



<b>SUBJECT</b>	<b>POLICY 16 (NON-UNIVERSITY USE OF UNIVERSITY SERVICES AND FACILITIES)</b>
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<b>MEETING DATE</b>	<b>FEBRUARY 7, 2019</b>
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Forwarded on the Recommendation of the President

**APPROVED FOR SUBMISSION**

Santa J. Ono, President and Vice-Chancellor

**FOR INFORMATION**

<b>Report Date</b>	January 15, 2019
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**Presented By** Hubert Lai, Q.C., University Counsel  
Peter Smailes, Vice-President Finance & Operations  
Gail Murphy, Vice-President Research & Innovation

**EXECUTIVE SUMMARY**

As a charitable organization and responsible steward of public resources, UBC acquires equipment and facilities for the achievement of UBC’s mission and purposes. Policy 16 governs non-university use of University services and facilities. The Policy establishes the principle that UBC’s services and facilities may not be used for non-UBC purposes, such as for personal purposes and business uses, unless such use is authorized by the appropriate member of the UBC administration, who shall ensure that the University is suitably compensated for any such uses. A review of Policy 16 was undertaken given:

- increased entrepreneurialism and community engagement that have led to an increase in third party (i.e., non-UBC) use of UBC equipment and facilities; and
- Policy 16 is out of date, having been introduced in 1981 and not having been updated since.

The proposed amendments confirm that all of UBC’s equipment is owned by UBC, and, consistent with UBC’s charitable status, that all such equipment and all of UBC’s support services are to be used primarily for the achievement of UBC’s academic mission and purposes. The amendments also formalize a responsible approach to the non-UBC use of any excess capacity of UBC’s equipment and services, while also updating the Policy’s format to align with current Board policy structure of having policy and procedure sections.

The Committee recommends the concomitant repeal of Policy #109 – Ownership, and Policy #121 – Campus Mail Services, with the support of those Policies’ Responsible Executives. The proposed amendments to Policy #16 incorporate the subject matter, principles and requirements of Policies #109 and #121 and, thus, render them redundant.

**Attachments**

1. A copy of the proposed Policy 16.

The current Policy 16 is available at <https://universitycounsel.ubc.ca/files/2010/08/policy16.pdf>.

The current Policy 109 (Ownership) is available at: <https://universitycounsel.ubc.ca/files/2010/08/policy109.pdf>

The current Policy 121 (Campus Mail Services) is available at: <https://universitycounsel.ubc.ca/files/2018/09/policy121.pdf>.

## STRATEGIC CORE AREAS SUPPORTED

People and Places       Research Excellence       Transformative Learning       Local / Global Engagement

**DESCRIPTION & RATIONALE**

Policy #16 establishes the principle that University services and facilities may not be used for non-UBC purposes, such as for personal purposes and business uses, unless such use is authorized by the appropriate member of the UBC administration, who shall ensure that the University is suitably compensated for any such uses.

The proposed amendments:

- (a) confirm that all of UBC's equipment is owned by UBC, and reinforce the requirement flowing from UBC's charitable status that all such equipment and all of UBC's administrative support services are to be used primarily for the achievement of UBC's academic mission and purposes;
- (b) formalize a responsible approach to the use of any excess capacity of UBC's equipment and services, whether for purposes that advance research, knowledge exchange, collaboration, innovation, and entrepreneurship, or incidental personal purposes;
- (c) clarify the scope of the Policy and provide way-finding provisions to other related Board policies (e.g., Policy #16 excludes the use of indoor and outdoor space, which is addressed by another Board policy); and
- (d) update the Policy to recognize that retention and use of revenues generated from third party (non-UBC) use of UBC equipment and related technical services are subject to the direction of the Vice-President, Finance and Operations, while reflecting the current practice that such revenue normally is retained by the unit.

Policy #109 – Ownership, addresses the ownership of UBC property. It provides that equipment, goods and supplies purchased by UBC for any purpose (including research) using UBC's funds (including from research grants) are and remain the property of UBC. The procedures to Policy #109 also address the disposal of assets, but does so by directing persons towards Policy #108 – Disposal of Surplus Equipment and Materials. The Committee proposes to streamline the Policies by incorporating the ownership of UBC property into Policy #16 and renaming the Policy to reflect it also addresses ownership, thus obviating Policy #109.

Policy #121 – Campus Mail Services, governs the University's central mail service provided to UBC's on-campus communities (Vancouver and Okanagan) through the VP Students portfolio. The Policy establishes that the mail services are provided free of charge to UBC's units for UBC business and optional services may be provided on cost recovery basis. The proposed amendments to Policy #16 establishes the same principle for all "UBC Support Services", which expressly includes campus mail services. The proposed Policy #16 provides that these services are primarily for the achievement of UBC's academic mission and purposes, and allows the administrative head of the unit to establish rules and regulations governing how those services may be utilized by the UBC community. Should any UBC Support Service be offered to a third party, that arrangement must be approved by the Vice-President, Finance & Operations. These provisions allow UBC to quickly adapt to the changing landscape in mail and parcel delivery services. This broadly applicable, clear, and flexible framework makes Policy #121 redundant.

The Committee therefore recommends the repeal of Policies #109 and #121 upon the adoption of the proposed Policy #16.

Policy #16 is identified as a Priority **A** policy for review; Policies #109 and #121 are Priority **B**.

<b>BENEFITS</b> Learning, Research, Financial, Sustainability & Reputational	<p>The amendments reflect best governance practices by establishing that UBC equipment and UBC support services are primarily to be used for UBC business purposes, and by establishing a clear line of authority for consideration and approval of the use of any excess capacity, which includes incidental personal use.</p> <p>The amendments also contribute to the streamlining of the Board’s policies by rationally incorporating the content of Policies #109 – Ownership, and #121 – Campus Mailing Services.</p>
<b>RISKS</b> Financial, Operational & Reputational	<p>As a charitable organization, UBC must ensure that its resources (including equipment and human resources) are primarily serving UBC’s mission and purposes. The proposed Policy #16 clearly reinforces this requirement in clear language and establishes a clear and accountable decision making process for any appropriate non-UBC use of any of UBC’s equipment and support services.</p>
<b>FINANCIAL</b> Funding Sources, Impact on Liquidity	<p>The amendments reinforce the principle that UBC’s equipment and support services are intended for UBC’s benefit first and foremost. This will work toward greater utilization and benefit from UBC’s resources, while allowing third party/revenue generating purposes when appropriate.</p> <p>Revenues from third party uses are to be retained and utilized as determined by the Vice-President, Finance and Operations, with the presumption that the revenue will be retained and recorded by the unit to whom the equipment is assigned.</p>
<b>SCHEDULE</b> Implementation Timeline	<p>Subject to any feedback from the Board of Governors, the next step will be to post the proposed Policy #16 and the proposed repeal of Policies #109 and #121 on UBC’s website for comment by the UBC community. The comment period will run from February 2019 to April 2019.</p> <p>The Policy Review Committee will then consider any comments received. If necessary, revisions may be made before a final recommendation is then submitted to the Board for approval at its June 2019 meeting.</p>
<b>CONSULTATION</b> Relevant Units, Internal & External Constituencies	<p>The Committee has representation from various parts of the University that deal with the use of various kinds of University property. The Committee reviewed the existing Policy #16 against the existing practices and policies at UBC, and those of peer institutions in Canada and the United States.</p> <p>The Office of the University Counsel constituted a Policy Review Committee comprised of the following members:</p> <ul style="list-style-type: none"> <li>• Alexander J. Fisher, Professor, School of Music, Faculty of Arts;</li> <li>• Carlos Teixeira, Professor, Geography, Irving K. Barber School of Arts &amp; Sciences;</li> <li>• Catherine Alkenbrack, Director, Facilities Planning, Infrastructure Development;</li> <li>• Dominique Weis, Professor, Earth, Ocean and Atmospheric Sciences, Faculty of Science;</li> <li>• Gordon Binsted, Dean, Faculty of Health and Social Development and Acting Dean, Faculty of Education;</li> <li>• John-Paul Heale, Managing Director, University-Industry Liaison Office;</li> <li>• Mark Hulstein, Legal Counsel, Office of the University Counsel (Secretary);</li> <li>• Michael Shakespeare, Executive Director, Finance &amp; Operations, Faculty of Medicine;</li> <li>• Michal Jaworski, Clark Wilson LLP, External Counsel (Chair);</li> <li>• Shannon Dunn, Director of Business Operations and Residences, UBC Okanagan; and</li> <li>• Tor Album, Acting Treasurer, Treasury.</li> </ul>

Consultations regarding the incorporation of Policies #109 and #121 into the proposed Policy #16 and those Policies' concomitant repeal also included:

- Andrew Parr, Interim Vice President Students;
  - Debbie Harvie, Managing Director, University Community Services;
  - Shelley Kayfish, Director, Campus Operations and Risk Management, UBC Okanagan;
  - Shelly Morrison, Director, Supply Management and Financial Operations; and
  - Michael Frost, Strategic Project Lead, Financial Operations.
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 <p>The University of British Columbia Board of Governors</p>	<b>Policy No.:</b>  <b>16</b>	<b>Approval Date:</b> February 1981  <b>Last Revision:</b> [2019]
	<b>Responsible Executives:</b> Vice President, Finance and Operations Vice President, Research and Innovation	
<b>Title:</b>  <p style="text-align: center;"><b>Ownership and Use of UBC Equipment and UBC Support Services</b></p>		
<b>Background &amp; Purposes:</b>  UBC acquires a wide range of equipment, goods and supplies for the purposes of achieving its academic mission and purposes.  UBC also provides a wide range of support services to facilitate, administer and manage its activities.  The purposes of this Policy are: <ul style="list-style-type: none"> <li>(a) to confirm that all of UBC's equipment is owned by UBC, and all such equipment and all of UBC's support services are to be used primarily for the achievement of UBC's academic mission and purposes; and</li> <li>(b) to formalize a responsible approach to the use of any excess capacity of UBC's equipment and services in exceptional circumstances, whether for third party purposes that advance research, knowledge exchange, collaboration, innovation, and entrepreneurship, or incidental personal purposes.</li> </ul>		
<b>Related Policies, Materials and Notes:</b>  Policy #87      Research Policy #97      Conflict of Interest and Conflict of Commitment Policy #107     Booking and Rental of UBC Space Policy #108     Disposal of Surplus Equipment and Materials		

*Defined terms are capitalized and can be found in Section 5 of this Policy.*

## 1. **Scope**

- 1.1 This Policy governs the use of UBC Equipment and UBC Support Services by all persons, regardless of their identity or their connection with UBC.
- 1.2 This Policy does not govern the booking of indoor and outdoor space, which is the subject matter of UBC Policy #107 Booking and Rental of UBC Space. However, should

a space booking or rental governed by Policy #107 be primarily for the purpose of accessing a particular piece of equipment contained in a space, this Policy and its Procedures apply together with Policy #107 and must be reflected in the rate structure and rules established by the unit responsible for administering the space, and must be reflected in any agreement entered into for the space booking.

- 1.3 This Policy does not govern the approvals for the use of UBC Equipment and Related Technical Services that are included in “Fee-for-Service Projects” entered into pursuant to Policy #87 Research.

## **2. UBC Equipment belongs to UBC**

- 2.1 All UBC Equipment belongs to UBC and is to be used primarily for the achievement of UBC’s academic mission and purposes.
- 2.2 The Equipment Administrator is primarily responsible for ensuring that the UBC Equipment and any Related Technical Services within their unit’s purview are used in accordance with this Policy.
- 2.3 Each person using UBC Equipment must comply with this Policy and is responsible to the Equipment Administrator for their use of UBC Equipment.

## **3. UBC Support Services Primarily Benefit UBC**

- 3.1 All UBC Support Services are to be provided primarily for the achievement of UBC’s academic mission and purposes.
- 3.2 Each person utilizing UBC Support Services must comply with this Policy.

## **4. Excess Capacity**

### *UBC Equipment*

- 4.1 Except in exceptional circumstances approved in advance by the Equipment Administrator in compliance with this Policy and its Procedures, the Excess Capacity of any UBC Equipment may not be used for Non-UBC Purposes.
- 4.2 The Equipment Administrator is primarily responsible for determining whether any UBC Equipment within their unit’s purview has Excess Capacity. Should there be any doubt or dispute within a unit about whether a piece of UBC Equipment has Excess Capacity, the Equipment Administrator may seek guidance from the Office of the University Counsel, and make a final determination.

### *UBC Support Services*

- 4.3 Except in exceptional circumstances approved in advance by the administrative head of unit providing the UBC Support Service in compliance with this Policy and its Procedures, the Excess Capacity of any UBC Support Service may not be used for Non-UBC Purposes.

4.4 The administrative head of unit providing the UBC Support Service is primarily responsible for determining whether the UBC Support Service has Excess Capacity. Should there be any doubt or dispute about Excess Capacity, the administrative head of unit providing the UBC Support Service may seek guidance from the Office of the UBC Counsel, and make a final determination.

## 5. **Definitions**

5.1 “**Equipment Administrator**” means, with respect of UBC Equipment utilized primarily by a faculty, the Dean of that faculty, or their delegate(s); with respect to the UBC Library, the University Librarian, or their delegate; and with respect of UBC Equipment utilized by an administrative unit of UBC, the Vice President to which that administrative unit reports, or their delegate(s). Should UBC Equipment be utilized by two or more faculties, or two or more administrative units, the relevant Deans and Vice Presidents shall jointly be the Equipment Administrator and may separately or jointly appoint delegates.

5.2 “**Excess Capacity**” is the difference between the full, useful capacity of a piece of UBC Equipment or an UBC Support Service, and the capacity of the property or service actually being utilized for UBC’s academic mission and purposes. For example, Excess Capacity may be found where a piece of UBC Equipment is needed to conduct UBC business or fulfill UBC purposes, but there are periods of time when the property is not being utilized.

5.3 “**Non-UBC Purposes**” means purposes other than those that serve UBC’s academic mission and purposes.

5.4 “**Related Technical Services**” means the services of an operator or technician, required to properly, safely and effectively operate a particular piece of UBC Equipment.

5.5 “**UBC Equipment**” means, for the purposes of this Policy, all personal property purchased, leased, created/fabricated, or otherwise acquired by UBC, whether using UBC funds including Research Funds (as defined in Policy #87, Research), whether donated or otherwise gifted to UBC, or whether created/fabricated in the course of regular duties of UBC faculty and staff. For greater certainty, in this Policy:

5.5.1 UBC Equipment includes resources such as: laboratory test and research apparatus and equipment; non-laboratory equipment such as musical instruments and audio visual equipment; office equipment and supplies (e.g. computers, servers, telephones (land and mobile), copiers/scanners, stationary etc.); vehicles (e.g. passenger cars, vans, trucks, delivery vehicles, tractors, boats, and scissor lifts); etc.; and

5.5.2 UBC Equipment excludes real property (e.g. land, buildings, etc.), and property acquired pursuant to Policy #87, Research where UBC has disclaimed ownership in accordance with that policy.

5.6 “**UBC Support Services**” mean services provided by UBC employees for the purposes of facilitating, administering and managing UBC’s academic mission and purposes, and includes, without limitation, administrative support services, building operations services, campus mail services, campus moving services, campus security, etc.

## **PROCEDURES**

**Approved: [\*2019]**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.*

### **1. Use for Non-UBC Purposes**

- 1.1 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:
  - 1.1.1 **"Incidental Personal Uses"**, which mean uses that primarily benefit the individual using, or directing someone else to use, the UBC Equipment or an UBC Support Service, such as use of electronic resources for personal reading and entertainment during off-hours, receiving a very small number of personal deliveries, making a very small number of copies or prints related to personal or volunteer activities, etc.; and
  - 1.1.2 **"Third Party Uses"**, which mean uses that primarily benefit:
    - (a) a faculty or staff member's commercial and non-commercial pursuits outside of their employment at UBC (i.e., which do not form a part of their job description); and
    - (b) outside or third-party entities, including business organizations (e.g. corporations, partnerships etc.), associations, foundations and societies that are established as separate entities from UBC (even if UBC is a member, shareholder, etc.).
- 1.2 UBC Equipment and UBC Support Services may be used for Non-UBC Purposes only if they meet all the following principles as well as any regulations adopted under Sections 2.2 and 2.3 below):
  - 1.2.1 the use must be incidental to the primary use of the UBC Equipment and UBC Support Service, meaning that the use does not interfere with the use of the UBC Equipment or performance of the UBC Support Service, for their respective primary UBC purposes;
  - 1.2.2 the use must not result in any costs or increase in costs to UBC; and
  - 1.2.3 all uses must be in accordance with all of UBC's policies and procedures, including (without limitation) Policy #97, Conflict of Interest and Conflict of Commitment, and in respect of use of electronic equipment, and Policy #104, Acceptable Use and Security of UBC Electronic Systems.

## **2. Incidental Personal Uses**

- 2.1 Should any person have any uncertainty, concerns, or questions regarding whether a particular activity falls within the definition of an Incidental Personal Use, they should speak with the Equipment Administrator or the administrative head of the unit providing UBC Support Services before proceeding with the activity.
- 2.2 The Equipment Administrator may adopt regulations regarding Incidental Personal Uses of any Excess Capacity of UBC Equipment of their unit, provided that the regulations are not more permissive than Section 1.2 of these Procedures. All members of the Equipment Administrator's unit must adhere to these regulations.
- 2.3 The administrative head of the unit providing UBC Support Services may adopt regulations setting out terms and conditions regarding Incidental Personal Use of any Excess Capacity of any UBC Support Service (including cost-recovery, service levels, and accommodations for departmental needs and circumstances), provided that the regulations are not more permissive than Section 1.2 of these Procedures. All persons delivering, receiving or otherwise utilizing the UBC Support Services must adhere to these regulations.

## **3. Third Party Uses**

- 3.1 The Excess Capacity of any UBC Support Service must not be used for Third Party Uses unless permitted by the Vice President, Finance and Operations, except that Related Technical Services may be provided in conjunction with the use of UBC Equipment as set out in this Section, below.
- 3.2 Except in exceptional circumstances approved in advance by the Equipment Administrator, the Excess Capacity of any UBC Equipment must not be used for Third Party Uses.
- 3.3 The Equipment Administrator is not obligated to authorize any Third Party Uses. However, should the person seeking authorization of a Third Party Use demonstrate to the satisfaction of the Equipment Administrator that the Excess Capacity of UBC Equipment is not required by others within the same unit, or other UBC units, departments or faculties, for the achievement of UBC's academic mission and purposes, and that it is otherwise appropriate for the Excess Capacity to be utilized for a Third Party Use, the Equipment Administrator may issue an authorization on the following principles:
  - 3.3.1 All other UBC faculty, departmental or unit policies, guidelines or regulations applicable to the UBC Equipment, Related Technical Services, or the use of UBC Equipment for Third Party Uses (if any) must be complied with.
  - 3.3.2 Any restrictions upon the use of the UBC Equipment (e.g. in funding agreements, funding agency policies, donor arrangements, import or purchase conditions, etc.) must be complied with.
  - 3.3.3 Appropriate safeguards must be in place to protect the UBC Equipment from misuse, damage, and theft.

- 3.3.4 UBC Equipment and Related Technical Services are not be used to perform regular, routine tests or functions in competition with the private sector, or otherwise to provide a private benefit to particular individuals or organizations.
- 3.3.5 If the person seeking to utilize the UBC Equipment and Related Technical Services (if applicable) is a UBC Person as defined in Policy #97, Conflict of Interest and Conflict of Commitment, that policy must be considered and complied with.
- 3.3.6 The Equipment Administrator must ensure that UBC is compensated for the Third Party Use of UBC Equipment and any Related Technical Services. Compensation must be reasonable, and generally ought to be market value (the highest price that two parties acting at arm's length would agree on), and achieve direct cost recovery and appropriate indirect cost recovery (alternatively referred to as "overhead").

A relevant consideration affecting the determination of the amount required for indirect cost recovery is UBC's generally applicable indirect recovery rate on industry funding, as established pursuant to Policy #87, Research.

Third Party Uses that only indirectly advance UBC's academic mission and purposes (e.g. UBC faculty, staff or student-led entrepreneurial initiatives, etc.) are not exempt from the requirement for reasonable compensation, as determined by the Equipment Administrator.

3.4 Should the Equipment Administrator authorize the Third Party Use of the Excess Capacity of UBC Equipment (with or without Related Technical Services):

- 3.4.1 The Equipment Administrator must ensure that the arrangement is formalized by way of a written agreement, which agreement must:
  - (a) detail all arrangements in respect of the UBC Equipment and any Related Technical Services, including the time period covered, insurance and transportation arrangements where applicable, liability and financial terms;
  - (b) be reviewed and approved by the Vice President, Research and Innovation, or their delegate, if the UBC Equipment in question is laboratory test or research equipment of any description; and
  - (c) be signed in accordance with the relevant UBC signing authority (which is determined with reference to the Signing Resolutions adopted by the Signing Committee of the UBC Board of Governors); and
- 3.4.2 Unless otherwise directed by the Vice President, Finance and Operations, all monies received from Third Party Uses will normally be retained, recorded, and shown in the accounts of the unit(s) responsible for the UBC Equipment and Related Technical Services.