



SUNY Upstate Medical University

Data Retention and Ownership Policy

Policy

Research data are created at SUNY Upstate Medical University ('Upstate') by faculty, staff, students, post-doctoral fellows and visiting scientists, utilizing the facilities of Upstate in the course of their scholarly activities and often while conducting sponsored programs funded by external sponsors. Upstate owns data resulting from such scholarly activities and sponsored programs.

Data are to be retained by Upstate for a period of five (5) years after submission of the final report on the research project for which the data were collected, unless a longer period is specified by the sponsor. Investigators should carefully review the requirements of each individual award to identify any special access or retention requirements.

The original research data shall be in the custody of the senior investigator on behalf of the University, but must be returned to the University upon request of the Vice President for Research or his/her designee. Additionally, such data must be available to representatives of external sponsors of the research or designated governmental officials, when such access is appropriate. Such data must not be destroyed or altered during the time period referenced above unless explicit written approval for such disposition is received from the VP for Research or his/her designee. If an invention is patented, technical data supporting the invention will be retained for the life of the patent (i.e., twenty years).

Rationale

Upstate has a legal responsibility with regard to access and retention of data, particularly data generated under sponsored agreements. It is recognized that the generators of data (faculty, staff, students) often believe that they own the data produced in their laboratories and that they have an interest in ensuring that the data are used in an appropriate manner.

Investigators should be cognizant of the requirement to retain research data, but should recognize that certain information may be generated (for example, instrument test runs, set-up runs, etc.) which is not research data and therefore need not be retained. Reliance should be placed on discipline-specific standards and expectations and the judgment of the senior members of the research team.

Information Related to Policy

Definition of Data

As used in this policy, Research data means recorded information, regardless of the form or the medium on which it may be recorded. The term includes computer software (computer programs, computer data bases, and documentation thereof) and data of a scientific or technical nature. For the purposes of this policy, the term does not include information incidental to award administration, such as financial, administrative, cost or pricing, or management information. Scientific data include, but are not limited to, material contained in laboratory notebooks, computer disks and machine printouts, statistics, findings, and conclusions that are the result of original observation and activities of a study and are necessary for reconstruction and evaluation of the report of the study. In clinical investigations, this term also includes case history records and study protocol. In addition to "data," the policy also applies to unique research resources such as synthetic compounds, organisms, cell lines, viruses, cell products, DNA sequences, and mapping information.

Investigator Responsibilities at the University

It is important that investigators have the ability to document the results of research, in order to assist the University in meeting its scholarly and legal requirements and for the more traditional reasons of establishing priority for patentable items, publishing manuscripts, etc. Senior members of research teams have obligations to discuss the responsibilities of data management and retention with other members of a research team. As a matter of practice, original data should be left with the senior investigator when a student leaves the institution, but copies of that data, where feasible to do so, should be provided to the student.

Investigator Responsibilities After Leaving the University

HHS regulations only provide two options for data retention when an investigator leaves an institution: 1) the researcher may take a copy of the data and leave the original or 2) the researcher may take the original data, and leave a complete copy that is identical to the original. When an investigator leaves Upstate, the original research data may be retained by the senior investigator on behalf of the institution but must be returned to the institution upon request at any time. Should a departed faculty member receive a request for original data at any time, they may make and retain copies. Departing investigators must understand that they have an obligation to hold these data for the timeframes specified in this policy. Prior to leaving Upstate Medical University, and moving original data, a researcher will sign an agreement indicating that he/she understands these terms. After signing such agreement the VP for Research will approve the agreement prior to removal of original data from the University.

Additionally, such data must be available to representatives of external sponsors of the research or designated governmental officials, when such access is appropriate. Such data must not be disposed of during the time period referenced above unless explicit written approval for such disposition is received from the Vice President for Research or a designee of such individual.

The Bayh-Dole Act governs the rights to inventions discovered in the performance of federally sponsored projects, and holds institutions responsible for compliance with disclosure, reporting, and licensing requirements. Additionally, the Federal Acquisition Regulations and agency-specific grant regulations reserve the right to royalty-free, nonexclusive license to copyrightable materials or research generated with federal funds. Therefore, in the area of intellectual property, all “intangible property,” including trademarks, copyrights, patents, and patent applications, must be retained by Upstate.

Disputes

Any dispute regarding request for original data, copies of data, or transfer of data will be resolved by the Vice President for Research or his/her designee.

Please note, before any tangible research product that was received by material transfer agreement (MTA) is removed from a University research facility, the proposed recipient must execute an MTA with Upstate.

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