

POLICIES

- Activity which necessitates an equivalent of three (3) or more working days in any month away from responsibilities and/or. . .
- Activity which necessitates use of university resources and/or release time for the employee.

In completing the Outside Activity Form the following procedures should be adhered to.

- Submit a copy of the Outside Activity Form to the immediate supervisor for review and approval. In the event the employee requesting outside employment is a supervisor, the next higher supervisor will be the initial recipient of the request form.
- The immediate supervisor should submit the Outside Activity Form to the second-level supervisor for review. If the second-level supervisor deems it , a copy of the request will be submitted to the chief academic officer and/or chief fiscal officer, as appropriate.
- In all cases where resources and/or release time are involved, the vice president for business and administration should review the related outside employment activity request to insure that the proper accounting procedures required by the university and the State University System are being followed.

Interpretations necessary for the implementation of this policy shall not replace nor negate the approval procedures as stated.

XXXI. Kennesaw State University Intellectual Property Policy

Introduction

Kennesaw State University (“University”) is dedicated to teaching, research, and the extension of knowledge to the public. Among its primary objectives are the development of new and useful devices, processes, computer software, and artistic and literary works; and the publication and creation of scholarly works. Such activities:

1. contribute to the professional development of the faculty, staff and students involved;
2. enhance the reputation of the University;
3. provide additional educational opportunities for participating students; and
4. promote the general welfare of the public at large.

In some cases, patentable inventions, copyrightable materials, and other intellectual property may be developed through activities of University faculty, staff, or students who have been aided in their efforts by University resources. In such cases, the University has an interest in insuring and expediting the development, marketing, and utilization of the intellectual property. At the same time, the rights, privileges, and incentives of the inventor(s) or creator(s) must be preserved so that their abilities and those of other University faculty, staff, or students may be further encouraged and stimulated.

The University recognizes and encourages the publication of scholarly works as an integral part of the processes of teaching, research, and service. Frequently through individual effort and initiative, faculty, staff, and students develop articles, pamphlets, books, and other scholarly works which may be subject to copyright and which may generate royalty income for the author. Scholarly works may also result from work supported either partially or primarily by the University. Recent technological advances have increased the complexity of determining ownership interests in Intellectual Property.

In some instances, Intellectual Property may become, in whole or in part, the property of the Board of Regents. When this Policy speaks to ownership of Intellectual Property by the University, the Board of Regents shall be the owner, unless the Board of Regents has transferred ownership to an affiliated non-profit organization of the University.

The foregoing considered, the University does hereby establish the following policy with respect to the development, protection, and transfer of rights to Intellectual Property resulting from the work of its faculty, staff or students. This policy shall be applicable to all full or part-time faculty, staff or students of the University.

Definitions

1. "Intellectual Property" (IP) shall be deemed to refer to patentable materials, copyrighted materials, trademarks, software, and trade secrets, whether or not formal protection is sought.
2. "Faculty Member, Staff Member, and Student"
For purposes of this contract, faculty members and students are individuals who have signed an appropriate agreement (such as an application for admission or a contract of employment) with the University that obligates them to abide by the policies of the University and the Board of Regents. A staff member is any person other than a faculty member who is employed on a full-time or part-time basis by the University.
3. "Individual Effort"
Intellectual Property produced by faculty or students is Individual-Effort Property unless it is a University-Supported Effort, as defined below in section 5.
4. "University-Owned Property"

Intellectual Property produced by staff working within the scope of their University employment is wholly-owned by the University unless produced pursuant to a written agreement between the staff member(s) and the University which categorizes the Intellectual Property as a University-Supported Effort, as defined below in section 5. Unless it is the subject of such an agreement, an IP produced by a student who is also a full-time or part-time staff member of the University is wholly owned by the University if the topic of that IP lies within the scope of that staff member's employment or if it is developed using University resources not normally available to students who are not staff members.

5. "University-Supported Effort"
As described below in paragraphs A. and B., Intellectual Property may be created by individuals aided wholly or in part by resources beyond those normally available to them by virtue of their University position.
 - A. "University-Assigned Effort" - On occasion, an individual faculty member may be assigned by a supervisor to engage in the production of a specified Intellectual Property. Such an Intellectual Property is a University-Assigned Effort under this policy only if the specific Property is produced pursuant to a separate, written, signed agreement between the University and the creator(s) that is intended to result in the production of the specific Property in question. Such agreements should address the various rights and responsibilities of all parties normally associated with intellectual properties. The existence of such an agreement is necessary to categorize the Property as a University-Assigned Effort. Expectations detailed in annual, post-tenure, or other performance reviews do not constitute University-Assigned Effort unless such expectations are the subject of a separate agreement as described above in this paragraph A.

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- B. "University-Assisted Effort" - An Intellectual Property is a University-Assisted Effort when the Intellectual Property is not a University-Assigned Effort and the cumulative value of the University resources used to develop the Intellectual Property exceeds by more than \$5,000 the value of resources normally available to the creator(s) to fulfill the University's expectations of the individual's performance. Such "normally available" resources include, but are not limited to, equipment, human resources, office supplies, lab supplies, library resources, Internet resources, and the creator(s)'s office, lab, and/or studio. Internal awards intended to promote faculty development, such as those administered by the Faculty Development and Awards Committee, fall within University resources normally available to the creator(s).
6. "Sponsor-Supported Effort"
Intellectual Property is deemed a result of Sponsor-Supported Effort when it is developed pursuant to a written agreement, between the University and an external agency or institution that provides funding or resources, to produce a specific Intellectual Property. Any portion of such Intellectual Property the ownership of which is not completely addressed by the written agreement will be deemed a result of either Individual Effort or University Supported Effort, as defined above in DEFINITIONS, Paragraphs 2. and 3.
7. "Patentable Materials" shall be deemed to refer to items other than software which reasonably appear to qualify for protection under the patent laws of the United States or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not patentable thereunder.
8. "Copyrighted Materials" shall include the following: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) films, filmstrips, charts, transparencies, and other visual aids; (4) video and audio tapes or cassettes; (5) live video and audio broadcasts; (6) programmed instructional materials; (7) mask works; and (8) other materials or works other than software which qualify for protection under the copyright laws of the United States (see 17 U.S.C. § 102 et seq.) or other protective statutes whether or not registered thereunder.
9. "Software" shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term "computer program" shall mean a set of instructions, statements or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.
10. "Trademarks" shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University. (See 15 U.S.C. § 1127.)
11. "Trade Secrets" means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (See O.C.G.A. § 10- 1-761.)
12. "Patentable Plant" means an asexually reproduced distinct and new variety of plant. (See 35 U.S.C. § 161.)
13. "Mask Work" means a series of related images, however fixed or encoded: (i) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (ii) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. (See 17 U.S.C. § 901.)

14. "Novel Plant Variety" means a novel variety of sexually reproduced plant. (See 7 U.S.C. § 2321 et seq.)
15. "Creator" and "Originator," which are used interchangeably in this Intellectual Property Policy, shall mean the creator, author, inventor, or similar person and that person's executor, heirs, successors, and assigns.

Determination of Rights and Equities in Intellectual Property

This Policy acknowledges that in most cases state or federal law designates initial ownership rights in Intellectual Property. If applicable state or federal law designates initial ownership of an Intellectual Property in a manner different from the intent of this Policy, then the legal initial owner(s) shall assign such rights of ownership to another party or parties as is necessary to conform to the intent of this Policy. Unless otherwise provided herein, the term "ownership" comprises all of the ownership rights and interests in the Intellectual Property under applicable law.

The rights, interests, and equities in an IP shall be determined as described below in this Article, Sections A-D.

A. Individual Effort

Ownership of Intellectual Property produced through Individual Effort shall belong to the individual creator(s).

B. University-Assigned Efforts

Ownership interests, other than royalty interests, in Intellectual Property developed as a result of University-Assigned Effort shall reside with or be assigned to the University unless provided otherwise by the signed agreement referred to in DEFINITIONS, paragraph 4.A. Royalty income shall be shared with the individual inventor(s) or creator(s), in conformity with the sharing ratios set forth in Table 1 except as modified by the signed agreement described in Article II, paragraph 4.A.

C. University-Assisted Effort

Ownership interests, other than royalty interests, in Intellectual Property developed as a result of University-Assisted Effort shall belong or be assigned to the inventor(s) or creator(s). However, royalty income shall be shared with the University in conformity with the sharing ratios set forth in Table 1 except as modified by the parties through a separate written agreement. In addition, the creator(s) shall grant to the University a limited license to use the Intellectual Property within the scope of its normal activities.

D. Sponsor-Supported Efforts

The grant or contract between the sponsor and the University, under which Intellectual Property is produced, may contain specific provisions with respect to disposition of rights or interests in the Intellectual Property. Where the creator(s) or the University retains any portion of these rights or interests, the classification of such portion of the rights or interests in the Intellectual Property may be deemed to be Individual-Effort, University-Assigned Effort, or University-Assisted Effort. This classification shall be determined in accordance with DEFINITIONS, Paragraphs 2. and 3. on or before the date on which the authorized University representative(s) execute the grant agreement or contract.

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TABLE 1

Revenue Distribution	Originator	Originator's Department	Office of Sponsored Programs	Faculty Development Budget
Individual Effort	100%	—	—	—
University Assigned	50%	30%	10%	10%
University Assisted	75%	10%	5%	10%

Policy Implementation and Procedures

- A. Composition of the IPC. The IPC will consist of eight members. Six of these members shall be appointed by the President and two are members *ex officio*. The president shall appoint two (2) faculty members, one (1) staff member, one (1) student, one (1) academic department chair, and one (1) academic dean all based on recommendations from the appropriate constituent groups. IPC members appointed by the president shall serve two-year, staggered terms. The VP of finance or his or her designee shall be an *ex officio*, voting member. The dean of graduate studies shall serve as an *ex officio*, nonvoting member. The president shall designate, from among the appointed members, one member as chair of the IPC.
- B. Duties of the IPC. The duties of this group will include the following: oversee IPP implementation; recommend changes in the IPP; review IPs that are referred to it through the disclosure process described below in POLICY IMPLEMENTATION AND PROCEDURES, Section D of this IPP; and adjudicate IP-related disputes.

The IPC shall have exclusive jurisdiction of disputes brought by the creator regarding IP classifications made by deans or their equivalents, in accordance with POLICY IMPLEMENTATION AND PROCEDURES, Section D, paragraph 2, below. Such disputes will be heard by a panel of three IPC members appointed by the IPC Chair. Adjudication shall include an oral hearing, a decision rendered within 60 days of the request, and a written explanation of the decision and underlying rationale. Appeals, which may be made by either the creator or the University, shall be heard by the entire IPC plus two ad hoc members, one chosen by the creator and the other chosen by the relevant supervisor. Any further appeals go to the president.

- C. The University has elected, through the IPC and with the approval of the president, to release the management of IP to which the University has title or an interest to the creator thereof for management and development as a private venture after the execution of an agreement providing for a suitable division of royalty income.
- D. Disclosure Policy & Procedure
 - 1. Property Requiring Disclosure. An IP that is a University-Supported effort that is the subject of an agreement between faculty, staff, or students on one hand, and an external entity on the other, shall be disclosed.

2. Disclosure Process & Content.

(a) If disclosure is required, the creator must disclose the IP before a contract or agreement is signed or consideration is accepted in exchange for any interest in the IP, before the IP is disclosed to the public, or before any application is made to patent a patentable IP.

(b) Required disclosures shall be submitted on a standard KSU IP Disclosure Form ("Form") (see Appendix) signed by the creator. The Form shall disclose (i) the existence of an intellectual property; (ii) the legal category (such as copyright, patent, trade mark, trade secret, mask work, plant) of the intellectual property created; (iii) a brief description, that need not include confidential or proprietary information the disclosure of which would jeopardize the commercial value of the IP; (iv) the creator's classification of the IP; and (v) supervisory and IPC classifications of the IP, as applicable. The Form shall be signed by reviewing supervisor(s) and the IPC chair, as applicable.

(c) All Forms shall initially be delivered in hardcopy to the department chair or immediate supervisor ("Supervisor"). After initial review the supervisor shall forward the Form, within 10 business days of receipt thereof, to the college dean or next immediate supervisor ("dean") with copy to the creator, indicating the supervisor's classification. If the creator disagrees with the supervisor's classification, the creator may submit to the dean a memorandum in support of the creator's classification. The dean, within 10 business days of receipt, shall review the Form and the creator's memorandum, if any, and either ratify or alter the supervisor's classification.

(d) In the case of IP classified by the dean as "university assisted" or "university assigned," the disclosure and classification must then be reviewed and filed by the IPC.

(e) If the creator disagrees with the supervisor's or dean's classification of an IP, then the creator may refer the dispute by a signed request copied to the chair, dean, and IPC chair, within 60 days of receipt of the supervisor's classification thereof, to the IPC for adjudication following the dispute resolution procedures set forth at POLICY IMPLEMENTATION AND PROCEDURES, Section B, above.

Appeal Procedure

The University has adopted the following appeal procedure within the University in the event of a disagreement as to the classification, ownership and use of IP subject to this Policy.

Appeals of classification decisions of the IPC shall be made to the president of the University. Appeals shall be submitted in writing within 10 days of the Committee's decision.

Preemption by Board of Regents' Policy

In the event of conflict between any provision of this Policy and any policy of the Board of Regents, the latter shall prevail.

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APPENDIX

Intellectual Property Disclosure Form

Brief Description:

Legal Category _____

Annual net pre-tax income to the creator in \$U.S. as estimated by Creator(s)
at the time of disclosure _____

Classification Classifier	Creator	Supervisor	Dean	Comments
Individual Effort				
University Assigned				
University Assisted				

Signatures:

I certify that I am the creator of the intellectual property hereby disclosed.

Creator(s) _____

Date _____

Reviewed by:

Supervisor _____

Date _____

Dean _____

Date _____