PROPER USE
GUIDELINES
PROPER USE OF UNIVERSITY ASSETS

EMPLOYEE RESPONSIBILITY

Although primary responsibility for control of university equipment, materials, supplies, and information assets rests with the provosts, vice presidents, deans, chairpersons, directors, or department heads to whom property is assigned, all Rutgers employees are responsible for securing and caring for university property, resources, and other assets. This responsibility includes such actions as locking doors and cabinets; securing valuable equipment and assets; and reporting suspicious or fraudulent behavior.

MISUSE OF UNIVERSITY ASSETS

Rutgers relies on the attention and cooperation of every member of the community to prevent and detect the misuse of university assets. This misuse usually involves some form of deception or misrepresentation of fact and information, or the appropriation of university property or funds, for personal gain. Examples include falsification of time worked or expenses claimed for reimbursement; theft of cash or property; use of university facilities, vehicles, or equipment for personal purposes; and unreimbursed personal use of phones, postage, or supplies. All of these actions are improper, and some are serious violations of university business operation standards.

REPORTING MISUSE OF UNIVERSITY ASSETS

Any employee or student employee who knows of or reasonably suspects fraud, misappropriation of funds, theft, or some other misuse of university assets should report the situation immediately to his or her supervisor. All Rutgers supervisors who are notified of misuse are required to address the situation immediately.

If the employee reporting misuse of university assets reasonably believes the situation is not being addressed satisfactorily, or the misuse is, or has
For more information on the proper use of university assets, consult the following policies in the University Regulations and Procedures Manual: University Academic Policies (2.5.0); Policies and Procedures Concerning Equipment, Materials, and Supplies (6.1.15); Policies and Procedures Concerning the Personal Use of University Telephones (6.1.17); Use of University Motor Vehicles (6.3.5); Facilities Use and Scheduling (6.3.7); Policies Concerning Gratuities, Official Guests, Receipt of Gifts, and the Use of University Resources (6.4.2); and Surplus Property (6.5.5). The University Regulations and Procedures Manual is available at www.rutgers.edu/regulations/.

Questions regarding misuse of university assets can be directed to the Internal Audit Department. The public safety web site at publicsafety.rutgers.edu provides information on how to contact the Rutgers University Police Department.
PROPER USE OF CONSULTANTS

My director wants to hire a company, which is incorporated, to help us with a major project. The company’s fee is $25,000. Can I hire this company using a “Request for Consulting or Independent Personal Services” form?

No. Companies that are incorporated must be hired using a university purchase order. Because the consulting fee is more than the $14,700 university bidding threshold, purchasing must review the request for purposes of competitive bidding.

Under certain circumstances, some units need to engage consultants or other independent personal service providers (IPSPs). The university requires use of its prescribed standard consulting agreement under which the university is ensured of receiving ownership of the consultant’s work product. Rutgers defines a consultant or IPSP as an individual, a sole proprietorship, a partnership, an association, or some other non-incorporated entity hired by the university to provide specialized advice or service for a fee but not as an employee. Corporations engaged to provide professional or other services must be contracted through Procurement and Contracting with a university purchase order.

If a unit needs to engage a consultant or IPSP, the unit has the responsibility to determine that the individual will be considered an independent contractor, as opposed to an employee, for income and employment tax purposes. The distinction between an employee and an independent contractor is important under state and federal tax laws because an employer must withhold income and employment taxes from an employee but not from an independent contractor. If an individual has been misclassified as an independent contractor, the university could be liable for unpaid taxes, interest, penalties, and unpaid benefits.

Generally, an employee/employer relationship exists when the person for whom the services are performed controls and directs the individual performing the services. In that case, the individual must be hired as an employee, not as a consultant or IPSP.

Individuals or noncorporate agencies engaged to provide professional or other services must be contracted using a “Request for Consulting or Independent Services” form. This prenumbered form contains a questionnaire that will help you determine whether the individual is an employee or independent contractor. These forms are available from the Material Services Department.
A faculty member in my department is hiring an employee from another Rutgers department to work on a research project. Can this individual be engaged as a consultant using a “Request for Consulting or Independent Personal Services” form?

No. The employee must be paid through the university’s payroll system either as an additional appointment, when appropriate, or as other pay.

When an employee provides services to another department or an externally sponsored program of the university, the payment for those services must be paid through the university’s payroll system under an additional appointment or as “other pay.”

For more information on the proper use of consultants, see the following policy in the University Regulations and Procedures Manual: Policies and Procedures Concerning Payments Made to Individuals for Consulting or Other Independent Personal Services, Intellectual Property, Honoraria, and Other Miscellaneous Activities (6.1.4). The University Regulations and Procedures Manual is available at www.rutgers.edu/regulations/.

Specific questions about hiring consultants or independent personal service providers may be directed to University Procurement and Contracting (www.rci.rutgers.edu/~procure), the Disbursement Control Department in University Accounting (www.rci.rutgers.edu/~univcont/index.htm), or your local campus purchasing office.
It is Rutgers’ policy to maintain access for its community to local, national, and international sources of information, and to provide an atmosphere that encourages the free exchange of ideas and sharing of information. Access to this environment and the university’s information technology resources is a privilege and must be treated with the highest ethical standards.

USE OF INFORMATION TECHNOLOGY RESOURCES

The university expects all members of the community to use computing and information technology resources responsibly, respecting the public trust through which these resources have been provided, the rights and privacy of others, the integrity of facilities and controls, and all pertinent laws and university policies and standards.

The guidelines for acceptable use of university computing and information technology resources pertain to, but are not limited to, equipment, software, networks, data, and telephones, whether owned, leased, or otherwise provided by Rutgers.

The guidelines apply to all users of Rutgers’ computing and information technology resources, including faculty, staff, students, guests, and individuals or organizations accessing external network services, such as the Internet, via university facilities. These guidelines also apply to individuals or organizations from outside the university who have access to Rutgers’ computing and information technology resources from outside the university.

INDIVIDUAL RESPONSIBILITY

Preserving access to information resources is a community effort that requires each member to act responsibly and guard against abuses. Both the community as a whole and individual users have an obligation to abide by the following standards of acceptable and ethical use:
• Use only those computing and information technology resources for which you have authorization.

• Use computing and information technology resources only for their intended purpose.

• Protect the access and integrity of computing and information technology resources.

• Abide by applicable laws and university policies, and respect the copyrights and intellectual property rights of others, including the legal use of copyrighted software.

• Respect the privacy and personal rights of others.

Failure to comply with these guidelines threatens the atmosphere for the sharing of information, the free exchange of ideas, and the secure environment for creating and maintaining information property, and subjects abusers to discipline. Anyone found using information resources for unethical or unacceptable practices is subject to suspension or termination of system privileges. In appropriate cases, there may be disciplinary action, including expulsion from school, termination of employment, and/or legal action.

LIMITS ON RESOURCE USE

Rutgers reserves the right to limit or restrict the use of its computing and information technology resources based on institutional priorities and financial considerations, as well as when it is presented with evidence of a violation of university policies, contractual agreements, or state and federal laws. The university also reserves the right to examine material stored on or transmitted through its facilities if there is reason to believe that the standards for acceptable and ethical use have been violated or for reasons of business necessity.

More information, including Guidelines for the Interpretation and Administration of the Acceptable Use Policy, can be found at rucs.rutgers.edu/policies.html. Questions about the policy and reports of abuse can be directed to abuse@rutgers.edu.
Research involving humans and live vertebrate animals plays an essential role in combating disease and expanding the frontiers of knowledge. It is imperative that this important activity be carried out with the highest ethical standards. Protecting people who are subjects in research and ensuring the proper care and use of live vertebrate animals are high priorities at Rutgers.

Anyone carrying out research involving human subjects or live vertebrate animals must obtain appropriate university approval before work is done. At Rutgers, the Institutional Review Board for the Protection of Human Subjects reviews all protocols involving human subjects. The Animal Care and Facilities Committee reviews all protocols using live vertebrate animals.

More information on how to submit protocols involving human subjects in research can be found at orsp.rutgers.edu/hsannmem.htm. Topics discussed at the site include categories of review; student research projects; the federally mandated human subjects education program; National Institute for Health (NIH) requirements for human subjects education; examples of when human subject protocols are required; definition of human subject; and a submission schedule.

More information on how to submit protocols involving the use of live vertebrate animals in research can be found at orsp.rutgers.edu/animals/animal_letter.pdf. Topics include an animal issues communications plan; requirements of the occupational health program; custom antibody production; federal agency requirements; requirements for submission of amendments; and a submission schedule.

Specific questions regarding the protection of human subjects and animals in research may be directed to the Office of Research and Sponsored Programs. You also may access the web sites listed above.
Copyright of Intellectual Material

Site Licenses for Software

The university has obtained site licenses for some software. Under these licenses, there may be arrangements for multiple copies for departmental use. In some instances, individual copies are available for a small fee.

Rutgers complies with U.S. copyright law and with the licensing restrictions that apply to the reproduction of, access to, and use of software and databases. Copyright law protects the rights of creators of "original works of authorship fixed in a tangible medium of expression," both published and unpublished, to reproduce, prepare derivative works based on, distribute, publicly perform or display, and digitally transmit their works. Copyright protection begins at the time the work is created in fixed form. A copyright notice is not required.

Fair Use

For higher education, fair use is the most important exemption in copyright law from copyright owners' exclusive rights in their copyrighted materials. The fair use doctrine provides an exemption for educators, scholars, and students that allows the use of limited amounts of copyrighted materials without seeking permission of the copyright holder. In appropriate cases, such use does not infringe on the rights of copyright holders. The fair use doctrine provides guidance for considering how to balance educational needs with the author’s rights, and allows the reproduction of limited amounts of copyrighted material for the purpose of criticism, comment, teaching, or research under certain circumstances. Educational use alone does not automatically result in a finding of fair use.

Consider the following factors when determining whether such a reproduction constitutes fair use:

• Purpose and character of the use (non-profit as opposed to commercial)
• Nature of the copyrighted work
• Amount and substance of the portion used
• Effect of the use on the market value of the work
As this is a complicated assessment, refer to the web site of the university libraries for assistance: www.libraries.rutgers.edu/rul/rr_gateway/research_guides/copyright/copyright.shtml.

COPYRIGHT PERMISSION

Never assume copyright permission. It always is safest to get permission from the copyright owner before using copyrighted material, especially if you are unsure whether the material is copyrighted or your use is considered fair use. Even materials lacking a copyright notice may be copyrighted. Materials that appear on the web are protected by copyright in the same manner as any other works. The fact that materials are available on a web site does not place them in the public domain.

THE UNIVERSITY’S COPYRIGHT POLICY

The university’s *Interim Copyright Policy* governs the ownership of copyrightable works created at the university or using university facilities. Generally, the university owns the copyright to copyrightable works created by staff. Generally, too, the university does not assert copyright ownership to writings or other copyrightable works created by faculty or students on their own initiative unless university resources—such as facilities or other support for the purpose of creating such materials—are used or the works relate to sponsored research. The university seeks to preserve the traditional prerogatives of faculty and students to publish and disseminate scholarly materials and to create artistic works.

---

*Is it a violation of copyright law if I copy a software program and give it to a colleague for his or her personal use?*

Copyright law allows the creation of a single backup copy. Most software, however, is licensed to the user only, and the terms of the license agreement govern the extent of the user’s rights to copy beyond that permitted by copyright law. You should adhere to the provisions of the software license agreement.

Is it a violation of copyright law if I copy a software program and give it to a colleague for his or her personal use?

Copyright law allows the creation of a single backup copy. Most software, however, is licensed to the user only, and the terms of the license agreement govern the extent of the user’s rights to copy beyond that permitted by copyright law. You should adhere to the provisions of the software license agreement.

The university’s *Interim Copyright Policy* is available at the Office of Corporate Liaison and Technology Transfer’s web site, ocltt.rutgers.edu. For technical advice or additional sources of information, contact the Office of the Vice President for Research. Copyright materials also are available at the Rutgers University Libraries web site at www.libraries.rutgers.edu.

For more information about copyrights and intellectual property, consult the following policies in the University Regulations and Procedures Manual: University Academic Policies (2.5.0); and Policies and Procedures Concerning Payments Made to Individuals for Consulting or Other Independent Personal Services, Intellectual Property, Honoraria, and Other Miscellaneous Activities (6.1.4). The University Regulations and Procedures Manual is available at www.rutgers.edu/regulations/.
COMMERCIALIZATION OF INTELLECTUAL PROPERTY OWNED BY THE UNIVERSITY

Information on the commercialization of scientific discoveries and inventions and intellectual property owned by the university through licensing and the creation of start-up companies can be obtained from the Office of Corporate Liaison and Technology Transfer. Information on the use and licensing of Rutgers’ name, logos, and trademarks can be obtained from the Office of Trademark Licensing.

Work performed by Rutgers faculty, students, and/or staff often results in valuable intellectual property. Novel inventions and discoveries represent intellectual property that may be protected from use by others through the patenting of such inventions and discoveries with the U.S. Patent and Trademark Office (PTO). An invention that is novel, non-obvious, and useful may be patented under U.S. Patent Law. Patent protection allows the owner of the patent to exclude others from utilizing the invention embodied in the patent for twenty years from the date of first filing for the application, provided that the U.S. PTO ultimately grants the application.

It is the obligation of the inventor to disclose his or her invention or discovery to Rutgers before disclosing it through publication or other means. In addition, the faculty or staff inventor must assign his or her ownership rights to the invention or discovery or any subsequent patent to Rutgers. Even many non-employees may be subject to this policy, including visiting professors or visiting scientists with or without salary support from Rutgers, undergraduate and graduate students, and post-doctoral fellows.

For more information about intellectual property and patents, consult the following policies in the University Regulations and Procedures Manual: University Academic Policies (2.5.0); Faculty or Staff Involvement with Commercial Enterprise – Contracts with the University (3.3.11); Policies and Procedures Concerning Payments Made to Individuals for Consulting or Other Independent Personal Services, Intellectual Property, Honoraria, and Other Miscellaneous Activities (6.1.4); Patent Policy of Rutgers (6.4.1); and Use of the University Seal (6.4.10). The University Regulations and Procedures Manual is available at www.rutgers.edu/regulations/.

You also may find the following helpful: Downloadable disclosure forms are available from the Office of Corporate Liaison and Technology Transfer or on its web site at ocltt.rutgers.edu/.

The University Policies for Dealing with Allegations of Misconduct in Research can be found on the Office of Research and Sponsored Program’s web site at orsp.rutgers.edu/.

The Office of Trademark Licensing web site is at ur.rutgers.edu/trademark/trademarklicensing/.