

BOARD OF REGENTS
EASTERN MICHIGAN UNIVERSITY

SECTION: D
DATE: 2-7-19

**RECOMMENDATION
TO APPROVE ADDITION OF A BOARD POLICY**

ACTION REQUESTED

It is recommended that the Board of Regents of Eastern Michigan University approve the attached addition to existing Board Policies:

Addition:

Section 6.4.4

Research Data Retention

STAFF SUMMARY

All University policies must be approved by The Board of Regents of Eastern Michigan University. A University policy is defined by all of the following: a) has broad application throughout the University; and b) helps to ensure compliance with applicable laws and regulations, promotes operational efficiencies, enhances the university's mission or reduces institutional risks.

In an ongoing effort to enhance the transparency of the actions of the University and to align University practice with Board policy, Board Policies are subject to ongoing review and are updated as appropriate. All Board Policies are published.

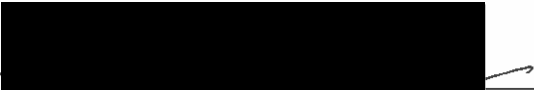
The policy listed above provides the university with clear expectations and requirements concerning research data retention in compliance with applicable law and standard practice. The policy will be maintained and enforced by the Office of Graduate Studies and Research.

FISCAL IMPLICATIONS

None.

ADMINISTRATIVE RECOMMENDATION

The proposed Board action has been reviewed and is recommended for Board approval.



University Executive Officer
Lauren M. London
General Counsel

Date

2/7/19



Policies, Rules and Regulations

Chapter Name: Academic Programs and Requirements

Chapter No. 6.4.4

Issue: Research Data Retention

Effective Date: 02-07-2019

Revision Date:

UNIVERSITY POLICY STATEMENT

This Eastern Michigan University policy statement is established to document expectations and requirements for research data retention in compliance with applicable law and standard practice. The aims of this policy are to promote academic honesty and integrity in research, the ability to replicate findings, and to protect intellectual property claims. Specifying expectations for data management and retention serves to protect both the investigator and the university should the research results be questioned or contested.

DEFINITIONS

1. Research Data

Information that is collected, observed, processed, or otherwise gathered for analysis, or in support of such analysis, to produce original findings. This includes conditions and parameters for such collection. Research data may be recorded on any medium (e.g., electronic, paper, physical samples, etc.). Types of research data may differ across disciplines.

2. Data Use Agreement

A contract with another agency or institution that stipulates the one-way or mutual sharing of research data. Data Use Agreements must be signed and executed by a university administrator with the authority to sign on behalf of Eastern Michigan University.

3. Intellectual Property (IP)

Ideas, inventions, processes, or other creations that come from the mind or thoughts of investigators or are created, made, or produced by investigators. IP is typically subject to copyright, patent, or other forms of commercialization.

4. Investigator

An individual who is involved in the conception or conduct of research, scholarship, or creative activity.

5. Original Research Data

Raw or primary source data that are directly recorded and not analyzed, aggregated, or processed in any way. Original research data can include observations about physical samples, values extracted from physical samples (e.g., DNA or hormone levels extracted from blood samples), or recordings from one medium to another (e.g., transcripts of audio recordings). Detailed notes or quantities extracted or observed from physical samples are considered original research data.

6. Principal Investigator

The person who leads, initiates, or maintains primary responsibility for a research study. The principal investigator makes decisions about the direction of the research. The principal investigator is responsible for all research conduct, including but not limited to research planning, data collection and management, data analysis and dissemination, responsible conduct of research, research compliance, and research staff management.

7. Processed Research Data

Research data that are secondary, tertiary, synthesized, analyzed, tabulated, calculated, aggregated or otherwise processed. Processed research data are not collected and do not result from direct observation or recording, but are in some way generated by the investigator from original research data.

8. Eastern Michigan University Resources

Anything paid for, sourced by, or belonging to Eastern Michigan University or on the Eastern Michigan University premises, unless external ownership of the resource is stipulated by contract or agreement. Resources include, but are not limited to, time, physical space, computing, equipment, materials, and services.

9. Research

A scholarly investigation or inquiry designed to generate new facts or knowledge or designed to synthesize existing knowledge in a novel or unique way.

SCOPE

This policy applies to the following: all research data, original or processed, collected at Eastern Michigan University, by Eastern Michigan University faculty, staff, or students, or using Eastern Michigan University resources (including facilities). Data collected solely for program evaluation or student class assignments are not subject to this policy. Artistic endeavors and creative activity are also not subject to this policy unless such endeavors or activity involves commercialization efforts conducted by Eastern Michigan University. This policy does not apply to course materials developed or created exclusively for teaching purposes or to other copyrightable material created by faculty.

UNIVERSITY PRACTICE

1. Stewardship of Data

Faculty and staff principal investigators shall be custodians of all research data collected as a part of their research activities, and are responsible for data collection, management, and retention. The faculty and staff principal investigators may use their discipline-specific best practices and knowledge to determine the medium, location, and means of data storage, maintenance, and use, provided such storage, maintenance, and use are compliant with legal, regulatory, and/or contractual requirements. Unless otherwise specified via contract or agreement or unless such access causes harm to the university, faculty principal investigators shall have unfettered access to their research data for appropriate stewardship and use. Students' research advisors will serve as the custodians of research data collected by student principal investigators.

For collaborative research, including collaborations with the U.S. Federal Government, data stewardship will be specified in the cooperative research and development agreement.

2. Separation from Eastern Michigan University

Unless otherwise stipulated by contract, both faculty principal investigators and Eastern Michigan University retain access rights to research data collected using Eastern Michigan University resources upon faculty or staff separation from the university. Faculty and staff may take original research data with them, but Eastern Michigan University retains the right to access all research data covered under this policy for legal, compliance, or operational purposes at any time upon request. The former faculty or staff member must provide all requested data within a reasonable amount of time.

Eastern Michigan University must be credited upon future publication, presentation, commercialization, or other use of such research data. Prior to transfer of research data resulting from sponsored or contracted research, the principal investigator must ensure that the transfer of the research data is allowable per the contract or agreement.

In certain cases, Eastern Michigan University may retain the right to refuse the transfer of *original* research data with reasonable cause, and may impose additional conditions on the transfer of research data when Eastern Michigan University personnel separate from the university. In such cases, faculty members may retain copies of their original data for their own use. Eastern Michigan University must still be credited on all resulting publications, presentations, and other uses of the data.

Student principal investigators may take a copy of their research data with them when they separate from Eastern Michigan University, but the original data, or unaltered electronic copies of original data must remain with their faculty advisor. Eastern Michigan University and the faculty advisor must be credited upon future publication, presentation, commercialization, or other use of such research data.

Co-investigators or research staff who are not a principal investigator may, with approval of the faculty or staff principal investigator, take a copy of only the research data to which they personally contributed with them when they separate from Eastern Michigan University. Eastern Michigan University and the faculty or staff principal investigator must be credited upon future publication, presentation, commercialization, or other use of such research data.

3. Access to Data

Eastern Michigan University has the right to access all research data collected using Eastern Michigan University resources or under the auspices of Eastern Michigan University at any time, upon request, regardless of the location of the principal investigator for compliance and operational purposes only, or when required by law. If data are requested for legal proceedings or a Freedom of Information Act request, the Office of Legal Affairs will advise on any release of requested data. Eastern Michigan University or its agents may only use research data for lawful purposes and may not publish, present, analyze, or otherwise disseminate research data without inclusion and permission of the faculty or staff principal investigator.

When necessary for compliance and operational purposes, Eastern Michigan University may take physical custody of research data as specified by Board of Regents policy and by the Provost and Executive Vice President of Academic and Student Affairs.

Federal or state agencies, or external sponsors and contractors may also require access to research data resulting from their support or oversight. Such access must be granted, when appropriate.

Investigators at other universities who are involved in a collaborative research project with Eastern Michigan University investigators may require access to data. Such access must be granted, when appropriate.

4. Data Sharing

Copies of research data can be shared with other researchers at the principal investigator's discretion provided that the data:

1. Do not contain identifiable information about human subjects, where applicable;
2. Do not constitute university intellectual property; and
3. Can be legally shared with the recipient (are not subject to contractual restrictions or Export Control regulation).

Copies of research data can be shared, in any form, with research collaborators provided that such sharing is appropriate to the research collaboration. Data security and confidentiality protections must be adequate and appropriate.

Copies of research data can be shared with faculty, staff, or students at Eastern Michigan University, at the principal investigator's discretion, *provided that the shared data do not violate confidentiality requirements, restrictions, or expectations.*

All sharing of un-disseminated or personally identifiable research data with outside individuals who are not involved in the research project requires a Data Use Agreement that is signed and executed by all parties involved unless the awarding agency or sponsor contract stipulates that research data must be publicly available. All Data Use Agreements must be developed by the Office of Graduate Studies and Research, in consultation with the principal investigator.

Research data shared with foreign nationals (either in the United States or in a foreign country) may be subject to Export Control regulations. Research data may only be shared with foreign nationals after consultation with the Research Compliance Officer.

Personally identifiable research data, research data involving intellectual property, or export controlled research data must be transferred via secure means such as secure file transfer protocol (SFTP) or other methods using appropriate encryption that assure the security of the transfer.

5. Data Security and Storage

Principal investigators who are custodians of research data must store the research data on the Eastern Michigan University premises, on Eastern Michigan University equipment, or on other EMU-owned or EMU-managed storage services (i.e., original electronic data stored on a cloud server must be accessible using Eastern Michigan University credentials, such as an emich.edu login). Investigators may retain copies of data on their personal property. Removal of original research data requires documented permission from the Eastern Michigan University Office of Graduate Studies and Research and in such events, copies of all original materials to be removed must remain at Eastern Michigan University.

Principal investigators are responsible for maintaining original data in sufficient detail necessary to establish the accuracy and authenticity of the data, in compliance with all laws and regulations and university policy, and to demonstrate primacy for intellectual property. Data storage should be sufficiently secure to prevent data theft, tampering, or unauthorized access. Principal investigators should maintain procedures for data storage, protection, and access in the event of a natural disaster.

For more information, please see [I.T. Policy 7.2 Sensitive Data Classification and Handling](#) and the associated [Sensitive Data Classification Matrix](#).

6. Intellectual Property (IP) for Commercialization

Eastern Michigan University retains the right to commercialization, through licensing or other means, of research data and products, including terminal products, intermediary products, and technical schematics for such products. The principal investigator is responsible for maintaining data such that Eastern Michigan University can assert ownership of the data and that the IP is protected.

See Board Policy 6.4.2 Technology Transfer for additional information about Intellectual Property rights.

7. Data Retention

Original research data must be maintained, whenever possible, for a minimum of five (5) years after the conclusion of the research study, defined as the final dissemination resulting from the study, unless otherwise stipulated by contract, agreement, regulation, or law. The principal investigator may, at their discretion, decide the format of data storage (e.g., electronic or hard copies). The EMU Library may have resources for long-term archiving of research data.

Research data used toward a student's degree must be retained for a minimum of five (5) years after the degree is awarded or after the research study has concluded, whichever is later.

If research data are to be used for commercialization or registration purposes, data must be retained as long as necessary to protect intellectual property.

Research data that have been sequestered or that are associated with a misconduct allegation or financial conflict of interest must be retained for a minimum of five (5) years after the conflict has been resolved.

8. Data Destruction

Please contact EMU Information Technology for more information about current best practice for achieving data destruction requirements. Please submit the initial request to the I.T. Help Desk and it will be assigned to I.T. Security for processing.

9. Other Regulations and Resources

No terms of this policy shall supersede federal, state, or local law. Research data may also be subject to restrictions from granting or contracting agencies and additional regulation. The Director of the Office of Research Development and Administration can be contacted for questions about contractual restrictions on data use. The Research Compliance Officer can be contacted for regulatory restrictions on data use.

Authority for Creation or Revision:

Minutes of the Board of Regents, February 7, 2019