

The Introduction to the Trade Secret Management Guidelines



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Due to an open, collaborative culture and the need to balance knowledge sharing with protection, research academic institutions always face unique challenges in managing confidential information. However, trade secret protection is still essential for research academic institutions in order to safeguard their competitive advantages and valuable research results. Accordingly, the “Trade Secret Management Guidelines”, released by the Taiwan Intellectual Property Office (TIPO) on May 27, 2024, is specifically tailored for the trade secret protection in the research and academic circumstance.

Taking into account the essential differences between research academic institutions and enterprises, these guidelines use a phased and scalable approach to implement trade secret protection measures. With these guidelines, each research academic institution can evaluate its own size, research field, available resources, etc., and establish an appropriate trade secret management system to effectively identify, protect and manage its trade secrets.

The Trade Secret Management guidelines outline 13 measures for managing trade secrets, covering the entire life cycle of trade secret protection. In addition, these guidelines recommends that research academic institutions adopt a phased implementation strategy, starting from the "entry-level" stage focusing on basic measures, and gradually entering the "basic" and "enhanced" stages to improve each management measure. The following is an overview of each measure:

1. Distinguishing Trade Secrets

In order to facilitate the protection of trade secrets, institutions should distinguish what is trade secret information at the entry stage, whether it is self-developed or obtained from others. As progressing to the basic stage, institutions should define and provide examples of trade secrets they produce or acquire. When entering the enhanced stage, institutions should develop a process for identifying whether an information is a trade secret.

2. Access Control

To prevent unauthorized disclosure, institutions should control access to trade secrets. At the entry stage, institutions must set access permissions for trade secrets. As progressing to the basic stage, access should be granted based on the need for the information. When entering the enhanced stage, institutions need to adjust access permissions in response to job changes and personnel turnover.

3. Identification

Identifying trade secrets helps ensure that those accessing the information are aware of its confidentiality. At the entry stage, institutions need to identify information considered to be trade secrets, but there are no restrictions on the identification method. As progressing to the basic stage, institutions need to clearly define how trade secrets will be identified. When entering the enhanced stage, the key is to ensure that all contacts know that the information they come into contact with is a trade secret.

4. External Disclosure Review

In order not to affect subsequent research or applications, institutions should review the information that will be disclosed to the public. At the entry stage, institutions should ensure that information is reviewed by responsible personnel before it is disclosed to the public. As progressing to the basic stage, institutions need to identify which items should be reviewed. When entering the enhanced stage, institutions shall distinguish what should be reviewed based on the nature of the information disclosed to the public.

5. Circulation Control

Controlling the circulation of trade secrets can prevent them from being arbitrarily disclosed. At the entry stage, institutions should ensure that responsible personnel have consent to the circulation of trade secrets. As progressing to the basic stage, the key is whether

the behavior of circulating trade secrets is recorded. When entering the enhanced stage, institutions should take countermeasures to prevent trade secrets from being leaked during the circulation process.

6.Reproduction Control

Controlling the reproduction of trade secrets can ensure that the use of trade secrets is limited to a controllable scope. At the entry stage, institutions should limit the reproduction of trade secrets. As progressing to the basic stage, the key is whether the behavior of reproducing trade secrets is recorded. When entering the enhanced stage, institutions should take measures to avoid the increased risk of leakage of trade secrets after the reproduction behavior.

7.Destruction

At the entry stage, institutions should ensure that the consent of the responsible personnel is obtained when destroying trade secret. As progressing to the basic stage, institutions should consider the impact of destruction before destroying trade secrets and ensure that records of destruction are retained. When entering the enhanced stage, the key is whether the trade secrets are destroyed in an irrecoverable way.

8.Usage record retention

Keeping the usage record of trade secrets can help provide evidence in litigation. At the entry stage, institutions should keep records of access and use of trade secrets. As progressing to the basic stage, institutions should further specify the items that need to be retained in the records. When entering the enhanced stage, institutions should ensure that the records retained are authentic and will not be arbitrarily tampered with. Therefore, if necessary, a third party agency can be entrusted with the preservation of evidence.

9.Designating Responsibility for Implementation

Setting up responsible personnel can help ensure that the trade secret management mechanism is effectively implemented. At the entry stage, institutions simply need to ensure there is someone responsible for driving trade secret management. As progressing to the basic stage, institutions shall assign dedicated personnel to be responsible for trade secret management. When entering the enhanced stage, institutions must establish a dedicated unit to coordinate the protection of trade secrets through a clear division of powers and responsibilities.

10.Confidentiality and Ownership Arrangements

Signing confidentiality and ownership agreements can ensure that internal personnel who may have access to trade secrets understand their confidentiality obligations. At the entry stage, institutions only need to sign a written confidentiality agreement with those who may have access to trade secrets. As progressing to the basic stage, institutions shall clearly define the items that must be included in the confidentiality and ownership agreement. When entering the enhanced stage, institutions need to further evaluate whether to adjust the contents of confidentiality and ownership agreements in response to job changes and personnel turnover.

11.Promotion and Training

Through promotion and training, institutions can gradually improve personnel's awareness of confidentiality and help them understand the key points of trade secret management. At the entry stage, institutions can promote the importance of trade secret management and provide appropriate training to all personnel. As progressing to the basic stage, institutions should establish promotional materials, explain the management objectives and specific practices in the training, and conduct an evaluation of effectiveness. When entering the enhanced stage, institutions need to adjust the content required for training based on differences in units, objects, trade secret characteristics, etc.

12.Departure Management

At the entry stage, institutions should remind departing personnel of their confidentiality obligations. As progressing to the basic stage, institutions shall further require the departing personnel to hand over the trade secrets they held during their tenure. When entering the enhanced stage, institutions need to conduct exit interviews with important departing personnel to ensure that they clearly understand their confidentiality obligations.

13.Confidentiality and Ownership Arrangements with External Parties

Signing confidentiality and ownership agreements with external parties can help prevent institutions mired in unnecessary controversies. At the entry stage, institutions only need to sign confidentiality agreement with external parties before providing trade secrets to them. As progressing to the basic stage, institutions shall clearly define the items that must be included in the confidentiality and ownership agreement. When entering the enhanced stage, institutions needs to confirm with external parties and reach a consensus on the management measures that both parties need to take.

The Trade Secret Management guidelines provide a comprehensive framework for research academic institutions in Taiwan to protect their trade secrets. Regardless of the size of the research academic institutions or the field it focuses on, as long as they follow the above-mentioned 13 measures and adjusts according to their current management situations, they can gradually establish a trade secret management system that meets their own needs.

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