cases where the recommended changes are extensive, a draft revised policy is included with the changes denoted in red font. Different administrative units are responsible for stewarding these policies, and the recommendations would need to be considered and implemented by the responsible unit in each case.
AD17 – Royalty Payments for Course Materials

This policy is largely in alignment with the Core Principles, but the Committee did identify three areas of potential concern and recommends revision.

- The policy includes a requirement for review when faculty members are assigning course materials from which they can personally profit. This requirement is waived, however, for textbooks in point number 6, which reads “Nevertheless, faculty members who author, co-author, or edit such publications and assign them to the courses they teach are encouraged to submit them to the academic administrator or peer committee described above to avoid either a conflict of interest or the appearance of a conflict of interest.” Given the rapid changes in publishing electronic textbooks, as well as the possible appearance of a conflict of interest, the word “encouraged” should be changed to “required.” Additionally, external review of all materials from which faculty receive royalties should be required as part of the approval process to ensure the quality of the material.

- The policy should apply to all Penn State employees who might be engaged in instructional activities. It could be extended by including a sentence such as: “For the purposes of this policy the term ‘faculty’ is defined as any Penn State student or employee acting in an instructional capacity in the conduct of a course.”

- The written implementation of this policy in some academic colleges appears to be in conflict with the Core Principles. These colleges not only prevent faculty members from personally profiting from the assignment of instructional materials, but they also specify how any resulting royalties should be directed. The need to avoid exploitation of students does not seem to require that royalties be directed to a particular purpose, as long as the creator of the course materials is not profiting personally. The Committee did not know firsthand that implementation of the policy is in conflict with the Core Principles, but the college guidelines suggest that it might be.

To clarify what should happen to royalty payments, Policy AD17 could be amended to state that if a faculty member owns the instructional IP of course materials, and receipt of royalty payments is denied by the College or department/division or peer committee, then the faculty member still should be able to determine what happens to the royalty payment. Acceptable disposal of the royalties could be to Penn State, to a reputable charity, or to a reduction of the students’ cost of the materials associated with the specific course. This would not exclude the royalties being directed to the unit, but the unit would not be permitted to mandate the use of royalties beyond what is already outlined in Policy AD17.
SUGGESTED REVISIONS TO TEXT

Policy AD17 ROYALTY PAYMENTS FOR COURSE MATERIALS

Contents:

- Purpose
- Policy
- .... Advisory Guidelines Regarding Peer Affirmation and Royalty Payments
- Cross References

PURPOSE:

To establish that faculty may properly and appropriately receive reasonable royalty payments for certain original instructional materials that they develop for use in Penn State courses, and to establish advisory guidelines to facilitate the proper and appropriate receipt of those royalty payments through a transparent and consistent review process.

For the purposes of this policy the term “faculty” is defined as any Penn State student or employee acting in an instructional capacity in the conduct of a course.

POLICY:

The overarching goal of this policy is to offer incentives for faculty to produce more, improved, and better quality instructional materials as intellectual products for the use and benefit of Penn State students and students elsewhere by allowing faculty to recover some of the costs of their work, and at the same time, to protect Penn State students from potential financial exploitation. This policy covers original instructional materials developed by faculty as intellectual products and printed and sold by Document Services, as well as by other publishing companies and copying services, and regardless of the tangible medium of expression on which they are fixed, printed, recorded, posted, displayed or distributed.

Faculty members may receive reasonable royalty payments on certain kinds of original instructional materials used in Penn State courses including, but not limited to, noncommissioned courseware modules. Faculty members seeking royalty payments on materials sold to Penn State students must obtain written approval prior to receiving payment of such royalties in order to ensure that the payment of royalties is reasonable and justified in accordance with the guidelines set forth below, and that students are not financially exploited.
A written request for receipt of royalty payments describing the original instructional materials in question, the course(s) in which the materials are to be used, and the estimated overall cost to students must be submitted either to the department/division head or a peer committee in accordance with unit practice. A written decision must be rendered within one month of the initial request. If the requested royalty payments are denied, or a reduction from the initial request by the faculty member is recommended, the written decision must include an explanation of the reasoning, together with a recommendation of what a reasonable royalty payment would be if any payment is allowed.

If the College or department/division or peer committee denies the faculty member’s receipt of royalty payments, the faculty member should determine what happens to the royalty payment, subject to the review of the department/division head or a peer committee in accordance with unit practice. Examples of acceptable disposal of the royalties could be (a) to Penn State, (b) to a reputable charity, or (c) to a reduction of the students’ cost of the materials associated with the specific course.

Faculty members who dispute the department/division head or peer committee decision regarding reasonable royalties may seek a review by the Faculty Rights and Responsibilities Committee of the University Faculty Senate in cooperation with the Vice Provost for Academic Affairs.

In accordance with the general standards of professional ethics embodied in AD47, faculty members also have an ethical obligation when they collect any royalty payments for any instructional materials to reveal those payments to all those affected, including but not limited to, the Penn State students in those courses.

ADVISORY GUIDELINES REGARDING PEER AFFIRMATION AND ROYALTY PAYMENTS:

1. In applying and interpreting the advisory guidelines established here, the academic administrator or peer committee should apply them in light of the overarching goal of this policy set forth above.

2. In every course there is some essential core of information that the instructor has been paid to organize and deliver and that students have paid to receive. Normally this essential core goes beyond course material prepared by others to include the faculty member's own intellectual contributions, which may include printed or posted materials. Therefore, a royalty payment is not automatically reasonable and justified for printed or posted material of the faculty member's own creation.

3. In light of Guideline No. 2, a royalty payment is not reasonable or justified for printed or posted materials that are customary to a faculty member's core contribution to the conduct of a course, including but not limited to a course syllabus, reading schedules, versions of lecture notes, packets of what would otherwise be "handouts" of illustrative material used in class, and collections of copied readings or other printed material authored or prepared by others that are merely assembled and organized by the faculty member for the convenience of students.

4. A reasonable royalty payment to the faculty member may be justified for printed or posted course materials if they represent a substantial intellectual product contribution by the faculty member and if they bring added value to a course as a supplement to the faculty member's core contribution. For instance, if the course could be taught using a commercially available text or...
manual in lieu of the printed materials prepared by the faculty member, or if the faculty member's printed materials could plausibly be used as supporting material in a similar course at another institution, then those materials may be reasonably considered a substantial intellectual product contribution. In addition, a royalty payment normally is justified only if the academic quality of the material has been verified by an independent academic review, using reviewers that were not selected by the faculty member receiving the royalty payment.

5. Faculty members are ethically obligated not to financially exploit students (see AD47, Part II, "General Standards of Professional Ethics"). Procedures currently exist under HR76 ("Faculty Rights and Responsibilities") and RA10 ("Handling Inquiries/Investigations into Questions of Ethics in Research and in Other Scholarly Activities") to deal with alleged violations of this ethical standard. Faculty members should avoid conflicts of interest in making academic and/or financial decisions regarding students (see HR91, "Conflict of Interest").

6. Royalty payments for textbooks and other books authored, co-authored, or edited by a faculty member are presumptively typically reasonable, and are excluded from this policy provided that: (a) their use is reasonably related to the purpose of the course for which they are assigned; (b) they have been published by an academic or commercial press in which the faculty member does not hold an ownership or vested interest; (c) they have been subject to a peer review process in their publication by an independent authority with reviewers that were not selected by the faculty member, and; (d) they have been produced for use beyond Penn State courses. Nevertheless, faculty members who author, co-author, or edit such publications and assign them to the courses they teach are encouraged required to submit them for approval to the academic administrator or peer committee described above to avoid either a conflict of interest or the appearance of a conflict of interest.

7. Faculty members may want to assign course materials that are to be purchased by the students from a company from which the faculty member has received payment for consulting or other services. Such payments should be disclosed to the academic administrator or peer committee for consideration regardless of whether the payments are royalties.

8. The appropriate academic administrator or peer committee, according to unit practice, is responsible for determining the reasonableness of the royalty amount. In making this determination, the administrator or committee may, among other things, take into account factors such as standard royalty payments in academic publishing, royalties typically paid for reproduction permissions, and the percentage of the royalty payment in relation to the price for which the work is sold to students. These factors are merely suggestions and are not intended to be exhaustive of other considerations determined to be relevant by the appropriate academic administrator or peer committee.

9. All decisions about royalty payments must be consistent with the policies laid out in RA17 concerning the appropriate assignment of royalties.

**CROSS REFERENCES:**

Related policies include:

AD46 - Policy Governing Copyright Clearance
AD47 - General Standards of Professional Ethics

FN14 - Use of University Tangible Assets, Equipment, Supplies and Services

HR76 - Faculty Rights and Responsibilities

HR90 - Extra Compensation for Exempt Staff Employees

HR91 - Conflict of Interest

RA10 - Handling Inquiries/Investigations into Questions of Ethics in Research and in Other Scholarly Activities

RA11 - Patents and Copyrights (Intellectual Property)

RA17 - Courseware

Effective Date: May 10, 2002
Date Approved: May 6, 2002
Date Published: May 9, 2002
AD20 – Computer and Network Security

This policy does not conflict with the Core Principles, but it contains content regarding University policy with respect to use of the instructional use of copyrighted digital content, especially films and music. This content and the guidance on the Teach Act both seem out of place in this policy. Instructors seeking University policy on use of copyrighted media would be unlikely to seek such guidance in a policy titled “Computer and Network Security.” Therefore, the committee recommends the removal of those components of the policy.

The current AD20 content on intellectual property is entirely contained within section “III. Copyright and Intellectual Property.” Because instructors need up-to-date guidance in the use of film and music for instructional purposes, we recommend that this material be moved and updated to a revised version of AD46. Further recommendations for AD 46 are below.
SUGGESTED REVISIONS TO TEXT

Policy AD20 COMPUTER AND NETWORK SECURITY

Contents

- Purpose
- Scope
- Policy
- . . . . General
- . . . . Responsibilities
- . . . . Copyright and Intellectual Property
- . . . . Reporting Security Incidents / System Vulnerabilities
- Sanctions for Policy Violations
- Course and Work-Related Access to Computers and Computer Networks
- Exceptions and Exemptions
- Cross References

PURPOSE:

To establish conditions for use of, and requirements for, appropriate security for University Computer and Network Resources (as defined in the Glossary of Computer Data and System Terminology, ADG01).

SCOPE:

This policy is effective at all University locations and applies to all system users at any location, including those using privately owned computers or systems that connect to University Computer and Network Resources.

This policy represents the minimum requirements that must be in place. In general, this policy is not intended to inhibit access to information services that University employees and students have made accessible for public inquiry (e.g., WWW) via University Computer and Network Resources. However, use of such services to access or attempt to access information not intended for public display or use, or to circumvent or violate the responsibilities of system users or system administrators as defined in this policy, is prohibited. Additionally, servers are not allowed on campus residence hall network connections except on the basis of a written request of a faculty member for a specific academic purpose and the explicit concurrence of the Vice Provost for Information Technology or designee.

POLICY:

I. GENERAL:
Appropriate security shall include protection of the privacy of information, protection of information against unauthorized modification, protection of systems against denial of service, and protection of systems against unauthorized access.

University Computer and Network Resources may be accessed or used only by individuals authorized by the University. Issuance of an account to a system user must be approved by an authorized University representative, as designated in University Policies AD20, AD23, and Administrative Guidelines ADG01 and ADG02. Any computer, computer system, network or device connected to University Computer and Network Resources will be subject to and must comply with the University's Administrative Guideline ADG02 - "Computer Facility Security." Any question with regard to whether a specific use is authorized must be referred to the Security Operations and Services Director.

In order to protect the security and integrity of Computer and Network Resources against unauthorized or improper use, and to protect authorized users from the effects of such abuse or negligence, the University reserves the rights, at its sole discretion, to limit, restrict, or terminate any account or use of Computer and Network Resources, and to inspect, copy, remove or otherwise alter any data, file, or system resources which may undermine authorized use. The University also reserves the right to inspect or check the configuration of Computer and Network Resources for compliance with this policy, and to take such other actions as in its sole discretion it deems necessary to protect University Computer and Network Resources. The University also reserves the right to control and/or manage use of the frequency spectrum within the boundaries of all University locations. System users and units of the University are required to report transmitting devices and their characteristics to University officials, if so requested. The University reserves the right to require those units or individuals found to have such devices which interfere or are suspected to interfere with operation of centrally managed University systems, to discontinue use of such devices, and, if necessary, to remove them from University property.

The University shall not be liable for, and the user assumes the risk of, inadvertent loss of data or interference with files resulting from the University's efforts to maintain the privacy, integrity and security of the University's Computer and Network Resources.

The University is not responsible for the content of users' personal web spaces, nor the content of servers, programs or files that users maintain either in their personally allocated file areas on University-owned computer resources or on personally-owned computers connected to the University's Computer and Network Resources. (Note: Servers are not allowed on campus residence hall networks except on the basis of a written request of a faculty member for a specific academic purpose and the explicit concurrence of the Vice Provost for Information Technology or designee. Server is defined as - a computer or computer program that provides or “serves” data, files or processing power to other computers/computer programs on a network. Examples of servers may include (but are not limited to) Web servers, mail servers, print servers or file servers.)

The University reserves the right to suspend network access or computer account(s), or to impose sanctions as defined in this policy if user-maintained files, programs or services are believed to have been operating in violation of either law or policy. Additionally, the University retains the right subject to applicable law and policy to search and/or seize, for investigative purposes, any personal hardware or systems connected to University Computer and Network Resources if there is cause to suspect that such hardware or systems were used either in violation of federal, state or local law, or in violation of the terms and conditions set forth in University policies governing computer and network usage. Restoration
will be at the sole discretion of the University. The University shall, to the full extent required under law, cooperate with all legal requests for information, including, but not limited to, disclosure of system user account information when made by any law enforcement officer or legal representatives pursuant to court order, subpoena or other legal process.

The University can enforce the provisions of this policy and the rights reserved to the University without prior notice to the user.

II. RESPONSIBILITIES RELATED TO ACCESS TO AND USE OF COMPUTER AND NETWORK RESOURCES:

The **Security Operations and Services Director** - is responsible for:

a. Developing and assisting units in the implementation of University-wide policies, controls and procedures to protect the University's Computer and Network Resources from intentional or inadvertent modification, disclosure or destruction.

b. Monitoring user adherence to these policies.

c. Authorizing security experiments or security scans affecting Computer and Network Resources (except for those responsibilities specifically accorded to system administrators in this policy).

d. Coordinating response to computer and network security incidents to include, but not be limited to, notification of incidents to University Police Services, internal Audit and other University offices as appropriate, and contact with Incident Response teams external to the University.

e. Educating the user community in the ethical use of Computer and Network Resources.

f. Conducting periodic scans of the University's Computer and Network Resources (to include personally-owned computers connected to the University's Computer and Network Resources) for common security vulnerabilities, violations of policy or law, and/or malicious code. Reporting the results of such scans to the applicable University contacts for resolution of possible problems.

**Deans and Administrative Officers** - are responsible for:

a. Developing and implementing additional security policies specific to their Colleges or administrative units in coordination with the Security Operations and Services Director, and in consonance with this policy. These policies will guide System Administrators within the Colleges and administrative units in the formulation of detailed security procedures, and are considered to be a part of this policy statement.

b. Authorizing access to computer systems, including the purpose of the account, and issuance of passwords, or designating in writing the individual(s) who will exercise this responsibility for the various systems and networks within the College or administrative unit. Responsibility for authorizing Group Accounts (as defined in the Glossary of
Computer Data and System Terminology, ADG01) cannot be delegated lower than the academic department head, or equivalent managerial level within an administrative unit. For centrally managed Computer and Network Resources, only the applicable Senior Director within Information Technology Services may approve a Group Account.

c. Ensuring mechanisms are in place to obtain acknowledgment from System Users that they understand, and agree to comply with University and College/Unit security policies. Such acknowledgment must be written unless an exception is approved in accordance with the Exceptions and Exemptions section of this policy.

d. Ensuring technical or procedural means are in place to facilitate determining the User ID responsible for unauthorized activity in the event of a security incident.

System Users (as defined in the Glossary of Computer Data and System Terminology, ADG01) - are responsible for:

a. Understanding, agreeing to and complying with all security policies governing University Computer and Network Resources and with all federal, state and local laws, including laws applicable to the use of computer facilities, electronically encoded data and computer software.

b. Safeguarding passwords and/or other sensitive access control information related to their own accounts or network access. Such information must not be transmitted to, shared with, or divulged to others. Similarly, system users must recognize the sensitivity of all other passwords and computer or network access information in any form, and must not use, copy, transmit, share or divulge such information, nor convert the same from encrypted or enciphered form to unencrypted form or legible text. Any attempt to conduct such actions by a system user is a violation of this policy.

c. Taking reasonable precautions, including personal password maintenance and file protection measures, to prevent unauthorized use of their accounts, programs or data by others.

d. Ensuring accounts or computer and network access privileges are restricted to their own use only. System users must not share their accounts, nor grant accounts to others nor otherwise extend their own authorized computer and network access privileges to others. System users must not implant, execute or use software that allows them unauthorized remote control of Computer and Network Resources, or of accounts belonging to others.

e. Ensuring the secure configuration and operation of Internet services (e.g., WWW) they may establish on machines connected to University Computer and Network Resources. Also, system users are solely responsible for ensuring the content of files, programs or services that they operate, maintain, store or disseminate using University Computer and Network Resources (to include personally-owned computers connected to such resources) are compliant with both law and University Policy. Note: servers are not allowed on campus residence hall networks except on the basis of a written request of a faculty member for a specific academic purpose and the explicit concurrence of the Vice Provost for Information Technology or designee.
f. Using accounts or network access only for the purposes for which they were authorized and only for University-related activities. Use of accounts or network access to conduct a commercial enterprise, or to promote or advertise a commercial enterprise is prohibited. Transmitting or making accessible offensive, obscene or harassing materials, and transmitting or making accessible chain letters, etc., are prohibited. Unauthorized mass electronic mailings and newposts are prohibited. Conducting or attempting to conduct security experiments or security scans involving or using University Computer and Network Resources without the specific authorization of the Security Operations and Services Director is prohibited. The intentional or negligent deletion or alteration of information or data of others, intentional or negligent misuse of system resources, intentionally or negligently introducing or spreading computer viruses, and permitting misuse of system resources by others are prohibited.

g. Representing themselves truthfully in all forms of electronic communication. System users must not misrepresent themselves as others in electronic communications. Similarly, system users must not cause a system to assume the network identity or source address of another Computer or Network Resource for purposes of masquerading as that resource. System users must not register Computer and Network Resources that have Internet addresses within the Penn State Internet domain under any non-Penn State domain name. System users must not provide Domain Name Service for any non-Penn State Computer and Network Resource.

h. Respecting the privacy of electronic communication. System users must not obtain nor attempt to obtain any electronic communication or information not intended for them. In particular, system users must not attempt to intercept or inspect information (e.g., packets) en route through University Computer and Network Resources, nor use University Computer and Network Resources to attempt to intercept or inspect information en route through networks elsewhere. Similarly, system users must not implant, execute or use software that captures passwords or other information while the data are being entered at the keyboard or other data entry device.

i. Respecting the physical hardware and network configuration of University-owned networks. System users must not extend the physical network on which their system resides (e.g., wiring, jacks, wireless connection).

j. Treating non-University Computer and Network Resources in accordance with this policy. University Computer and Network Resources must not be used to attempt to breach the security or security policy of other sites (either willfully or negligently). An action or attempted action affecting non-University Computer and Network Resources that would violate this policy if performed on Penn State Computer and Network Resources is prohibited.

System administrators (as defined in the Glossary of Computer Data and System Terminology, ADG01). Unless otherwise stated, system administrators have the same responsibilities as system users. However, because of their position, system administrators have additional responsibilities and privileges for specific systems or networks. For systems which they directly administer, system administrators are responsible for:
a. Preparing and maintaining security procedures that implement University and College/Unit security policies in their local environment and that address such details as access control, backup and disaster recovery mechanisms and continuous operation in case of power outages.

b. Taking reasonable precautions to guard against corruption, compromise or destruction of Computer and Network Resources. Reasonable precautions for system administrators exceed those authorized for system users. Specifically, system administrators may conduct security scans of systems which they directly administer. However, they may not conduct security scans for any other system or network. Similarly, system administrators may conduct dictionary comparisons or otherwise check password information related to system users on the systems for which they have administrative responsibility. They may not do so on other systems. System administrators may also intercept or inspect information en route through a network, but only information originating from or destined for systems for which they have direct administrative responsibility and only for purposes of diagnosing system or network problems. Exceptions must be authorized by the Security Operations and Services Director in accordance with this policy.

c. Treating the files of system users as private. It is recognized that a system administrator may have incidental contact with system user files, including electronic mail, in the course of his or her duties. The contents of such files must be kept private. Deliberate access to system user files is authorized only in the event of a suspected security breach, if essential to maintain the system(s) or network(s) for which the system administrator has direct administrative responsibility, or if requested by or coordinated with the system user.

d. Taking reasonable and appropriate steps to see that all hardware and software license agreements are faithfully executed on all systems, networks, and servers.

e. Ensuring that Penn State network addresses are assigned to those entities or organizations that are part of Penn State only. System administrators must not assign network addresses to non-Penn State entities or organizations.

f. Limiting access to root or privileged supervisory accounts. In general, only system administrators should have access to such accounts. System users should generally not be given unrestricted access to root or privileged supervisory accounts. As with all accounts, authorization for root or privileged supervisory accounts must be approved in accordance with this policy.

III. COPYRIGHT AND INTELLECTUAL PROPERTY:

Because electronic information is volatile and easily reproduced, respect for the work and personal expression of others is especially critical in computer environments. Violations of authorial integrity, including plagiarism, invasion of privacy, unauthorized access, and trade secret and copyright violation using University Computer and Network Resources are prohibited. Computer software protected by copyright is not to be copied from, into, or by using University Computer and Network Resources, except as permitted by law or by the license or contract with the owner of the copyright.
Computer networks and computer programs that facilitate and enable locating and downloading digitized works have made possession of copyrighted material such as music files, videos and software easier than ever before. In many cases, however, possession and/or distribution of such files is in direct violation of state and federal laws, and University policy. The University regards such copyright offenses very seriously. System users must remove any copyrighted materials that they do not have the copyright holder’s specific permission to possess. As noted above, they must not place such material on University systems or to personally-owned systems attached to the University network at any time and must not engage in unauthorized copying, transmission, distribution and/or downloading of such works. System users are ultimately responsible for ensuring that the copyright holder has granted permission to make or distribute the copy in question. Suspected misuse of copyrighted materials by system users may result in exercise of the University’s investigatory rights with or without notice to the user, suspension of network or other account access and disciplinary sanctions as defined in this policy. Additionally, the system user may face civil or criminal action that could result in fines, imprisonment or both upon conviction.

The TEACH Act [November 2002] modifies and clarifies the ways in which copyrighted material may be used without permission of the copyright owner. Faculty are protected under the TEACH Act only if they are in compliance with the new requirements. Such requirements include:

1. Faculty will not interfere with technological controls within the materials they want to use
2. The materials are specifically for students enrolled in a class, and only those students will have access to the materials. The class is part of the regular offerings of Penn State
3. The materials are directly related and of material assistance to the course
4. Faculty will include a notice that the materials are protected by copyright
5. Faculty will use technology that reasonably limits the students’ ability to retain or further distribute the materials
6. Faculty will make the materials available to the students only for a period of time that is relevant to the context of a class session
7. Faculty will store the materials on a secure server and transmit them only as permitted by this law
8. Faculty will not make any copies other than the one needed to make the transmission
9. The materials are of the proper type and amount the law authorizes: Entire performances of non-dramatic literary and musical works. Reasonable and limited parts of a dramatic literary, musical, or audiovisual works. Displays of other works, such as images, in amounts similar to typical displays in face-to-face teaching
10. The materials are not among those the law specifically excludes from its coverage: Materials specifically marketed for classroom use for digital-distance education. Copies that are known to be illegal or should be known are illegal
Note: For full information about the TEACH Act and the principles of fair use, see:
http://tlt.its.psu.edu/dmd/teachact

IVIII. REPORTING SECURITY INCIDENTS OR SYSTEM VULNERABILITIES:

Individuals aware of any breach of information or network security, or compromise of computer or
network security safeguards, must report such situations to the appropriate system administrator and to
the Security Operations and Services Director. The Security Operations and Services Director, in
coordination with appropriate University offices, will determine if financial loss has occurred and if
control or procedures require modification. When warranted by such preliminary review, University
Police Services, internal Audit, and other University departments or law enforcement authorities will be
contacted as appropriate.

SANCTIONS FOR POLICY VIOLATIONS:

Violation of any provision of this policy may result in:

a. restriction or termination of a system user's access to University Computer and Network
   Resources, including the summary suspension of such access, and/or rights pending further
   disciplinary and/or judicial action;

b. the initiation of legal action by the University and/or respective federal, state or local law
   enforcement officials, including but not limited to, criminal prosecution under appropriate
   federal, state or local laws;

c. the requirement of the violator to provide restitution for any improper use of service; and

d. disciplinary sanctions, which may include dismissal or expulsion for students, or termination for
   employees.

COURSE AND WORK-RELATED ACCESS TO COMPUTERS AND COMPUTER
NETWORKS:

Many academic course and work-related activities require the use of computers, networks and systems
of the University. In the event of an imposed restriction or termination of access to some or all
University computers and systems, a user enrolled in such courses or involved in computer-related work
activities may be required to use alternative facilities, if any, to satisfy the obligation of such courses or
work activity. However, users are advised that if such alternative facilities are unavailable or not
feasible, it may be impossible to complete requirements for course work or work responsibility. The
University views misuse of computers as a serious matter, and may restrict access to its facilities even if
the user is unable to complete course requirements or work responsibilities as a result.

COPYRIGHT INFRINGEMENT:

The senior position for computer and network security reporting to the Vice Provost for Information
Technology is designated to receive notices of possible copyright infringements occurring online at
Penn State University.
EXCEPTIONS AND EXEMPTIONS:

Exception to or exemptions from any provision of this policy must be approved by the Vice Provost for Information Technology or designee, which will normally be the Security Operations and Services Director. Similarly, any questions about the contents of this policy, or the applicability of this policy to a particular situation should be referred to the Security Operations and Services Director.

CROSS REFERENCES:

Other Policies in this Manual should also be referenced, especially the following:

AD08 - Purchase of Advertising
AD11 - University Policy on Confidentiality of Student Records,
AD23 - Use of Institutional Data,
AD27 - Commercial Sales Activities at University Locations,
AD53 - Privacy Statement,
AD56 - Use of Group E-Mail to Communicate University Business to Employees and Students,
AD35 - University Archives and Records Management,
ADG01 - Glossary of Computerized Data and System Terminology,
ADG02 - Computer Facility Security Guideline,
FN14 - Use of Tangible Assets, Equipment, Supplies, and Services, and
HR60 - Access to Personnel Files.

Effective Date: January 16, 2004
Date Approved: January 12 2004
Date Published: January 15, 2004

Most recent changes:

- Definition of "server" was added under the GENERAL section of the policy.

Revision History (and effective dates):

- January 7, 2004 -
  - Prohibits servers on campus residence hall networks except under a specific condition.
- Expanded the rights of the University to control/manage the use of the frequency spectrum within the boundaries of all University locations, and to require the removal of devices interfering with the operation of centrally managed University systems.
- The University is not responsible for the content of users' personal web spaces.
- The University has the stated right to suspend network access or computer access and to impose sanctions for violations of this policy.
- The University will cooperate with all legal requests for information including, but not limited to, disclosure of system user account information.
- Enforcement of the provisions of this policy can be made without prior notice to the user.
- Added to the responsibilities of the Security Operations and Services Director the task of conducting periodic scans of the University's Computer and Network Resources.
- Under the responsibilities of system users, users must not implant, execute or use software that allows them unauthorized remote control of Computer and Network Resources, or of accounts belonging to others.
- Under the responsibilities of system users, users are now solely responsible for ensuring the content of files, programs or services that they operate, maintain, store or disseminate using University Computer and Network Resources (to include personally-owned computers connected to such resources) are compliant with both law and University Policy.
- Under the responsibilities of system users, system users must not implant, execute or use software that captures passwords or other information while the data are being entered at the keyboard or other data entry device.
- Under the section COPYRIGHT AND INTELLECTUAL PROPERTY, added provisions and restrictions regarding the copying, transmission, distribution, and downloading of copyrighted works.
- Under the section COPYRIGHT AND INTELLECTUAL PROPERTY, added guidance regarding the TEACH Act which provides ways in which copyrighted material may be used without permission of the copyright owner. Faculty are protected under the TEACH Act only if they are in compliance with the new requirements.
- Under the SANCTIONS FOR POLICY VIOLATIONS sections, sanction include dismissal or expulsion for students, or termination for employees.
- Approval of exceptions to or exemptions from any provision of this policy has been elevated from the Security Operations and Services Director to the Vice Provost for Information Technology or designee.

- April 22, 1997 - Expanded and defined position titles for responsibilities for security
- February 26, 1992 - Substantial rewrite.
- October 5, 1989 - Reviewed for accuracy; no changes.
- September 15, 1986 - Added cross-reference to Policy AD23 - Use of Computerized Institutional Data
- July 25, 1986 -
  o Simplified the PURPOSE and GENERAL sections of the policy to convey that this policy applies to all forms of information at all locations.
  o Deleted specifications for data storage and retrieval systems.
  o Removed the administration of this policy from the Director of Computer and Information Systems.
  o Added cross-references to other pertinent University polices.
- August 8, 1983 - New Policy.
AD40 – Classroom Note-Taking Services

The Committee recommends to substantially amend this policy to establish rules on the recording of lectures and other classroom activities and materials and the subsequent use of such recordings.

- The definition of recordings should be updated to include newer communications technologies such as streaming and digital transmission of lectures and allow the flexibility to include future technologies.

- The policy should apply to all Penn State employees engaged in instructional activities. It could be extended by including a sentence such as: “For the purposes of this policy the term ‘faculty’ is defined as any Penn State employee acting in an instructional capacity in the conduct of a course.”

- When a faculty member responsible for a course initiates the recording of lectures or other classroom activities, the faculty member should have copyright ownership rights to and plenary control over the subsequent use of the recordings subject to privacy protections. Although the University does not assert ownership rights to such recordings, it shall retain the non-exclusive, royalty-free right to keep and use such recordings for instructional purposes.

- When a recording of classroom activities is created at the specific direction of a University unit for its use, the University may claim copyright ownership of the recordings as a University-directed work. However, the faculty member retains copyright ownership of underlying academic work and may exercise that copyright to the fullest extent provided by the general law and consistent with University policy. A recording will be deemed a University-directed work if it is created pursuant to a written agreement between the faculty member and the University unit or by the standing policy of the unit in which the class is taught.

- All decisions regarding current and subsequent use of recordings should further the University’s paramount purpose of advancing and sharing knowledge. University-directed recordings or faculty-initiated recordings may be archived by the University and made accessible to the University community for internal use. Before any recordings are used in subsequent Penn State classes or made otherwise available, the recorded faculty member should be consulted if possible to ensure academic quality and to verify the currency of the recorded content. Any commercialization or external use of University-directed recordings shall occur only by written agreement with the faculty member whose course was recorded.

- Faculty and students engaged in the instructional process have a reasonable expectation of privacy. Implementation of this policy shall be in keeping with AD53 Privacy Statement that recognizes the University’s obligation not to infringe upon the reasonable privacy expectations of faculty, staff and students in classrooms and other instructional settings, subject only to applicable state and federal laws and University regulations.

- Recordings of classroom or other similar instructional settings in which student activity is recorded may be used only for internal class purposes by the faculty member and registered students and only during the period in which the course is being offered. Recordings in which student activity is included may be subsequently used only with the informed consent of the students involved. A faculty-initiated recording that includes student activity may be retained by the faculty member only for his or her individual use.

Specific wording is recommended in the draft revision of AD40 below.

(Appendix III)

- 23 -
SUGGESTED REVISIONS TO TEXT

Policy AD40 RECORDING OF CLASSROOM ACTIVITIES AND NOTE-TAKING SERVICES

PURPOSE:

To establish a University policy on recording of classroom activities and commercial note-taking services. For the purposes of this policy the term “faculty” is defined as any Penn State employee acting in an instructional capacity in the conduct of a course.

TYPES OF WORKS SUBJECT TO COPYRIGHT PROTECTION: (Copyright Act; 1976, Section 102)

Copyright protection subsists in original works of authorship fixed in any tangible medium of expression. Works of authorship include the following categories: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; and sound recordings. These categories include dictionaries, directories, computer programs and databases. Copyright protection does not extend to ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries, although these may be protectable under patent and trade secret laws.

POLICY ON COURSE MATERIALS:

An original work of authorship prepared by a faculty member and used or distributed during a class lecture is subject to copyright protection. The "original hard copy" material in printed or tangible form includes (but is not limited to) handouts, diagrams, photographs, motion pictures, computer programs, data bases, and audio and video recordings.

The Copyright Act prohibits the unauthorized reproduction and/or sale of "original hard copy" works of authorship prepared by a faculty member, and presented offered or distributed during a class lecture.

A faculty member's oral lecture presentation generally is ephemeral and therefore not subject to copyright protection because it is not fixed in any tangible medium of expression from which it can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device.

POLICY ON RECORDING OF CLASSROOM ACTIVITIES:

Student-initiated, faculty-initiated, and University-directed recordings can include traditional audio and video recordings of classroom lectures, activities, and course material as well as new communications technologies that provide for streaming and digital transmissions or recording of such instructional
content or communications between faculty members and students or students engaged in class activities. With the exception of recordings strictly for individual use (i.e., they will be viewed and/or heard only by the individual making the recording), if the recordings include student activities, the person responsible for recording should inform in advance anyone whose activity is being recorded and explain the likely use of the recording. Any subsequent usage of recordings must be in compliance with privacy policies discussed below.

Student Initiated Recording

A student must not record activity in classrooms or other instructional settings without the express permission of the faculty member responsible for instruction in the course. Authorized student-initiated recordings must be used only for the education of the students enrolled in the initiating student’s class during the period in which the student is enrolled in the class. They must not be made available to anyone outside of the students enrolled in the class in any fashion, including posting online or through other media without the express written consent of the faculty member responsible for the course or the cognizant University administrator.

Faculty Initiated Recording

When a faculty member responsible for a course initiates the recording of lectures or other classroom activities in that course and when such recording does not require University resources in excess of what would normally be allocated in similar instructional settings, the faculty member shall have copyright ownership rights to and plenary control over the subsequent use of the recordings subject to the University’s license and the privacy protections noted below. Although the University does not assert ownership of such recordings, it shall have a non-exclusive, royalty-free right and license to use and retain copies of such recordings for instructional purposes.

University-Directed Recording

Directed recordings are those created at the specific direction of a University unit for the University’s ownership and use. A recording will be deemed a University-directed work if it is created pursuant to a written agreement between the faculty member or staff member and the University unit or pursuant to the standing policy of the unit in which the class is taught. Employees in staff positions should clarify with their supervisors as to whether a particular project should be considered directed work as part of the employee’s normal duties. A recording will be considered a University-directed work regardless of whether it is made by a University employee or by an external entity at the University’s request.

The University may claim copyright ownership of the recordings but not of the underlying academic work of the faculty member, including the course material presented in the lecture or other classroom activities. Nothing in this policy shall prevent the faculty member from exercising, to the fullest extent provided by law, the copyrights in his or her underlying academic work that has been recorded.

Use of Recordings

All decisions regarding current and subsequent use of recordings should further the University’s paramount purpose of advancing and sharing knowledge. University-directed recordings or faculty-initiated recordings may be archived by the University and made accessible to the University community.
for internal use. Before any recordings are used in subsequent Penn State classes or made otherwise available, the recorded faculty member should be consulted if possible to ensure academic quality and to verify the currency of the recorded content. Any commercialization or external use of University-directed recordings shall occur only by written permission of the faculty member whose course was recorded. The contribution of the recorded faculty members shall be appropriately acknowledged in any future use of recordings if he or she indicates a desire for such attribution.

**PRIVACY POLICY**

Faculty and students engaged in the instructional process have a reasonable expectation of privacy. Assurance of privacy encourages open and robust discussions on issues and ideas without fear that any statements made will be used for inappropriate purposes and, thereby, enhances learning. Implementation of this policy shall be in keeping with AD53 Privacy Statement that recognizes the University’s obligation not to infringe upon the reasonable privacy expectations of faculty, staff and students in classrooms and other instructional settings, subject only to applicable state and federal laws and University regulations.

Student-initiated, faculty-initiated, and University-directed recordings of student activity online, in classrooms, or in other instructional settings may be used by the faculty member and registered students for only internal class purposes and by only the students during the period in which the course is being offered. Recordings in which student activity is included may be subsequently performed, displayed, or made available online or otherwise only with the informed consent of the students involved or if all student activity is excised. A faculty-initiated recording that includes student activity may be retained by the faculty member only for his or her individual use.

**NOTE-TAKING AND COMMERCIAL NOTE-TAKING SERVICES**

A registered student lawfully may take original hand written or typed notes during an oral lecture presentation and may sell those notes in the free marketplace. The notes may be subject to copyright protection, provided the notes represent an original work of authorship, but any such copyright would not impact in any manner on the faculty member's ownership of the subject matter presented orally, nor the hard copy materials presented and/or distributed during the lecture.

Audio or video recordings of classroom activity by students for the purposes of note-taking are subject to the rules governing student-initiated recordings in this policy.

The following statements have been developed from an interpretation of the federal Copyright Act and University policy, to serve as a guide to faculty rights on note-taking issues:

1. Any reproduction of the "fixed and tangible form" of a faculty member's original work(s) of authorship is prohibited by the Copyright Act, and would be subject to a copyright infringement action brought by the faculty member, as copyright owner; or by the University, as copyright owner, in the case of works for hire.

2. Notes taken during an oral lecture presentation should be an interpretation of, and not a verbatim transcript of the lecture material. Such notes generally are construed to be original. Students have no copyright ownership of verbatim transcripts or substantially verbatim notes.
3. If notes taken during an oral lecture presentation can be shown to be original, they may be copyrighted by the note-taker/note-taking service and sold to third parties, but this copyright does not transcend the ownership rights of the faculty member to the original lecture material, nor the future uses of that subject material.

4. Only formally registered students may attend class and qualify as a note-taker. The policy basis of excluding non-registered students, or non-students, from attending class is two-fold:
   
   o Such individuals have not contracted for the educational services provided in the class, and
   
   o University Policy AD27 prohibits the use of University facilities and/or property for commercial sales activities by individuals or non-University organizations.

5. Nothing contained in this policy is intended to restrict a faculty member's right to conduct a class as he/she deems most appropriate, such as electing to distribute class notes in order to promote class interaction, the use of taped lectures, etc.

EXCEPTIONS:

The following is a permissible exceptions to this policy:

- A practice of using student scribes, similar to the program in effect at the Milton S. Hershey Medical Center. Such practice must first be approved by the academic unit responsible for the course.

- Any accommodations required by Federal or State law for disabled students. The Office of Disability Services may be contacted for current legal requirements and details on the services provided for disabled students.

CROSS REFERENCES:

Other Policies in this Manual should also be referenced, especially the following:

AD27 - Commercial Sales Activities at University Locations,

AD53 – PRIVACY STATEMENT, and

RA11 –Ownership and Management of Intellectual Property

AD?? – future policy on external activity and conflict of commitment

For legal parameters, such as:

- Exclusive Rights in Copyright Works: (Copyright Act, 1976, Section 106)
- Fair Use Doctrine: (Copyright Act, 1976, Section 107)

See the University Copyright Handbook.
AD46 – Policy Governing Copyright Clearance

The policy does not seem to directly conflict with the Core Principles except for one statement (first bullet below). There are, however, broader issues with the policy that argue for a significant revision, and after careful review, it appears to be easier to rewrite the policy than to revise it (a rewritten version is below). These issues include:

- The policy contains language conflicting with AD17. AD46 reads: "Payments to faculty and staff or departments will not be allowable as part of the student's cost for course pack production, regardless of whether the course pack is produced by the CCO or a third party." This sentence should be struck, because AD17 permits faculty members to receive royalty payments when they own intellectual property in the course pack (i.e., if a course pack includes original material created by the faculty member for which the faculty member owns the copyright).

- The policy should be revised and broadened to become the basis for Guidelines on Use of Copyrighted Materials. The current policy focuses on copyright clearance for materials to be used in course packs that are printed and sold, and to provide guidelines on employing fair use principles in the classroom. The policy focuses exclusively on printed textual materials, while providing limited or no guidance on graphical, audio, video, or other materials. In the last decade, instruction practices have changed greatly to include a greater reliance on electronic delivery of materials and of digital graphical, audio, video, and textual materials. These factors suggest the need for a revision of the policy.

- The policy directs instructors to use the University’s Multimedia Print Center for copyright clearance (http://www.multimediaprint.psu.edu/copyright/) and states that employees will not be held liable for infringement if using this service. However, the University Libraries has for many years absorbed the cost of providing electronic course reserve services, clearing copyright and making royalty payments where required. These services substitute for course packs, but are not referenced in the policy.

- The policy provides guidelines strictly for reproducing printed, textual materials. However, similar guidance for reproduction of non-textual materials is increasingly needed, and AD20 now includes language about digitization of video materials governed by the “Teach Act.” This language could be updated and incorporated within a revision to AD46.

- University policy should reference either wider guidance or a broader set of guidelines on the educational and research use of copyrighted materials from a variety of sources. The current “Uniform Copying Guidelines” section references a set of guidelines developed by two industry organizations, but none by any higher education related organizations. The "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions With Respect to Books and Periodicals" was developed by the National Association of College Stores, Inc. and the Association of American Publishers.

Since 2000, guidelines for fair use of copyrighted materials have been developed in several communities of practice, including the Music Library Association, Documentary Filmmakers, and other groups. In early 2012, the Association of Research Libraries is expected to publish a Code of Best Practices in Fair Use for Academic and Research Libraries. Furthermore, as provided for by the Digital Millennium Copyright Act (DMCA), the Librarian of Congress periodically issues guidance on educational uses of digital materials that provide for clear and specific exemptions from the DMCA for educators. Our guidelines should reflect the variety of perspectives and provide as clear guidance as possible for our instructors.
SUGGESTED REVISED TEXT

AD-46 POLICY GOVERNING COPYRIGHT CLEARANCE

CONTENTS

- Purpose
- Applicable Laws
- Exemptions within Copyright Law
- Services to assist with Copyright and Instruction
- Reporting Copyright Infringement

PURPOSE

The purpose of this document is to provide guidance on the use of copyrighted materials in instructional situations at The Pennsylvania State University. The University has a responsibility to promote the legal and ethical use of copyrighted materials to create new knowledge.

Instructors frequently need to provide copies of copyrighted works to their students in various ways, such as:

- Providing access to readings in course packs or to texts, images, or audio or film clips via electronic course reserves
- Distributing copies of materials in the classroom
- Incorporating portions of works in courseware designed for use in e-learning contexts

Copying, distributing, adapting or performing a work generally requires the permission of the copyright owner. However, the law balances the rights of the creator and copyright holder with the interests of society as a whole and provides exemptions for particular types of uses. It is impossible to document all possible situations as University policy, so the purpose of this guideline is to provide University personnel with guidance, references, and resources to access additional help.

Members of the Pennsylvania State University community with legal questions regarding copyright should contact the Office of the General Counsel, or outside counsel designated by that Office. University personnel with questions about specific instances of use of copyrighted materials can, however, consult the University services described below under "Services to assist with Copyright and Instruction." Individual university personnel will have financial liability for copyright infringement for materials they use in courses, except in those instances where they make use of the services listed below to obtain permission. In instances where University personnel utilize these services to obtain permission, the University will accept any financial liability arising from use of copyrighted materials.

APPLICABLE LAW

Employees of The Pennsylvania State University must comply with United States Copyright Law, codified in US Code Title 17-Copyrights, which protects the interests of creators whose expressions and works are recorded and fixed in tangible form. The law gives copyright owners particular rights allowing them to control the circumstances in which their works are reproduced, distributed, adapted or modified, and publicly displayed or performed. These rights may be transferred in whole or in part by the creator to other agents, such as publishers. Copyright law also makes it illegal to disable or circumvent technologies that limit or prevent unauthorized uses.
EXEMPTIONS WITHIN COPYRIGHT LAW

Copyright Law includes several provisions that, in certain cases, offer the public in general, and educators in particular, exceptions to the need to seek permission. Understanding and making appropriate use of these provisions can help to further the educational mission of the University.

Fair Use

Fair Use is legally defined in US Code Title 17, Section 107 to provide exceptions to the owners’ exclusive rights “for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.” Section 107 further states:

“In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

1. The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion of the work used in relation to the work as a whole.
4. The effect of the use in question upon the potential market for, or value of, the copyrighted work.”

While the law gives no particular weight to any of these four factors, courts have tended to heavily rely on the fourth factor when reviewing legal challenges to fair use.

Some groups and communities have attempted to clarify “fair use” by providing specific formulas or guidelines for the third factor, i.e., on the amount of a work that can be copied for instructional use. However, the law does not rely on any such formulas and relying on them without considering the other three can result in declaring a use out of bounds when it may in fact be allowed under fair use.

Fair use analyses can be conducted by anyone, but faculty may wish to make use of services listed below to help them with such an analysis.

“The Teach Act”

US Code Title 17 Section 110, sometimes known as “The Teach Act,” provides University personnel acting in an instructional capacity with specific rights for performance of copyrighted works in both the classroom and in an e-learning context. This section does not exclude applying a fair use analysis in that context.

This section of the Copyright Act includes provisions to limit electronic access to copyrighted works that are directly related to the course only to enrolled students and only for the duration of the course. There are other factors involved in making use of the Teach Act and University employees should consult the services listed below for further assistance.

Exemptions to the “Digital Millennium Copyright Act”

US Code Title 17 Section 1201 sometimes referred to as The Digital Millenium Copyright Act, makes it illegal to disable or circumvent technological controls preventing copying or distribution of copyrighted works. Section 1201 directs the Librarian of Congress, in consultation with the US Register of Copyrights, to periodically rule on specific exemptions to this prohibition that would facilitate a “non-infringing” use of copyrighted material. These exemptions sometimes apply to educational settings and uses of copyrighted materials, but are reviewed and updated every three years. University personnel are advised to consult the services listed below to assist them in understanding if and how these exemptions may apply to them.
SERVICES TO ASSIST WITH COPYRIGHT AND INSTRUCTION

- The Multimedia & Print Center, which operates a Copyright Clearance Office to assist University personnel by seeking and obtaining permissions to reprint materials for sale in course packs, seminars, and conference materials.

- The University Libraries, which operates Course Reserves Services to assist University personnel by preparing materials for online course reserves and, where necessary, seeking permission and paying fees associated with copyright permissions.

- The University Libraries and Information Technology Services, which further assists by conducting workshops, developing training and informational materials, and being available to discuss specific cases to help faculty, students and staff understand how the law applies to them.

REPORTING COPYRIGHT INFRINGEMENT

The senior position for computer and network security reporting to the Vice Provost for Information Technology is designated to receive notices of possible copyright infringements occurring online at Penn State University.

Cross-references

AD17 Royalty Payments for Course Materials
HR91 – Conflict of Interest
This policy will be superseded by the new policies on faculty consulting and on activities external to the University that are currently under consideration.
RAG12/13 – Faculty Guidance on Student IP Rights & Special Student IP Agreement Forms

These guidelines are largely in alignment with the Core Principles, but the Committee identified three areas of potential concern and recommends revision.

- These guidelines should apply to all Penn State employees who might engage in instructional activities. They could be extended by including a sentence such as the following: “For the purposes of this policy the term “faculty” is defined as any Penn State employee or student acting in an instructional capacity in the conduct of a course.”

- Under bullet point number two (point a) of RAG12, the statement is confusing. In particular, the double negative obscures the fact that the intellectual property derived from thesis research in 600-level courses is the property of the University.

- These guidelines do not address instructional intellectual property that might be produced by a student working as a teaching assistant. Those cases would be covered by a revision of RA11 as recommended in the present report.
GUIDELINES:

The advent of heightened interest around the issue of ownership of the intellectual property (IP) rights of what is created, invented or discovered by students has created a much more complex situation for students, faculty and providers of sponsorship and case studies. The issues revolve around the following questions on IP ownership:

a. What if the students makes an invention in a course they are taking?
b. Are grad students different from undergraduate students?
c. What if an undergrad works “for free” in a University laboratory to gain experience?
d. What about student interns, both at Penn State and at other institutions?
e. What about undergraduate theses?
f. What about situations where students develop design changes or problem solving in case-based learning on problems submitted by companies?

To deal with these challenges, and to create a practical and comprehensive policy, the forms detailed under "Special Student Intellectual Property Agreement Form" have been developed.

As a simple summary of the principal points underlying the forms:

a. If any student, grad or undergrad, taking any course for credit develops IP in the context of the course, the IP belongs to the student and an IP assignment agreement is not required,
   o no matter who paid for the course.
   o not including “research courses” for graduate theses.
   o without regard for whether they are graduate students or undergraduates.
   o except for 600-level “research courses” for graduate theses.

b. If graduate students are doing any research in a University facility, all IP belongs to the University and an IP assignment agreement is required.

c. If undergraduate students are working in a research setting or in an instructional capacity
   o if they are paid for the work in a research setting, the IP belongs to University.
if they are doing it in a for-credit course, the IP is theirs.
- if they are working for "experience," and they do not sign an IP assignment agreement, the IP is theirs.

d. If students develop IP in solving projects in a "for credit" course using case-based learning based on externally-submitted (company, institute, or non-profit) problems,
- the IP belongs to the students if there is no agreement to the contrary.
- if sponsors want to retain IP rights, they need to have students assign their IP rights by signing an appropriate agreement.
- it is the student's choice to participate in projects requiring them to assign their rights.
- students must have a "non assignment" option in every course.

e. Summer students/interns at Penn State and Penn State students at other institutions need to sign the appropriate IP agreement for the host institution.

f. For required senior theses, or seminar with a research component, the student must have available an option that allows them to retain their IP.

g. Medical, law and MBA students retain their IP rights, and so that faculty must be cognizant of which projects require IP protection in their assignments.

h. For "works of art", including poetry, sculpture, graphic arts, painting, etc., all rights rest with the creator unless there is some specific agreement/contract which designates the effort as a "work for hire."

i. If a company sponsors student research in connection with a "for credit" course, they need to be aware that the results generated,
- are provided "as is" with no legal representations.
- are not the work of the University.
- need to be identified as student research performed without independent evaluation.
- require approval in writing before publication.

Forms are available, in the policy guideline RAG13 Special Student Intellectual Property Agreement Forms to deal with all of the situations requiring assignment, or notification of the sponsors of the research. Faculty have the responsibility to get the appropriate IP agreement signed. For the purposes of this policy the term “faculty” is defined as any Penn State employee or student acting in an instructional capacity in the conduct of a course.

CROSS REFERENCES:

Other Policies in this manual should also be referenced, especially the following:

RA11 – Ownership and Management of Intellectual Property

RAG13 - Special Student Intellectual Property Agreement Forms
Effective Date: April 16, 2003
Date Approved: April 8, 2003
Date Published: April 15, 2003

Most recent changes:

- New Policy Guideline.
RAG15 – Faculty Consulting Agreements

This guideline will be superseded by the new policies on faculty consulting and on activities external to the University that are currently under consideration.
RA11 – Patents and Copyrights (Intellectual Property)

This policy is the primary set of rules governing IP at Penn State, but its current form does not clearly distinguish between different types of IP or set out rules for instructional IP. Recommended changes would be as follows:

- The intellectual property created by members of the University should be clearly separated and defined as falling into one of three categories:
  - *Instructional intellectual property*, which describes materials produced for instruction in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials;
  - *Research intellectual property*, which describes the discoveries, inventions and creations with potential commercial value that result from research activities. Most research intellectual property developed at the University can be protected by patents, but some University research intellectual property (i.e., software) is more appropriately protected by copyright. Although some research intellectual property may be protected by trademark or trade secret, it is rare for the University to utilize these methods of protection.
  - *Scholarly intellectual property*, which describes materials resulting from scholarly, literary, and artistic work such as journal papers, books, essays, poems, paintings, sculpture, musical scores, etc. in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

To be consistent with the Core Principles, ownership of all instructional intellectual property and scholarly intellectual property should rest with the creator, with the University being granted non-exclusive, royalty-free rights and license to use all instructional intellectual property created while the owner was a member of the University community, except in the case of University-directed works. In the case of University-directed works, the University retains ownership. Rights to research intellectual property conceived, reduced-to-practice or created by University employees with the use of University facilities or resources, or in the field of expertise and/or within the scope of responsibilities covered by employees’ employment/appointment/association with the University are governed by the Penn State Intellectual Property Agreement that indicates such rights are assigned to the University. Almost all intellectual property created by members of the University will fall into these three categories, but in the rare cases of overlap, the cognizant University Administrator should make a decision as to which policy applies.

- This policy should include a statement of expectations that University personnel freely share instructional intellectual property within the University for internal instructional usage, understanding that developers and users of instructional intellectual property are expected to use it ethically and to give appropriate credit to all source material and coauthors. Usage of instructional intellectual property by University employees should be accompanied by appropriate attribution of the source of the instructional intellectual property, and the original creator(s) should be consulted regarding the appropriate attribution when possible. The original creator(s) should also be given the option not to be listed as a source of the material if they prefer not to be associated with its subsequent usage.

- If the above changes are implemented, the *University Intellectual Property Agreement* should be correspondingly altered. In addition, the title of the *University Intellectual Property Agreement* could be changed to *Intellectual Property Agreement* to clarify that ownership is a nuanced subject.

Specific wording is recommended in the draft revision of RA11 below.
SUGGESTED REVISIONS TO TEXT

Policy RA11 OWNERSHIP AND MANAGEMENT OF INTELLECTUAL PROPERTY

PURPOSE:
To establish appropriate policies for ownership and management of intellectual property created by members of the University.

POLICY:

Research Intellectual Property -

The protection of research intellectual property with commercial potential is an essential aspect of the technology transfer process. Rights to research intellectual property conceived, reduced-to-practice or created by University employees with the use of University facilities or resources, or in the field of expertise and/or within the scope of responsibilities covered by employees’ employment/appointment/association with the University are governed by the Penn State Intellectual Property Agreement that assigns such rights to the University.

As a condition of employment, the Intellectual Property Agreement is required to be completed and signed by individuals first appointed or transferred to the following classification categories: (1a) executive, administrator, academic administrator, and academic throughout the University; (b) faculty, staff exempt, staff nonexempt, and technical service in academic or academic service units throughout the University; (2) for any existing employee in the above classification categories who has not previously signed this IPA; (3) graduate assistants/fellows/trainees at the time of their first appointment; and (4) undergraduate/graduate students, postdoctoral trainees/research associates, wage payroll employees, visiting scholars/scientists/students, emeritus/retired faculty and others who may be in a position to make, conceive or reduce to practice inventions or otherwise develop technology.

Please Note: The requirement to have individuals identified in item 2., above, sign an intellectual property agreement arises from: (1) the University's obligations under the Federal Bayh-Dole Act to patent and effectively transfer inventions arising from Federally sponsored research results to industry for the public benefit and to grant the government a license to use such inventions for government purposes; (2) the University's compliance with contract terms under industry-sponsored research; and (3) the University's responsibility to protect the intellectual property of our faculty and students. It is not intended to restrict the free exchange of scholarly information or prohibit free and open collaborations between scholars or scientists. It is specifically directed toward those situations in which the development of new technology is targeted.

(Appendix III)
It shall be the responsibility of the appropriate budget executive or budget administrator to ensure that the Intellectual Property Agreement is presented to, and signed by, any individual meeting the conditions specified above. Letters of offer shall contain a statement that the signing of the attached-intellectual property agreement is a condition of employment.

The signed copy of the Intellectual Property Agreement shall accompany the personnel action ("NAPP" in EASY) appointing or transferring an individual to a position covered by this policy. Personnel actions requiring, but not including, a signed Intellectual Property Agreement shall not be processed until the agreement has been signed.

The Office of the Vice President for Research manages research intellectual property through the Office of Sponsored Programs and the Office of Technology Management. The Office of Sponsored Programs manages all relationships with sponsors on behalf of the University and negotiates agreements with sponsors that determine how research intellectual property developed under a research project will be administered. The Office of Technology Management handles all the patents, copyrights, trademarks, and tangible research intellectual property issues when the University has full or partial ownership of the research intellectual property. University personnel have an obligation to disclose promptly to the Office of Technology Management, through the cognizant University administrators, research intellectual property developed either with University Resources or within the fields of expertise and/or within the scope of employment for which the University retains them.

**Instructional and Scholarly Intellectual Property -**

The University encourages faculty, staff, and students to create scholarly and instructional intellectual property. In this context, copyright ownership of such works generally rests with the creator(s) unless their creation is directed by the University, or is subject to a sponsor's agreement that provides for a different ownership. University-directed works are those created at the specific direction of a University unit for the University’s ownership and use. Instructional Intellectual Property will be deemed a University-directed work if it is created pursuant to a written agreement between the faculty member or staff member and the University unit or if the work is considered University-directed by the standing policy of the unit.

The University is granted the non-exclusive, royalty-free right and license to use any instructional intellectual property created while the creator was a member of the University community, if that work could be reasonably construed to be related to the scope of the University employment. In cases of University-directed works, the creators of instructional intellectual property will be granted a non-exclusive, royalty-free right to use the materials for their own limited purposes outside of the University. Rights of members of the University community to create and use scholarly and instructional intellectual property are subject to University policies on consulting activity and other activities external to the University, as well as to any unique contractual obligations related to the production of scholarly or instructional materials.

University personnel who enter into publishing contracts should consult with the Office of Technology Management to ensure that the contract does not conflict with elements of this policy or should obtain an explicit written exemption from the cognizant University administrator if the publishing contract might conflict. In particular, personnel are encouraged to reserve in those contracts the right to use the associated material freely for their own classroom instructional purposes. Creators of instructional intellectual property may consider obtaining a Creative Commons license and can contact the Office of Technology Management, through the cognizant University administrators, for assistance.
University personnel are expected to assist other members of the University community in fulfilling the University’s educational mission. This includes sharing of instructional intellectual property within the University for internal instructional usage, understanding that developers and users of instructional intellectual property are expected to use the material ethically and to give appropriate credit to all source material and coauthors. Usage of instructional intellectual property by University employees should be accompanied by appropriate attribution of the source of the instructional intellectual property, and the original creator(s) should be consulted regarding the appropriate attribution and usage when possible. The original creator(s) should also be given the option not to be listed as a source of the material if they prefer not to be associated with its subsequent usage. Any questions regarding the appropriate attribution of authorship should be referred to the cognizant University administrator. Faculty members who dispute the cognizant University administrator’s decision regarding attribution may seek a review by the Faculty Rights and Responsibilities Committee of the University Faculty Senate in cooperation with the Vice Provost for Academic Affairs.

Intellectual property that spans one of the boundaries between research, scholarly, and instructional as defined in this policy should be considered on a case-by-case basis by the cognizant University administrator. Faculty members who dispute the cognizant University administrator’s decision may seek a review by the Faculty Rights and Responsibilities Committee of the University Faculty Senate in cooperation with the Vice Provost for Academic Affairs. In cases that involve research intellectual property, final authority rests with the Vice President for Research.

DEFINITION OF TERMS:

Cognizant University administrator
includes deans, department heads, program and center directors, office directors, or other individuals delegated by the budget executive to administer such matters.

Instructional intellectual property
is the term used to describe materials produced for instruction in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.

Research intellectual property
is the term used to describe the discoveries, inventions and creations with potential commercial value that result from research activities. Most research intellectual property developed at the University can be protected by patents, but some University research intellectual property (i.e. software) is more appropriately protected by copyright. Although some research intellectual property may be protected by trademark or trade secret, it is rare for the University to utilize these methods of protection.

Scholarly intellectual property
is the term used to describe materials resulting from scholarly, literary, and artistic work such as journal papers, books, essays, poems, paintings, sculpture, musical scores, etc. in any format, including (but not restricted to) print materials, video recordings, audio recordings, and digital materials.
Technology transfer is the process by which inventive, creative and scholarly works may be put to public use and/or commercial application.

University Resources is the term used to define any support administered by or through the University, including but not limited to funds, facilities, equipment or personnel. The term also includes funds, facilities, equipment, or personnel that are provided through funding from governmental, commercial, industrial, or other public or private sources and administered by the University.

CROSS REFERENCES:

RA12 -- Technology Transfer and Entrepreneurial Activity (Faculty Research)

RA17 --Courseware

RA13 --Coauthorship of Scholarly Reports, Papers and Publications
RA12 – Technology Transfer & Entrepreneurial Activity (Faculty Research)

This policy will be superseded by the new policies on faculty consulting and on other staff activities external to the University that are currently under consideration.
RA17 – Courseware

This policy has a number of potential conflicts with Core Principle #4, mostly associated with the distinction between work that is “commissioned” and “noncommissioned.” The policy also makes a strong distinction between Courseware and Courseware Modules, but seems to repeat most of the same rules for both.

- Change references to “commissioned” work to read “University-directed” work for consistency across policies and to soften the language
- Change references to “non-commissioned” work to read “University personnel-initiated” work for consistency across policies and to soften the language
- The current policy treats Courseware and Courseware Modules as two separate entities. The suggested revisions merge these two into a single section, and differentiates, instead, between “University-directed” and “University personnel-initiated” works. These changes serve to make the policy more clear and concise.
- The associated Copyright Agreement needs to be reviewed and revised by legal personnel under the direction of the Office of General Counsel so that it is aligned with the revised policy.
- The 2005 advisory committee should be convened more regularly to emphasize the importance of the instructional IP issue and to ensure that policies are kept up to date. The committee should meet a minimum of once per academic year to review policies for potential updates and to address any concerns that have been brought to their attention by University personnel. The committee structure, purpose, and meeting schedule should be publicized in a venue like the Newswire to make faculty members better aware of its purpose and to inform them regarding the process for bringing an issue forward for committee review. In conjunction with this annual meeting, the University Senate Committee on Faculty Affairs could make an annual report to Senate on instructional intellectual property.
- The sections on implications and on University assistance with copyrighting could be removed since they do not contain clear guidance for policy.

Specific wording is recommended in the draft revision of RA17 below.
SUGGESTED REVISIONS TO TEXT

Policy RA17 COURSEWARE

Contents:

- Purpose
- Definitions
- General
- Policy
- .... University-directed Works
- .... University Personnel-initiated Works
- Cross References

PURPOSE:

Penn State recognizes that information technology provides valuable new tools through which University personnel can enhance learning for residential courses and extend programs and courses to new students at a distance. The University strongly encourages the involvement of University faculty and staff in computer-based and computer-assisted instruction and in the development of computer-based instructional materials. The purpose of this courseware policy is to provide incentives for the involvement of University personnel in courseware and courseware module development while also protecting the University’s interests in its educational programs and in controlling costs to students.

This document focuses exclusively on the University’s instructional intellectual property policy for courseware. Patentable software developed for courseware purposes will be handled under existing University policy RA11.

DEFINITIONS:

Courseware: For the purposes of this policy "courseware" is defined as a substantially computer-based package of content, assessment materials, and structure for interaction that permits a course to be taught without requiring physical access to a student.

In other words, it is an entire course, fully transportable, minus the specific discussions that may occur between faculty and student or among students within a specific offering of the course.

Courseware modules: For the purposes of this policy a "courseware module" is defined as computer-based or substantially computer-based materials intended to enhance or supplement a Penn State residential or on-line course.
Courseware modules are intended to enhance or supplement, but not replace, traditional classroom instruction.

It is anticipated that the goal of a substantial fraction of courseware modules will be to provide modest enhancements to existing and evolving courses and that much or most will be provided at no-cost or at the cost of distribution (that is, without royalties) to students in Penn State courses.

Examples of courseware modules include digitized lectures, demonstrations, or experiments, computer-based or partially computer-based textbooks, software applications, or other instructional materials and course enhancements that support classroom lectures but are not integrated into complete courseware products.

**GENERAL:**

Courseware and courseware module development must be consistent with the primary obligations of University personnel to teaching, research, and service to the public.

Conflict of interest and/or commitment can occur when University personnel develop courseware and courseware modules for personal financial gain rather than for the benefit of their teaching responsibilities at Penn State.

- The sale or use of courseware or courseware modules in areas that substantially compete with Penn State educational programs is not allowed without prior University approval.
- Where necessary, mechanisms whereby potential conflicts will be avoided shall be set forth in a Memorandum-of-Understanding (MOU).
- Requests for approval shall be signed by the University personnel involved in such activities, and forwarded by the appropriate Dean to the Vice President for Research and Dean of the Graduate School who shall have authority to provide final approval.

The Vice President for Research and Dean of the Graduate School, in consultation with the Chair of the University Faculty Senate, will appoint an advisory committee for courseware to monitor the effectiveness of the policy, to recommend updates as necessary, and to provide guidance for other courseware issues (including appeals) that may arise from time to time. The committee shall consist of five (5) faculty members representing a variety of disciplines, and members shall be appointed annually for a term of one year. Members may be reappointed for a maximum of three consecutive terms, but will be eligible for reappointment after a one year hiatus.

**POLICY:**

**UNIVERSITY-DIRECTED WORKS**

Directed works are those created at the specific direction of a University unit for the University’s ownership and use. Courseware or courseware modules will be deemed University-directed Works if they are created pursuant to a written agreement between the faculty member or staff member and the University unit or if the work is considered University-directed by the standing policy of the unit.
Employees in staff positions should clarify with their supervisors as to whether a particular project should be considered a University-directed work as part of the employee’s normal duties. In cases of University-directed courseware or courseware modules, the University will own the copyright. Even in the cases of University-directed works, the Penn State author(s) will be granted a non-exclusive, royalty-free right to use the materials for their own limited purposes outside of the University. Rights of authors are subject to University policies on consulting activity and other activities external to the University, as well as to unique contractual obligations related to the production of the instructional materials.

- University-directed works include, but are not limited to, courseware and courseware modules development specifically assigned or required as part of regular teaching duties.

- The development of University-directed courseware and courseware modules may also be initiated by University personnel who desire financial support or assistance from the University, through the individual’s academic department, college, or an administrative unit, for courseware development.

- The University retains ownership and has legal responsibility for University-directed work and will oversee any publication of University-directed courseware and courseware modules.

- Control of University-directed courseware and courseware modules shall rest with the developing department or program.

- A written agreement between the University and the author(s) stating the scope and goals of the work should be signed at the start of the development process.

- The agreement should also establish the extent to which materials may be used in derivative works published outside the University and will also formalize the relationship with authors outside the University (if any) and the procedure for the use of existing materials.

- Should the materials be distributed beyond the University's programs, the author may be eligible to receive reasonable royalty payments consistent with University policy AD17.

UNIVERSITY PERSONNEL-INITIATED WORKS

In some cases, University personnel may initiate the development of courseware and courseware modules independent of specific direction by the University. The author(s) of these materials will own the copyright. However, for works within the scope of the author’s University employment, the University will be granted a non-exclusive, royalty-free right and license to use the materials for instructional purposes within the University. Rights of authors are subject to University policies on consulting activity and other activities external to the University, as well as to unique contractual obligations related to the production of the instructional materials.

- Whether the work is undertaken for compensation or otherwise, the author has the responsibility to disclose the work to the author's department head/division head or Dean/Campus Executive Officer at the beginning of the development process.
- The University will accept legal responsibility for the use of University personnel-initiated courseware and courseware modules in University programs; legal and financial responsibility for all other uses will rest with the author.

- Control of University personnel-initiated courseware and courseware modules used in University programs shall rest with the department or program that exercises the University’s non-exclusive, royalty-free right of use, in consultation with the author.

- On request, the University will provide assistance with copyright issues for University personnel-initiated courseware and courseware modules used in University Programs through the Computer, Network & Information Security Office.

- The University will not become involved in registering the copyright for University personnel-owned courseware and courseware modules, but it will make information available to facilitate the author’s doing so. University personnel using University facilities to make University personnel-initiated courseware modules available (for example, via Information Technology Services servers) should use care to ensure that applicable copyright laws and policies are followed.

- The sale or use of University personnel-initiated courseware and courseware modules developed by Penn State personnel in circumstances that substantially compete with Penn State educational programs is not allowed without prior University approval.

- The University will not otherwise interfere with the author’s use of the courseware and courseware modules, and the author may arrange for non-competing use outside the University when this does not represent a conflict of interest or conflict of commitment. To that end, sponsoring academic units are encouraged to obtain a Creative Commons license for the materials.

- When exercising its non-exclusive, royalty-free right and license to use the work, the University will ensure that proper credit is given to the courseware module author(s).

- It is anticipated that the goal of a substantial fraction of University personnel-initiated courseware and courseware modules will be to provide modest enhancements to existing and evolving courses and the University will work to provide such works to students at no cost or minimal cost to the student.

- The author may receive reasonable royalty payments for University personnel-initiated works used in Penn State courses consistent with University policy AD17.

**IMPLICATIONS:**

Courseware and courseware modules have different implications for the University curriculum and raise different issues related to approval for use in academic programs.

Because complete courseware products act as course replacements,
The use of University personnel-initiated courseware in University educational programs is allowed only under the University’s supervision.

For works provided at no-cost or minimal cost, supervision may be provided at the department level.

All other works must be published, either through the University, or through an external publisher.

Generally, this will require transfer of copyright and some or all legal and financial responsibilities.

No-cost University personnel-initiated courseware modules, including course web pages, may be used in University educational programs under the supervision and control of the Penn State author(s).

University personnel-initiated courseware modules for which student payment is required may be used only under the University’s supervision.

For works provided at minimal cost such supervision and control may be provided at the department level.

All other works must be published, either through the University, or through an external publisher.

CROSS REFERENCES:

Other Policies in this Manual may have specific application and should be referred to especially;

HR91 - Conflict of Interest,

RA11 - Intellectual Property,

RA12 - Technology Transfer and Entrepreneurial Activity (Faculty Research),

AD17 – Royalty Payments for Course Materials

Also applicable is C/R Form A-1 - Copyright Agreement.
IPA – University Intellectual Property Agreement

The current form of the IPA does not make distinctions between different types of intellectual property and it appears to be in direct conflict with the Core Principles. A small revision allows for this to be fixed, as reflected in the version below. Additional edits are also needed for other reasons outside the scope of this report, and they are not reflected in the version below but will be implemented separately.
SUGGESTED REVISION TO TEXT

**Purpose**: This form is required to be completed and signed by individuals first appointed or transferred to the following classification categories: (1a) executive, administrator, academic administrator, and academic throughout the University; (b) faculty, staff exempt, staff nonexempt, and technical service in academic or academic service units throughout the University; (2) for any existing employee in the above classification categories who has not signed an IPA; (3) graduate assistants/fellows/trainees at the time of their first appointment; and (4) undergraduate/graduate students, postdoctoral trainees/research associates, wage payroll employees, visiting scholars/scientists/students, emeritus/retired faculty and others who may be in a position to make, conceive or reduce to practice inventions or otherwise develop technology.

**Instructions**: The original signed agreement should be returned to the Intellectual Property Office via your department of employment or matriculation.

I agree, as a condition of my employment/appointment/association, to abide by the terms of the University’s Intellectual Property Policies and Procedures currently in effect, as well as any subsequent revisions thereto. In so agreeing, I especially note the responsibilities set forth below.

1. to assign and do hereby assign to the University (or its designee) all rights which I have or may acquire in inventions, discoveries, rights of patent therein, software or courseware which are conceived, reduced-to-practice or authored by me to the extent specified in University policy:
   
   (a) with the use of University facilities or resources, or
   
   (b) in the field of expertise and/or within the scope of responsibilities covered by my employment/appointment/association with the University (hereafter PSU IP);

2. to submit invention disclosures to the University promptly following the completion of conception or the first reduction-to-practice of any PSU IP;

3. to do whatever is required to enable the University (or its designee), at its expense, to protect the PSU IP whether by patent, copyright or otherwise; including:
   
   (a) making myself available to meet with patent attorney and provide necessary documentation, data and research results to support the filing or prosecution of patent applications covering PSU IP, or
   
   (b) reviewing and signing documents from patent attorney retained by PSU (or its designee) to seek protection of PSU IP, or
   
   (c) to assist the University (or its designee) in seeking licensees to commercialize PSU inventions;

4. to maintain laboratory documentation, including laboratory notebooks, where appropriate, to adequately demonstrate that inventions or discoveries were conceived or first reduced-to-practice by me including clear identification of any sponsorship;

5. prior to completion of my association with work contracted pursuant to contracts or grants, a complete disclosure of all software, instructional materials, inventions or discoveries conceived or first reduced-to-practice by me with the utilization of time, money or facilities charged to contracts or grants, and copyrightable works vested thereunder, must be submitted to the University.

I agree it is my responsibility to read and understand PSU policies governing IP, including University policies:

- RAG20- Guidance on the Disclosure of Significant Financial or Business Interest(s)
- RA11 - Patents and Copyrights (Intellectual Property)
- RA12 - Technology Transfer and Entrepreneurial Activity (Faculty Research)
- RA17 - Courseware

(Appendix III)
I understand that this agreement is part of the terms of my employment/appointment/association; that any contract of employment or other legally binding agreement entered into by me with the University after this agreement shall be considered to include this agreement unless a provision of that contract of employment specifically modifies this agreement.

My responsibility set forth in Section (3), will continue after termination of my employment/appointment/association with the University.

If I am now or hereafter become employed as a principal investigator or director of a University research, development, or other type of project, I will determine whether each person who performs any part of the research or development work on the project for which I am responsible has signed an appropriate Intellectual Property Agreement; and if not, will obtain such additional Intellectual Property Agreements as are necessary, and forward them to the Intellectual Property Office.

I intend to be legally bound by this agreement.

**PLEASE CHECK CURRENT STATUS AND SIGN:**

- [ ] FACULTY/STAFF  
- [ ] VISITING SCHOLAR/SCIENTIST/STUDENT
- [ ] GRAD ASST/FELLOW/TRAINEE  
- [ ] EMERITUS/RETIRED FACULTY
- [ ] GRADUATE STUDENT  
- [ ] NON-DEGREE STUDENT
- [ ] UNDERGRADUATE STUDENT  
- [ ] OTHER __________________________
- [ ] POSTDOCTORAL TRAINEE/RESEARCH ASSOCIATE

______________________________   __________________________
Printed Name                       Social Security Number or Individual
______________________________   Taxpayer Identification Number
Signature                           Witness
______________________________   Date