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DATE: April 3, 2003

TO: UNM Community

FROM: Robert E. Bienstock, Senior Associate University Counsel

RE: Advanced Waiver of Intellectual Property Rights

If a UNM faculty or staff member creates technological works (inventions or software) within the scope of his or her employment, then UNM owns the rights to that technology.

In some cases, however, a faculty member or staff person is doing some outside consulting or independent work. The company for whom the employee is consulting will want to be able to keep any technological developments that result. Or, if the employee is working alone, he or she may want to retain the intellectual property. If the outside work is permissible under UNM policies, the faculty or staff member can request the permission of the chair and the dean to waive UNM's rights in advance.

Examples in which this would be allowed, depending on the circumstances, include:

- Outside consulting¹
- A non UNM project on which the faculty or staff member is working at home
- Work that the faculty or staff member is doing in conjunction with a startup company
- If the faculty or staff member has licensed technology from UNM through STC, improvements to that technology developed on the faculty or staff member's own time²

¹ This would need to be consistent with the UNM Outside Employment Policy, and its limit of no more than one day per week of outside consulting, as well as any other requirements imposed by the college or school.

² Within the one-day per week rule.

The waiver is governed by regulation PAO-3 (Intellectual Property Waiver) (<http://www.unm.edu/~ripls/pao-3.pdf>). The faculty or staff member fills out the Intellectual Property Waiver Form (<http://www.unm.edu/~ripls/ocform.pdf>) (formerly known as the Outside Consulting Form), and submits it to the Chair and Dean for consideration. For faculty and staff working in a Class III Center, the approval of the Center Director and the Vice Provost for Research are also required.

Related Topic: University Rules and Regulations Regarding Faculty Startups (<http://www.unm.edu/~ripls/summaries/1772web.pdf>)

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