



SUBJECT	POLICY 16 (NON-UNIVERSITY USE OF UNIVERSITY SERVICES AND FACILITIES)
MEETING DATE	JUNE 13, 2019

Forwarded on the Recommendation of the President

APPROVED FOR SUBMISSION

Santa J. Ono, President and Vice-Chancellor

DECISION REQUESTED	<p>IT IS HEREBY REQUESTED that, <i>at the recommendation of the Property Committee, the Board of Governors approve:</i></p> <ul style="list-style-type: none"> <i>i. proposed amendments to Policy 16 (Non-University Use of University Services and Facilities) as set out in Attachment 1 to the report, including the renaming of the Policy: "Ownership and Use of UBC Equipment and UBC Support Services";</i> <i>ii. repeal of Policy 109 (Ownership); and,</i> <i>iii. repeal of Policy 121 (Campus Mail Services).</i>
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Report Date	May 14, 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

<p><i>If this item was previously presented to the Board, please provide a brief description of any major changes since that time.</i></p>	<p>Policy 16 was approved in February 1981. Policy 109 was approved in January 1993. Policy 121 was approved in June 2005. The proposed amendments to Policy 16, which also incorporate the subject matter of Policies 109 and 121, were presented to the Board of Governors for information and input at its meeting in February 2019, and then published for community consultation.</p>
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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- Policy 16 is out of date, having been introduced in 1981 and not having been updated since.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 those Policies and, thus, render them redundant.

Attachments

1. A copy of the proposed Policy 16.
2. A blacklined copy of Policy 16 showing the differences between the proposed version presented to the Board for information on February 12, 2019 and the version now being presented for approval.
3. A summary the feedback received from the public consultation period, along with a description of the Policy Review Committee's response ("Community Consultation Summary").

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

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

The current Policy 121 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 & 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 Vice-President, 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 administrative head of the unit providing the service. 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.

<p>BENEFITS Learning, Research, Financial, Sustainability & Reputational</p>	<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 streamline the Board’s Policies by rationally incorporating the content of Policies 109 (Ownership) and 121 (Campus Mailing Services).</p>

<p>RISKS Financial, Operational & Reputational</p>	<p>As a charitable organization, UBC must ensure that its 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>
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<p>FINANCIAL Funding Sources, Impact on Liquidity</p>	<p>The amendments reinforce the principle that UBC’s equipment and support services are intended for UBC’s benefit. 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>

SCHEDULE Upon approval by the Board of Governors, the proposed Policy, including its Procedures, will take immediate effect and the current Policies 16, 108 and 121 and their respective Procedures will be immediately repealed.

CONSULTATION 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.

Relevant Units,
Internal & External
Constituencies

The Office of the University Counsel constituted a Policy Review Committee comprised of:

- Alexander J. Fisher, Professor, School of Music, Faculty of Arts;
- Carlos Teixeira, Professor, Geography, Irving K. Barber School of Arts & Sciences;
- Catherine Alkenbrack, Director, Facilities Planning, Infrastructure Development;
- Dominique Weis, Professor, Earth, Ocean and Atmospheric Sciences, Faculty of Science;
- Gordon Binsted, Dean, Faculty of Health and Social Development and Acting Dean, Faculty of Education;
- John-Paul Heale, Managing Director, University-Industry Liaison Office;
- Mark Hulstein, Legal Counsel, Office of the University Counsel (Secretary);
- Michael Shakespeare, Executive Director, Finance & Operations, Faculty of Medicine;
- Michal Jaworski, Clark Wilson LLP, External Counsel (Chair);
- Shannon Dunn, Director of Business Operations and Residences, UBC Okanagan; and
- Tor Album, Associate Treasurer, UBC Treasury.

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.


The proposed amendments were presented to the Board of Governors at its meeting on February 12, 2019 for information and input. The proposal was then published for community consultation for a period of five weeks (February 27, 2019 – April 2, 2019).

The Committee received comments from four community members. The Committee held further meetings to consider the comments and make any advisable revisions to the Policy. The attached Community Consultation Summary sets out the comments received, the Committee's unanimous response, and changes it is recommending to the proposed Policy.

The following is a summary of the notable revisions the Committee has made to address the comments it has received from the University community:

- i. Third party uses of UBC Support Services may now be permitted by the Support Services Administrator, rather than the Vice-President, Finance and Operations. UBC Support Services are provided by a wide range of units at UBC, only some of which report to the Vice-President Finance & Operations. This change will make the proposed Policy more practical and also ensure that the Dean or Vice-President responsible for the service is the one approving the use. The Vice-President, Finance and Operations maintains visibility through the financial reporting and budgeting process.
- ii. It has been clearly expressed that incidental personal uses of UBC Equipment and UBC Support Services are limited to only UBC faculty and staff and do not extend to students or other persons not employed by UBC.
- iii. The requirement for approval *in advance* for *all* incidental personal uses was identified as impractical and raised the potential for unintended losses in productivity if employees are required to leave their workplace or switch equipment to, for example, make a personal call or write a personal email. The person responsible for the UBC Equipment or Support Service may adopt, as they deem necessary, binding regulations regarding such uses.
- iv. As other Board Policies may concern specific types of UBC Equipment (e.g. computers, and smartphones are also subject to Policy 104 Acceptable Use and Security of UBC Electronic Information and Systems), the proposed Policy now states that if there is a conflict between a specific policy and Policy 16, that other specific Policy will govern.
- v. The defined terms have been amended to clarify the identity of the person responsible for the provision of UBC Support Services, and that UBC Support Services do not include academic activities of teaching and research.
- vi. The proposed Procedures have been re-ordered to be more reader-friendly.
- vii. The proposed Policy confirms that should the Equipment or Support Service Administrators require additional guidance in the application of the policy, they should seek the guidance from the Responsible Executives (the Vice-President Finance & Operations, and the Vice-President Research & Innovation), who in turn may consult or direct the individual to consult other University resources.

Previous Report Date	February 12, 2019
Decision	The proposed Policy 16, Ownership and Use of UBC Equipment and UBC Support Services was presented for information and input, following which community consultation would be undertaken.
Action / Follow Up	The proposed Policy 16 was sent out for five weeks of community consultation.

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.:</p> <p style="text-align: center;">16</p>	<p>Approval Date:</p> <p>February 1981</p> <p>Last Revision:</p> <p>[2019]</p>
	<p>Responsible Executives: Vice President, Finance and Operations Vice President, Research and Innovation</p>	
<p>Title:</p> <p style="text-align: center;">Ownership and Use of UBC Equipment and UBC Support Services</p>		
<p>Background & Purposes:</p> <p>UBC acquires a wide range of equipment, goods and supplies for the purposes of achieving its academic and charitable purposes of teaching, research, scholarly pursuits and community service.</p> <p>UBC also provides a wide range of support services to facilitate, administer and manage its activities.</p> <p>The purposes of this Policy are:</p> <ul style="list-style-type: none"> (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 purposes; and (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. 		
<p>Related Policies, Materials and Notes:</p> <p>Policy #87 Research Policy #97 Conflict of Interest and Conflict of Commitment Policy #104 Acceptable Use and Security of UBC Electronic Information and Systems Policy #107 Booking and Rental of UBC Space Policy #108 Disposal of Surplus Equipment and Materials</p>		

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.
- 1.4 This Policy establishes generally applicable principles and requirements regarding UBC Equipment and UBC Support Services. Should another Board of Governors policy govern a specific category of UBC Equipment and UBC Support Services, both Policies shall govern, except that the specific Policy will govern should there be any inconsistency with this general Policy.

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 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 purposes.
- 3.2 The Support Services Administrator is primarily responsible for ensuring that the UBC Support Services provided by their unit are used in accordance with this Policy.
- 3.3 Each person utilizing UBC Support Services must comply with this Policy.

4. Excess Capacity

UBC Equipment

- 4.1 Except in exceptional circumstances that comply 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 make a determination and may seek direction or advice from the Responsible Executives or their delegates before doing so.

UBC Support Services

4.3 Except in exceptional circumstances that comply 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 Support Services Administrator is primarily responsible for determining whether the UBC Support Service has Excess Capacity. Should there be any doubt or dispute about Excess Capacity, the Support Services Administrator may make a determination and may seek direction or advice from the Responsible Executives or their delegates before doing so.

5. Definitions

5.1 "**Equipment Administrator**" means with respect to UBC Equipment utilized primarily by:

5.1.1 a faculty, the Dean of that faculty, or their delegate(s);

5.1.2 the UBC Library, the University Librarian, or their delegate(s); and

5.1.3 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 act jointly as 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 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 UBC Equipment is not being utilized.

5.3 "**Non-UBC Purposes**" means purposes other than those that serve UBC's 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 **“Support Services Administrator”** means with respect to UBC Support Services provided by:
- 5.5.1 a faculty, the Dean of that faculty, or their delegate(s);
 - 5.5.2 the UBC Library, the University Librarian, or their delegate(s); and
 - 5.5.3 an administrative unit of UBC, the Vice President to which that administrative unit reports, or their delegate(s).
- 5.6 **“UBC Equipment”** means, for the purposes of this Policy, all 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:
- 5.6.1 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
 - 5.6.2 UBC Equipment excludes intellectual property, real property (e.g. land, buildings, etc.), and property where UBC has disclaimed ownership in accordance with Policy #87, Research.
- 5.7 **“UBC Support Services”** mean services provided by UBC employees for the purposes of supporting, facilitating, administering and managing the delivery of the teaching, instruction and Research (as defined in UBC Policy #87) and related activities fulfilling UBC’s 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. General Restrictions on Use for Non-UBC Purposes

- 1.1 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 2.3 and 2.4 below):
 - 1.1.1 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;
 - 1.1.2 the use must not result in any costs or increase in costs to UBC; and
 - 1.1.3 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 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:
 - 2.1.1 "**Incidental Personal Uses**", which mean uses that primarily benefit the UBC faculty or staff member 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.
- 2.2 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 Support Services Administrator (as the case may be) before proceeding with the activity.
- 2.3 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 1.1 of these Procedures. All persons using the UBC Equipment must adhere to these regulations.
- 2.4 The Support Services Administrator 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 1.1 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 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:

3.1.1 “**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.).

3.2 For the purposes of this Article 3, the term “**Administrator**” means either the Equipment Administrator or the Support Services Administrator, as relevant in the circumstances.

3.3 The Excess Capacity of any UBC Equipment must not be used for Third Party Uses, except in exceptional circumstances approved in advance by the Equipment Administrator.

3.4 The Excess Capacity of any UBC Support Service must not be used for Third Party Uses unless permitted by the Support Services Administrator, except that Related Technical Services may be provided in conjunction with the use of UBC Equipment as set out in this Section, below.

3.5 No Administrator is obligated to authorize any Third Party Uses. However, should the person seeking authorization of a Third Party Use demonstrate to the satisfaction of the Administrator that the UBC Equipment or UBC Support Service has Excess Capacity (for example, it is not required by others within the same unit, or other UBC units, departments or faculties, for the achievement of UBC’s purposes), and that it is otherwise appropriate for the Excess Capacity to be utilized for a Third Party Use, the Administrator may issue an authorization in accordance with the following principles:

3.5.1 All other applicable UBC faculty, departmental or unit policies, guidelines or regulations must be complied with.

3.5.2 Any restrictions upon the use of the UBC Equipment or the UBC Support Service (e.g. in funding agreements, funding agency policies, donor arrangements, import or purchase conditions, etc.) must be complied with.

3.5.3 Appropriate safeguards must be in place to protect the UBC Equipment from misuse, damage, and theft.

- 3.5.4 UBC Equipment, Related Technical Services and UBC Support Services are not to 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.
- 3.5.5 If the person seeking to utilize the UBC Equipment, Related Technical Services (if applicable) or UBC Support Service is a UBC Person as defined in Policy #97, Conflict of Interest and Conflict of Commitment, that policy must be considered and complied with.
- 3.5.6 The Administrator must ensure that UBC is compensated for the Third Party Use. 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 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 Administrator.

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

- 3.6.1 The Administrator must ensure that the arrangement is formalized by way of a written agreement, which agreement must:
 - (a) detail all arrangements, 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 (if any) 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
- 3.6.2 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, Related Technical Services, or the UBC Support Services (as the case may be).

For Information – Feb 2019 FINAL

 <p>The University of British Columbia Board of Governors</p>	Policy No.: 16	Approval Date: February 1981 Last Revision: [2019]
	Responsible Executives: Vice- President, Finance and Operations Vice- President, Research and Innovation	
Title: <p style="text-align: center;">Ownership and Use of UBC Equipment and UBC Support Services</p>		
Background & Purposes: <p>UBC acquires a wide range of equipment, goods and supplies for the purposes of achieving its academic mission and <u>charitable</u> purposes. <u>of teaching, research, scholarly pursuits and community service.</u></p> <p>UBC also provides a wide range of support services to facilitate, administer and manage its activities.</p> <p>The purposes of this Policy are:</p> <ul style="list-style-type: none"> (a) (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 (b) (c) (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. 		
Related Policies, Materials and Notes: Policy #87 Research Policy #97 Conflict of Interest and Conflict of Commitment <u>Policy #104 Acceptable Use and Security of UBC Electronic Information and Systems</u> 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.

[1.4 This Policy establishes generally applicable principles and requirements regarding UBC Equipment and UBC Support Services. Should another Board of Governors policy govern a specific category of UBC Equipment and UBC Support Services, both Policies shall govern, except that the specific Policy will govern should there be any inconsistency with this general Policy.](#)

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 The Support Services Administrator is primarily responsible for ensuring that the UBC Support Services provided by their unit are used in accordance with this Policy.](#)

[3.3](#) ~~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~~that comply 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 and may seek direction or advice from the Responsible Executives or their delegates before doing so.

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~~that comply 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 Services Administrator 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~~Services Administrator may make a ~~final~~ determination and may seek direction or advice from the Responsible Executives or their delegates before doing so.

5. Definitions

- 5.1 “**Equipment Administrator**” means, with respect ~~of~~to UBC Equipment utilized primarily by:
 - 5.1.1 a faculty, the Dean of that faculty, or their delegate(s); ~~with respect to~~
 - 5.1.2 the UBC Library, the University Librarian, or their delegate(s); and ~~with respect of UBC Equipment utilized by~~
 - 5.1.3 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 act jointly ~~be~~as 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~~UBC Equipment 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 **“Support Services Administrator”** means with respect to UBC Support Services provided by:
- 5.5.1 a faculty, the Dean of that faculty, or their delegate(s);
 - 5.5.2 the UBC Library, the University Librarian, or their delegate(s); and
 - 5.5.3 an administrative unit of UBC, the Vice President to which that administrative unit reports, or their delegate(s).
- 5.6 **“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:
- 5.6.1 ~~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
 - 5.6.2 ~~5.5.2~~ UBC Equipment excludes intellectual property, 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~~ Policy #87, Research.
- 5.7 ~~5.6~~ **“UBC Support Services”** mean services provided by UBC employees for the purposes of supporting, facilitating, administering and managing the delivery of the teaching, instruction and Research (as defined in UBC Policy #87) and related activities fulfilling 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. General Restrictions on 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.).~~

1.1 ~~4.2-~~ 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 and 2.4 below):

1.1.1 ~~4.2.1-~~ 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;

1.1.2 ~~4.2.2-~~ the use must not result in any costs or increase in costs to UBC; and

1.1.3 ~~4.2.3-~~ 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 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:

2.1.1 “Incidental Personal Uses”, which mean uses that primarily benefit the UBC faculty or staff member 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.

2.2 ~~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 Administrator (as the case may be) before proceeding with the activity.

2.3 ~~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 ~~4.21.1~~ of these Procedures. All ~~members of persons using~~ the UBC Equipment ~~Administrator’s unit~~ must adhere to these regulations.

2.4 ~~2.3 The administrative head of the unit providing UBC~~ The Support Services Administrator 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 ~~4.21.1~~ 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 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:

3.1.1 “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.).

3.2 For the purposes of this Article 3, the term “Administrator” means either the Equipment Administrator or the Support Services Administrator, as relevant in the circumstances.

3.3 The Excess Capacity of any UBC Equipment must not be used for Third Party Uses, except in exceptional circumstances approved in advance by the Equipment Administrator.

3.4 ~~3.4~~ The Excess Capacity of any UBC Support Service must not be used for Third Party Uses unless permitted by the ~~Vice-President Finance & Operations~~ Support Services Administrator, 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.~~

3.5 ~~3.3~~ ~~The Equipment~~ No 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 UBC Equipment or UBC Support Service has Excess Capacity ~~of UBC Equipment~~ (for example, it 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~~ in accordance with the following principles:

3.5.1 ~~3.3.1~~ All other applicable 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.

3.5.2 ~~3.3.2~~ Any restrictions upon the use of the UBC Equipment or the UBC Support Service (e.g. in funding agreements, funding agency policies, donor arrangements, import or purchase conditions, etc.) must be complied with.

3.5.3 ~~3.3.3~~ Appropriate safeguards must be in place to protect the UBC Equipment from misuse, damage, and theft.

3.5.4 ~~3.3.4~~ UBC Equipment ~~and~~, Related Technical Services and UBC Support Services are not to 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.

3.5.5 ~~3.3.5~~ If the person seeking to utilize the UBC Equipment ~~and~~, Related Technical Services (if applicable) or UBC Support Service is a UBC Person as defined in Policy #97, Conflict of Interest and Conflict of Commitment, that policy must be considered and complied with.

3.5.6 ~~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.

3.6 ~~3.4~~ Should the ~~Equipment~~ Administrator authorize the Third Party Use of the Excess Capacity of UBC Equipment (with or without Related Technical Services) or UBC Support Services:

3.6.1 ~~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 (if any) 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

3.6.2 ~~3.4.2~~ Unless otherwise directed by the ~~VP~~ 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, or the UBC Support Services (as the case may be).

Document comparison by Workshare 9.5 on Monday, May 6, 2019 2:42:27 PM

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Community Consultation Summary

Proposed Policy #16, Ownership and Use of UBC Equipment and UBC Support Services

No.	Comment	Applicable Section(s)	Category	Committee Recommendation
1.	A unit of the University sought clarification on whether their activities, which result in written resources and guides being posted online and thereby made available to the public, would be considered a third party use under this Policy.	Policy Background and Purposes; and Section 5.5 and 5.6	Scope of the Policy	Add a sentence to the Background and Purposes section to summarize what UBC's academic and charitable purposes are. Clarify the definitions of UBC Equipment and UBC Support Services to reflect that they do not include intellectual property, nor academic activities such as teaching and research. Further, and in any event, the activity reflected in the comment would come within UBC's purposes that includes the advancement of education.
2.	A unit of the University sought clarification on whether preparing for and presenting at professional development programs and conferences (where the attendees would primarily be non-UBC persons), would be a third party use under this Policy.	Policy Background and Policy Section 5.5 and 5.6	Scope of the Policy	Add a sentence to the Background and Purposes section to summarize what UBC's academic and charitable purposes are. Clarify the definitions of UBC Equipment and UBC Support Services to reflect that they do not include intellectual property, nor academic activities such as teaching and research. The activity reflected in the comment would come within UBC's purposes that include teaching activities.
3.	An individual asked whether the Policy applied to the municipal-like services provided by UBC to the UNA	Procedures, Section 1.1.2	Third Party Uses	The Committee considered the question and answered: Yes and this is appropriate. UBC has agreed to provide certain municipal-like services

No.	Comment	Applicable Section(s)	Category	Committee Recommendation
				<p>to residents in its residential neighbourhoods, and by way of the Neighbours Agreement has delegated service delivery to the UNA (which agreement has been approved by the Board of Governors). Where UBC's excess capacity in equipment or services may be utilized to serve the Neighbourhoods, that arrangement must comply with this Policy.</p> <p>No changes to the Policy are required as a result.</p>
4.	An individual commented that Incidental Personal Uses necessarily are limited to UBC faculty and staff.	Procedures, Section 1.1.1	Incidental Personal Uses	Adopt the recommendation in the Comment and provide that clarity.
5.	An individual commented that the requirement for approval in advance before an Incidental Personal Use was approved was onerous, and the Policy would better address the issue by (a) establishing a definition of Incidental Personal Use, (b) defining an overall framework under which they are permitted; and (c) empowering the appropriate person to issue binding regulations should there be any issues to be addressed.	Policy Section 4.1 and 4.3 Procedures Section 2	Incidental Personal Use	Adopt the recommendations in the comment. Items (a) and (b) of the comment are already provided in the draft. As regards item (c), the committee recommends revising Sections 4.1 and 4.3 to eliminate the requirement for approval in advance for any and all Incidental Personal Uses, but retain all other aspects, including the establishment of a general principle that Incidental Personal Uses are exceptional and must comply with this Policy and Procedures. The Procedures establish a general framework for all Incidental Personal Uses at Section 1.2, and in Section 2, including that the appropriate individuals are empowered to establish binding regulations.

No.	Comment	Applicable Section(s)	Category	Committee Recommendation
6.	An individual asked how the general provisions of the proposed Policy 16 concerning Incidental Personal Use, which require approval <i>in advance</i> , match with the existing Policy 104, which permits incidental personal use of “Electronic Information and Systems” (that would include electronic equipment) so long as they do not interfere with the employee’s job performance and otherwise comply with basic security and legal requirements.	Policy Section 4.1 and 4.3 Procedures Section 2	Incidental Personal Use	<p>1. Include a new section that confirms that if there is an inconsistency between the general provisions of Policy 16 and the specific provisions of another Board of Governors’ Policy, the specific regulations govern.</p> <p>2. Changes made in response to comment No. 5, also eliminate any inconsistency between Policy 104 and Policy 16.</p>
7.	A unit of the University sought clarification about who is to approve Third Party Uses.	Policy Section 4.3 and Procedures Section 3.1	Third Party Uses	<p>Changes made in response to comment No. 5 address this comment.</p> <p>In addition, the Committee reconsidered the recommendation to have all Third Party Uses approved by the VP Finance. Given the wide range and large number of UBC Support Services, this would create an unreasonable administrative burden upon the VP Finance. Also, all income from Third Party Uses must be reported to the VP Finance (as provided by section 3.4.2 of the Procedures), which would allow the VP Finance to review the appropriateness of the Third Party Uses and ensure compliance with this Policy.</p>