

New York University

Policy on Retention of and Access to Research Data

Summary: Establishes University policy to assure that Research Data are appropriately recorded, archived for the required time, and available for review under the appropriate circumstances.

Effective Date: March 1, 2010

Issuing Authority: University Provost

Responsible Officer: Senior Vice Provost for Research

Who Needs to Know this Policy: This policy shall apply to all University faculty, staff, postdoctoral appointees, students and any other persons involved in the conduct of research at or under the auspices of the University, and it shall apply to all research projects on which those individuals work, regardless of the source of funding for the project.

Related Policies: Statement of Policy on Intellectual Property; Policy on Tangible Research Property.

Policy Purpose: Maintaining accurate and appropriate research records is an essential component of any research project. It is necessary to support and substantiate findings, to protect intellectual property rights, to facilitate management of the research program of New York University (“NYU” or the “University”), and to ensure compliance with federal regulations and other University policies.

This policy sets forth the rights and responsibilities of the University, the Principal Investigator (PI) and all other investigators with respect to access and maintenance of original Research Data created in connection with the design, conduct or reporting of research performed at or under the auspices of the various units of the University.

The PI is the custodian for the University of Research Data, including the scientific data and other records of research conducted at or under the auspices of the University, holds original Research Data in trust for the University and is responsible for the maintenance and retention of Research Data in accord with this policy.

Questions on the interpretation of this policy may be directed to the Senior Vice Provost for Research.

Individual schools of NYU may wish to supplement the present document by developing policies applicable to faculty and research conducted in that particular school. In such supplements, individual schools may assert ownership of Research Data on behalf of the University, may expand the definition of Research Data, and may otherwise impose such rights and restrictions as are reasonably necessary for the school to meet the University's objectives for this policy as they

apply to the individual schools' research. Such policies must be approved by the Provost to ensure consistency with the present University policies.

Definitions: “Research Data” means any recorded, retrievable information necessary for the reconstruction and evaluation of reported results created in connection with the design, conduct or reporting of research performed or conducted at or under the auspices of the University and the events and processes leading to those results, regardless of the form or the media on which they may be recorded. Research data include both intangible data (statistics, findings, conclusions, etc.) and tangible data (notebooks, printouts, etc.), but not Tangible Research Property, which is subject to a separate NYU policy.

Policy: It is important that investigators have the ability to document the results of research, both for the sake of assisting the University in meeting its scholarly and legal requirements as well as for the more traditional reasons for establishing priority for patentable items, publishing manuscripts, and the like. The University must retain original Research Data in sufficient detail and for an adequate period of time to enable appropriate responses to questions about accuracy, authenticity, primacy and compliance with laws and regulations governing the conduct of the research and to establish priority for patentable items. As stated in NYU’s Policy on Intellectual Property, the University claims ownership of any Research Data covered by this Policy, if such data underlie inventions or tangible research property which the University seeks to commercialize. Researchers shall make no assignments or commitments that might preclude such ownership.

It is the responsibility of the Principal Investigator to determine what needs to be retained under this policy. The PI is the custodian for the University of Research Data, holds original Research Data in trust for the University and is responsible for the maintenance and retention of Research Data in accord with this policy.

A grant, contract or agreement between a sponsor of research and the University may include terms regarding Research Data arising from the sponsored research. When such grant, contract, or agreement includes specific provision(s) regarding ownership, retention of and access to Research Data, the provision(s) of that agreement will prevail.

RESPONSIBILITIES

The University’s responsibilities and rights over Research Data and stewardship of the scientific record for projects conducted at the University, under the auspices of the University, or with University resources are based on both federal regulations¹ and sound management principles.

¹ For example, OMB Circular A-110, Sec. 53, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and the Federal Acquisition Regulations (FAR) for contracts awarded by the Federal government (see §27.403 Data rights—general and 52.227-14 Rights in Data – General (Clauses & Forms)).

The University's responsibilities in this regard include, but are not limited to:

- complying with federal grant requirements with respect to the retention of Research Data to support grant payments;
- complying with the terms of sponsored project agreements, including clinical trial agreements;
- protecting the rights of students, postdoctoral appointees, staff and other collaborators, including, but not limited to, their rights to access to data from research in which they participated;
- ensuring the appropriate use of animals, human subjects, recombinant DNA, biological agents or toxins, etiological agents, radioactive materials, and the like;
- securing the University's intellectual property rights; and
- facilitating potential investigations, such as allegations of research misconduct or conflict of interest.

The PI is responsible for:

- the identification, collection, management and retention of Research Data as custodian for the University;
- ensuring that, for all aspects of their research program, sufficient records are kept to document the experimental methods and accuracy of data collection as well as the methods and accuracy of data interpretation;
- adopting an orderly and dated system of data organization;
- communicating this policy and the chosen system of data organization to all members of the research team, including appropriate administrative personnel;
- assuring access to the data in the event of a departure from the University, under such terms as the University approves by any member of the research team;
- facilitating the investigation of charges, such as research misconduct or conflict of interest;
- complying with funding agency requirements regarding data access and retention;
- establishing and maintaining procedures, particularly for long-term research projects, for the protection of essential records in the event of a natural disaster or other emergency, and securing such records in such event;
- assuring that in the event the data are associated with inventions or tangible research property that the University wishes to commercialize through licensing or other means, the University can assert ownership of the underlying data.

RETENTION

Research data must be archived for the longer of (i) three years after the final project close-out or (ii) five years after the final reporting or publication of a project, with original data retained wherever possible. Sponsored research grants, contracts, and cooperative agreements may mandate different retention periods (including state and local sponsors which generally require retention for six years following final project close-out). Investigators need to read and understand award terms and conditions to ascertain the requirements covering a particular

sponsored research project. In addition, certain research circumstances may justify longer periods of retention. Some common research circumstances where the University may require a longer retention period are:

- if any intellectual property resulting from the work has been or is likely to be commercialized by NYU, Research Data must be kept for as long as may be necessary to protect it;
- if any charge, audit, claim or litigation regarding the research arises, such as allegations of scientific misconduct or conflict of interest, data must be retained for seven (7) years after the completion of the proceeding adjudicating such charge, audit, claim or litigation is fully resolved and final action is taken; and
- if a student is involved, data must be retained at least until the degree is awarded or it is clear that the student has abandoned the work.

This list of retention periods covers only the most common circumstances encountered at the University. Various other research circumstances may require a longer retention period.

Beyond the period of retention specified here, or other applicable retention period, the destruction of the research record is at the discretion of the PI and his or her department or laboratory. The destruction of any Research Data should be documented by the department or laboratory.

In circumstances that do not permit the orderly execution of the provisions of this policy (e.g., death of the Principal Investigator), the applicable department chair shall assume responsibility of the Research Data or shall appoint a successor investigator to carry out the obligations.

ACCESS

The University has the right of unfettered access to Research Data arising from all research conducted at or under the auspices of the University or supported by University funds. The University's right of unfettered access to the Research Data shall continue regardless of the location of the responsible investigator.

Where necessary to assure needed and appropriate access, the University has the option to take physical custody of the data in a manner specified by the Senior Vice Provost for Research (or a designee).

Other University investigators associated with a collaborative research project may have the need to review records of Research Data in the custody of the PI for the project. Research data must be available to such investigators, when such access is appropriate.

External sponsors providing support for research at the University may also have the right to review the Research Data and records resulting from that support. Research data must be available to representatives of external sponsors of the research or designated governmental officials, when such access is appropriate.

The public may request access to Research Data from federal agencies through the Freedom of Information Act (FOIA) and from the University itself, when Research Data related to published research findings developed under an award were used by the Federal Government in developing an agency action that has the force and effect of law. NIH and NSF have policies governing the sharing of data, model organisms, and the dissemination of research results. See Resources, below, for links to these policies. Other sponsors may have additional or different requirements with which the PI must comply.

TRANSFER IN THE EVENT A RESEARCHER LEAVES THE UNIVERSITY

When individuals other than the Principal Investigator who are involved in research projects leave the University, they may take copies of Research Data for projects on which they have worked unless restricted by the specific terms of the applicable agreement with the sponsor of the research. Original data, however, must be retained at the University by the Principal Investigator.

If a Principal Investigator leaves the University, and a project is to be moved to another institution, original Research Data may be transferred with the approval of the Senior Vice Provost for Research (or a designee), and with written agreement from the PI's new institution that guarantees: 1) its acceptance of custodial responsibilities for the data, and 2) the University's access to the data, should that become necessary.

The University may refuse to permit the transfer of original Research Data for any reason, may impose conditions beyond those stipulated in this policy on such transfer, or may ask the PI to leave copies of the Research Data with the University. In addition, other University investigators associated with a collaborative research project may make copies of Research Data prior to a permitted transfer by the Principal Investigator, unless restricted by the specific terms of the applicable agreement with the sponsor of the research.

When the University permits the Principal Investigator to leave the University with original Research Data, he or she must retain the Research Data for the period required by this policy and recognize that the University may need access to the Research Data. Departing PIs have an obligation to hold the Research Data in trust for the University and must return the Research Data to the University if requested during the retention periods contemplated by this policy. In addition, during the required retention period, such Research Data must be available to external sponsors, designated governmental officials, and other University investigators associated with the collaborative research project, as appropriate.

Investigators should note that many contractual agreements require the sponsor's consent before Research Data are transferred or removed from the University. Before transferring the original Research Data, the Principal Investigator is responsible for ensuring that any special conditions stated in the grant, contract, or agreement are met.

RESOURCES

Ensuring the Integrity, Accessibility, and Stewardship of Research Data in the Digital Age
http://www.nap.edu/catalog.php?record_id=12615

Office of Management and Budget, Circular A-110
<http://www.whitehouse.gov/omb/circulars/a110/a110.html>

National Institutes of Health (NIH) Office of Extramural Research
<http://grants1.nih.gov/grants/oer.htm>

Statement on Sharing Data Policy
(Notice # NOT-OD-03-032; Released February 26, 2003)
http://grants1.nih.gov/grants/policy/data_sharing/index.htm

NIH Grants Policy, Part II Subpart A, Availability of Research Results: Publications, Intellectual Property Rights, and Sharing Biomedical Research Resources.
http://grants.nih.gov/grants/policy/nihgps_2003/NIHGPS_Part7.htm#_Toc54600131

Public Health Service Policy Relating to Distribution of Unique Research Resources Produced with PHS.
<http://grants.nih.gov/grants/guide/notice-files/not96-184.html>

Sharing Biomedical Research Resources: Principles and Guidelines for Recipients of NIH Research Grants and Contracts.
<http://www.nih.gov/science/models/sharing.html>

Policy on Sharing Model Organisms for Biomedical Research
(Notice #NOT-OD-04-042; Released May 2, 2004)
<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-04-042.html>

National Science Foundation (NSF) Grant Policy Manual (NSF 05-131)
http://www.nsf.gov/pubs/manuals/gpm05_131/gpm7.jsp#734
§734. Dissemination and Sharing of Research Results

Federal Acquisition Regulations (FAR)
<http://ecfr.gpoaccess.gov/>
(For contracts awarded by the Federal government)
§27.403 Data rights—general
52.227-14 Rights in Data – General (Clauses & Forms)

[Access to and Retention of Research Data](#), Council on Governmental Relations publication. Ensuring the Integrity, Accessibility, and Stewardship of Research Data in the Digital Age, the National Academies Press, July 2009 <http://www.nap.edu/catalog/12615.html>