

March 19, 2014

MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: Revision of R491, University Research Parks

Issue

Policy R491, *University Research Parks* draft revisions were reviewed by the Regents' Finance and Facilities Committee at the January meeting with the direction that the "Definitions" section be refined, including amending the use of the word "industrial", and the policy brought back for review and consideration at the March meeting. Since the January meeting, Commissioner's Office staff has worked with officers from Utah State University (USU) and the University of Utah (UU) (the two institutions to which the University Research Park policy applies) to craft substitute language for the "Definitions" section and has reached out to Regents Marquardt, Simmons, and Clyde for feedback regarding the revised language.

As a reminder, R491 has been reviewed by the Office of the Commissioner and USHE institutional representatives; this review is a part of the continuing review of all Regental policies. A result of this review is the recommendation to clarify the roles of the Regents, Trustees, and Presidents of research universities and to more clearly state the purposes, policies, and conditions pertaining to their development and operation. The attached updated policy incorporates some elements of the existing policy. A copy of the policy to be replaced, displayed in strike-thru format, is also included.

Background

The "Definitions" section in January read (with the language in question italicized and underlined):

"Research Parks are herein defined as master planned property and buildings designed primarily to attract and promote the growth of *industrial technology*; to foster the economic growth and development of Utah by providing an environment conducive to the interaction of Utah's research universities and *industrial* companies; and to encourage the transfer of university research and technology to the private sector for the creation of jobs and increase of state revenues."

The final, agreed upon approach managed to shorten the earlier definition, and now reads:

"Research Parks are herein defined as master planned property and buildings designed primarily to attract and promote the economic growth and development of Utah by encouraging the interaction of Utah's

research universities with and the resulting transfer of university research and technology to the private sector for the creation of jobs and increase of state revenues.”

As a reminder, the other revisions to policy R491 language were shared and agreed to at the January meeting, and included:

- The “Purpose” statement was changed to match the policy revisions.
- A summary of the statutory provisions that specify authorized activities of the UU Research Park were added to the policy.
- The policy statements of the remainder of the existing policy were restructured.
- Eliminated the language that describes the space in the initial approval of the USU Research Park. No such description was included in the existing policy for the UU Research Park.
- Eliminated the authorizing statement for the USU Research Park. A like statement for UU was never codified in policy, and including these in policy now seems to be superfluous.
- Changed submission of the Annual Report from the Regents to the Trustees.
- Section 5.1 restricts the location of research parks to “confines” of the campuses, unless otherwise approved by the Regents.
- The reference in the existing policy to “active review and discretion” of leases by the Trustees was deleted.

Policy Changes

The proposed amendment to R491 is in compliance with Utah state statutes: Utah Code §53B-17-501, University of Utah Research Park and Utah Code §53B-18-501, Utah State University: Nonprofit Corporations or Foundations.

Commissioner's Recommendation

The Commissioner recommends that the Regents review the updates to the “Definitions” section and if they find them acceptable, approve the revisions to policy R491, *University Research Parks*, effective immediately.

David L. Buhler
Commissioner of Higher Education

DLB/GLS/WRH/CRW
Attachment

R491, University Research Parks¹

R491-1. Purpose: To clarify the role of the State Board of Regents, that of the institutional Boards of Trustees and of the institutional Presidents with respect to Research Parks at Utah's research universities

R491-2. References

- 2.1. Utah Code Title 53B, Chapter 17, Part 5 (University of Utah Research Park)
- 2.2. Utah Code §53B-18-501 (Utah State University: Nonprofit Corporations or Foundations)
- 2.3. Utah Code §53B-2-104 (Institutional Board of Trustees)
- 2.4. Utah Code §53B-2-106 (Duties and Authority of the President)

R491-3 Definitions

3.1 Research Parks are herein defined as master planned property and buildings designed primarily to attract and promote the economic growth and development of Utah by encouraging the interaction of Utah's research universities with and the resulting transfer of university research and technology to the private sector for the creation of jobs and increase of state revenues.

R491-4 Statutory Authority

4.1 Initial Statutory Authority – In the May of 1969 Special Session of the Legislature the University of Utah was authorized by statute (UCA §53B-17-504) to establish, acquire, develop, maintain, and operate a research park. The statute further authorizes the University:

- 4.1.1. To form nonprofit corporations or foundations to assist the University in achieving its charitable, scientific, literary, and educational objectives.
- 4.1.2. To lease to the nonprofit corporations or foundations land and facilities included in the park and enter into contracts or agreements as necessary for construction, financing, operation, and management of the park.
- 4.1.3. To lease land, buildings, or facilities of the research park through a nonprofit corporation or foundation or to a person or entity engaged in business for profit under guidelines established by the university.
- 4.1.4. To allow a lessee to acquire or construct necessary suitable buildings, facilities, and improvements on the leased property.
- 4.1.5. To finance all or part of the cost of the research park as permitted by law for the financing of self-liquidating projects.

¹ Adopted July 21, 1975, amended February 15, 1985 and March 15, 1985.

4.2. Subsequent Statutory Authority – In the 1988 General Session of the Legislature Utah State University was authorized (UCA§53B-18-501) to form nonprofit corporations or foundations controlled by the president of the university and the State Board of Regents to assist the university in attaining its charitable, scientific, literary, research, and educational objectives.

R491-5 Policy

5.1. Value of Research Parks: The State Board of Regents affirms that it is in the best interests of USHE research universities and the citizens of the State of Utah to establish and operate research and technology parks within the confines of the research university campuses, unless otherwise authorized by the Board, for the purposes of advancing the educational objectives of these universities.

5.2. Delegation of Responsibility: Pursuant to Utah Code §53B-2-104 and §53B-2-106 the Board of Regents delegates to the presidents of the research universities, with the approval of the institutional Boards of Trustees, the development, operation and administration of institutional research parks, and authorizes the use and exercise of all the powers, duties, responsibilities and functions which may be necessary or desirable for their ongoing development, operation and administration.

5.3. Conditions: The development, operation and administration delegated in 5.2 above are subject to the following conditions:

5.3.1. The development and operation of the Research Parks shall be based upon the covenants, conditions and restrictions set forth in documents approved by the institutional Boards of Trustees and on file in the Office of the Commissioner.

5.3.2. The Review Boards described in the covenants, conditions and restrictions governing the Research Parks set forth in documents on file in the Office of the Commissioner shall include at least one member who is not an employee of the research universities.

5.3.3. Any hotel or other overnight accommodations proposed to be constructed within a Research Park shall first be approved by the Board of Regents.

5.3.4. Major funding requirements for development of the Research Parks that are to be financed by institutional revenue bonds or lease-purchase contracts are subject to Board of Regents approval.

5.4. Annual Report: The research universities shall make annual reports to the institutional Boards of Trustees concerning their Research Parks.

Existing Policy to be Deleted

~~R491-1. Purpose: To provide for annual reports from the President of the University of Utah relating to the Research Park and for the development of the Research and Technology Park at Utah State University.~~

~~R491-2. References~~

~~2.1. Utah Code Title 53B, Chapter 17, Part 5 (University of Utah Research Park)~~

~~2.2. Utah Code §53B-18-501 (Utah State University: Nonprofit Corporations or Foundations)~~

~~2.3. Utah Code §53B-2-104 (Institutional Board of Trustees)~~

~~2.4. Utah Code §53B-2-106 (Duties and Authority of the President)~~

~~R491-3. University of Utah Research Park Annual Reports~~

~~3.1. Annual Report: The University of Utah shall make annual reports concerning the Research Park, with the understanding that the President of the University of Utah may report at any time at his or her discretion.~~

~~R491-4. Utah State University Research and Technology Park Development~~

~~4.1. Establish, Develop and Operate Park: It is in the best interests of the Utah State University, and the citizens of the State of Utah, to establish, develop and operate a Research and Technology Park within the confines of the University campus for the purpose of advancing the educational objectives of the University; and~~

~~4.2. Within Campus Boundaries: The said Research Park consists in its inception of that certain tract of land within the confines of the University campus, consisting of approximately 30 acres, more particularly described in documents on file in the Office of the Commissioner; and that the development and operation of the Research Park proceed upon the covenants, conditions and restrictions set forth in documents on file in the Office of the Commissioner; and~~

~~4.3. Delegation to President: The State Board of Regents hereby authorizes and approves the establishment of said Research Park as described in these sections, to be developed and operated by the Utah State University, and that pursuant to Utah Code §53B-2-104 and §53B-2-106, the Board of Regents hereby delegates to the President with the approval of the institutional Board of Trustees of Utah State University, and authorizes the use and exercise of all the powers, duties, responsibilities and functions which may be necessary or desirable for the establishment, development, operation and administration of the said Research Park; and~~

~~4.4. Terms and Conditions: The authorization, approval and delegation contained in sections 4.1, 4.2 and 4.3 are subject to the following terms and conditions:~~

~~4.4.1. Reports regarding the status of the Research Park shall be submitted annually by the Utah State University to the Board of Regents.~~

~~4.4.2.—The Review Board described in the covenants, conditions and restrictions governing the Research Park set forth in documents on file in the Office of the Commissioner shall include at least one member who is not an employee of Utah State University.~~

~~4.4.3.—Any hotel or other overnight accommodations proposed to be constructed within the Research Park shall first be approved by the Board of Regents.~~

~~4.4.4.—The President and institutional Board of Trustees of Utah State University shall exercise active review and discretion regarding the length of leases, including renewal options, granted to tenants of the Research Park.~~