

國立中山大學研究發展成果及技術移轉施行要點

Guidelines on the Implementation of Managing Research and Development Achievements and Technology Transfers

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一、 本施行要點依據「國立中山大學研究發展成果與技術移轉管理要點」辦理之。

I. These guidelines are formulated based on the Guidelines on the Management of Research and Development Achievements and Technology Transfers.

二、 本要點適用本校人員及其它因利用本校資源或參與本校研究計畫之人所創作之研發成果。

II. These guidelines shall apply to research and development (R&D) achievements produced by the University employees and those utilizing the University resources or participating in University research projects.

本要點規範該等成果之權利歸屬、商業推廣、技術移轉、授權及權益收入分配。

These guidelines regulate the ownership of R&D achievements, as well as their commercial promotion, technology transfer, licensing, and distribution of income generated from the said achievements.

三、 研究發展成果權利歸屬

III. Ownership of R&D achievements

(一) 職務上所產生之研究發展成果，權利屬本校所有：

(1) The University is entitled to the ownership of R&D achievements produced by its employees within their work scope:

1. 以本校經費進行研究發展所獲得之成果。
 - i. R&D achievements of projects funded by the University.
2. 由政府機關補助、委辦或出資予本校進行研發所獲得之成果。
 - ii. R&D achievements of projects subsidized, commissioned, or funded by government agencies, and conducted at the University.
3. 本校受外界委託進行研發所獲得之成果，且依合約約定，該成果歸本校所有者。
 - iii. R&D achievements of projects commissioned by external entities with the project contracts designating the ownerships of the achievements to the University.
4. 本校人員利用學校資源所完成之職務上創作。
 - iv. R&D achievements produced by the University employees utilizing University resources within their work scope.

(二) 非職務上所產生之研究發展成果：

(2) R&D achievements produced beyond their work scope:

1. 為確認本校人員於在校期間所完成之研發成果，係未利用學校資源或既有研發成果之非職務上創作者，應於完成非職務上之創作時，即以書面通知智財新創組，如有必要並應告知創作過程。
 - i. To verify that the R&D achievements produced by University employees are not created by utilizing any University resources or by deriving from existing achievements, the inventors shall notify the Innovation Intellectual Property Division (IIPD) in writing upon completion of their invention, and provide the details of their invention process if necessary.
2. 智財新創組接到通知後，應簽請該人員所屬系所或單位主管確認該創作有無用上班時間、學校資源或運用學校既有之研發成果予以判定。
 - ii. After receiving the notification, the IIPD shall seek a verification from the head of inventors' affiliated unit to determine whether the inventors utilize their work hours

and University resources for the achievements, or the said R&D achievements derive from the University's existing achievements.

3. 若判定確屬非職務上所產生之研發成果，權利歸屬該人員。
- iii. If the verification confirms that the said R&D achievements are produced under none of the abovementioned situations, the ownership of the achievements shall belong to the employee.
4. 若未為前述通知，其於在本校期間之任何創作或成果，視為職務上所產生之研究發展成果。
- iv. If the abovementioned notification is not submitted, any inventions or achievements at the University shall be deemed as produced within their work scope.
5. 本校若於前述書面通知到達六個月內，未向該人員為反對之表示者，則不得主張享有該研發成果之權利。
- v. The University, failing to raise an objection to the employee within six months from receiving the notification, shall not claim the ownership of the said R&D achievements.

(三) 權利歸屬之例外：研究發展成果若係本校人員為散布其學術研究結果之目的而創作之書籍、研究報告、文章或其它學術著作，即使有本點第四款規定之情形，其著作權仍歸創作人享有。但若該成果係政府機關或外界補助或委託研究者，則其權利依委託合約規定。

(3) Exceptions: If R&D achievements are books, research reports, articles, or other academic works created by the University employees for the purpose of disseminating their academic research findings, the copyrights shall remain with the employees, even in the cases stipulated in Subparagraph 4 of this Article. Nevertheless, the ownership of achievements shall be determined according to relevant contracts if they are produced as a result of subsidies or commissions from government agencies or external entities.

(四) 除前款規定之情形外，若研究發展成果為著作，例如職務上完成之積體電路佈局、教學用之視聽著作或電腦程式著作及其手冊、說明等，其著作財產權仍歸本校享有，著作人格權則歸創作人享有。

(4) Except for the situation stipulated in the preceding Subparagraph, when R&D achievements are works of authorship, such as integrated circuit layouts, teaching-related audiovisual

materials, or computer programming manuals/instructions produced within their work scope, the University shall own the copyright, while the moral rights shall remain with the employees (inventors).

(五) 本校若出資委託非本校人員所完成之任何著作，智財新創組應與其簽訂委託合約，使本校享有著作財產權。合約內容由智財新創組視個案簽陳校長核定。

(5) When the University funds non-University employees to create works of authorship, the IIPD shall sign a commissioning contract with them to secure the copyright for the University. The terms of the contract shall be determined by the IIPD based on the specific circumstances of each case and submitted to the President for approval.

(六) 凡職務成果歸屬本校所有者，應以學校名義進行保護，不得以發明人個人或他人名義持有。

(6) All achievements produced within their work scope and owned by the University shall be protected under the University's name and cannot be held in the name of the inventors or any other individuals.

四、 本校研究發展成果之管理及運用、專利申請及維護、使用授權、技術轉移、讓與、收益分配、委任、信託、訴訟及其它相關事宜，由本校智財新創組統籌管理。智財新創組得就其管理之研究發展成果，以公平、公開及有償方式，對公立學校、公立研究機關(構)、公營事業、法人或團體為對象進行授權或技術轉移。在促進科學發展、人民福祉、及不影響國家利益與安全的原則之下，確保研究發展成果被創造最大的價值。有償方式包括簽約金、權利金、衍生利益金、技術持股、及其它業界慣用方式等。

IV. The IIPD shall centralizes the management and utilization of R&D achievements of the University, patent applications and maintenance, technology transfer, licensing and assignment, income distribution, commission, trust, litigation, and other related matters, and may conduct the licensing and technology transfer with public universities, public research institutions, government-owned enterprises, legal entities, or other organizations in a fair, transparent, and compensated manner. The IIPD shall ensure to create the maximum value of the R&D achievements, under the principles of promoting scientific development, enhancing public welfare, and not compromising national interests and security. Compensated methods may include licensing fees, royalty, technology equity, and other industry-standard practices.

本校研發成果權益收入，如為技術持股，除依本要點相關規定分配發明人或創作人外，其餘股份皆歸屬校方統籌管理運用，不另分配予發明人或創作人所屬學院、系所或所屬研究中心及全球產學營運及推廣處(以下簡稱產學處)。但於股份有股息或紅利等衍生收益或出售股份

之收入，仍依本要點相關規定分配予發明人或創作人所屬學院、系所或所屬研究中心及產學處。

Income from R&D achievements in the form of technology equity shall be distributed proportionally to inventors in accordance with these guidelines, and the remaining equity shall be managed by the University without distribution to the inventors' affiliated college/department/institute/research center or the Office of Global Industry-Academe Collaboration and Advancement (OGIACA). Nevertheless, any derivative benefits, such as dividends or bonuses from the equity or revenue from the sale of equity, shall be distributed to the inventor's affiliated college/department/ institute/research center and the OGIACA, according to the guidelines herein.

五、 研究發展成果之發明人或創作人，應將其研究發展成果向智財新創組提出協助技術推廣之申請。經智財新創組評估其創造性、應用性及產業利用性等條件，作為擬定推廣策略及保護研究發展成果方式之依據。亦得應智財新創組之主動推薦，配合推廣研究發展成果。

V. Inventors shall submit their R&D achievements to the IIPD and ask for its assistance with technology promotion. The IIPD shall assess the creativity, applicability, and industrial utilization of the R&D achievements as a basis for developing promotion strategies and determining protection methods. The IIPD may also proactively recommend R&D achievements for promotion, with inventors' collaboration.

五之一、本校推廣研究發展成果之權益收入，除政府相關計畫之特殊條款(如國科會科研創業計畫、經濟部科研成果價值創造計畫等)或合約中敘明分配方式等，需依合約規定分配該權益收入外，該權益收入應先扣除依相關法律及依合約應回饋資助機關部分後，再依第六點至第八點、第十點至第十一點之方式分配之。

V-1. Except for cases where special provisions of government-related projects (e.g., the NSTC Taiwan Germination Program, the MOEA Startup Value Creation Program, etc.) or specific contract terms dictate the income distribution of R&D achievements, all income shall be distributed according to Article 6 to 8 and Article 10 to 11 after deducting the portion returned to the funding institutions per the relevant laws and contracts.

前項分配規定，以本要點修正通過日後簽訂之技術移轉授權合約適用之。

The distribution methods stipulated in preceding Paragraph shall apply to licensing agreements of technology transfer signed after approval date of these amended guidelines.

五之二、分配予產學處部分，依據「國立中山大學辦理非國家科學及技術委員會產學合作計畫作業

要點」、「國立中山大學推廣教育經費收支辦理要點」、「國立中山大學校務基金自籌收入收支管理規定」第十四條及第十六條規定辦理之。為獎勵產學合作或技術移轉個案有功人員，有功人員獎勵金支給方式如下：本校就分配予產學處之研究發展成果之權益收入，提撥一定比例之獎勵予承辦技術移轉個案有功人員。有功人員獎勵金經產學處審核後，簽請校長核給獎勵金。經費上限為前一年度分配予產學處之研究發展成果之權益收入的 25%。

- V-2. The portion allocated to the OGIACA shall be administered in accordance with the *Guidelines on Handling Matters Related to Industry-Academe Collaboration Projects Not Granted by the National Science and Technology Council*, and Articles 14 and 16 of the *Guidelines on Handling the Revenue and Expenditure of Continuing Education Funds*. To reward personnel who have contributed to the promotion of industry-academe collaboration or technology transfer cases, the rewards shall be provided in accordance with the following provisions: a certain percentage of the income derived from the rights and interests of research and development results allocated to OGIACA shall be set aside for such personnel. The rewards are reviewed by OGIACA and submitted to the President for final approval. These rewards shall be capped at 25% of the income from R&D achievements allocated to the OGIACA in the last year.

前項分配規定，以本要點修正通過日後簽訂之技術移轉授權合約適用之。

The distribution methods stipulated in preceding Paragraph shall apply to licensing agreements of technology transfer signed after approval date of these amended guidelines.

- 六、 本校非專利形式之研發成果，其推廣研發成果之權益收入在扣除應回饋資助機關部分後，依下列比率分配之，發明人或創作人分配部份可以檢據報銷或造冊領取方式支用。發明人或創作人：70%、所屬學院、系所：7%、產學處：3%、學校：20%。
- VI. After deducting the portion that shall be returned to funding institutions, incomes generated from the promotion of non-patented R&D achievements shall be distributed in accordance with the following: inventors 70%, their affiliated college/department/institute 7%, the OGIACA 3%, and the University 20%. The portion allocated to inventors may be accessed either through reimbursement with valid invoices or by claiming it as bonus.
- 七、 本校專利形式之研發成果，其推廣研發成果之權益收入在扣除應回饋資助機關部分後，依發明人或創作人選擇之申請費用分攤方案分配之。發明人或創作人分配部份可以檢據報銷或造冊領取方式支用：
- VII. After deducting the portion that shall be returned to funding institutions, income generated from the promotion of patented R&D achievements shall be distributed according to the cost-sharing option the inventors choose. The portion allocated to inventors may be accessed either through

reimbursement with valid invoices or by claiming it as bonus.

方案 option	發明人或創作人專利費用分攤比率 inventors' proportion of patent cost-sharing	權益收入分配比率 distribution proportion of income			
		校方 NSYSU	發明人或創作人 inventors	所屬學院、系所 affiliated college/ department/institute	產學處 OGIACA
A	10%	40%	50%	7%	3%
B	30%	30%	60%	7%	3%
C	50%	20%	70%	7%	3%
D	100%	10%	80%	7%	3%

八、經智財新創組評估後，決定不代為申請專利之案件，發明人或創作人仍可以本校為專利權人，自費申請專利，在取得專利權後，可依照所選擇之專利費用分攤方案，向技術審查委員會申請核准歸墊，將原應由校方分擔之相關專利費用補償發明人或創作人。

VIII. If the IIPD decides not to apply for a patent after its assessment, the inventors may still apply at their own expense but with the University as the patentee. After the patent is granted, inventors may request reimbursement from the Technology Review Committee for patent-related costs that shall initially borne by the University based on their chosen cost-sharing option.

九、本校專利由校方維護三年後(若專利專責機關規定之第一期年費涵蓋期間超過三年者，得依該期限為原則，但上限仍不得超過五年)，至校方維護專利年限期滿之次年起之專利若有權益收入，其分配方式如下：

IX. After the University has maintained its patents for three years (In cases where the first installment for patent annual fee stipulated by patent authority covers a period longer than three years, the maintenance duration shall generally follow this period but must not exceed five years.), any income generated from those patents starting from the year following the end of the maintenance period shall be distributed according to the following:

(一) 發明人或創作人放棄自行維護而由校方維護之專利，若有任何衍生收入，將全數轉入校務基金由學校統籌運用。

(1) Income generated from the patents that the University solely maintains after inventors' opt-out shall all be transferred to the University Endowment Fund for centralized utilization.

(二) 發明人或創作人自行負擔維護費用之專利，若有任何衍生收入，其權益收入在扣除應回饋資助機關部分後，依下列比率分配之，發明人或創作人分配部份可以檢據報銷或造冊

領取方式支用：

- (2) After deducting the portion to be returned to the funding institutions, any income generated from the patents that inventors maintain at their own expense shall be distributed according to the table below. The portion allocated to inventors may be accessed either through reimbursement with valid invoices or by claiming it as bonus:

原選定方案 option originally chosen	發明人或創作人專利費用分攤比率 inventors' proportion of patent cost-sharing	權益收入分配比率 distribution proportion of income			
		校方 NSYSU	發明人或創作人 inventors	所屬學院、系所 affiliated college/ department/institute	產學處 OGIACA
A	10%	30%	60%	7%	3%
B	30%	20%	70%	7%	3%
C	50%	10%	80%	7%	3%
D	100%	5%	90%	3.5%	1.5%

十、 本校人員與校外機關、團體、或個人進行之合作研究、及受委託進行之研究，應以契約約定研發成果歸屬及權益收入分配，本校依約享有之權益收入依本要點辦理，並有義務向智財新創組及時告知研究成果的發生及權益收入分配合約內容，由智財新創組進行研發成果管理及權益收入分配之相關事宜。

- X. The ownership of R&D achievements and the distribution of income generated from collaborative research between University employees and external institutions, organizations, or individuals, as well as from commissioned research shall be stipulated in contracts. The income to which the University is entitled under the contracts shall be handled in accordance with the guidelines herein. Inventors are obligated to timely inform the IIPD of any R&D achievements and the contract terms related to the distribution of income from those achievements, and IIPD shall then handle matters related to management of R&D achievements and their income distribution.

本校與其他學校或研究機構共有之專利，若有任何歸屬本校之權益收入，在扣除回饋資助機關部分後，依下列比率分配之，發明人或創作人分配部份可以檢據報銷或造冊領取方式支用：

For patents co-owned by the University and other research institutions, any income attributed to the University shall be distributed according to the proportions stipulated in the table below after deducting the portion to be returned to funding institutions. The portion allocated to inventors may be accessed through reimbursement with valid invoices or by claiming it as bonus:

方案 option	發明人或創作人專利 費用分攤比率 inventors' proportion of patent cost-sharing	權益收入分配比率 distribution proportion of income			
		校方 NSYSU	發明人或創作人 inventors	所屬學院、系所 affiliated college department/institute	產學處 OGIACA
A	10%	40%	50%	7%	3%
B	30%	30%	60%	7%	3%
C	50%	20%	70%	7%	3%
D	100%	10%	80%	7%	3%
E	0%	75%	15%	7%	3%

十一、本校研發成果未能依前條原則辦理授權時，應符合下列要件，循校內部行政程序簽准，始得無償使用、授權國外對象：

XI. When NSYSU research and development results cannot be licensed in accordance with the principles set forth in the preceding article, the following requirements shall be satisfied, and approval shall be obtained through NSYSU's internal administrative procedures before such research and development results may be used free of charge or licensed to foreign entities:

(一) 無償使用：學術研究、教育或公益用途。

(1) Free-of-charge use: Limited to academic research, educational, or public interest purposes.

(二) 授權國外對象，應符合下列要件之一：

(2) Licensing to foreign entities: One of the following conditions shall be met:

1. 國內無具承接意願之對象。

i. There is no domestic entity willing to undertake the license.

2. 國內無具承接能力之對象。

ii. There is no domestic entity with the capability to undertake the license.

3. 不影響國內廠商之競爭力及國內技術發展。

iii. The licensing arrangement will not adversely affect the competitiveness of domestic industries or the development of domestic technologies.

4. 授權國外對象將更有利於國家整體發展。

- iv. Licensing to foreign entities would be more beneficial to the overall development of the nation.

十二、 本校人員參與外界研究計畫，凡有使用本校資源之合作關係，應與本校訂定契約約定研發成果歸屬及權益收入分配，本校依約享有之權益收入，依本要點辦理。而產生之研究成果，均應向智財新創組提出成果推廣申請，以保障本校及研究人員之權益。

XII. When the University employees engage in external research projects utilizing University resources, a contract with the University shall be entered into specifying the ownership of R&D achievements and the distribution of income generated from those achievements. To protect the rights and interests of the University and its employees, an application for promoting R&D achievements of the said projects shall be submitted to the IIPD.

十三、 本校研發成果，得公開徵求廠商辦理技術移轉。

XIII. The University may publicly solicit companies to handle technology transfer for the University's R&D achievements.

十四、 技術移轉授權合約內容要點包括：

XIV. A contract of technology transfer and licensing shall include the following essential components:

(一) 合約依據、技術名稱、內容及範圍。

(1) basis of contract, as well as technology names, description, and scope,

(二) 有關專利權與技術資料保密之規定。

(2) terms regarding the confidentiality of patent rights and technology information,

(三) 研究成果移轉授權金及其相關衍生利益金。

(3) licensing fee and royalty from R&D achievements,

(四) 不能履行合約或違約之規定。

(4) terms regarding failure to perform the contract or breach of contract,

(五) 合約有效期限、終止、修訂及續約之規定。

(5) terms regarding the duration, termination, amendment, and renewal of the contract, and

(六) 其他個案所須的項目。

(6) other requirements specific to the case.

十五、 本校智財新創組得對運用學校資源所產生之研究成果進行了解，如發現有侵權行為之情形，得提請有關單位依法處置。

XV. The IIPD shall review R&D achievements that utilize University resources, and may request relevant units to take legal action on any infringement.

十六、 本校人員與智財新創組發生之爭議無法達成協議時，得由副校長，提出五人之專案小組名單，經校長核可後，對於相關事宜進行了解及提出具體建議，報請校長裁決。

XVI. When a dispute between the University employees and the IIPD cannot be resolved, the senior vice president may propose an ad hoc team with five members to the President for approval. Upon approval, the team shall review relevant matters and provide specific concrete suggestions for the President to make a final decision.

十七、 本校人員因職務上所產生之研究發展成果，若未透過學校行政作業而逕行接受委託研究等相關情事，得比照本要點第十五點相關規定辦理。

XVII. Matters concerning University employees conducting commissioned research without going through the University's administrative procedure shall be handled in accordance with Article 15 herein.

十八、 智財新創組得接校外單位委託，辦理研發成果推廣，以合約方式載明服務費收入，以支應智財新創組服務成本。

XVIII. The IIPD may be commissioned to handle the promotion of R&D achievements from external units. The service fees of these commissions shall be specified in contracts and used to cover the cost of service from the IIPD.

十九、 本要點經行政會議通過，陳請校長核定後實施，修正時亦同。

XIX. These guidelines are approved by the Executive Meeting and the President before implementation. Amendments to these guidelines shall follow the same procedure.