6.245 Commercialization of Inventions

(1) The Board encourages the president to assist the invention commercialization process to the extent that the invention contributes toward fulfillment of the institution's mission. Resource allocation for licensing, patenting, and technology transfer, however, is the responsibility of the president.

(2) The president, designee, or appointed committee shall counsel with inventors to determine how to make the invention available to industry and the public in an effective and non-discriminatory manner, to obtain reasonable royalties for use in furthering institutional education and research objectives, and to reward the inventor through participation in net royalty income received.

(3) When feasible, the president or designated administrator shall recommend that the Vice Chancellor for Finance and Administration grant non-exclusive, royalty-bearing licenses to all qualified organizations. Exclusive licenses may be recommended if it is determined that such a license is required in the best interest of the public, Board, institution, and inventor in order to encourage marketing and eventual public use of the invention.

(4) Before granting an exclusive license, a bona fide effort shall be made by the institution to apprise qualified organizations known to be interested in the subject matter of the invention and in developing the invention through a non-exclusive license.

(5) When it is deemed appropriate to grant an exclusive license, the length of exclusivity shall be limited to that time deemed necessary to provide the licensee with the necessary incentive and opportunity to market the product and recover developmental costs, usually not more than five years from the date of first commercialization of the invention, or the issuance of a patent, whichever comes first, and a non-exclusive license for the life of the patent. Exclusive licenses may include the right of the licensee to sublicense others. The Vice Chancellor for Finance and Administration and the Chancellor may approve exceptions to the length of exclusivity, when justified and recommended by the institution.

(6) Licensing and sponsored research agreements shall include provisions:

(a) Prohibiting the use of the name of the researcher, institution, and Board, either directly or implied, in any advertising relating to the commercialization of the product or process or in supporting evidence provided in prospectus literature, and the use of any statements which imply approval of the licensee's or sponsoring agency's marketing techniques, business objectives, or relationships with wholesalers, retailers, or consumers. Exceptions to this policy require Board approval.

(b) Indemnifying the institution against any and all claims, demands, damages, costs, and other related items arising from the manufacture, use, or sale of the licensed invention or process, and, whenever possible, from any liability for damages resulting from a final judicial determination that such commercial utilization of the invention constitutes an infringement of any third party patent.

(c) Allowing the institution to produce and use the invention or process for its own educational or research purposes.
(d) Allowing the institution and inventor to publish the findings of research and to continue with research related to the process or invention including publication of future findings.

(e) For receiving or examining accounting records maintained by the licensee and any sub-licensees.

(f) For removing licensing rights and terminating the agreement should the licensee fail to develop and market the product within a reasonable time.