Meeting Synopsis:

1. Call to order
2. Review of the minutes from March 8th, 2017
3. Review of the agenda
4. Update on Open Access legislation – legal issues – Bob Gomulkiewicz
5. Discussion with OSP on restricted contracts – Rick Glover
6. Continued discussion of shared resources – Chuck Frevert
7. Adjourn

1) Call to order

Rosenfeld called the meeting to order at 9:00 a.m.

2) Review of the minutes from March 8th, 2017

The minutes from March 8th, 2017 were approved as written.

3) Review of the agenda

The agenda was approved as written.

4) Update on Open Access legislation – legal issues – Bob Gomulkiewicz

Rosenfeld reported on pushback for the draft Open Access Policy due in part to lack of clarification on various consequences of the legislation. One question relates to procedures for submitting a work to open access when there are multiple authors, while another relates to copyright procedures for faculty who submit works to open access and then leave the institution. Rosenfeld noted clarity must be brought to these questions and others.

Bob Gomulkiewicz (chair, Advisory Committee on Intellectual Policy, Property, and Practice) was present to discuss concerns related to implementation of the Policy. Two handouts were shown (Exhibit 1) (Exhibit 2). Gomulkiewicz explained implementation of a university-wide open access policy is legally complicated; many difficulties arise at the intersection between copyright law and Executive Order No. 36 (Patent, Invention, and Copyright Policy). There was some discussion of work made for hire (a work prepared by an employee within the scope of his or her employment), and how the employer in such an arrangement owns the work. Though this copyright model is not in use at the UW, it is at several other
institutions (e.g. University of Michigan). The example and others were used to demonstrate some of the complexities in open access.

There was some discussion of nuances between copyright and contract, and the processes for the transferring of copyright ownership. Gomulkiewicz explained when there is a transfer of rights or exclusive license granted, a signed writing is required; however, with a non-exclusive license (the proposed model at UW), a signed writing is not required and other means may be used.

Rosenfeld explained a subcommittee of the Advisory Committee on Intellectual Policy, Property, and Practice (ACIPPP) has been tasked to work through possible scenarios for implementation of an open access policy at the UW. Gomulkiewicz explained the subcommittee plans to locate legally sufficient pathways to implement an opt-in or opt-out policy, and this information may be used by the FCR to determine the best pathway forward and amend the Class B legislation during fall quarter, 2017.

5) Discussion with OSP on restricted contracts – Rick Glover

Rick Glover (Senior Contracts Specialist, OSP: Director) was present to discuss a topic related to review of restricted research proposals by the FCR (which are routinely forwarded by the Office of Sponsored Programs). The most common forms of contracts reviewed by the FCR were displayed, they include:

- Classified Contracts/Subcontracts (e.g. DOD, primarily from the APL).
- Contracts with Confidentiality Agreements (e.g. clinical trials).
- Right of First Review (corporate contracts with 30-60 days Restrictions).
- Consortium Agreements (e.g. multi-center clinical trials where all parties must agree to publication of pooled data).
- Contracts with Cultural Restrictions (e.g. Native American or Australian Aborigine Groups) (Exhibit 3).

Rosenfeld explained Glover has joined the council as a representative from OSP to discuss the kinds of contracts which need to be reviewed by FCR and to identify those which are routinely approved/do not require review.

Rosenfeld explained he believes “right of first review” restrictions should not require review by FCR. There was some discussion, other members agreed, especially given how common the restriction is for research subcontracts. A member noted FCR review for such contracts creates unnecessary barriers for expediting proposals. It was noted the Secretary of the Faculty should be consulted on implementing a change wherein review of proposals with certain restrictions are no longer under the FCR’s purview. It was noted multisite trials (aka. consortium agreements) also should not require FCR review.

Rosenfeld explained he would speak with the Secretary of the Faculty about implementing the change and report back.

6) Continued discussion of shared resources – Chuck Frevert
Frevert noted he would like to discuss the expanding of shared research resources at the UW. He showed a draft white paper as part of his presentation (Exhibit 4). He explained a main goal in shared research resources is providing UW researchers access to high quality resources in a cost-efficient manner, as a number of institutions around the U.S. are currently appreciating the cost-savings of shared resources. An overview of the white paper was given.

Frevert noted there is no central assistance/funding for shared research resources at the UW. The final section of the white paper identifies potential methods for obtaining funds for shared resources. Rosenfeld asked if an inventory of shared resources is kept at the university. It was explained due to lack of funding a formal inventory was begun but never finished. It was clarified such a database requires considerable upkeep, including annual updating. There was some discussion of how the Office of Research has facilitated sharing of expensive equipment in the past mainly via administrative assistance.

After some additional discussion, there was an idea to develop both a taskforce and a “Shared Resources Coordinating Committee.” Several potential members were identified. It was noted the Coordinating Committee might also be useful in relation to S10 Grants. It was noted attempts should be made to convene the Shared Resources Coordinating Committee during the summer, to return to FCR with list of recommendations for improving shared resources in the fall of 2017.

7) **Good of the order**

Lidstrom (president’s designee) explained she has asked the new director of the UW Applied Physics Laboratory (APL-UW) to join FCR as a guest beginning fall quarter, 2017.

8) **Adjourn**

Rosenfeld adjourned the meeting at 10:30 a.m.

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**Minutes by Joey Burgess, jmbg@uw.edu, council support analyst**

**Present:**
- **Faculty:** Eliot Brenowitz, Chuck Frevert, Michael Rosenfeld (chair), Todd Herrenkohl
- **Ex-officio reps:** Diana Louden, Jennifer Harris, George Sandison
- **President’s designee:** Mary Lidstrom
- **Guests:** Bob Gomulkiewicz, Rick Glover, Pedro Fonseca

**Absent:**
- **Faculty:** Donald Chi, Mark Haselkorn, Gina-Anne Levow, Benjamin Marwick, Tueng Shen, John Slattery, Paul Fishman, Nicole Gibran
- **Ex-officio reps:** N’Vida Yotcho, Michelle Brault

**Exhibits**
- Exhibit 1 – copyright_acip3_to_fcr_060717.pdf
- Exhibit 2 – eo36_info_060717.pdf
- Exhibit 3 – Examples of the Types of Restricted Contracts Reviewed By the FCR.pdf
Copyright Policy, excepted from University of Washington EO36

2. Copyright Policy

A. Background

The University encourages the publication of scholarly works as an inherent part of its educational mission. In this connection, the University acknowledges the right of faculty, staff, and students to prepare and publish, through individual initiative, articles, pamphlets, and books that are copyrighted by the authors or their publishers and that may generate royalty income for the authors.

The variety and number of copyrightable materials that may be created in the university community have increased significantly in recent years as have the author-university-sponsor relationships under which such materials are produced. Therefore, the following statement of University policy on ownership and use of copyrightable materials is provided to clarify the respective rights of individuals and the University in this increasingly important area. The policy will be administered by the University’s Office of Intellectual Property and Technology Transfer.

B. General Statement of University Policy on Ownership and Use of Copyrightable Materials

University faculty, staff, and students retain all rights in copyrightable materials they create, including scholarly works, subject to the following exceptions and conditions:

1) Grant and Contract Limitations

Conditions regarding rights in data or restrictions on copyright privileges contained in sponsored grants, contracts, or other awards are binding on the University and on faculty, staff, or student authors. Copyright works, with the exception of routine progress reports, prepared as required elements of such sponsored grants, contracts, or other awards shall be reported to the Office of Intellectual Property and Technology Transfer for review prior to any external dissemination of the work. If necessary to fulfill grant and contract limitations, authors shall execute an appropriate written assignment of copyrights to the University.

2) University-Owned Materials
Materials shall be "University-owned" within the meaning of this policy statement if the work is a "work for hire" under copyright law or the author was commissioned in writing by the University (or one of its colleges, schools, departments, or other divisions) to develop the materials as a part of the author's regularly compensated duties, as for example, released time arrangements in the case of faculty members. As to a faculty member, "commissioned in writing" specifically does not refer to his or her general obligation to produce scholarly works.

3) University-Sponsored Materials

Materials shall be "University-sponsored materials" within the meaning of this policy statement if the author developed the materials in the course of performance of his or her normal duties and utilized University staff, resources, or funding to develop the work. As to a faculty member, "normal duties" does not include his or her usual scholarly activity unless it involves extensive uncompensated use of University resources.

4) Written Agreements

It is desirable to reach agreement in writing as to the rights of the University and of participants before work begins whenever:

a) A question exists as to whether the materials will be University-owned or University-sponsored, or

b) Copyrightable materials are likely to result from the joint efforts of persons in academic departments and University service departments.

As to jointly-developed materials, determination of rights in written form shall be accomplished no later than prior to sale of the materials in question. Questions concerning the interpretation and administration of this policy shall be resolved in accordance with Section 3.

5) Proportional Ownership

In case of materials developed in substantial part under commission and in substantial part through other means, the materials shall be regarded as "University-owned" in an appropriate proportion. In the case of materials developed in substantial part during the course of normal duties and with use of University staff, resources, or funding the materials shall be regarded as
Open Access for Scholarly Works: Copyright and Contract Primer

Copyright Basics

- An original work of authorship is copyrighted when fixed in a tangible medium of expression §102(a)
- Copyright gives the author a bundle of exclusive rights §106
  - Copy
  - Distribute
  - Derivative works
  - Publically perform and display
Copyright Ownership

- The author owns the copyright—but who is the "author?"
- Ownership scenarios:
  - Single author, one work
  - Joint authors, one integrated work
  - Compilation of separate works
  - Works made for hire

Works Made for Hire

- Definition: "a work prepared by an employee within the scope of his or her employment"
- Default ownership: "the employer" §201(b)
- Ownership exception: "unless the parties have expressly agreed otherwise in a written instrument signed by them" §201(b)
Copyright *plus* Contract

- Copyright law sets default rules on ownership and allocation of exclusive rights
- Contracts allow parties to "right size" ownership and allocation of copyright's exclusive rights
  - Assignment of rights
  - Joint ownership agreements
  - Exclusive licenses
  - Non-exclusive licenses

Contract Basics

- Offer
- Acceptance
- Consideration
- Modern contract law
  - Flexible ways to form a contract
  - Broad view of what counts as "consideration"
When is a signed writing needed?

• For employee to own “work made for hire” §201(b)
  – Is there an “academic exception?”
• For transfer of copyright ownership (assignment of rights or exclusive license) §204
• Not needed for non-exclusive license
  – EXCEPTION: for non-exclusive license to prevail over a conflicting transfer of copyright ownership §205(e)
Examples of the Types of Restricted Contracts Reviewed By the FCR

1. Classified Contracts/Subcontracts (eg. DOD, primarily from the APL).
2. Contracts with Confidentiality Agreements (eg. clinical trials).
3. Right of First Review (corporate contracts with 30-60 days Restrictions).
4. Consortium Agreements (eg, multi-center clinical trials where all parties must agree to publication of pooled data).
5. Contracts with Cultural Restrictions (eg. Native American or Australian Aborigine Groups).
WHITE PAPER: UW SHARED RESOURCES

IMPORTANCE OF SHARED RESOURCES

1. Biomedical research is changing rapidly and requires advanced technologies and specialized expertise. As team science and convergence research expand there will be an increased need for resources that integrate historically distinct disciplines and technologies such as life sciences, engineering, computer sciences, physicists, chemists and mathematicians.(1, 2)

2. Access to shared resources that provide specialized expertise and instrumentation enhances the ability of UW investigators to conduct cutting-edge research. This will increase the competitiveness of UW investigators for obtaining external research funding and will enhance the ability to recruit and retain faculty members.

3. Shared resources serve as a nexus for investigators that fosters networking and development of scientific collaborations

4. Access to specialized expertise and well-maintained instrumentation in shared resources enhances the scientific rigor and increases reproducibility of the research performed, which is a priority of NIH and NSF.(3)

5. University wide oversight of shared resources would increase the efficiency and cost effectiveness of the UW research enterprise by minimizing overlap of expensive specialized instrumentation and expertise.

6. Several Universities and research institutes are taking significant steps to increase their investment in shared resources. If the UW does not invest in shared resources it will put our scientists at a competitive disadvantage when applying for grants and will make it more difficult to recruit talented faculty.(4)

Bottom Line: Shared Resources provide access to specialized expertise and state-of-the-art instrumentation, which strengthens the ability of UW investigators to produce cutting edge research in a cost-efficient manner.

CHALLENGES FACING SHARED RESOURCES

1. Managing a revenue neutral budget (Examples from Histology and Imaging Core (HIC))
   a) Providing specialized expertise and oversight (HIC Labor - $330,000/year) in order to provide high quality services.
   b) Maintenance costs (HIC Maintenance Costs - $71,000/year)
   c) Managing workload for the existing staff. A major challenge to core directors are the “non-billable” core activities.

2. Maintaining existing resources as state-of-the-art facilities
   a) Need for capital equipment acquisitions to replace existing instruments that are at the end of their life-cycle or outdated and to purchase new instruments that are required when technologies are enhanced.
   b) Implementation of new technologies

3. Identification and development of new resources in a research enterprise that is rapidly evolving.

4. There are a number of shared resources at the UW that are underutilized. How do we communicate the existence of these shared resources to the UW research community?

5. Can the use of shared resources at the UW be increased by expanding the user base?
   a) UW Investigators
   b) Outside academic investigators
   c) External commercial (for-profit) customers
6. Duplication of expensive instrumentation and expertise is expensive. In 2010, NIH developed an initiative that awarded supplements to twenty-six universities to consolidate shared resources with overlapping function. This resulted in cores that were more efficient and productive through instillation of advanced instrumentation, improved management, integration of data systems, improved billing, purchasing and cost recovery. (5) What is the best way for the University of Washington to minimize the establishment of shared resources with overlapping function?

7. Cost is often a barrier to gaining access to a core facility. How can we assist junior faculty gain access to these technologies or make it easy for established faculty to obtain preliminary data for a grant application?

8. Faculty and staff of shared resources require continuing education and career development to maintain their expertise and skills. How do we provide training for Core staff and users?

WHAT TYPE OF ASSISTANCE SHOULD UW PROVIDE FOR SHARED RESOURCES

1. Direct Assistance
   a) Establish a point-person or office that oversees and coordinates the shared resources and who is able to connect UW researchers with cores that can assist them with their research. This would include the development of a Shared Resources Subcommittee (outlined below). Rajesh K. Uthamanthil was recently designated the Associate Vice President of Shared Resources at Fred Hutch. Having a counterpart at the UW could increase cooperative interactions between Fred Hutch and UW.
   b) Work with other research institutes in the Seattle metropolitan area (e.g., Fred Hutch, Children’s, BRI and VA) to establish cooperative agreements for use of each other’s facilities and, as appropriate, create regional facilities that offer specialized expertise or instrumentation.
   c) Provide administrative support for shared resources such as billing and development of a business plan (outlined below).
   d) Assist core directors and staff in advertising their facility (outlined below).
   e) Assist with maintenance costs, which after labor are often the next highest expense for shared resources. This assistance could be as simple as helping cores negotiate service contracts.
   f) Make supporting UW Shared Resources an important part of the mission for the Development Office and CoMotion (http://comotion.uw.edu).
      i) Develop a fund that invests in the expertise required to effectively maintain and run shared resources. Without stability, it is difficult to find and retain the specialized expertise required to effectively run cores.
      ii) Develop a fund for repairing, replacing, and upgrading instrumentation used in a shared resource
      iii) Assist with identifying mechanisms outside of NIH to obtain funding for capital investments for shared resources.
      iv) Assist with identifying and working with for-profit businesses that require the expertise and/or instrumentation provided by a shared resource.

2. Development of a Shared Resources Oversight Committee
   a) The UW should establish oversight committee that implements and oversees a strategic plan for shared resources.
   b) Each shared resource should have an internal advisory committee (IAC) to at minimum evaluate budgets, productivity, staffing and instrumentation on an annual basis. The IAC would be required to provide an annual report to the Shared Resources Oversight Committee.
   c) Objectives of the Shared Resources Oversight Committee
i Make sure that cores are working strategically and effectively together.

ii Prevent unnecessary duplication of instrumentation and specialized expertise.

iii Provide oversight and assistance in the assessment of what new resources are required by UW investigators. It will be important to develop benchmarks that would identify and close obsolete facilities/technologies that are no longer required.

iv Using the annual report of a shared resource, the OC would review the productivity and finances of the existing shared resources. These reviews should be based on appropriate benchmarks that are developed for each core.(6)

d) The oversight committee members should include a mix of facility directors, faculty that actively use shared resources and institutional leadership. By including core directors and scientists from across the UW community, this committee could be a way to foster interactions between the different cores at the UW. Having several ex officio members from the local high-tech industry needs to be considered.

3. Administrative Support

a) Assist Cores with administrative tasks, such as development of cost center rates and billing, to increase the efficiency of a core. This could include providing access to Financial Management System software.

b) Assist cores with the development of business plans that would set operational boundaries and include expectations for institutional support, such as laboratory space. Having a dollar value on institutional support for space would be of value for cores when writing grant applications. For example, for shared instrument grants (S10) there are specific questions that need to be addressed regarding institutional support for the instrument being purchased.

c) Provide information on resources that will enhance a core’s ability to work with for-profit companies.(7) For example, the Office of Regulatory Guidance in the Dean’s Office in the School of Medicine provides assistance with writing master service agreements (i.e., contracts) for providing a service to an outside for-profit company or non-profit institute.

d) Minimize red tape to make it easier for shared resources to offer paid services to for-profit businesses. An advantage to offering services to for-profit businesses is that one can increase the charges for core services and make a profit, which cannot be done for NIH funded research.

e) Assist Directors and Staff of shared resources in understanding the Federal and NIH rules and regulations for running cost centers.(8)

4. Assist with Advertising the Shared Resource

a) Provide UW investigators a list/database of available shared resources that is kept up to date, and is easy to use.

b) Assist with developing webpages for UW shared resources that includes a searchable portfolio of expertise and instrumentation.

i The websites should include key information such as core expertise, contact information, specialized instrumentation available, hours of operation, rates for services provided, information on scheduling of instrumentation and work-orders for submission of samples.

ii On the webpage, it is highly recommended that cores have a list of manuscripts published that required the assistance of core personnel and instrumentation.

iii In addition to the grants supporting a core it is important to ask authors to acknowledge the use of a shared resource in their publications.

c) Assist shared resources with the development of outreach/marketing plans. Assistance in developing a business plan or marketing strategy may be something that the business school could assist with as a student project.
d) Co-motion may be able to assist with marketing of a shared resource. For example, they could assist in promoting UW shared resources as Public-Private partnerships with the high-tech and bio-tech industries in the Seattle Metropolitan area and State-of-Washington.

e) During faculty recruitment provide information detailing the list of UW shared resources pertinent to their research.

f) Provide detailed information about the UW shared resources to investigators receiving funding through UW grants such as the Royalty Research Fund. Potentially provide financial incentives for using shared resources as part of their funding package (20 to 30% discount).

IDENTIFYING WAYS TO OBTAIN MONEYS FOR SHARED RESOURCES?

1. Upper Campus: Identify if indirect costs could assist shared resources. Note: Rent and turning on the lights is a critical part of UW support of shared resources that is already in place and these are part of the indirect costs.

2. School of Medicine: Requests for support are becoming more common and necessary. An example is the BSL3/ABSL3 facilities at UW-SLU. Without the support of the School of Medicine it would be difficult to keep this facility open. A Shared Resources Subcommittee could assist the School of Medicine in making decisions about the development of new shared resources.

3. CoMotion: Shared resources need to be run as a small business. Are there ways that CoMotion can assist in development of an entrepreneurial attitude among cores. Can CoMotion assist in development of public-private partnerships?

4. Development Office: The development office could be instrumental in showing both individual and corporate donors how investment in biomedical research enhances the impact of UW nationally and internationally.

5. State Legislature: Investment in shared resources will increase the competitiveness of UW investigators who bring in 1 billion dollars a year into the state of Washington through their research. Through public-private partnerships, the expertise at the UW will be able to better assist in strengthening the innovation and development of the high-tech and biotech industries throughout the state.

a. Benefits to investing in UW Shared Resources: Investment in shared resources will increase the competitiveness of UW investigators in a very challenging research environment due to decreased federal funding for research including a 19% reduction in funding for NIH from FY 2003 to FY 2016.(9)

b. Benefits to enhancing UW Shared Resources to Biotech and High-tech Industry in the State of Washington: Investment in specialized expertise and instrumentation at the UW will strengthen Public-Private partnerships with the goal to increase development and innovation within high-tech and biotech industries in Seattle and the State of Washington. The benefits to the state economy include increasing the competitiveness of the local high-tech and biotech community, which stimulates the state economy through creation of high paying jobs. “In 2014, Washington was home to 1,421 bioscience business establishments. Residents held 29,457 bioscience industry jobs, and the average annual wage in the bioscience sector was $26,780 higher than the private sector overall”.

LITERATURE CITED


**ADDITIONAL INFORMATION**


B) Seattle Times, March 17th, 2017, “Budget could mean major changes here”, Seattle Times staff reporters Joseph O’Sullivan, Hal Bernton, Vernal, Coleman and Katherine Long contributed to this story