

Policy Number: 6-901	Policy Name: Salary Increases
Policy Revision Dates: 12/2007, 3/02, 1/96, 2/88, 3/84	Page 1

## ARTICLE I. GENERAL

### 6-901 Salary Increases

#### A. General Policy

Each of the Arizona universities shall establish and maintain a system of compensation which encourages and promotes excellence in performance of faculty, professional staff, administrators and classified staff. To this end, the universities shall operate with a Board-approved salary increase plan that provides for rewarding employees in recognition of satisfactory and above-satisfactory performance and provides for a process by which other salary increase considerations are resolved. Monies appropriated and identified by the Legislature as funds to be used by the universities for salary increases shall be divided and distributed under guidelines applicable to two categories: (1) adjustment funds; and (2) performance funds.

#### B. Adjustment Funds

In order to maintain an effective compensation plan on each of the campuses, the universities shall continually assess the need for these increases. Such increases may include: (1) market, (2) equity, (3) promotion, and (4) reclassification. Each university shall determine the amount of adjustment funds needed each year for each of the four employee groups and shall request that the Arizona Board of Regents set aside such an amount from the total funds made available by the Legislature for salary increase purposes.

#### C. Performance Funds

Performance increases shall be distributed on the basis of an assessment of employee performance. University-approved formal performance evaluation plans administered at the departmental or other organization unit level at each university shall provide the documentation for performance awards to employees in each of the four groups.

#### D. Procedures

Funds appropriated to each university for salary increase purposes shall be allocated to each of the four employee groups (faculty, professional, administrative, classified) in proportion to their share of the salary base of that university. Each university shall submit to the Board of Regents a plan

Policy Number: 6-901	Policy Name: Salary Increases
Policy Revision Dates: 12/2007, 3/02, 1/96, 2/88, 3/84	Page 2

for dividing the funds allocated to each of the four employee groups between adjustment funds and performance funds. The Board of Regents shall authorize such division of funds for each of the four employee groups, recognizing different circumstances and needs may lead to different proportions of adjustment funds and performance funds among the various employee groups and among the three universities. Unless exception is approved by the Arizona Board of Regents, no funds allocated to an employee group (faculty, professional, administrative, classified) shall be used to enhance the salaries of employees outside of that employee group. Any exception must be based on compensation-related factors and circumstances which justify an alternative distribution method.

E. Compensation Report/Salary Adjustment Report

Each year the president of each university shall submit a compensation report to the Arizona Board of Regents upon request. The report shall include such information as requested by the Board.

F. Performance Based Incentives

Each university and the Central Office may establish procedures to develop and administer a performance based incentive program to promote efficiency and effectiveness subject to the following:

1. Incentives shall clearly relate to a measurable standard of performance which must be achieved.
2. Program must be for all employee groups. All employees in .50 - 1.0 FTE positions shall be eligible to participate.
3. Incentives shall result in cost reductions, improved service quality or improved productivity.
4. No increase in compensation for future services shall exceed the amount of increase in compensation for future services permitted by A.R.S. §38-618 or other applicable provision of Arizona law. The increase in compensation for future services may not be added to an employee's base pay.

Policy Number: 6-901	Policy Name: Salary Increases
Policy Revision Dates: 12/2007, 3/02, 1/96, 2/88, 3/84	Page 3

5. Sources of funds may be from up to 80 percent of salary savings, other monies appropriated from the state general fund, or other sources.

University procedures for awarding increases in compensation for future services shall be submitted to the Executive Director of the Board for presentation to the incentives program oversight review committee for review and recommendation.

This policy shall not prevent a university or the central office from establishing other performance based incentive programs that provide for other means of recognizing and rewarding exemplary performance in addition to increases in compensation for future services. These may include one-time incentive or recognition awards based upon previously established criteria for measuring performance.

Policy Number: 6-902	Policy Name: Qualified Tuition Reduction Program
Policy Revision Dates: 6/03, 11/02, 9/98, 1/96, 6/92, 2/88, 12/85, 2/85	Page 1

## 6-902 Qualified Tuition Reduction Program

### A. Policy

It is the intent of the Arizona Board of Regents to implement a Qualified Tuition Reduction Program under Section 117 of the Internal Revenue Code which allows eligible employees, their spouses and eligible dependent children; eligible disabled employees, their spouses and eligible dependent children; eligible retired employees, their spouses and eligible dependent children; and spouses and eligible dependent children of deceased eligible employees, to enroll in courses of study at reduced tuition rates. This Qualified Tuition Reduction Program is reciprocal among the three state universities. Eligibility begins on the first day of employment

### B. Eligible Employees

1. All administrative, faculty, professional and classified staff employees, except graduate assistants and associates, who are currently employed at fifty percent (50%) time or more and whose employment is expected to continue six (6) months or more and their spouses and dependent children, are eligible to participate in the qualified tuition reduction program.
2. All retired administrative, faculty, professional and classified employees, and their spouses and dependent children, who were eligible for reduced tuition rates at the time of their retirement and have completed at least five (5) years of continuous, full-time employment in the Arizona university system immediately preceding retirement, who are receiving a retirement annuity under an Arizona university-sponsored retirement program and who are at least fifty (50) years old, and whose employment has not been terminated for cause by the university are eligible to participate
3. All university peace officers that have retired before age fifty (50) pursuant to the provisions of the Arizona Public Safety Personnel Retirement System but have completed five (5) continuous years of full-time employment in the Arizona University System immediately

Policy Number: 6-902	Policy Name: Qualified Tuition Reduction Program
Policy Revision Dates: 6/03, 11/02, 9/98, 1/96, 6/92, 2/88, 12/85, 2/85	Page 2

preceding retirement and their spouses and dependent children are eligible to participate.

4. All eligible administrative, faculty, professional and classified employees, on an approved leave of absence, and their spouses and dependent children, are eligible to participate for the duration of the approved absence.
5. All employees, with at least five (5) continuous years of employment immediately preceding termination, who terminated employment based upon long-term disability, their spouses and dependent children are eligible to participate. This benefit terminates if the employee ceases to receive long-term disability benefits.
6. In the event of the death of an eligible employee, retiree, or employee who terminated his or her employment based upon long-term disability, with at least five (5) continuous years of employment immediately preceding his or her retirement or disability, their spouse and/or dependent children may enroll at the reduced tuition rate. The spousal benefit terminates at the time a surviving spouse remarries.
7. **Affiliated Units and Employees**  
  
Employees of an affiliated unit, their spouses and dependent children may qualify for inclusion under the provisions of this policy, with the approval of the president or designee, if:
  - a. The employee is a member of an ROTC unit; or
  - b. an approved written contract exists between the university and the affiliated unit that expressly grants reduced tuition rates to employees of the affiliated unit.
8. **Affiliated Participants**
  - a. Former employees whose positions have been eliminated through a reduction-in-force, their spouses and dependent

Policy Number: 6-902	Policy Name: Qualified Tuition Reduction Program
Policy Revision Dates: 6/03, 11/02, 9/98, 1/96, 6/92, 2/88, 12/85, 2/85	Page 3

children are eligible to receive tuition assistance at the rates specified below. The value of reduced tuition rates received by these affiliated participants is not tax exempt and the participant remains fully responsible for any tax consequence.

b. Eligibility Requirements

(1) Laid-off employees and their spouses and dependent children may continue to receive tuition assistance, at the reduced rate specified herein, for a period not to exceed twelve (12) months from the lay-off effective date. Laid-off employees and their spouses and dependent children may continue to receive tuition assistance for any semester or summer session when registration for classes has occurred at least one day before the expiration of the twelve (12) month period from the layoff effective date. The laid-off employee must have been employed at least five (5) consecutive years at the university immediately prior to the effective date of lay-off and must have received a satisfactory or better performance evaluation. This option is not available to any laid-off employee who elects the buyout option under the reduction in force policy.

9. The term "dependent children" wherever used in this policy, means children eligible to be claimed as dependents for federal tax purposes and who have not reached age thirty (30) as of the first day of the semester for which the reduced tuition rate is granted.

C. General Guidelines

1. The waiving of fees under this policy does not include expenses such as library and laboratory fees, books, supplies and other special course fees. Also excluded from this policy are correspondence courses identified by each university.

Policy Number: 6-902	Policy Name: Qualified Tuition Reduction Program
Policy Revision Dates: 6/03, 11/02, 9/98, 1/96, 6/92, 2/88, 12/85, 2/85	Page 4

2. This policy is not intended to limit the total number of credit hours an employee may take, however, credit hours taken in excess of the limits specified in this policy shall be paid for by the employee at the actual resident tuition rates for those hours.
3. Supervisory approval is required before employees may take classes during their regular work schedule.

D. Qualified Tuition Reduction Rates

1. All eligible employees and affiliated participants, as defined in ABOR Policy 6-902B, (Qualified Tuition Reduction, Eligible Employees) and their spouses may register for one to nine (1 to 9) credit hours per regular semester or for one to six (1 to 6) credit hours per summer session at any institution under the control of the Arizona Board of Regents at the reduced tuition rate of Twenty-Five Dollars (\$25.00), plus any laboratory or course fees.
2. All eligible employees and affiliated participants as defined in ABOR Policy 6-902B (Qualified Tuition Reduction, Eligible Employees), and their spouses who register for credit hours in excess of nine (9) per regular semester and six (6) per summer session shall pay the actual resident tuition for those hours over the stated cap.
3. Dependent children of eligible employees and affiliated participants, as defined in ABOR Policy 6-902B (Qualified Tuition Reduction, Eligible Employees), who register for one or more credit hours shall pay Twenty-Five Percent (25%) of resident tuition plus any laboratory or course fees.

Policy Number: 6-903	Policy Name: Educational Assistance Plan
Policy Revision Dates: 3/03, 9/98, 1/96, 12/85	Page 1

## 6-903 Educational Assistance Plan

The Arizona Board of Regents has adopted this Educational Assistance Plan pursuant to Internal Revenue Code Section 127. The effective date of the plan is January 1, 1991.

### A. Purpose of Plan

The Arizona Board of Regents has adopted this Internal Revenue Code Section 127 educational assistance program for the benefit of its eligible employees and graduate student assistants and associates. It is the intention of the Arizona Board of Regents that the plan qualify as a plan providing qualified educational assistance under Section 127(b)(1) of the Internal Revenue Code of 1986, as amended, and that part or all of the benefits under the plan be eligible for exclusion from the participant's income pursuant to the terms of Sections 127(a) of the Internal Revenue Code of 1986, as amended.

### B. Definitions

1. "Benefits" shall mean covered costs (subject, however, to any limits on the covered costs which may exist under Sections 127(a)(2) of the Code) for educational courses taken by a participant.
2. "Code" means the Internal Revenue Code of 1986, as amended from time to time.
3. "Covered costs" means tuition and fees waived by the university.
  - (a) "Tuition and fees waived" for all participants other than graduate student assistants and associates means:

Fall/Spring Semester	Summer Session
The sum of tuition on all units taken minus twenty-five dollars (\$25).	The sum of tuition on all units taken minus twenty-five dollars (\$25).

- (b) "Tuition and fees waived or tuition remission funded" for graduate student assistants and associates means up to one

Policy Number: 6-903	Policy Name: Educational Assistance Plan
Policy Revision Dates: 3/03, 9/98, 1/96, 12/85	Page 2

hundred percent (100%) of the resident tuition as determined by each university and may vary by campus and among the categories of graduate student teaching and research assistants and associates. Each university shall communicate the amount of the tuition and fees waived or tuition remission funded to the affected graduate student assistants and associates.

4. "Educational course" means any course taken by a participant at the university except for a course which instructs the participant in any sport, game, or hobby (unless required as part of a degree program) or is excluded under Regent policy.
5. "Effective date" means January 1, 1991, except for the definition of "retired employee" which is effective the date of approval of these changes.
6. "Eligible graduate student assistant or associate" means a graduate student teaching or research assistant or associate whose appointment is for twenty-five percent (25%) time or more and who is enrolled for a minimum of six (6) credit hours (not including audit enrollment).
7. "Employee" means any employee of the university who is employed at fifty percent (50%) time or more and whose employment is expected to continue six (6) months or longer.
8. "Employee on approved leave of absence" means an employee as described in ABOR Policy 6-903B.6 (Educational Assistance Plan, Definitions) who is on an approved leave of absence.
9. "Retired employee" means an employee as described in ABOR Policy 6-903B.6 (Educational Assistance Plan, Definitions), who has completed at least five (5) years of continuous full-time employment in the Arizona University System immediately preceding retirement, who is receiving a retirement annuity under an Arizona university sponsored retirement program, who is at least fifty (50) years old, whose employment has not been terminated for cause by the university and who was eligible for special tuition fees at the time of retirement. Notwithstanding this provision, university

Policy Number: 6-903	Policy Name: Educational Assistance Plan
Policy Revision Dates: 3/03, 9/98, 1/96, 12/85	Page 3

peace officers who have retired before age fifty (50) pursuant to the provisions of the Arizona Public Safety Personnel Retirement System but have completed five (5) continuous years of full-time employment in the Arizona University System immediately preceding retirement shall also be eligible for this benefit. This change becomes effective beginning with the fall 1998 academic semester.

10. "Employee of an affiliated unit" means an employee of an affiliated unit, with the approval of the president or designee, if:
  - (a) The employee is a member (full time employment by the Armed Forces) of an ROTC unit; or
  - (b) An approved written contract exists between the university and the affiliated unit that expressly grants special tuition to employees of the affiliated unit.
11. "Plan Year" means the twelve (12) consecutive month period beginning on January 1 and ending December 31.
12. "Participant" means anyone who has satisfied the eligibility requirements under ABOR Policy 6-903C (Educational Assistance Plan – Eligibility) of this plan.
13. "Plan" means the Arizona Board of Regent's Educational Assistance Plan.
14. "Tuition remission funded" means that resident tuition is charged to the student fee payment accounts of the eligible graduate student assistants and associates and payment of all or part of the resident tuition is funded by a university account.
15. "Waiver" means the remission or forgiving of a tuition payment or any portion thereof.
16. "University" means the University of Arizona, Arizona State University, Northern Arizona University, and the Central Office of the Arizona Board of Regents.

Policy Number: 6-903	Policy Name: Educational Assistance Plan
Policy Revision Dates: 3/03, 9/98, 1/96, 12/85	Page 4

C. Eligibility

1. An employee, retired employee, employee on approved leave of absence, or employee of an affiliated unit, or eligible graduate student assistant or associate shall be eligible to become a participant as of the effective date of such status.
2. A participant will cease to be a participant the date he/she no longer meets the eligibility requirements set forth in ABOR Policy 6-903C 1 (Educational Assistance Plan, Eligibility).

D. Benefits

1. Every eligible participant shall be entitled to receive benefits under the plan.
2. A participant shall be entitled to benefits under the plan only for covered costs after he/she becomes an eligible participant.

E. Limitations

In no event shall a participant be entitled to receive any benefit under this plan in lieu of any other compensation he/she might otherwise be entitled to from the university or Board.

F. Plan Administrator

1. The university/Central Office shall appoint a plan administrator to serve until resignation or removal by the university/Central Office and appointment of a successor.
2. The plan administrator shall keep accurate records of all benefits granted to participants under the plan and ascertain that no benefit was granted to a participant in lieu of other compensation.

Policy Number: 6-904	Policy Name: Grievance
Policy Revision Dates: 2/88	Page 1

## 6-904 Grievance

Each university shall provide to employees a formalized and systematic method of resolving work related concerns through an established grievance procedure. The Arizona Board of Regents strictly prohibits any and all reprisals or retaliatory actions taken against employees for pursuing their rights under this policy.

Policy Number: 6-905	Policy Name: Political Activity
Policy Revision Dates: 2/88	Page 1

## 6-905 Political Activity

Employees may participate in political activity outside their employment, but shall not allow their interest in a particular party candidate, or political issue to affect the objectivity of their teaching or the performance of their regular university duties.

Policy Number: 6-906	Policy Name: Labor Union Membership
Policy Revision Dates: 2/88	Page 1

## 6-906 Labor Union Membership

The Board does not oppose labor organization membership of employees as such membership is their right and in no way affects their employment relationship, but the Board, as a public employer functioning under the provisions of A.R.S. 15-1626, does not have legal authority to recognize a labor organization as the employees' agent for purposes of collective bargaining. In addition, neither the Board nor the universities shall engage in "meet and confer" activities. (A.R.S. 15-1626)

Policy Number: 6-907	Policy Name: Royalties - Repealed
Policy Revision Dates: 7/88	Page 1

6-907 Royalties

Repealed

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 1

## 6-908 Intellectual Property Policy

### Preamble

The Arizona Board of Regents, and the three universities which the Board governs, are all dedicated to teaching, research, and extension of knowledge to the public. The university community recognizes its responsibility to produce and disseminate knowledge. Inherent in this responsibility is the need to encourage the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other intellectual property, some of which may have potential commercial value. These activities contribute to the professional development of the individuals involved, enhance the reputation of the university in which they work, provide additional educational opportunities for participating students, and promote the public welfare.

Intellectual property that has commercial potential may be protected under a variety of mechanisms including copyrights, patents, trade secrets, trademarks, and plant variety protection. The rights and privileges, as well as the incentive, of the creators of intellectual property must be preserved so that their abilities and the abilities of others are encouraged and stimulated. The Board and the three universities must promote the appropriate development and marketing of the Board's intellectual property for the public good.

#### A. Purpose statement

The Board encourages employees, including faculty, staff, administrators, student employees, visiting faculty and researchers paid by a university governed by the Board (collectively "employees") to undertake and receive recognition for, and share in the revenue resulting from their creative endeavors. Federal and state law provide for Board ownership of intellectual property created by university employees. The Board will use benefits derived from this intellectual property to further the teaching or academic research program of the respective universities in areas of intellectual property.

Each university may patent, register, market, and license intellectual property using its own resources or through one or more intellectual property management organizations. The net income derived by the university will be shared with the creator of the intellectual property in

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 2

accordance with this policy, and the remainder will be used in support of research, investigation, research fellowships, or other activities relevant to the generation of intellectual property at the institution.

The Board encourages university-industry cooperation to enable universities to comply with state policy or legislation encouraging technology transfer, and to support university-industry collaborative agreements which bring additional resources to the universities. This policy provides universities the discretion to retain ownership in intellectual property, or to enter into agreements with industry sponsors to grant exclusive or non-exclusive licenses, or, when appropriate, to assign title to intellectual property.

#### B. Categories of Intellectual Property

This policy covers all forms of legally recognized "Intellectual Property" which is created at the universities, including, but not limited to the following:

1. Patents (as defined in 35 US Code) which includes but is not limited to: inventions and discoveries (e.g., devices, processes, improvements, and patentable software)
2. Copyrights (as defined in 17 US Code) which includes but is not limited to:
  - a. scholarly works (e.g., textbooks, class notes, research monographs and articles, publications, instructional materials, and research materials);
  - b. creative/artistic works (e.g., music, art, dance, architecture, sculpture, poetry, fiction, and film);
  - c. copyrightable software (commercial as well as academic or research);
  - d. other developing areas, including but not limited to multi-media works, and various other forms of electronic

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 3

communications, including media used for distance learning;  
and

- e. mask works.
3. Trademarks. (As recognized by federal and state laws)
  4. Trade secrets. (As defined by the Uniform Trade Secrets Act; Note, however, that the universities do not maintain trade secrets, unless belonging to and disclosed by, an outside sponsor.)
  5. Data. All data are considered to be subject to this policy, as intellectual property is often present in data that are generated during research at the university. Data shall include, but not be limited to:
    - a. lab notes, results of analyses, etc.;
    - b. research notes, research data reports, and research notebooks, etc.

This policy will cover any new forms of Intellectual Property that may be added to the above categories during the time this policy is in effect. By way of illustration, in the event databases are given protection under the copyright laws in the future, databases will be covered under this policy.

### C. Intellectual Property Creation and Ownership

Ownership in intellectual property will be determined in accordance with the following categories of creation:

#### 1. Sponsor-Supported Projects

A “Sponsored Project” is research that has a defined scope of work and is funded by one or more non-university entities (“Sponsor(s)”) pursuant to a “Sponsored Project Agreement”. Initially, federal and state law defining authorship and inventorship will determine ownership (and all associated rights) relevant to intellectual property developed during the course of work on projects funded by

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 4

Sponsored Project agreements. A university may agree to give the Sponsor an exclusive option for a limited period of time for the right of first negotiation for a license to intellectual property owned by the university arising from a Sponsored Project (hereinafter “University Contract IP”). The option period will not exceed one year from formal disclosure to the Sponsor of the University Contract IP, or six months from the date of expiration of the Sponsored Project, whichever is earlier in time. A university may also agree to assign title to the Sponsor in any University Contract IP. The agreement or license will be negotiated on behalf of the university by, or under the authority of, the individual designated by the university to be responsible for the administration of intellectual property (the “IP Official”), or by the intellectual property management organization, if any, representing the university. The IP Official shall use his or her best efforts to consult with the creator(s) and principal investigator(s) during the negotiation process. The IP Official shall provide the creator(s) (including inventor(s)) and principal investigator(s) currently employed by the university with a copy of the negotiated agreement prior to its final execution. In the event the creator(s) or principal investigator(s) do not agree with the negotiated terms, he or she shall have the right to appeal the IP Official’s position before the agreement is executed, in accordance with Section I of this policy, following the process and time limits established by each university. The agreement will be executed by the designated university officials subject to review by university counsel.

While the value of intellectual property cannot be predetermined, the Board requires the university to determine a minimum amount of financial support (which will be based on the total cost to the university of development of the applicable intellectual property), on a case-by-case basis, below which an assignment of title to University Contract IP will not be considered. In some cases it may not be possible to calculate the total costs of development until after the intellectual property has been developed and disclosed. If the university wishes to assign the title or to license the University Contract IP, the Sponsored Project Agreement will include the following provisions:

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 5

a. In cases of assignment of title:

(1) A provision for monetary support, which must take the form of one of the following three options:

- (a) The Sponsor will pay an assignment fee of at least fifty percent of the university's total cost of research and development, including all contract modifications or extensions. The Sponsor will pay the assignment fee after the University Contract IP has been created, reported to the Sponsor, and at the time the assignment of title is made; or
- (b) The Sponsor will pay all costs of research, including salaries, materials, other direct costs, and the university's fully-burdened overhead.
- (c) The Sponsor is an Arizona State agency and the sponsor will pay all direct costs of research, including salaries and materials, and indirect costs or overhead to the extent permitted by agency rules. In exchange for this reduced overhead reimbursement, the university must (i) receive from the sponsor a significant percentage of any income received by the sponsor from the sale, transfer or licensing of the University Contract IP, and (ii) address with the sponsor during negotiations the opportunity for the university to participate in the management of the University Contract IP.

If possible, the university will calculate such amounts and include them in the Sponsored Project Agreement.

(2) Due-diligence Milestones negotiated on a case-by-base basis to include a "Reassignment Right" exercisable by the university if the Sponsor has not

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 6

made a good-faith attempt to meet the negotiated Due-diligence Milestones. "Due-diligence Milestones" shall mean objectively measurable goals which a Sponsor will in good faith pursue in order to bring to the public the benefits of the University Contract IP. Due-diligence Milestones may include, by way of example and without limitation, commercialization of University Contract IP, use of University Contract IP to produce products, and licensing or disclosure of University Contract IP to third parties.

- (3) "Reassignment Right" will include, but not be limited to, one or more of the following, as negotiated by the parties at the time of negotiating the Due-diligence Milestones:
  - (a) Right of the university to license other parties, either exclusively or non-exclusively;
  - (b) Right of the university to collect a periodic "maintenance fee" from Sponsor until such time as Due-diligence Milestones are met, or Sponsor determines it will not commercialize the intellectual property and voluntarily grants its rights to the University Contract IP back to the university.
- (4) A windfall provision, in which an appropriate payment or payment schedule is specified based on some mutually agreed upon threshold or event. The parameters of this provision, such as the windfall threshold and the amount of any payments, will be determined on a case-by-case basis.

b. In cases of licensing:

- (1) Due-diligence Milestones negotiated on a case-by-case basis, to include, in the case of an exclusive license, "March-in-Rights" if the Sponsor has not

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 7

made a good-faith attempt to meet the negotiated Due-diligence Milestones. "March-in-Rights" will include, but not be limited to, one or more of the following, as negotiated by the parties at the time of negotiating the Due-diligence Milestones:

- (a) Right of the university to license other parties, either exclusively or non-exclusively;
  - (b) Right of the university to collect a periodic "maintenance fee" from Sponsor until such time as Due-diligence Milestones are met, or Sponsor determines it will not commercialize the intellectual property and voluntarily terminates its license rights to the University Contract IP.
- (2) A provision for reasonable and customary, but unspecified, royalties, since the value of prospective intellectual property cannot be pre-determined.
- c. In cases of either licensing or assignment of title:
- (1) The right of the university to retain a royalty-free license for its own internal use of the University Contract IP for research and educational purposes, and a provision that the university has the right to use the University Contract IP in any and all subsequent sponsored research at the university. This provision does not require the university to retain a right to sublicense such University Contract IP to third parties.
  - (2) The right of the university to make public through publication or presentation any University Contract IP developed under the agreement. The Sponsor may be given up to ninety days to review the manuscript and secure appropriate intellectual property protection (to include the right to remove any Sponsor trade secrets or proprietary information from such

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 8

manuscripts) prior to actual publication or presentation.

- (3) The obligation of the Sponsor to pay patent costs. If the university is filing the patents, such costs to the Sponsor may be capped at reasonable and customary fee amounts.

## 2. University-Assigned Projects

The Board owns Intellectual Property developed as a result of employee work performed in the course and scope of employment. "Course and scope of employment" shall include any activity that is listed or described in the employee's job description or is within the employee's field of employment, including research, instruction, or other activities assigned to the employee that involve the creation of Intellectual Property. Copyrightable works created by an employee in the Course and Scope of Employment are considered to be works made for hire under U.S. Copyright Law, with ownership vested in the Board. The employee must cooperate fully with the university and will execute all documentation necessary to assign ownership and, if necessary, to secure protection of intellectual property owned by the Board.

## 3. University-Assisted Projects

The Board owns Intellectual Property developed by university employees through an effort which makes significant use of university resources. The employee must cooperate fully with the university and will execute all documentation necessary to assign ownership and, if necessary, to secure protection of this intellectual property. The Board does not construe the use of office space, library resources, personal workstations, or personal computers as constituting significant use of university resources. Significant use of university resources includes but is not limited to: Use of research funding; use of funding allocated for asynchronous or distance learning programs; use of university-paid time within the employment period; assistance of support staff; use of telecommunication services; use of university central computing

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 9

resources; use of instructional design or media production services; access to and use of research equipment and facilities, or production facilities.

4. Employee-Excluded Works

The Board releases to the creator all ownership of Intellectual Property in the following categories of work, subject to contractual rights of Sponsors. However, the Board retains a paid-up, non-exclusive license to use this intellectual property for education, research, and public service.

- a. Traditional publications in academia, including scholarly works, textbooks, and course notes
- b. Artistic works (music, art, dance, film, etc.)
- c. Academic software (not for commercial application)
- d. Student works (the student owns his/her own works, unless the student is a university employee and the work is part of his/her employment, or the student makes significant use of university resources, or the student's work is part of a Sponsor-supported project. Student works are not subject to revenue sharing described above.)
- e. Electronic publications, including on-line courses will be reviewed on a case-by-case basis.

5. Outside Consulting

Consulting for outside organizations is encouraged and may be performed by university employees pursuant to applicable Board and university policies, including policies on consulting, conflict of interest, and this Intellectual Property Policy. If the employee's obligations under this Intellectual Property Policy conflict with the employee's obligations to the consulting entity, the obligations under this Intellectual Property Policy will take precedence.

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 10

6. Individual Projects

The Board owns Intellectual Property developed by university employees, unless the creator of the intellectual property can demonstrate that it was not developed as a “Sponsor-Supported Project,” a “University-Assigned Project,” or a “University-Assisted Project,” as defined above.

7. Visiting Faculty, Researchers, and Scientists

The Board owns Intellectual Property created by visiting faculty, researchers, and scientists. However, the IP Official may make exceptions on a case-by-case basis, consistent with this policy.

D. Administrative Responsibilities

1. Responsibilities of the Creator(s) of Intellectual Property

Each employee (including visiting faculty, researchers, and scientists) must disclose any Intellectual Property made by that person, or resulting from work carried on under his/her direction, in which the Board or a Sponsor may have an interest.

Intellectual Property created as a result of outside consulting must be disclosed to the university only to the extent that the creation of the intellectual property would fall within the above categories under which the Board claims ownership, or as required by other university or Board policies or state laws.

The creator must disclose Intellectual Property promptly to the head of the department on those forms used by the university, with an information copy to the dean of the college or administrative officer, or as otherwise designated by the IP Official. The department head will, as appropriate, indicate his/her opinion concerning the scientific, technical, and economic merit of the discovery, the likelihood and desirability of obtaining intellectual property protection, and an estimate of the commercial possibilities of this intellectual property, and transmit that statement to the IP Official.

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 11

The creator must cooperate fully with the university and will execute all documentation necessary to assign ownership, and, if necessary, to secure protection of intellectual property owned by the Board in those countries designated by the university IP Official.

2. Responsibilities of the IP Official

The IP Official, or his/her designee, will administer all intellectual property disclosed in accordance with the requirements of this policy as follows (not necessarily listed in order of preference):

- a. Released to the creator if the IP Official determines within a reasonable time that the interests of the Board are better served by releasing ownership to the creator under conditions to be specified by the university to include, but not be limited to the following:
  - (1) the Board retains a paid-up, non-exclusive license to use this intellectual property for education, research, and public service;
  - (2) provision for a minimal royalty to university in the event a profit is made from commercialization of the intellectual property; and
  - (3) the faculty creator may not use university facilities to improve upon the invention. If the inventor wishes to continue work on the invention using university managed funds and/or facilities, they will need to do so under an arm's length relationship (i.e., full Board disclosure and license).
- b. Licensed to the creator, at the university's discretion, subject to compliance with other applicable policies and approvals;
- c. Assigned to one or more intellectual property management organizations for commercial development in accordance with Board policy on technology transfer consistent with all applicable requirements of this policy;

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 12

- d. Licensed or assigned to the research sponsor under which the intellectual property was created if license or assignment is required by the contract with the sponsor and is permitted or is required by law;
- e. Patented, or otherwise protected, by the university, appropriately marketed, and either licensed or assigned to another organization for commercialization consistent with the Section regarding Sponsor-Supported Projects of this Policy;
- f. Archived by the university with notification to the creator.

3. Responsibilities of the University

The university vice-president or vice-provost for research, or his/her designee, will require that:

- a. The university or its nominee or licensee will pay all costs involved in obtaining and maintaining domestic and/or foreign protection for intellectual property for which the Board holds an interest.
- b. The university will establish and administer a fund for the promotion of research and development of intellectual property. The fund will include monies received by the university from intellectual property created by its employees. The IP Official, or a designee, will administer this fund according to policies and procedures established by the university.
- c. An intellectual property committee of faculty and staff will be appointed by the president, or his/her designee, of each university in accordance with that university's policies and procedures. The intellectual property committee will review proposed changes in the Intellectual Property Policy and make its recommendations to the president through the IP

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 13

Official. The intellectual property committee will also operate as a review committee in accordance with this Policy.

E. Publication Rights/Responsibilities for the Protection of Intellectual Property

Early peer-reviewed publication of results is a major objective of academic research. The Board does not intend for this policy to impede a university employee's ability to publish. Public disclosure of a patentable invention prior to filing for a patent application will, however, preclude the availability of patent protection in most countries. "Public disclosure" includes any non-confidential written or oral disclosure that describes the invention (e.g., at a scientific meeting, in a journal, or even in an informal discussion with outside colleagues). However, limited disclosure of intellectual property internally within the university will not interfere with the ability to protect the intellectual property. University employees should consider delaying public disclosure of intellectual property until the internal evaluation process is completed by the university IP Official. The universities will make every effort to expedite the evaluation process when an employee indicates a compelling need for rapid publication.

The foregoing provision does not apply to a Sponsor's proprietary information disclosed to the university pursuant to a non-disclosure agreement. In the case of Sponsor-supported projects, the Sponsored Project agreement may provide for delay of publication to allow the Sponsor to adequately protect its own intellectual property.

F. Revenue Sharing

The university will pay the creator a share of the net income received by the university from any intellectual property licensed or assigned in accordance with this policy. "Net income" is defined as gross revenues resulting from any given intellectual property, less a university administrative fee of not to exceed fifteen percent (15%), then less all unreimbursed costs incurred by the university or its nominee in protecting, licensing, and maintaining the intellectual property. The IP Official will determine the percentage to be paid to the creator, ensuring that it is in accordance with the university's revenue sharing policy, subject, however, to the following minimum:

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 14

The employee who creates intellectual property as the result of work for which he/she is paid by the university and where he/she uses university facilities and resources will receive a minimum of fifty percent (50%) of the first net ten thousand dollars (\$10,000) received by the university and a minimum of twenty-five percent (25%) of the net amount received by the university in excess of the first net ten thousand dollars (\$10,000). This royalty revenue sharing is not to be construed as wages or salary compensation to the employee from the university, but rather as separate income derived from commercialization of intellectual property. In addition, an employee's rights which have accrued to this royalty revenue sharing shall continue beyond such employee's employment with the university.

G. Faculty Owned or Affiliated Companies Based on the Board's Intellectual Property

With respect to university employees holding interest in private organizations that are based on intellectual property owned by the Board, the creator of the intellectual property that is of interest to that private organization must comply with administrative responsibilities detailed above.

The IP Official will use his/her best efforts to negotiate an appropriate agreement with the private organization whenever one or more university employees(s):

1. Holds a substantial interest in that organization;
2. Is a creator of university intellectual property related to the business of the organization; and
3. Continues his or her university employment in an area related to the business of the organization.

A license or assignment or option agreement between the university and any organization in which an employee owns a substantial interest will be individually evaluated and negotiated for each technology or improvement for which the organization wishes to acquire rights from the university.

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 15

Such agreements shall be subject to customary terms and conditions consistent with the section on Sponsor-Supported Projects of this policy.

If the company in which a university employee holds a substantial interest is given more favorable royalty terms than is usually granted in comparable cases in its license with the university, then the IP Official will determine whether that university employee, who holds a substantial interest in the company licensing university technology developed by that university employee, should receive a personal share of the licensing income received by the university from that company in addition to that employee's equity or other financial interest in that company. If the IP Official determines that the affected employee should not receive his/her personal share of university licensing income, then the share of licensing income that would otherwise be disbursed to the employee personally will be distributed among the other university accounts designated in the university's income distribution policy.

For purposes of this Section, the interest owned by the university employee at the time of Board approval of the employee's relationship with the company will be the interest used in determining whether the employee has a "substantial interest."

H. Conflict of Interest

A grant, contract, or any other form of agreement between a university and any organization containing a provision assigning title or granting an exclusive license is subject to final approval by the Board if a university employee has a substantial or material interest in the contracting organization or any entity engaged in a business relationship with the contracting organization. All agreements are subject to federal and state law and Board policy regarding conflict of interest and technology transfer.

Approval by the Board for either the creation of any organization or any substantial interest in an organization under applicable Arizona law does not exempt any agreement between that university and the organization from the provisions of this Section.

I. Interpretation, Decisions, Appeals (Disputes)

Policy Number: 6-908	Policy Name: Intellectual Property Policy
Policy Revision Dates: 3/01, 6/99, 5/96, 2/88, 9/87, 9/85	Page 16

If the employee does not agree with any interpretation or decision made by the IP Official, the employee may ask the Intellectual Property Committee to review that decision.

The Intellectual Property Committee will review all relevant information submitted to it and will make its recommendation concerning the disputed decision to the president of the university involved, or his/her designee, who will make the final decision.

The final decision of the president or his/her designee is subject to judicial review only pursuant to Arizona Revised Statutes Title 12, Chapter 7, Article 6. Failure to complete the above review procedures will constitute a failure to exhaust administrative remedies.

Policy Number: 6-909	Policy Name: Copyrights
Policy Revision Dates: 2/88	Page 1

## 6-909 Copyrights

- A. The president or the president's designee at each institution is authorized to make applications for copyrights, in the name of the Board, or in the name of an individual or other entity when required by contract, for materials published by the respective institutions.
- B. The president of each institution, or a person designated by the president must approve or disapprove of requests for reproduction of materials appearing in publications copyrighted in the name of the Board.

Policy Number: 6-909.10	Policy Name: Technology Transfer Policy
Policy Revision Dates: 01/2010	Page 1

6-909.10 Technology Transfer Policy

A. The Arizona Board of Regents encourages the universities of the state of Arizona to engage in technological research and development while insuring that public benefit takes precedence over private gain and assures that public funds or resources are not used for private benefit. Thus, this policy is intended to apply to and govern the relationship between the universities of Arizona and non-university entities formed to, or having as their primary purpose, the commercialization of university developed technology which does not have an immediate obvious market or use whether such entities are composed of employees, non-employees or both. In order to facilitate this transfer and development of university technologies to the public sector for the benefit of the public, the state of Arizona and the nation, the Board will consider approval of arrangements between university and non-university entities that meet the following guidelines.

B. Definitions

For the purposes of this policy the following definitions shall apply:

1. "Employee" means any person employed by the Arizona Board of Regents or an organization governed by the Board to perform duties on a regular basis, whether full or part time, including those individuals who are not paid by the Board but who are treated as employees of the Board or an institution under its governance.
2. "Entity" means any natural person, partnership, corporation, joint venture, limited partnership, unincorporated association or identifiable organization not under the governance of this Board.
3. "Material interest" means an employee either:
  - a. Serving as an owner, officer, director, agent, associate, partner, trustee, consultant, holding any position of management, or being otherwise employed by the organization, or
  - b. Is a stockholder owning three percent (3%) or more of the total stock outstanding in any class when stock is not listed

Policy Number: 6-909.10	Policy Name: Technology Transfer Policy
Policy Revision Dates: 01/2010	Page 2

on a stock exchange or stock with a total net value in excess of twenty-five thousand dollars (\$25,000) when such stock is listed on a stock exchange.

4. "President" means the chief executive officer of each of the universities or his designee under this policy.
5. "State" means State of Arizona, any of its political subdivisions, boards, agencies, institutions or instrumentalities.
6. "Technology" means inventions, discoveries, intellectual property, techniques or commercially useful information whether patentable or not, developed using in whole or in part the time, resources, facilities or money of the Board or an institution under its control during the course of an employee's employment, irrespective of the source of funding.
7. "Transfer" means the conveyance of any or all rights to university-developed technology however characterized.
8. "University" means any institution or subdivision of any institution under the jurisdiction and control of the Board.

C. Guidelines for Management Contracts With Patent Management, Technology Management or Technology Development Entities

In addition to transfers permitted under ABOR Policy 6-908 (Intellectual Property Policy), a university may manage its technology transfer activities with one or more entities that meet the following criteria:

1. The entity has resources or expertise not readily available within the institution. These resources or expertise may include, but are not limited to, the ability to:
  - a. Design and recommend methods or strategies for the effective transfer of university technology or the management or university patents.
  - b. Act as trustee and legal owner of equity positions in business ventures held for the benefit of the university.

Policy Number: 6-909.10	Policy Name: Technology Transfer Policy
Policy Revision Dates: 01/2010	Page 3

- c. Provide industry liaison, attract venture capital or otherwise maximize institutional return.
  - d. Provide educational or research opportunities for graduate students, faculty or staff.
2. Each contract shall provide for payment of royalties or other compensation to the university which is judged by the president to be fair and equitable to the university and competitive with similar royalties or compensation prevailing in the commercial marketplace.
  3. Each contract shall provide that any institutional financial support to the entity will ultimately be recovered or will ensure equivalent recovery in the form of additional educational, research or public service benefits to the institution.
  4. The contract shall provide that technology transfer activities carried out under the contract will promote the economy and development of the state or the nation without engaging in conduct constituting state competition with private enterprise.
  5. The contract shall require the entity to comply with the Board and university patent and copyright policies and guidelines for individual technology agreements under this policy.
  6. The contract shall be approved by university counsel, Board counsel, the President and the Board prior to becoming effective. If approved, such agreement shall be managed and administered by the president or his designee.

D. University Technology Transfer Report

The president of each university shall report annually to the Board concerning its technology transfer activities for the preceding year.

The report shall include an analysis of income and expenditures detailed by source, such as licensing, royalty or fees, as well as the university's prevailing standards for measuring performance of patent management arrangements and the performance evaluation results.

Policy Number: 6-909.10	Policy Name: Technology Transfer Policy
Policy Revision Dates: 01/2010	Page 4

E. Claims and Controversies

Claims or controversies arising from technology transfer activities between employees, between an employee and the university or between the university and an entity shall be resolved by the president of each university.

Any such claim or controversy shall be brought to the attention of the president in writing. The written notice of claim or controversy shall set forth in reasonable detail the technical, legal or other basis for the claim or controversy and shall clearly and concisely state the relief or amount sought.

The president shall make or cause to be made such investigation as he deems appropriate. After investigation but within twenty (20) days of receipt, the president shall make a written determination of the claim or controversy and mail his determination to all interested parties. The twenty (20) day period may be extended by the president for an additional twenty (20) days if necessary to adequately investigate the claim or may be extended additionally as all parties agree. The president's determination shall be final.

Policy Number: 6-910	Policy Name: Appointments Requiring Board Approval
Policy Revision Dates: 11/98, 12/92, 2/88	Page 1

## 6-910 Appointments Requiring Board Approval

- A. The following appointments require Board approval:
1. Appointments and renewals of appointments for the university presidents and the Board's executive director;
  2. Initial appointments of vice presidents; and
  3. All multiple-year appointments for head coaches and intercollegiate athletic directors.

Policy Number: 6-911	Policy Name: Notice and Acceptance of Appointment Forms
Policy Revision Dates: 2/88	Page 1

6-911 Notice And Acceptance of Appointment Forms

The universities shall use Board-approved notice and acceptance of appointment forms in the employment of administrative, faculty, and professional employees.

Policy Number: 6-912	Policy Name: Access to or Disclosure of Personnel Records or Information
Policy Revision Dates: 12/2008, 2/88	Page 1

## 6-912 Access to or Disclosure of Personnel Records or Information

Neither the Board of Regents nor the universities under the jurisdiction of the Board shall disclose or permit access to personnel records or information except as authorized by this policy or as required by law.

### A. Employee Access

On request, an employee or a person authorized by the employee in writing may review and obtain copies of documents from the employee's own personnel file, subject to reasonable and specific procedures established and administered by each university.

### B. Administrative Access

1. All personnel, employment or related records shall be available only to authorized users for authorized purposes. The president of the institution or the president's designee has final authority to determine what administrative uses and purposes are authorized pursuant to this policy. Any unauthorized access, release or use of personnel information shall constitute employee misconduct.
2. As determined by the president of the institution, authorized officers, employees or agents of the Board or of any institution under the jurisdiction of the Board may have access to and may disclose personnel records or information as necessary in the prosecution, defense or resolution of any hearing or dispute regarding personnel matters. This paragraph is a supplement to, and shall not be construed as a limitation of, paragraph B.1 above.

### C. Access or Disclosure to Third Parties

Access to or disclosure of personnel records or information from those records shall not be provided to individuals or agencies other than those designated by the universities under this policy, except as follows:

1. The following information regarding present or former employees may be disclosed:

Policy Number: 6-912	Policy Name: Access to or Disclosure of Personnel Records or Information
Policy Revision Dates: 12/2008, 2/88	Page 2

- (a) Name
  - (b) Titles or positions (including academic degrees and honors received);
  - (c) Campus telephone number and e-mail address.
  - (d) Fact of past or present employment
  - (e) Dates of employment; and
  - (f) Salaries or rates of pay.
2. Access to personnel records or disclosure of personnel information may be provided when necessary to protect the interests of the institution when the institution believes the actions of the individual violate the conditions of employment or otherwise threaten injury to the institution or to others, to a properly identified law enforcement authority when the institution reasonably believes that an applicant, employee or former employee may have engaged in illegal activities, or pursuant to a federal, state or local government statute or regulation that specifically requires disclosure of certain information to certain parties.
3. Access to certain personnel records or disclosure of personnel information may be provided in response to a lawfully issued administrative summons, search warrant, or judicial order or subpoena, provided that:
- (a) legal counsel has reviewed the matter and approved disclosure; and
  - (b) if the request is not issued on behalf of the affected employee(s), a reasonable effort has been made to notify the affected employee(s) of the request prior to compliance.
  - (c) the institution receiving a summons or subpoena may seek a protective order to prevent disclosure of certain documents, such as promotion and tenure files, letters solicited from outside reviewers who were given a promise of

Policy Number: 6-912	Policy Name: Access to or Disclosure of Personnel Records or Information
Policy Revision Dates: 12/2008, 2/88	Page 3

confidentiality, and performance evaluations, on the basis that a qualified privilege exists to protect those documents in the employee evaluation system for making determinations of employee retention and the granting of tenured or continuing status.

4. Public Records Law

- A. Except as otherwise required by this policy or by applicable law, personnel records and information shall be treated as confidential and not subject to public inspection because public disclosure of this information would be contrary to the best interests of the state.
- B. To the extent required by A.R.S. §39-128, records maintained by the Board or a university that are reasonably necessary to maintain an accurate knowledge of employee disciplinary actions will be open to inspection and copying, unless inspection or disclosure of the records or information in the records is contrary to law.
- C. If a university receives a request under public records law for employee records it will make reasonable efforts to provide notice to affected employees.
- D. For purposes of this policy,
  - a. “Disciplinary Action” means: involuntary demotion, involuntary dismissal, suspension without pay, and resignation in lieu of dismissal; and for classified staff under progressive discipline, written reprimands.
  - b. “Records maintained by the Board or a university that are reasonably necessary to maintain an accurate knowledge of employee disciplinary actions” mean the final written disciplinary action and the employee’s response, if any, to that action.

Policy Number: 6-912	Policy Name: Access to or Disclosure of Personnel Records or Information
Policy Revision Dates: 12/2008, 2/88	Page 4

- E. This policy does not require disclosure of any individual's home address, home telephone number or photograph, or any information that may subject an individual to the risk of identity theft.

Policy Number: 6-913	Policy Name: Drug Free Workplace
Policy Revision Dates: 5/89	Page 1

## 6-913 Drug Free Workplace

Each university and the central office shall establish and implement those policies and programs which enable it to certify that it will provide a drug free workplace, as required by the Drug-Free Workplace Act of 1988 and its implementing regulations. The policies and programs shall be reviewed by university counsel and board counsel for compliance with the federal requirements. Each university and the central office may elect to extend the requirements of the Act to all university or central office employees.

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 1

## 6-914 Protection of Employees from Reprisal for Whistleblowing

### A. Purpose

To prohibit supervisory personnel from taking adverse personnel action against an employee, or failing to take an otherwise appropriate action, as a result of the employee's good faith disclosure of alleged wrongful conduct to a public body or to a designated university officer on a matter of public concern. An employee who discloses and subsequently suffers an adverse personnel action as a result is subject to the protection of this Policy (6-914 Protection of Employees from Reprisal for Whistleblowing).

### B. Source

Arizona Revised Statutes §38-531; §38-533; §41-1062

### C. Applicability

All employees and supervisors of employees of the Arizona Board of Regents or a state university under the Board's jurisdiction who disclose alleged wrongful conduct, as defined in this Policy (6-914 Protection of Employees from Reprisal for Whistleblowing), and, who, as a result of the disclosure, are subject to an adverse personnel action.

### D. Policy

No adverse personnel action may be taken against a university employee in knowing retaliation for any lawful disclosure of information on a matter of public concern to a public body, including a designated university officer, which information the employee in good faith believes evidences: (1) a violation of any law, (2) mismanagement, (3) gross waste or misappropriation of public funds, (4) a substantial and specific danger to public health and safety; or (5) an abuse of authority, collectively referred to herein as "alleged wrongful conduct."

No supervisor, director, chair, dean, department head, or any other employee with authority to make or materially influence significant personnel decisions shall take or recommend an adverse personnel action against an employee in knowing retaliation for disclosing alleged wrongful conduct to a public body. Any employee found to have so violated this

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 2

Policy (6-914 Protection of Employees from Reprisal for Whistleblowing) shall be disciplined, up to and including termination, in accordance with existing university rules, policies, and procedures.

E. Definitions

1. Abuse of authority: Action or decision which is outside the scope of the alleged violator's position, scope of duties, or level of authority as authorized by the university president or designee. However, even actions or failure to take actions which are within the alleged violator's authority may constitute abuse of authority if the violator's motive or purpose is to harass, intimidate, or treat the employee unreasonably or capriciously under the applicable facts and circumstances.
2. Adverse personnel action: An employment-related act or decision or a failure to take appropriate action by a supervisor or higher level authority which affects an employee negatively. The following are adverse personnel actions in the university's personnel system:
  - a. Termination of employment, including denial of tenure, denial of continuing status, non-renewal, or dismissal for cause
  - b. Demotion
  - c. Suspension
  - d. Written reprimand
  - e. Retaliatory investigation
  - f. Decision not to promote
  - g. Receipt of an unwarranted performance rating
  - h. Withholding of appropriate salary adjustments
  - i. Imposition of involuntary transfer or reassignment;

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 3

- j. Elimination of the employee's position, absent a reduction in force, reorganization, or a decrease in or lack of sufficient funding, monies, or work load;
  - k. Denial of awards, grants, leaves, benefits, or training for which the employee would normally be eligible;
  - l. Other significant change in job responsibilities or working conditions which are inconsistent with the employee's position, salary or grade.
3. Alleged wrongful conduct: Violation of law, mismanagement, gross waste or misappropriation of monies, substantial and specific danger to public health and safety or abuse of authority.
  4. Conflict of interest: when an employee is in a position to influence a university activity or decision in ways that could lead to any matter or form of personal gain to the employee or for his/her family member, or when the employee has a personal vested interest in the activity or decision.
  5. Day: Calendar day. In cases of faculty, academic professionals, and other employees appointed on an academic year (nine month) basis, day does not include summer, mid-semester, semester, or other similar break periods.
  6. Discloser: An employee who reports alleged wrongful conduct to a public body, as defined herein.
  7. Disclosure: Oral or written report by an employee to a public body of alleged wrongful conduct on a matter of public concern.
  8. Disclosure investigation: Review and determination made by the appropriate university officer and/or designees of a disclosure.
  9. Filing: Receipt by the office where filing is required.
  10. Gross waste or misappropriation of public funds: Action or decision which is outside the scope of the alleged violator's spending or budgetary authority, or even when the action or decision is within

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 4

budgetary authority, the action would be considered by a reasonable person to be grossly excessive, wasteful, or an improper use of public funds.

11. Knowing retaliation: An adverse personnel action taken by a supervisor or other authority against an employee because of a prior disclosure of alleged wrongful conduct.
12. Mismanagement: Action or decision which exceeds the scope of the alleged violator's responsibilities, or even if the action is within responsibilities, the action would be considered by a reasonable person to be grossly excessive or unfair.
13. Personnel action: An employment-related action or decision which affects an employee positively or negatively.
14. Public body: The Arizona Attorney General; the Arizona Legislature; the Governor of Arizona; a federal, state, or local regulatory or law enforcement agency; the local county attorney; a member of the Arizona Board of Regents, a university president, provost, vice president, vice provost, college dean, or non-academic department director.
15. Service provider: Independent entity which has contracted with the university to provide hearing officer services. The hearing officer will be selected by the service provider through a process which includes consultation with the parties.
16. Supervisory employee: Any supervisor, director, chair, dean, department head, or other employee who has authority to make or materially influence significant personnel decisions.
17. University officer: President, provost, vice-provost, vice-president, dean, or non-academic department director.
18. Violation of law: A violation of local, state, or federal law or regulation that is applicable to the university or its employees.
19. Whistleblower complainant ("complainant"): A current or former employee who disclosed alleged wrongful conduct to a public body

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 5

and who subsequently is subject to an adverse personnel action as a result of making the prior disclosure.

20. Whistleblower complaint: A complaint filed by a complainant with a university officer alleging that an adverse personnel action was taken in retaliation for a prior disclosure of alleged wrongful conduct to a public body.
21. Whistleblower complaint review: A review by a university officer or committee of a whistleblower complaint, resulting in a written decision which the university officer provides to the complainant.
22. Whistleblower external hearing: A hearing conducted by an external hearing officer selected by the complainant and university to conduct a hearing if the complainant is dissatisfied with the decision of the university officer following a whistleblower complaint review.

#### F. Making A Disclosure

An employee who becomes aware of alleged wrongful conduct is encouraged to make a disclosure to any public body as soon as possible, but in any case must make the disclosure no later than three hundred sixty-five (365) consecutive calendar days after becoming aware of the conduct.

In order to allow the university an opportunity to investigate alleged wrongful conduct and to take necessary internal corrective action, employees are encouraged to report in writing a disclosure of alleged wrongful conduct to a university president, provost, vice president, vice provost, dean, or non-academic department director.

If the employee is unwilling or unable to put an oral disclosure in writing, the university officer who investigates the disclosure will prepare a written summary of the employee's disclosure and provide a copy to the employee. No later than ten (10) days after receipt of the summary, the employee may submit a written supplement to the university officer who prepared the summary. Failure to submit a supplement within ten (10) days will constitute acceptance of the summary as an accurate statement of the disclosure made by the employee. The university officer and/or designees will conduct an investigation into the allegations of the

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 6

disclosure and will take necessary corrective action, as warranted. Throughout this process, the confidentiality of the discloser will be maintained to the greatest extent possible. At the conclusion of the investigation, the university officer will notify the discloser and other affected employees in writing of the determination. A copy of the determination shall be retained by the provost, the discloser, and the alleged violator. The investigation shall be conducted by a university officer who does not have a conflict of interest in the matter being investigated. A discloser must suffer adverse personnel action as a result of making a disclosure to file a whistleblower complaint and receive a hearing.

Where the university officer determines the employee's allegations do not meet the definition of disclosure under this policy, the university officer shall refer the employee to other available university grievance or appeal processes to address the employee's concerns. Furthermore, where the employee's allegations constitute a complaint of discrimination on a basis covered by the university's non-discrimination or similar policy, the employee's allegations shall be referred to the university office charged with investigating allegations of discrimination, rather than being investigated as a disclosure of alleged wrongful conduct under the whistleblower policy.

G. False Allegations of Wrongful Conduct

An employee who knowingly makes false allegations of alleged wrongful conduct to a public body shall be subject to discipline, up to and including termination of employment, in accordance with university rules, policies, and procedures.

H. Legitimate Employment Action

This policy may not be used as a defense by an employee against whom an adverse personnel action has been taken for legitimate reasons or cause under university rules and policies. It shall not be a violation of this policy to take adverse personnel action against an employee whose conduct or performance warrants that action separate and apart from that employee making a disclosure.

I. Whistleblower Complaint

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 7

No later than thirty (30) days after a current or former employee is notified or becomes aware of an adverse personnel action, he or she may protest the action by filing a written whistleblower complaint with a university designated officer or committee if the employee believes the action was based on his or her prior disclosure of alleged wrongful conduct. The university officer or committee, on receipt of a whistleblower complaint, shall review the complaint expeditiously to determine: (1) whether the complainant reported alleged wrongful conduct to a public body on a matter of public concern before an adverse personnel action was imposed; (2) whether the complainant suffered an adverse personnel action after reporting alleged wrongful conduct to a public body; (3) whether the complainant alleged that the adverse action resulted from the prior disclosure; and (4) whether the complainant alleged the adverse action was the result of knowing retaliation for the employee's disclosure. The review shall be conducted by a university officer or committee whose members do not have a conflict of interest in the matter being reviewed.

No later than forty-five (45) days after receipt of the complaint, the university officer shall notify the complainant in writing of the results of the review and whether the adverse personnel action is affirmed, reversed, or modified, and provide a copy of the decision to the employee's supervisor. The supervisor will implement the decision and will verify implementation in writing to the university officer no later than ten (10) days after receipt of the university officer's decision.

Where the designated university officer or committee finds the employee did not make a disclosure pursuant to this policy, the employee shall be referred to other available university grievance or appeal processes to pursue the complaint. Furthermore, because there are other university policies and statutes that provide remedies for claims of retaliation following the filing of an unlawful discrimination complaint, such retaliation claims will be referred to the university office charged with investigating allegations of discrimination rather than being reviewed as whistleblower complaints.

A complainant who is dissatisfied with the decision of the university officer on the whistleblower complaint may file a request for a whistleblower hearing and proceed under the following procedures.

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 8

J. Procedures

1. Request for hearing

The Board, through its universities, has contracted with qualified service providers to provide qualified external hearing officers and a hearing process for a complainant who is dissatisfied with the university officer's decision. The purpose of the hearing is to determine whether an adverse personnel action resulted from the complainant's prior disclosure of alleged wrongful conduct. No other issues or determinations are authorized. The hearing officer will be selected by the service provider in consultation with the parties. The hearing officer cannot be a university employee and, except for the contractual arrangement to provide hearing officer services, cannot have substantial interest in the university.

a. Request for hearing

No later than fifteen (15) days after receipt of the university officer's decision, a complainant who is dissatisfied and desires an external hearing must file a written request for hearing with the university representative or office designated to review these requests.

b. Contents of request for hearing

A request for hearing must contain the following:

- (1) A specific statement that it is a request for a whistleblower hearing by an external hearing officer;
- (2) The name, work address, work telephone number and position of the complainant;
- (3) The name, work address, work telephone number and position of the university officer who issued a decision on the complainant's whistleblower complaint;
- (4) A statement of the reasons for requesting a hearing including the objectionable portion of the university

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 9

officer's decision;

- (5) A statement of the specific relief or remedy requested; and
- (6) Copies of (a) the employee's prior disclosure or the written summary prepared by a university officer; and (b) the university officer's decision on the whistleblower complaint.

2. Appointment of hearing officer

No later than twenty (20) days after receipt of a request for hearing, the designated university officer or committee who receives the complaint will determine whether the complainant qualifies for an external hearing based on the following:

- a. The complainant identified an adverse personnel action imposed on him or her and the date of notice of the action;
- b. The complainant made a prior disclosure of alleged wrongful conduct to a public body on a matter of public concern prior to the adverse personnel action;
- c. The complainant alleges the adverse personnel action resulted from the prior disclosure;
- d. The complainant attached the disclosure and the decision on the whistleblower complaint review to the request for hearing.

The request will be reviewed by a university officer or committee whose members do not have a conflict of interest with respect to that matter.

If the request qualifies for an external hearing, the designated university officer or committee will forward the request to the service provider to begin the process of selecting an external hearing officer and conducting a whistleblower hearing.

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 10

If the request does not qualify for a whistleblower hearing, the request will be returned to the complainant with written reasons for rejection. No later than ten (10) days after receipt of the decision, the complainant may file a written appeal of the rejection to the university president or designee. The president or designee will respond to the complainant in writing no later than twenty (20) days after receiving the appeal. If the president or designee reverses the decision, the case will proceed; if the president or designee affirms the decision that the request does not qualify for a hearing, that decision is final.

3. Submission of the record

No later than twenty (20) days after receipt of the request for hearing, the service provider shall notify the complainant and the identified university officer that the request for hearing is accepted and assist the parties with the mutual selection of the hearing officer, the procedures for a pre-hearing conference in person or by telephone, and the procedures which will be followed in conducting the hearing, including submission of evidence, documents, and witness lists. The hearing officer may require the parties to submit summaries of their positions before the hearing commences.

The hearing will be conducted no later than ninety (90) days after the request is received by the service provider, unless the hearing officer extends the time for good cause.

4. Conduct of hearing

Hearings shall be conducted in accordance with the requirements of A.R.S. §41-1062 governing administrative hearings, as well as the requirements of this policy and the rules and procedures of the service provider. The procedures designated in this policy supersede rules of the service provider, if there is a conflict. The formal rules of evidence do not govern the hearing. Generally, the party advocating a particular point or fact has the burden of proof on that point or fact. Ultimately, the person seeking review has the burden of persuading the hearing officer that the adverse action occurred because of a prior disclosure of alleged wrongful conduct to a public body. The evidence standard is proof by a

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 11

preponderance of the evidence.

The hearing officer has subpoena power. The hearing shall either be recorded or transcribed, as determined by and at the university's expense, so as to provide an accurate, written rendition of the hearing.

5. Attorneys or advisers

Complainant, at his or her own expense, may be represented by an attorney at any stage of the hearing process, including but not limited to presentation of the case during the hearing. If the complainant is represented at the hearing by an attorney, then the university representative may also be represented at the hearing by an attorney.

6. Resolution by agreement

At any time, the parties may agree upon a resolution of the matter. In such event, the written agreement shall be presented to the designated university officer who shall close the case and notify the service provider and the parties in writing that the matter is resolved by agreement.

7. Hearing officer's decision

No later than thirty (30) days after the close of the hearing, the service provider shall provide the hearing officer's written report to the parties and to the university president. The report will contain findings of fact and the evidence relied upon to sustain those facts, conclusions including reference to applicable law, rules or policies, and a decision by the hearing officer that the adverse personnel action was or was not based on a prior disclosure, and whether the adverse action is affirmed, reversed, or modified.

The university will implement the decision of the hearing officer no later than ten (10) days after receipt, except that the hearing officer may not direct that the university grant renewal, tenure, continuing status or promotion to a faculty member or academic professional.

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 12

If the hearing officer finds that an adverse personnel decision related to renewal, tenure, continuing status or promotion of a faculty member or academic professional was the direct result of the disclosure of alleged wrongful conduct, the hearing officer shall remand the complaint to the university for further proceedings consistent with its internal procedures.

K. Dismissal of Tenured Faculty or Continuing Academic Professionals

Board of Regents Policy 6-201, (Conditions of Faculty Service), and 6-301, (Conditions of Professional Service), provide extensive due process and procedures for dismissal of tenured faculty or continuing academic professionals, including review and/or hearings by university faculty committees. In dismissal cases, the internal grievance hearing process as set out in the hearing provisions of ABOR Conditions Policies must be completed and include a report with recommendations from the committee to the university president for decision. The grievance committee will consider the whistleblower and other grievance issues raised by the grievant. If the complainant disagrees with the results of the internal process, he or she may request a whistleblower hearing as provided in this policy.

L. Request for Review or Rehearing

1. In compliance with A.R.S. §41-1062.b, a complainant who is dissatisfied with the decision may request a rehearing or review by filing a written request with the service provider no later than fifteen (15) days following receipt of the written decision. The service provider will forward the request to the hearing officer on receipt. The request shall be based on one or more of the following grounds:
  - a. Irregularities in the proceedings, including but not limited to any abuse of discretion or misconduct by the hearing officer or hearing panel, which has deprived the complainant/grievant of a fair and impartial hearing;
  - b. Newly discovered material evidence which with reasonable diligence could not have been presented during the fact-finding or hearing process;

Policy Number: 6-914	Policy Name: Protection of Employees from Reprisal for Whistleblowing
Policy Revision Dates: 3/01, 4/90	Page 13

- c. Excessive severity of the sanction; or
  - d. The decision is not justified by the evidence or is contrary to law.
2. Following receipt of the request for review, the hearing officer shall make whatever review is deemed necessary to resolve the issues that have been raised.
  3. The service provider will provide the hearing officer's written decision on review to the parties and university president no later than twenty (20) days after receipt of the request from the complainant.
  4. When the complainant does not request rehearing or review, the hearing officer's decision following the hearing becomes the final agency decision fifteen (15) days after the complainant's receipt of that decision. When the complainant requests review, the hearing officer's decision following review is the final agency decision.
  5. The hearing officer's decision is subject to judicial review only under A.R.S. §12-901, et seq. The hearing officer's decision following the hearing shall include a statement notifying the complainant that he or she has thirty-five (35) days from the date on which the decision becomes final to seek review of that decision in the superior court in accordance with the provisions of the Administrative Review Act, A.R.S. §12-901, et seq.

M. Dissemination

Each university shall develop appropriate mechanisms to advise all employees of the existence of this policy, including but not limited to making the policy available on the university's web site, including a reference to the policy in employee handbooks, and posting copies of the policy where appropriate.

Policy Number: 6-915	Policy Name: Executive Compensation Guidelines
Policy Revision Dates: 11/03	Page 1

## 6-915 Executive Compensation Guidelines

- A. Each university President will submit to the Board's Assessment and Compensation Committee by March 1 of each year an annual report describing the current compensation for all vice presidents and all senior executives who report directly to the President
1. The Executive Compensation Reports will be prepared in a format approved by the Executive Director, and will include the following elements: total compensation paid to each individual, source of funding, and appropriate comparison salary data as reported in the current year's College and University Professional Association for Human Resources (CUPA-HR) Administrative Compensation survey, or such other source of comparative compensation data deemed appropriate by the Assessment and Compensation Committee.
  2. For purposes of this reporting, Arizona State University and the University of Arizona will use their blended board-approved list of 29 peer institutions as their comparator group. Northern Arizona University will use public doctoral institutions within its budget range as their comparator group.
- B. With the exception of new vice presidential appointments and multiple-year appointments of Athletic Directors and Head Coaches requiring board approval pursuant to ABOR Policy 6-910 (Appointments Requiring Board Approval), the university Presidents retain discretion to make compensation adjustments for all senior executives so long as the adjusted compensation falls within a range of ninety percent (90%) to one hundred ten percent (110%) of the current reported average salary for the comparable position in the CUPA survey.
- C. In those circumstances in which a university President proposes initial compensation or a compensation adjustment that does not fall within the prescribed range, the President shall be expected to seek a timely prior review of the proposed compensation from the Assessment and Compensation Committee. The Committee's review will include a review of the comparable compensation data from CUPA or other sources, and the rationale for the proposed level of compensation.