

New report examines university management of intellectual property

October 4 2010

The system put in place by the Bayh-Dole Act of 1980 -- which gives universities significant control over intellectual property associated with the results of federally funded research at their institutions – has been more effective than the pre-1980 system in making research advances available to the public and spurring innovation, says a new report from the National Research Council. Nevertheless, the current system needs improvement, said the committee that wrote the report.

"The public investment in research universities has led to a great deal of new knowledge that can benefit society, and the movement of research results to those who can commercialize them creates jobs and strengthens the economy, contributes to the advance of human health, and adds to the nation's security," said Mark S. Wrighton, chair of the committee that wrote the report, and chancellor and professor of chemistry at Washington University in St. Louis. "The movement of intellectual property from universities to new and mature companies is a healthy process, but one that can be improved. Our committee's report provides some recommendations for those involved in this transfer of knowledge."

University leaders should articulate a clear mission for intellectual property management -- one that stresses the responsibility to disseminate technologies for the public good and does not predicate licensing on the goal of raising significant revenue for the university -and should evaluate their institutions' efforts accordingly, the report says. Universities also should consider additional ways to engage faculty in



commercializing their inventions, as successful commercialization often depends on inventor involvement. In addition, because Bayh-Dole did not establish a stable, effective framework for government oversight, such responsibilities should be clearly assigned within the federal bureaucracy, the report says.

Before the Bayh-Dole Act, if government agencies funded university research, the funding agency retained ownership of the knowledge and technologies that resulted and could license them to companies, who in turn could use it to develop new products and services. However, very little federally funded research was actually commercialized, the report notes. The Act's passage brought more uniformity to the way agencies treat inventions and allowed universities to take title in most cases. As a result, patenting and licensing activity from such research has accelerated in the 30 years since the Act's passage.

Although the system created by the Act has remained stable, it has generated debate about whether it might impede other forms of knowledge transfer. Concerns have also arisen that universities might prioritize commercialization at the expense of their traditional mission to pursue fundamental knowledge -- for example, by steering research away from curiosity-driven topics toward applications that could yield financial returns. The only alternative system to attract support is a "free agency" system, which would give individual faculty members either ownership of their inventions or the freedom to market them independently while the university retains ownership.

The report concludes that the Bayh-Dole framework and university practices have not seriously undermined academic norms of uninhibited inquiry and that there is little evidence that intellectual property considerations interfere with other important avenues of transferring research results to commercial use. Nor has a persuasive case been made for shifting to a free agency system.



Nevertheless, proposals to give faculty ownership or the rights to market their inventions reflect a feeling in some quarters that the current system does not sufficiently value faculty initiative. Universities seeking to encourage entrepreneurial initiative should consider creating expedited procedures and more standardized terms for licensing to start-up enterprises in which staff, faculty, or students are involved, the report says. In addition, there should be independent oversight of the relationship between faculty and university technology transfer offices, and faculty who believe their inventions are being ignored or mishandled should have recourse within their institution. Such disputes should be resolved by an advisory committee composed of university faculty, employees, and administrators.

Institutions with sizable research portfolios should also consider creating an additional standing advisory committee to help the technology licensing unit identify opportunities and develop practices consistent with the university's goals. Such committees should include representatives of research parks and business incubators affiliated with the university, relevant business and investment communities, and other stakeholders.

Smaller institutions and those with less research experience who want to strengthen their technology transfer should consider permitting greater outreach by faculty to pursue the entrepreneurial development of their ideas, collaborating with larger institutions in the same region, or outsourcing certain functions or technology fields to private entities with skills and contacts, the report says.

The report adds that, although effective in its primary purpose, the Bayh-Dole Act's authors and implementers failed to establish a stable, effective framework for governmental oversight. Perhaps by executive order, there should be a clear assignment of oversight responsibilities, which include ensuring that all agencies consistently implement federal



technology transfer laws and heading an interagency committee on technology transfer, among other responsibilities.

Provided by National Academy of Sciences

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