

# University of New Hampshire

## Policy on Ownership and Management of Research Data

### Referenced University Policies and Guidelines:

Intellectual Property Policy	Policy on Financial Conflict of Interest in Research
Policy on Misconduct in Scholarly Activity	Guidelines on Material Transfer Agreements
Property Policy	Users' Radiation Safety Handbook
Faculty Handbook	Student Rights, Rules and Responsibilities
Policy on Care and Use of Animals	Policy on Privacy and Security of Technological Resources
Policy on Use of Human Subjects in Research	

### I. Introduction

Collection and generation of research data are integral aspects of research activity at the University of New Hampshire (University), whether the data are primary in nature or compiled, assembled, or otherwise derived. These data have several purposes: to serve as a record of the investigation, to form the basis on which conclusions are made, and to enable the reconstruction of procedures and protocols. In keeping with its commitment to promote integrity in the scholarly process, the University's research data management practices should ensure open and timely access to research data. Such access is especially vital with respect to questions about compliance with legal or regulatory requirements governing the conduct of research, accuracy or authenticity of data, primacy of findings, and reproducibility of results.

The University's responsibility for stewardship of research data, including access to data, derives from the Office of Management and Budget (OMB) Circular A-110, Subpart C .53. While this regulatory authority applies specifically to federally funded activity, the principle that it espouses informs good management practices with respect to all research activity undertaken at the University.

### II. Definitions

#### A. Investigator

1. Faculty or Staff Principal Investigator (PI): A faculty or staff employee of the University who holds primary responsibility for the research project/activity for which data will be collected.
2. Student Investigator: A graduate or undergraduate student involved in the design, conduct, data collection, or reporting of a research project/activity at or under the auspices of the University.
3. Other Investigator: A visiting scholar, scientist, postdoctoral fellow<sup>1</sup>, or other visiting person who holds primary responsibility for a research project/activity for which data will be collected at or under the auspices of the University.

#### B. Sponsoring Principal Investigator (Sponsoring PI)

The University faculty or staff advisor, instructor, or mentor on a student-initiated research project/activity serves as the Sponsoring PI for purposes of this Policy. (See also footnote 1.)

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<sup>1</sup> For purposes of this Policy, individuals appointed to positions at the University as Postdoctoral Research or Teaching Associates and NIH Postdoctoral Trainees – as distinct from Postdoctoral Fellows – are considered to have the same rights and responsibilities as Student Investigators.

### C. Research

Investigation undertaken to gain knowledge and understanding, including that conducted in the classroom setting. An investigation may be conducted without any particular application or generalization in mind, for possible future application or generalization, or to address an immediate need.

### D. Research Data

The University defines Research Data broadly: Recorded information necessary for the reconstruction and evaluation of reported results of research and the events and processes leading to those results, regardless of the form or the media on which it may be recorded. The term includes technical data, project progress reports, final project reports, and computer software, but does not include other information associated with contract administration, such as financial, administrative, cost or pricing, or management information. Examples of research data include, but are not limited to, the following:

1. Raw numbers and field notes or observations, detailed experimental protocols, procedures for data analysis and/or reduction, and data obtained from instrumentation, interviews, or surveys;
2. Computer files and databases, research notebooks or laboratory journals, tables, charts, slides, videotapes, sound recordings, and photographs;
3. Physical collections, biological specimens, cell lines, derived reagents, marine life, drilling core samples, genetically-altered microorganisms, or other tangible artifacts.

Research data do not include drafts of scientific papers, future research plans, peer reviews, or communications with colleagues; trade secrets, commercial information, or materials necessary to be held confidential by a researcher until they are published, or similar information protected under law; personnel, medical, and similar information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (See OMB Circular A-110 Subpart C .36 (d) (2) (i).)

### E. Ownership

Ownership is that condition under which an organization, individual(s), or any combination of the foregoing has (have) all rights and title to specific property owned.

### F. Custodianship

For purposes of this Policy, Custodianship is the physical possession of and direct responsibility for protecting research data, including accurate recording and proper retention, maintenance, access, sharing, and disposition of the data.

### G. Stewardship

For purposes of this policy, Stewardship is the University's overarching responsibility to develop, maintain, and ensure adherence to appropriate policies for data ownership and management.

### III. Authority and Responsibilities

#### A. The Vice President for Research and Public Service (VPR&PS)

The VPR&PS has the authority and responsibility for administering and enforcing this Policy for the University, including, but not limited to, the following:

1. Communicating this Policy to all members of the University community;
2. Complying with terms of sponsored agreements;
3. Ensuring appropriate use of animals, human subjects, recombinant DNA, etiologic agents, radioactive materials, and the like<sup>2</sup>;
4. Protecting rights of faculty, staff, students, and other investigators to access data from projects/activities in which they participated as researchers at or under the auspices of the University<sup>3</sup>;
5. Securing intellectual property rights<sup>4</sup>; and
6. Facilitating investigation of charges, such as scientific misconduct or financial conflict of interest in research<sup>5</sup>.

#### B. Faculty or Staff Principal Investigator (PI), Other Investigator, or Sponsoring Principal Investigator (Sponsoring PI)

The PI, Other Investigator, or Sponsoring PI for a research project/activity is responsible for all aspects of procuring and maintaining research data, including collection and/or recording, secure retention, provision of adequate accompanying documentation, and provision for timely access to essential records. Research data must be retained in sufficient detail and duration to allow appropriate response to questions about research accuracy, authenticity, primacy, and compliance with laws and regulations governing the conduct of research.

Consistent with standard practices for her/his discipline, each PI, Other Investigator, or Sponsoring PI is responsible for adopting sound practices for procuring and maintaining research data, and for educating those supervised about these practices and associated rationale. Of particular importance are issues involving confidentiality of data obtained from human subjects, general management of data from human or animal subjects, and instances where the University must ensure timely access to research data, including situations in which an Investigator leaves the University.

Each PI, Other Investigator, or Sponsoring PI and each member of the research group is responsible for following this Policy and the PI's, Other Investigator's, or Sponsoring PI's established practices for the research project/activity.

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<sup>2</sup>For details, please contact the appropriate University regulatory committee or office: IRB (Institutional Review Board for the Protection of Human Subjects), IACUC (Institutional Animal Care and Use Committee), Office of Environmental Health and Safety (rDNA, etiologic agents, radioactive materials, etc.).

<sup>3</sup> See the *Faculty Handbook* and *Students' Rights, Rules and Responsibilities*.

<sup>4</sup> See the University Intellectual Property Policy.

<sup>5</sup> See University policies on Financial Conflict of Interest in Research and Misconduct in Scholarly Activity.

### C. Student Investigator

Each Student Investigator is responsible for following this Policy and the direction of her/his Sponsoring PI. (See also footnote 1.)

### IV. Applicability and Scope

This Policy applies to all members of the University community including, but not limited to, faculty, staff, students; visiting scholars, scientists, and postdoctoral fellows; and any other persons at the University involved in the design, conduct, or reporting of research at or under the auspices of the University.

This Policy applies regardless of the source of support for the research project/activity and therefore does not distinguish between funded and unfunded efforts, except where specific sponsor requirements prevail.

This Policy should not be construed to limit the right of any member of the University community who is an Investigator on a project/activity to have access to and to work with the research data generated in that project/activity, nor should this Policy be construed to constrain the practices that are particular to the field of inquiry of which the data are a part.

### V. Ownership<sup>6</sup> and Custody (See also Section X.)

#### A. Faculty or Staff Principal Investigator (PI) or Other Investigator

A PI or Other Investigator shall own any research data generated for research projects/activities s/he initiates unless

- a. The Investigator performed the research project/activity while supported by University-administered funds in the form of salary, wages, or stipend, including externally-sponsored funds; **or**
- b. The Investigator used University-owned facilities or equipment for the research project/activity (other than University libraries and similar facilities available to the general public, or occasional use of equipment and office space); **or**
- c. There is a legal obligation that otherwise restricts ownership of the research data by virtue of a prevailing sponsored research, material transfer, confidential disclosure, or other legally binding written agreement accepted in the University's name on behalf of the Investigator.

#### B. Student Investigator

The University shall own all research data generated by a Student Investigator for research projects/activities in each of the following instances:

1. The Student Investigator performed the research project/activity while supported by University-administered funds in the form of salary, wages, or stipend, including externally-sponsored funds.

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<sup>6</sup> Issues involving potential financial gain or commercial value of intellectual property based on or derived from research data are covered by the University's Intellectual Property Policy.

2. The Student Investigator used University-owned facilities or equipment for the research project/activity (other than University libraries and similar facilities available to the general public.)
3. The Student Investigator received course credit or conducted the research project/activity for her/his thesis or dissertation.
4. The University is the legal owner of the research data by virtue of a prevailing sponsored research, material transfer, confidential disclosure, or other legally binding written agreement accepted in the University's name on behalf of the Student or Sponsoring PI.

#### C. Custody

Through this Policy, the University automatically assigns custody of all University-owned research data to the PI, Other Investigator, or Sponsoring PI (for students), as applicable, who carries out her/his custodial responsibilities in accordance with this Policy.

#### VI. Recording Research Data

The University's minimum standard is that research records are written/recorded, dated, and identified by the project title and name(s) of the individual(s) conducting the activity, experiment(s), or other investigation(s). If the project/activity involves human subjects or animals, the IRB- or IACUC-approved protocol number must be included. In addition, the University encourages record keeping that allows duplicate copies of entries to be made whenever possible. In cases where digital or computer systems are employed, the Investigator should provide for systematic and robust back-up and archiving functionality. Whatever the organizational system adopted, the Investigator should ensure that all personnel involved with the research project/activity, including any key administrative personnel, understand and adhere to the system.

Certain circumstances argue for extra care or special procedures to be adopted for data collection, handling, maintenance, or preservation. Examples of such circumstances include long-term studies; research involving the use of animals, human subjects, or hazardous materials; or investigations carried out under extreme environmental conditions. (For further information on animals and human subjects, see referenced policies and guidelines. For hazardous materials and environmental considerations, consult the University Office of Environmental Health and Safety website.)

#### VII. Retaining/Maintaining Research Data

##### A. Data Retention Period

Except as noted below, the University requires a data retention period of at least a) three years from the date of data collection, b) three years from the termination of a sponsored agreement under which the data were collected (or longer if the agreement mandates), or c) three years from the publication of a paper based on the data. The longest term of the three options cited shall be the controlling period.

Exceptions:

1. For Student Investigators, research data must be retained in an authorized manner until the pertinent three year controlling period (above) has elapsed, the student's degree is awarded, or the research project/activity is closed or completed, whichever is longer. In addition, if the student's department requires a longer retention period, the latter would prevail.

2. When existing research data are relevant to an allegation of misconduct in scholarly activity or of financial conflict of interest, or to an open case of litigation, claim, or audit, the retention period must extend at least to the resolution of the case and final action taken, or the three year controlling period (above) has elapsed, whichever is longer.
3. Data relevant to intellectual property interests must be retained for as long as may be necessary to protect those interests, at minimum for the (above) three year controlling period. (For example, data relevant to patent applications must be retained in accordance with US Patent and Trademark Office guidelines.)
4. Data subject to specific federal, state, or local regulation must be retained for the period indicated by the regulation, or the three year controlling period (above), whichever is longer. (For example, most records of radioactive material use must be retained for as long as the University is granted a license by the New Hampshire Bureau of Radiological Health. Consult the University Office of Environmental Health and Safety for guidance.)
5. When records are transferred to or maintained by the Federal awarding agency, the three year retention requirement is not applicable to the award recipient (University).

#### B. Physical Location of Data

Consistent with the standards for her/his discipline, the Faculty or Staff Principal Investigator (PI), Other Investigator, or Sponsoring PI is responsible for the physical storage of research data. Normally this will be either in the University unit where the research has been performed, or in facilities owned by the University. In cases where data storage imposes a severe space and/or financial hardship, or where there is a concern about the scope and appropriateness of procedures, the PI, Other Investigator, or Sponsoring PI should contact the VPR&PS for guidance.

All research group members are encouraged to use copies of original data whenever possible, particularly if working away from University premises. In all cases, the PI, Other Investigator, or Sponsoring PI is responsible for assuring that appropriate management of research data is exercised when those data are in the personal possession of the PI, other members of the research group, Other Investigator, Sponsoring PI, or Student Investigator.

#### C. Destruction of Data

At the discretion of the PI, Other Investigator, or Sponsoring PI, research data may be destroyed or otherwise disposed of after retention period requirements have been met. (See section VII.A.) In some cases it may be advisable to document the manner of destruction if, for example, animals, human subjects, or hazardous materials were involved.

### VIII. Accessing Research Data

#### A. Members of Research Groups

Reasonable access to research data should normally be available to any member of the University research group in which the data were collected, when such access is not limited otherwise by written agreement, policy, or regulation. Non-University collaborators are entitled to access the data they helped create. Prior to the initiation of a research project/activity, the PI, Other Investigator, or

Sponsoring PI should come to a written understanding with each Student Investigator and/or member of the research group, specifying who has access to what research data and when. For unique materials prepared in the course of the research, such as intermediates in chemical synthesis, cell lines, or reagents, items that can be proportioned should be divided among members of a research group at different locations under negotiated terms of a written Material Transfer Agreement. If there is any possibility that a copyright or patent application might emerge from a group project or other collaborative effort, the PI, Other Investigator, or Sponsoring PI should promptly contact the University's Director of the Office of Intellectual Property Management for guidance.

## B. University

There may be instances in which it is necessary for the University to access research data in situations including, but not limited to, patent disputes or allegations of data misuse or financial conflict of interest. To facilitate necessary, timely, and appropriate access to research data, the University reserves the right to take physical possession of such data. This responsibility lies with the VPR&PS.

### 1. With Prior Notification

Where there exists a legitimate official need to take physical possession of research data in situations not covered by existing University policies such as those on Intellectual Property, Misconduct in Scholarly Activity, Financial Conflict of Interest in Research, or Privacy and Security of Technological Resources, the VPR&PS will notify the Investigator in writing of such need. The VPR&PS's request will describe the data sought and set forth the legitimate official need(s) sufficient to justify the request. The Investigator may appeal the request to the University President. Any such appeal must be in writing and submitted to the President within 5 days of the VPR&PS's request. The President shall review the appeal, make any further inquiry deemed appropriate, determine whether there is sufficient legitimate official need, and inform the Investigator of the decision in writing within 5 working days of receipt of the appeal. The President's decision shall be final.

### 2. Without Prior Notification

If the VPR&PS determines it would be impractical (e.g., deceased Investigator) or would be contrary to the University's interests (e.g., Investigator has violated a University contractual obligation) to notify the Investigator that the VPR&PS intends to take physical possession of the research data, the VPR&PS will present the written request and justification to the University President. The President will determine whether to grant the request and her/his decision shall be final. If the request is granted, the President will communicate this decision to the Investigator after the research data have been secured by the VPR&PS.

## IX. Sharing Research Data

The University recognizes the importance of data sharing in the advancement of knowledge and education. For purposes of this Policy, the University recognizes two categories for sharing research data:

### A. Internal

Research data created by University Investigators may be shared for research or scholarly purposes with other University personnel when such sharing is not limited by written agreement, policy, or

regulation. Investigators shall make every effort to protect intellectual property rights as defined and governed by the University Intellectual Property Policy.

B. External

Certain external sponsors (e.g., the National Science Foundation and the U.S. Public Health Service) require that data gathered in the course of research supported with their funds be shared in a timely manner with qualified individuals in the scientific community after the associated research results have been published or provided to the sponsor. When data sharing is not governed otherwise by another written agreement or an applicable policy or regulation, research data created by University Investigators may be shared with a broad scientific or educational audience. Tangible research materials (e.g., cell lines, technical data, manufactures of matter, or any unique material) shall be shared only by specific agreement with persons or entities outside the University (or vice-versa). Such specific agreements may include but are not limited to Material Transfer Agreements, Uniform Biological Material Transfer Agreements, License Agreements, Grants, and Contracts.

X. University Use

The University retains a non-exclusive, irrevocable, royalty-free license to use all research data for purposes of internal research, education, and/or protection of intellectual property when the data are generated at or under the auspices of the University.

XI. Disposition of University-owned Research Data When Investigator Permanently Leaves University and/or Ceases Involvement in Project or Activity

A. Faculty or Staff Principal Investigator (PI), Other Investigator, or Sponsoring PI

The PI, Other Investigator, or Sponsoring PI should come to a written understanding with each Student Investigator and/or member of the research group, specifying which parts of the research data may be copied and taken by the individual when s/he leaves the group or ceases involvement in the research project/activity. The written understanding should address research data generated both before and after the individual's departure from the research group or cessation of her/his involvement in the research project/activity. The original data must remain in the custody of the PI, Other Investigator, or Sponsoring PI.

If/when the PI, Other Investigator, or Sponsoring PI permanently leaves the University, s/he may normally take original research data for which s/he is custodian. However, original research data must remain with the University when a) the data have been used for a patent application filed or pending filing by the University, b) the research data are relevant to an open allegation of violation of the University Policy on Misconduct in Scholarly Activity or the Policy on Financial Conflict of Interest in Research, or c) the funding sponsor of the project/activity specifically requires University retention of original data. Departing PIs, Other Investigators, and Sponsoring PIs are obligated to hold the data in trust for the University and return the data when requested to do so. The data must not be disposed of within the controlling retention period (see section VII.A.) without written permission of the University's VPR&PS.

B. Student Investigators

Upon departure from the University, a Student Investigator may take a copy of University-owned data related to her/his research project/activity (including thesis or dissertation). (See section V.B.)

However, s/he must leave the original research data, including laboratory notebooks, with the Sponsoring PI.

## XII. Appeal of Determination of Ownership

### A. Faculty or Staff Principal Investigator or Other Investigator

In cases where assertions of University ownership of research data are in dispute, the individual with the dispute should initiate a written appeal to the VPR&PS. Within 30 days of receipt of the appeal, the VPR&PS shall appoint an ad hoc review committee consisting of three persons. One person shall be selected by the individual(s) to be represented, one by the VPR&PS, and one by the Vice President for Academic Affairs. The review committee shall make the ownership determination which shall take effect unless a further appeal is made by the individual(s) involved, or by the VPR&PS. Within 30 days of appointment of the review committee, the committee's decision will be communicated in writing by the VPR&PS to the individual who initiated the appeal. If a further appeal is indicated, the review committee will present the case to the University President, whose written decision shall be issued within 15 days of her/his receipt of appeal, and shall be final and binding upon all parties.

### B. Student Investigators

A student wishing to appeal University ownership of research data generated in the student's research project/activity conducted at or under the auspices of the University should initiate a written appeal to the Dean of the Graduate School, if a graduate student, or to the undergraduate college/school Dean if an undergraduate student. Within 30 days of receipt of the appeal, the Dean, in consultation with the Sponsoring PI and the VPR&PS (or her/his representative), shall make a determination as to whether an exception to this Policy shall be granted and ownership of the research data assigned to the student. The Dean's decision will be communicated promptly in writing to the student. If a further appeal is indicated, the Dean will present the case to the Provost and Executive Vice President for Academic Affairs, whose written decision shall be issued within 15 days of her/his receipt of appeal, and shall be final and binding upon all parties.