

FACULTY SENATE MEETING
December 15, 2023

Members and Officers present: Ryan Alverson, Terrance Anderson, Ginger Blackwell, Janel Bloch, Andrea Brooks, Carole Cangioni, Ronnie Chamberlain, David Childs, Josh Cooper, Chris Curran, Charlisa Daniels, Jacqueline Emerine, Irene Encarnacion, John Farrar, Richard Fox, Kathleen Fuegen, Steven Gores, William Herzog, Lisa Holden, Stephen Johnson, Ken Katkin, Edward Kwon, Kajsa Larson, Chris Lawrence, Zeel Maheshwari, Michael Providenti, Robert Salyer, Hans Schellhas, Laura Sullivan, Jessica Taylor, Brandelyn Tosolt, Monica Wakefield, Kim Yates, Junxiu Zhou

Members and Officers absent: Michael Baranowski, William Boyce, Joe Cress, Boshra Karimi, Isabelle Lagadic, Jitana Lee, Marcos Misis, Nikk Pilato, Brittany Sorrell, Zach Wells

Guests: Cady Short-Thompson (President) Matt Cecil (Provost), Greg Hatchett (Elections Committee) Amanda Andrews (Staff Congress), Grace Hiles (Faculty Senate Office), Brooke Buckley, Vicki Cooper, Emily Detmer-Goebel, Alar Lipping, Shauna Reilly, Erin Strome, Diana McGill, Tammy Knochelmann, Dolores White, Bethany Bowling, Suk-hee Kim, Rebecca Elkins, Julie Olberding, Cecile Marczynski, Sandra Spataro, Yaw

Call to Order, Adoption of Agenda

The meeting was called to order by Senate President John Farrar at 1:07 pm with a quorum present. There is one change to the agenda; Greg Hatchett, chair of the Elections Committee, will have an election report. The agenda was adopted as amended.

Approval of Minutes

The minutes from the November 27, 2023 meeting were approved with one correction. Under the School Representative Work Group report, **the number of advisors should be 150**. The minutes were approved with the correction.

Guest Reports:

- **President** (Cady Short-Thompson):
 - She wished all a happy holiday and expressed appreciation for being with everyone over lunch.
 - The last two and a half months have been extremely busy meeting with many constituencies. She is working hard to get NKU back on track financially.
 - At the next Board of Regents (BOR) meeting, she will present the themes she learned from her listening sessions.
 - She is excited for NKU's future and for the upcoming commencement. This is a big day for students and for the faculty and staff.

- **Provost** (Matt Cecil):
 - He reminded everyone that the Academic Commons (AC) presentation has been pushed back to January.
 - He summarized the three "buckets" of savings needed from Academic Affairs that he explained at the November Senate meeting. The first bucket is filled with one-time

salary savings during the fiscal year, which occur from holding positions open and sweeping back the funds. NKU is on track to meet the number for one-time salary savings through recapturing dollars based on vacancies. Buckets two and three are recurring savings from the budget improvement plan (\$2.6 million) passed by the Board in September 2023 and from the original repositioning plan, (\$1.8 million), approved in November 2022. Of the \$4.4 million total, only about \$1 million remain through Academic Affairs and Student Affairs. This and all other reductions NKU must meet have been identified.

- He expressed appreciation for everyone's work, which is the reason why NKU is a leader in metrics and is setting a record with 1900 graduating students. He hopes that everyone can relax over the break and enjoy time with family and friends.
- **Staff Congress Representative** (Amanda Andrews):
 - Staff Congress will host a university holiday party on Friday, December 15, 3:00 – 4:30 pm., in the University Ballroom. There will be door prizes and light snacks. More details will be shared this week.
- **Elections Committee** (Greg Hatchett):
 - He announced Sandra Spataro as the winner of the run-off Faculty Regent election. Another election for the permanent Regent three-year term will take place in the spring.
 - Congratulations to Sandra Spataro and all those elected to At-Large Senate seats and the Peer Advisory Committee, Peer Hearing Committee, Complaint Advisory Committee and the Financial Exigency Committee (See attachment).

Officer Reports:

- **Senate President** (John Farrar):
 - The search committee for the Vice President for Administration and Finance/Chief Financial Officer (CFO) position has met. They did an initial review of 24 candidates; of those, they identified five or six for first round interviews in January.
 - There will be open forums when finalists for the position come to campus [this, in answer to an question].
 - The work group looking into a policy/procedures for course waivers has met two times. The group's goal is to have a draft proposal in late February or early March.
- **Vice President** (Jacqueline Emerine):
 - No report.
- **Faculty Advocate** (Brandelyn Tosolt):
 - Many faculty – a dozen or so in the last month - are expressing concerns about workload, feeling the pressure of multiple years of budget restrictions, as well as lack of support from colleagues and administrators. Please be kind and supportive of colleagues.
- **Secretary** (Laura Sullivan):
 - No report.
- **Graduate Council Chair**: (Ginger Blackwell):

- No report.

Committee Reports:

- **University Curriculum Committee** (Richard Fox):
 - The committee's last meeting was a standard meeting. The third Thursday in January will be the committee's next meeting.
- **Budget** (Janel Bloch):
 - The committee's last meeting was this week, with Jeremy Alltop, departing Vice President for Administration and Finance/CFO, providing good tips moving forward, such as staying aware of revenues.
 - There will be a budget survey next semester.
- **Benefits** (Charlisa Daniels):
 - Faculty Development Award (FDA) letters have been sent. Decisions were influenced by the budget situation, so she is happy to answer any questions.
- **Professional Concerns** (Kathleen Fuegen):
 - No report.
- **TEEC** (Chris Lawrence):
 - There was an Explorance Blue software meeting this afternoon to work on videos that will help department chairs and deans with bulk use of data.
 - The committee is also working on a proposal aimed at addressing workload concerns. There will be more to report in the new year.
- **General Education Committee** (Andrea Brooks):
 - The committee met this month to begin reviewing course proposals. This work will continue into next year.

New Business:

- Election of Faculty Benefits Committee Chair (term from January 1 to June 30, 2024). Nominations to farrarj1@nku.edu or hilesg1@nku.edu or from the floor.
 - Rebecca Elkins, Health and Human Services, was nominated for the position but she is withdrawing her name. The election for Benefits Committee chair will be postponed.
- Discussion item: Revisions to Appendix F, Intellectual property policy: Inventions and patents and Copyrights (2 attachments).
 - The process for these policies began six or seven years ago. Initially, Inventions/Patents and Copyrights were combined in one policy, but the work group – composed of faculty, staff, administrators - thought separate policies were needed. PCC has accepted the policies after some changes that included adding Section A. Policy Scope and Applicability to Inventions and Patents, as well as Ownership of Inventions under Section B.
 - Discussion included the need to keep the policies in the Faculty Handbook, due to the fact that administration could potentially make changes to them if they are not in the

Handbook. Copyright, in particular, applies to faculty and specifically references faculty in the policy. Also, making sure policies are enforced was mentioned in order to protect faculty no longer at NKU, in relation to course materials.

- Senator voting on the policies will take place at the January meeting. The BOR will ultimately have to approve the policies.

Old Business:

- There was no old business.

Announcements (John Farrar):

- Nominations are being accepted for Faculty Senate officers for July 1, 2024 to June 30, 2025 to John Farrar (farrari1@nku.edu) or Grace Hiles (hilesg1@nku.edu). Election meeting is prior to the January 2024 meeting.

Adjournment

The meeting was adjourned at .

Respectfully submitted,

Laura A. Sullivan
Secretary

2023-2024 Faculty Senate Election Results

Committee: Greg Hatchett (Chair), Susan Brudvig, Bob Russ,
Michael Waters, Grace Hiles

Faculty Regent: Sandra Spataro (run-off election)

At-Large Senate Seats:

- *College of Arts & Sciences*: Janel Bloch, Chris Curran, Nile Patterson, Edward Kwon, & Michael Guy
- *Chase College of Law*: Ken Katkin
- *College of Health & Human Services*: Suk-hee Kim & Joe Cress
- *College of Education*: Kimberly Clayton-Code
- *College of Business*: Boshra Karimi
- *College of Informatics*: Junxiu Zhou

University Committees:

- *Peer Advisory*: Amal Said (4 years) & Michael Waters (4 years)
- *Peer Hearing*: Jeff Smith (2 years)
- *Complaint Advisory*: Gary Newell, Jessica Averitt Taylor, & Michael Waters
- *Financial Exigency*: Ali Balapour

COPYRIGHTS

POLICY NUMBER: HYB-COPYRIGHTS

POLICY TYPE: HYBRID

RESPONSIBLE OFFICIAL: PROVOST & EXEC. VICE PRESIDENT FOR ACADEMIC AFFAIRS

RESPONSIBLE OFFICE: GRADUATE EDUCATION, RESEARCH AND OUTREACH

EFFECTIVE DATE:

NEXT REVIEW DATE: BOARD APPROVAL PLUS FOUR (4) YEARS

SUPERSEDES POLICY DATED: 11/11/2009 (INTELLECTUAL PROPERTY)/THIS POLICY IS INCLUDED IN FACULTY HANDBOOK APPENDIX F & SEC. 16.16

BOARD OF REGENTS REPORTING (CHECK ONE):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM)

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

A. RIGHTS AND OBLIGATIONS OF THE PARTIES

1. Traditional Works

In keeping with longstanding academic custom, Northern Kentucky University (NKU or University) recognizes faculty ownership of copyrights in textbooks, monographs, papers, articles, musical compositions, replication packages, software, works of art and artistic imagination, unpublished manuscripts, dissertations, theses, popular nonfiction, novels, poems, and the like that are created by its faculty. Also included are course materials such as syllabi, workbooks, and laboratory manuals. The University has not and will not claim any ownership rights to such Traditional Works. Similarly, the University has not and will not claim ownership of Traditional Works created by its other employees or students.

As copyright owner, the Creator(s) have the rights to use, copy, reproduce, modify, display, perform, distribute, create derivative works, and to permit others to do the same, if their work is an original, tangible, written, visual, or musical work of authorship, and therefore protectable by U.S. and other countries' copyright laws.

As a copyright owner, the Creator(s) shall have the rights to hold and register copyrights in their own name; protect and enforce their copyright interest; and license, transfer, or assign their copyright interest to others, such as publishers or distributors and to collect revenues from doing so.

In all cases other than the exception categories noted below, any and all revenues derived from copyrighted works belong wholly to their Creator(s) or the copyright holder(s) to whom the Creator(s) have assigned their copyright interest.

2. Externally Sponsored Works

In cases where a copyrightable work has been produced with support to NKU from a government agency or other external source whose grant specifies that the copyright for any work created under the grant is the property of the University (as grantee), then, if permitted under the applicable grant terms, the University assigns the copyright ownership to the work to the Creator(s), subject to the following conditions: (a) the Creator will be bound by all conditions attached to the grant and imposed by the government granting agency or other external source; and (b) if the work is Non-Traditional, (i) the

Creator(s) may decide to distribute such work freely and openly without consulting the University; however, if they distribute the work freely, they must accompany distribution with the following statement:

Permission is hereby granted for non-profit educational and research use of {name of work}. Any other use, for commercial purposes or otherwise, is expressly forbidden without prior written permission of {name of Creator}.

and (ii) any Creator(s) desiring to license the work for commercial purposes will do so according to the terms set forth in an agreement with the University and any revenue derived from such work will be shared with the University according to the terms described in the agreement in force at the time the grant was received.

3. University Sponsored Works

The University claims ownership in Works for Hire that arise from works created as the result of specific assignments; works supported by a direct allocation of University funds for the pursuit of a specific project; and works that are specially commissioned by the University. For example, works produced in certain University units whose specific mission includes the production of works for instructional, public service, or administrative use and who employ staff and faculty for the purpose of producing such works are deemed to be Works for Hire and, therefore, the property of the University. The University has the rights to hold and register copyright to a Work for Hire in its own name; to protect and enforce its copyright interest; and to license, transfer, or assign its copyright interest to others, such as publishers or distributors, and to collect revenues from doing so.

A faculty member's general obligation to produce scholarly works or to perform curriculum development activities for the faculty member's own courses does not constitute a specific University assignment, nor is the payment of regular salary, the use of office and library facilities, sabbatical, fellowship or internal grant awards, or the provision of incidental clerical support or reasonable data and word processing considered a direct allocation of University funds for the purposes of this paragraph.

A faculty member's work will not be deemed a Work for Hire by virtue of the faculty member's receipt of instructional design support, unless otherwise agreed in writing by the faculty member.

A copyrightable work created by faculty will not be deemed a Work for Hire unless the faculty member agrees to that designation in writing at or near the time the work is commissioned or delivered.

4. University Supported Works

The University claims copyright to works produced with Substantial University Resources. The payment of regular salary, the use of office and library facilities, or the provision of incidental clerical support or reasonable data and word processing is not considered a use of Substantial University Resources for purposes of this paragraph. Receipt and use of instructional design support by a faculty member do not constitute Substantial University Resources, unless otherwise agreed in writing by the faculty member.

All proposals for use of Substantial University Resources must be approved in advance by the Provost or designee, upon recommendation of the Intellectual Property Committee.

Proposals for the use of Substantial University Resources should specify how projected income from the work would compensate the University for its expenditures (including costs associated with obtaining the copyright and in its licensing, sale, enforcement, and use) and how Net Royalties from any income would be distributed.

5. Creator Rights and Obligations

- a. The Creator shall report promptly all University Sponsored Works and University Supported Works to the Office of Graduate Education, Research and Outreach. The disclosure by Creators shall include a disclosure of the circumstances under which the work was created, a description of any University resources that were used, and any financial or other relationship with a third party that might affect the University's rights in the work (for example, any consulting agreements or third-party funding agreements pursuant to which a work was created).

If the Creator is uncertain whether the University claims copyright ownership in a work pursuant to this policy, the work should be disclosed.

This policy shall not be construed to require Creators to disclose or report to the University the creation of Traditional Works.

- b. Upon request, the Creator shall acknowledge in writing the University's ownership of all rights, title, and interest in and to University Sponsored Works and University Supported Works.
- c. The Creator shall cooperate:
 - i. In executing any legal documents that pertain to licensing, sale, use, or other related activities;
 - ii. In any litigation arising out of the work; and
 - iii. In reasonable marketing and commercialization efforts related to the work.
- d. After disclosure to the University of a work, the Creator shall receive notice within a reasonable time of the University's intention to retain title to the work.
- e. The Creator shall receive a share of any royalties or licensing fees that may be due in accordance with an applicable agreement.
- f. The Creator shall receive title to any work for which the University chooses not to retain title.
- g. The Creator shall have the right of timely publication of the work, consistent with any applicable licensing agreement.

6. University's Rights and Obligations

- a. The University shall keep the faculty, staff, and students apprised of the University's policy on copyrightable works and of any university-wide agreements with external sources that may be in effect regarding the evaluation and/or marketing of such works.
- b. After a work is reported, the University shall act in a timely manner to determine whether the University chooses to retain title and thereafter shall give notice within a reasonable time to the Creator(s) regarding whether the University intends to retain title to the work.
- c. The University shall assign to the Creator(s) title to any work subject to this rule and for which the University chooses not to retain title.

7. Royalties for University Sponsored and University Supported Work

"Net Royalties" shall be defined as gross royalties received by the University in each fiscal year minus the sum of the following:

- a. any royalty shared with other entities (e.g., as required by an agreement with a funding source or as the result of an inter-institutional agreement with a co-owner of the University work or as a result of a third-party commercialization partnership) during the corresponding fiscal year and
- b. any fees or costs directly attributable to the University work being licensed incurred during the corresponding fiscal year. Examples of such direct fees are fees for legal advice, fees arising out of litigation, copyright registration fees, trademark registration fees, fees from commercialization, and marketing costs. Indirect University overhead and other University costs normally associated with the operation of a university and not directly attributable to the University work shall not be deducted from gross royalties or otherwise allocated to costs or fees associated with the University work.

For all copyrightable works for which the University receives royalties, the royalties received by the University shall normally be distributed each fiscal year as follows:

- a. Zero dollars (\$0) to ten thousand dollars (\$10,000) in total Net Royalties:
100% to the Creator(s)
- b. Total Net Royalties in excess of ten thousand dollars (\$10,000) to two hundred fifty thousand dollars (\$250,000):
60% to the Creator(s)
40% to the University or NKURF, at the University's option. Allocation within the University will be determined by the Provost or designee on a case-by-case basis.
- c. On total Net Royalties in excess of two hundred fifty thousand dollars (\$250,000):
50% to the Creator
12.5% to the college to support faculty research and creative activity
12.5% to the department, program, or school to support faculty research and creative activity
10% to the University or NKURF, at University's option
15% to the Office of the Provost to provide commercialization support

Any Net Royalties received by the University, department, program, school, or college shall be administered by the Provost's Office and shall be used to support scientific research and education.

If there is more than one Creator, the University shall distribute the Creators' share of any Net Royalties equally by default, or in accordance with their mutually agreed apportionment. In the event the Creators are unable to reach a mutual agreement on apportionment, the Intellectual Property Committee will make a recommendation to the President regarding apportionment, and the President shall decide. College and department, program, or school share of any Net Royalties will be apportioned in accordance with the percentage distributions allocated to the Creators who are associated with the participating colleges and departments, programs, or schools.

Upon the Creator's death, royalties will continue to be paid to the deceased's estate for as long as they are generated.

There may be instances where there are agreements developed in the course of commercialization that change the royalty distribution percentages.

B. PATENT POLICY EXEMPTION

If a copyrightable work is created by a member of the University Academic Community during the course of making a discovery or invention that falls within the scope of the NKU Inventions and Patents policy ([link](#)) and that work is integral to, or embodies a patentable invention, then the copyrightable work shall be treated as part of the invention and shall be covered by the NKU Inventions and Patents policy.

This exemption does not apply to written articles, publications, or presentations describing patentable inventions covered by the NKU Inventions and Patents policy; provided the invention has been properly disclosed to NKU per the Inventions and Patents policy first, these copyrightable works are deemed to be Traditional Works and the copyright thereto is owned by the Creator. Nonetheless, the Creator must make such Traditional Works available to NKU on a royalty-free basis when such materials are needed in connection with the University's efforts to patent or license a discovery or invention.

C. TRANSFER OF INTELLECTUAL PROPERTY TO THE CREATOR(S)

If the University has determined that a work subject to University copyright ownership under this policy has no likely commercial value, and subject to the terms of any applicable agreements with third parties or legal obligations under which the work was created, the University will consider a request by the Creator to transfer copyright ownership in the work to the Creator, subject to a no cost irrevocable royalty-free license to the University to use the work for its own non-commercial purposes. The Provost or designee is responsible for reviewing and approving such requests when appropriate. Approval may be conditioned upon reimbursement of the University by the Creator for out-of-pocket expenses the University has incurred in connection with the work, including legal and marketing expenses (if any). The University will act as expeditiously as reasonably possible in considering such requests by Creator(s).

D. OTHER AGREEMENTS INVOLVING COPYRIGHT

In some cases, copyright ownership and/or disposition of licensing revenue from copyrighted works may be determined by the terms of another agreement, such as an externally funded grant or sponsored research or professional services contract, or in the case of a Creator signing over their copyright to the University by an explicit and mutual agreement, and which has been signed and dated by both the Creator and University.

In addition, it is not uncommon for investigators to conduct research in cooperation with colleagues at other universities. The University recognizes that to continue these relationships it must be willing to consider a variety of contractual terms and conditions. An agreement put in place between the institutions may supersede this policy.

E. ASSIGNMENT BY THE UNIVERSITY TO NKURF

The University may assign its interest in copyrightable works to the Northern Kentucky University Research Foundation (NKURF), which will advise and assist the Office of the Provost in performing its responsibilities under this policy.

F. TRADEMARKS

Use of NKU's name, logo, or marks must be consistent with the guidelines established in the [NKU Brand and Visual Identity Guide](#), promulgated by Marketing and Communications. Marks affiliated with intellectual property owned by NKU are also owned by NKU, and all rights are retained by NKU and/or NKURF.

G. COPYRIGHT NOTICE

The following notice on University-owned material should be displayed on copyrighted material:

Copyright © (year), Northern Kentucky University.

II. ENTITIES AFFECTED/APPLICABILITY

This policy shall be applicable to all units of Northern Kentucky University (NKU), including its colleges, schools, departments, centers, institutes, and libraries, and to all NKU faculty and staff, and to any other persons, including students, who are aided by the substantial use of University facilities, staff, or funds.

This policy applies to "original works of authorship" protectable under state and federal intellectual property laws irrespective of the format or medium of expression, including written materials; sound recordings; videotapes; films; computer programs; computer-assisted instruction materials; works of art including paintings, sculpture, and musical compositions; and all other material that may be eligible for copyright protection.

III. DEFINITIONS

University Academic Community

The NKU University Academic Community consists of all members of the NKU faculty (including instructors, lecturers, tenured, tenure-track, visiting, adjunct, research, and clinical faculty), as well as all the University's postdoctoral fellows, graduate students, and undergraduate students. It also includes administrative personnel/staff and/or volunteers (collectively, referred to herein as "non-faculty staff").

Creator

A Creator is a member of the NKU University Academic Community, including non-faculty staff, who creates a unique work that may be eligible for copyright or trademark protection.

Works for Hire

For purposes of this Copyrights policy only, Works For Hire are (i) either those works created by members of the NKU University Academic Community or by non-faculty staff in the performance of an administrative duty for the University; or (ii) those works created by a member of the NKU Academic Community or non-faculty staff employed by the University on a Work For Hire basis, meaning that the creation was specifically directed by the University for its own use. These agreements must happen prior to the work being undertaken, and be explicit and mutual, as indicated by a signed and dated Work for Hire Agreement in which the parties express their agreement that the University owns the copyright to such works created.

Traditional Works

Traditional Works include published articles, books (fiction or non-fiction), artworks, music, replication packages, software, instructional materials, and other creative products, regardless of their method of distribution (e.g., whether they are distributed in traditional print form or in digital or electronic form).

Instructional materials created by members of the University Academic Community—defined as those resources created specifically for the purposes of instruction, including, but not limited to, syllabi, lectures and lecture notes, and presentations—are considered Traditional Works, and the copyright is owned by their Creator.

Substantial University Resources

Substantial University Resources are the allocation of a significant amount of money or significant use of specialized equipment or other University resources that have been specifically directed to foster the development of a particular scholarly, artistic, or commercial project. In most cases, start-up funds allocated to new members of the faculty are ordinary resources, not Substantial University Resources. Nonetheless, the University reserves the right in special cases to designate some or all of a start-up package as Substantial University Resources and to require recipients to complete a Standard Copyright Agreement.

By contrast, NKU supports the research and pedagogy of its faculty and students in a variety of manners, including salaries; academic leaves; fellowships; non-contract support from the [Center for Innovation in Learning and Teaching Technology \(CILTT\)](#); course development monies and classroom software; access to scholarly and artistic resources (libraries, media labs, theater infrastructure, and other facilities); various research grants; and ordinary assistance with computer hardware, software, and networking. None of these (or anything analogous) should be considered the allocation of Substantial University Resources for purposes of this Copyrights policy.

For purposes of this Copyrights policy only, government or private sponsored research monies shall not constitute Substantial University Resources. However, agreements related to these monies may result in the University retaining rights to creations developed.

Trademark

A trademark is any word, name, symbol or device, or any combination thereof, whether or not registered as a trademark, that is used to identify goods or services and distinguish them from those manufactured or sold by others.

IV. RESPONSIBILITIES/ADMINISTRATION

The Office of the Provost is responsible for overseeing administration of the University's copyright program, including assuring that valuable property rights are retained by the University in a manner consistent with this policy and the following:

1. Provide information on copyrights and the University Copyrights policy to the University Academic Community.
2. In consultation with the Office of General Counsel and Vice President for Legal Affairs, determine the rights of the University in any copyrightable works created or to be created with Substantial University Resources.
3. Develop and approve agreements for the use of Substantial University Resources in the creation of copyrightable works.
4. Provide assistance in securing the copyright to any works in which the University has rights.
5. Exercise responsibility for marketing, licensing, or distributing copyrightable works in which the University has rights.

6. Arrange distribution of royalty income.
7. Subject to the supervision of the contracting officer, approve terms for licensing, sale, assignment, transfer, or other disposition of the University's property rights in copyrightable materials.

The Provost has directed the Office of Graduate Education, Research and Outreach to be primarily responsible for these functions.

V. POLICY DETERMINATIONS; INTELLECTUAL PROPERTY COMMITTEE

Determinations to be made by the University under this policy, including whether to claim or retain title to a copyrightable work, shall be made by the Provost or designee.

In addition, there shall be established a university Intellectual Property Committee, which shall report to the Provost or designee. The committee shall be composed of no more than five (5) members, three (3) appointed by the Provost or designee, and two (2) appointed by the president of the Faculty Senate, and shall be chaired by one of the members.

Specific functions of the Intellectual Property Committee shall be the following:

- A. Provide advice, as requested, to the Provost or their designee as to whether the University should:
 1. Prepare and prosecute an intellectual property application on a university work.
 2. Determine if a reported work falls outside the scope of this policy.
 3. Waive some or all University rights in a university work to the Creator(s).
- B. Act as a fact-finding body and make recommendations to the Provost or designee on any disagreements arising out of the administration of this policy.
- C. Resolve disputes between the Creator and the University.

The Provost designates the Vice Provost of Graduate Education, Research and Outreach as its designee for purposes of this section.

VI. REFERENCES AND RELATED MATERIALS

RELATED POLICIES

Inventions and Patents

REVISION HISTORY

REVISION TYPE	MONTH/YEAR APPROVED
Revision & Name Change	
Revision & Faculty Handbook Appendix F & Sec. 16.16 (Intellectual Property)	November 11, 2009
Formerly Administrative Regulation AR-II-2.0-4 & Faculty Handbook 16.16 (Intellectual Property)	November 9, 2005

COPYRIGHTS

PRESIDENTIAL APPROVAL

INTERIM PRESIDENT

Signature

Date

Cady Short-Thompson

BOARD OF REGENTS APPROVAL

BOARD OF REGENTS (IF FORWARDED BY PRESIDENT)

- This policy was forwarded to the Board of Regents on the **Presidential Report (information only)**.
Date of Board of Regents meeting at which this policy was reported: ____/____/____.
- This policy was forwarded to the Board of Regents as a **Presidential Recommendation (consent agenda/voting item)**.
 - The Board of Regents approved this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing approval of policy.)
 - The Board of Regents rejected this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing rejection of policy.)

EXECUTIVE SECRETARY TO THE BOARD OF REGENTS

Signature

Date

Tammy Knochelmann

INVENTIONS AND PATENTS

POLICY NUMBER: HYB-INVENTSPATNTS

POLICY TYPE: HYBRID

RESPONSIBLE OFFICIAL TITLE: PROVOST & EXEC. VICE PRESIDENT FOR ACADEMIC AFFAIRS

RESPONSIBLE OFFICE: GRADUATE EDUCATION, RESEARCH AND OUTREACH

EFFECTIVE DATE:

NEXT REVIEW DATE: BOARD APPROVAL PLUS FOUR (4) YEARS

SUPERSEDES POLICY DATED: 11/11/2009 (INTELLECTUAL PROPERTY) – THIS POLICY IS INCLUDED IN FACULTY HANDBOOK APPENDIX F & SEC. 16.16

BOARD OF REGENTS REPORTING (CHECK ONE):

PRESIDENTIAL RECOMMENDATION (CONSENT AGENDA/VOTING ITEM)

PRESIDENTIAL REPORT (INFORMATION ONLY)

I. POLICY STATEMENT

Northern Kentucky University (NKU or University) is a public institution devoted to teaching, research, service, and other scholarly activities. The Northern Kentucky University Research Foundation (NKURF) is organized to support NKU's efforts to promote the development, implementation, and coordination of extramurally-sponsored programs and other projects that further the mission of the University.

In the course of conducting their University responsibilities and research activities, NKU faculty, staff, other employees, and students create, add to, and disseminate knowledge. These activities typically are supported by NKU resources and/or by contracts or grants with outside sponsors. NKU will disseminate such knowledge, to the extent allowed and possible, for the public good. In this context, facilitating the process whereby NKU inventions may be put to public use and/or commercial application is an important aspect of the service mission of NKU.

This policy defines and establishes the respective rights, equities, and obligations of NKU and its faculty, staff, other employees, and students with respect to patents, inventions, and potentially patentable discoveries. The license and other revenues from Inventions owned by NKU are distributed according to the formula set out in this policy.

Copyrightable works are covered in a separate policy ([add link to Copyrights policy](#)).

A. POLICY SCOPE AND APPLICABILITY

This policy applies to all patents, inventions, and potentially patentable discoveries created by the members of the NKU faculty (including instructors, lecturers, tenured, tenure-track, visiting, adjunct, research, and clinical faculty), staff, and other employees (including student employees), where such Inventions were created either within the scope of such individual's University responsibilities or with resources provided by the University (including use of laboratory or other University spaces, use of University equipment or other infrastructure, or with University funding).

This policy also applies to all patents, inventions, and potentially patentable discoveries created by students, volunteers, visitors, and other individuals who are not University employees, where such Inventions were created with more than incidental use of resources provided by the University (including use of laboratory or other University spaces, use of University equipment or other infrastructure, or with University funding).

To the extent possible, NKU will notify students of the ownership status of Inventions and other intellectual property resulting from institutional projects before work has started.

NKU does not own, and this policy does not govern, the intellectual property of students who create patents, inventions, and potentially patentable discoveries with no more than incidental use of University resources. Such incidental use may consist of, for example, ordinary use of space in residence halls, libraries, and other spaces generally accessible by students and ordinary use of University internet and other services generally available to students.

NKU faculty, staff, other employees, students, and other individuals who create patents, inventions, and potentially patentable discoveries within the scope of their University employment responsibilities or with resources provided by the University, as described in this section, are referred to herein as “Innovators.” All such patents, inventions, and potentially patentable discoveries are referred to herein as “Inventions.”

B. RIGHTS AND OBLIGATIONS OF THE PARTIES

1. Ownership of Inventions

Except as expressly stated in this policy, NKU owns all rights to and legal interests in Inventions, and Innovators assign all of their rights to and legal interests in Inventions to NKU. NKU may license, transfer, assign, sell, or otherwise dispose of its interests in Inventions in accordance with this policy and other applicable legal authorities. For example, NKU may license Inventions to NKURF for any purpose, including to market and commercialize the Invention.

Ownership of Inventions also may be determined according to the terms of agreements between NKU and other parties, including contracts with research sponsors. In addition, funding obligations may require that NKU take assignment of Inventions arising from certain agreements and projects.

2. Innovator Obligations and Rights

a. Innovator Obligations

- i. The Innovator shall report all Inventions promptly to the Office of Graduate Education, Research and Outreach. The Innovator makes this report by completing and submitting the appropriate [Intellectual Property Disclosure Form](#).
- ii. Upon request, the Innovator shall acknowledge in writing the University’s ownership of all rights, title, and interest in and to the Invention.
- iii. The Innovator shall cooperate with the University:
 - (a) In executing declarations, assignments, or other documents as may be necessary in the course of Invention evaluation, patent prosecution, or protection of patents or analogous property rights to assure that title in such Inventions shall be held by the University or by such other parties designated by the University as may be appropriate under the circumstances;
 - (b) In any litigation, dispute, or controversy that arises out of, or is related to, the Invention;
 - (c) In reasonable marketing efforts related to the Invention;
 - (d) In providing any information, data, or knowledge related to the Invention necessary for the University to evaluate the commercial potential of the

University's rights in the protectability of and the technical feasibility of the Invention;

- (e) To execute all papers necessary to obtain appropriate legal protection for the Invention.
- iv. If, at its sole discretion, the Innovator wants to assign to NKU its rights to intellectual property developed that may not be otherwise assigned to NKU, the Innovator may do so, provided that NKU reviews and accepts it.

b. Innovator Rights

- i. Upon disclosure to NKU of an Invention, the Innovator shall receive notice within a reasonable time of the University's intention to file or not to file for intellectual property protection or to otherwise retain title to the Invention.
- ii. The Innovator shall receive a share of any royalties or licensing fees and any stock or other ownership interests ("Net Revenue") received for the Invention.
- iii. The Innovator shall receive title to any Invention for which the University chooses not to retain title, subject to the following conditions:
 - (a) The University retains a royalty-free, perpetual non-exclusive license to make, have made, and use the Invention and any improvement thereon for research and educational purposes;
 - (b) The transfer of title complies with any overriding obligations to outside sponsors of research and third parties, including federal agencies;
 - (c) In the case of multiple Innovators, all the Innovators have reached a written agreement as to the disposition of title; and
 - (d) The Innovator(s) shall have the right of timely publication of their findings consistent with any applicable licensing agreement. Delays over ninety (90) days in length shall require Innovator approval.

3. University's Obligations

- a. The University shall keep faculty, staff, and students apprised of this policy through means that include a website containing links to relevant University rules and any associated commentary and forms.
- b. After an Invention is reported, the University shall act in a timely manner to determine whether the University chooses to retain title and/or to determine whether an intellectual property application should be filed and to inform the Innovator of its determination.
- c. For any Invention subject to the Bayh-Dole Act, the University shall inform the Innovator of the University's election to take title from the sponsoring agency and comply with federal obligations.
- d. The University shall distribute any royalties or licensing fees according to this policy.
- e. The University shall assign to the Innovator title to any Invention for which the University chooses not to retain title subject to the conditions set forth in this policy, subject to any then-existing legal limitations, requirements, and other terms, including the terms of a sponsored research contract.

C. INTELLECTUAL PROPERTY DISCLOSURE FORM

Whenever an NKU faculty, staff, other employee, student, or other Innovator operating under the scope of this policy creates or obtains research results that may have commercial value or have been reduced to practice in accordance with federal laws, the Innovator shall notify the Office of Graduate Education, Research and Outreach in writing via an official [Intellectual Property Disclosure Form](#) before a public disclosure takes place.

The form will be reviewed by the Office of Graduate Education, Research and Outreach and the NKURF Board, and a decision will be communicated to the Innovator.

The decision shall convey one of three alternatives:

1. **ELECTED.** If NKU and the NKURF Board find potential commercial value in the Intellectual Property Disclosure or are obligated by legal or contractual agreements, NKU will notify the Innovator(s) that it has “ELECTED to Retain Title” and will move forward with protecting and marketing of the disclosed Invention. The Office of Graduate Education, Research and Outreach will apprise the Innovator, in writing, every six months of all marketing and development activities NKU has undertaken with respect to their Intellectual Property Disclosure. It is important to have a close working relationship between the Innovator and the Office of Graduate Education, Research and Outreach. The Innovator’s knowledge of their research and of companies active in related technologies are key elements of the technical and market assessment for an Invention and of the search for licensees. If the Innovator is unsatisfied, they may appeal to the Intellectual Property Committee for a release of the Invention as described in the Intellectual Property Disclosure. NKU and/or NKURF may retain assistance from third-parties in the course of this process; these person(s) will be subject to confidentiality requirements and will comply with all NKU policies.
2. **PENDING.** NKU encourages full disclosure as early as possible in the development process. If the Invention is not yet reduced to practice, the Office of Graduate Education, Research and Outreach or designee shall provide feedback and place the Intellectual Property Disclosure in a “PENDING” status until further developments are disclosed. When an Intellectual Property Disclosure is placed in “PENDING” status, the Office of Graduate Education, Research and Outreach shall work with the Innovator to define what steps need to be taken to ready the Invention for re-evaluation. Once such steps are undertaken and new information is provided, the Office of Graduate Education, Research and Outreach shall re-activate the file and treat it as a new Intellectual Property Disclosure. Innovators will be required to provide an amendment to the Intellectual Property Disclosure form with the new information.
3. **NON-ELECTED.** If NKU or the NKURF Board finds there is not enough potential commercial value in the Intellectual Property Disclosure to warrant further NKU investment, they will notify the Innovator that NKU has “Not Elected to Retain Title” and will either release title to the federal sponsor, third-party per contractual terms, or offer to release title to the Innovator upon receipt of their formal written request. Should an improvement to the Invention be developed such that there may be commercial value, and said improvement was made with University resources, the improvement should be reported with a new Intellectual Property Disclosure Form for review by NKU and NKURF.

The Office of Graduate Education, Research and Outreach shall also notify the chairperson of the Innovator's department, program, or school and the appropriate dean or vice president:

1. At the time of Intellectual Property Disclosure that the disclosure of an Invention has been made; and
2. At the time of the notice to the Innovator described in this section, made by providing a copy of such notice and the decision therein conveyed.

D. RELEASE OF INTELLECTUAL PROPERTY

If NKU or the NKURF Board elects to release ownership rights to the Innovator, the Innovator shall be free, subject to law and prior agreements, to proceed independently only with respect to the specific Invention disclosed.

E. DEVELOPMENT OF TECHNOLOGY

Upon NKU's election to retain title to an Invention, the University shall make every reasonable effort to develop the intellectual property, including retaining third-party assistance as appropriate. Costs for such development may be covered by grant (when allowable), departmental or central administration funds, or other agreements.

Development options include, but are not limited to, the following:

1. evaluating and processing the Invention through a provisional patent application or other form of intellectual property protection filed by NKU or NKURF;
2. partnering with a patent management firm or a third-party commercialization partner, such as Kentucky Commercialization Ventures, for evaluation and processing;
3. licensing or selling to a commercial firm; and
4. negotiating and holding equity positions with company(s) willing to commercialize the intellectual property.

F. ROYALTIES

"Net Royalties" shall be defined as gross royalties received by the University in each fiscal year minus the sum of the following:

1. any royalty shared with other entities (e.g., as required by an agreement with a funding source or as the result of an inter-institutional agreement with a co-owner of the University invention or as a result of a third-party commercialization partnership) during the corresponding fiscal year and
2. any fees or costs directly attributable to the Invention being licensed incurred during the corresponding fiscal year. Examples of such direct fees include, but are not limited to, patent filing fees, fees for patent searches and legal advice, fees arising out of litigation, trademark registration fees, fees from commercialization, and marketing costs. Indirect University overhead and other University costs normally associated with the operation of a university and not directly attributable to the Invention shall not be deducted from gross royalties or otherwise allocated to costs or fees associated with the Invention.

For all Inventions for which the University receives royalties, the royalties received by the University shall normally be distributed each fiscal year as follows:

1. Zero dollars (\$0) to ten thousand dollars (\$10,000) in total Net Royalties:
100% to the Innovator
2. Total Net Royalties in excess of five thousand dollars (\$5,000) to two hundred fifty thousand dollars (\$250,000):
60% to the Innovator
40% to the NKURF
3. On total Net Royalties in excess of two hundred fifty thousand dollars (\$250,000):
50% to the Innovator
12.5% to the college to support faculty research and creative activity
12.5% to the department, program, or school to support faculty research and creative activity
10% to the NKURF to fund intellectual property protection
15% to the Office of the Provost to provide commercialization support, such as market analysis and prototype development

The University shall annually provide a report to the College with which the Innovator is associated identifying the Net Royalties received by the University associated with the Invention.

Any Net Royalties received by the University, department, program, school, or college shall be administered by the Provost's Office and shall be used to support scientific research and education.

If there is more than one Innovator, the University shall distribute the Innovators' share of any Net Royalties equally by default, or in accordance with their mutually agreed apportionment. In the event the Innovators are unable to reach a mutual agreement on apportionment, the Intellectual Property Committee will make a recommendation to the President regarding apportionment, and the President shall decide. College and department, school, or program share of any Net Royalties will be apportioned in accordance with the percentage distributions allocated to the Innovators who are associated with the participating colleges and departments, school, or programs.

There may be instances where there are agreements developed in the course of commercialization that change the royalty distribution percentages.

Upon the Innovator's death, royalties will continue to be paid to the deceased's estate for as long as they are generated.

G. RESEARCH AGREEMENTS INVOLVING INTELLECTUAL PROPERTY RIGHTS

It is not uncommon for university investigators to conduct research that is funded by private industry and/or foundations. It is also not uncommon for investigators to conduct research in cooperation with colleagues at other universities. The University recognizes that to continue these relationships, it must be willing to consider a variety of contractual terms and conditions. In order to protect the academic freedom tradition within the University, to assist investigators in evaluating proposals, and to protect the University's interest in Inventions, to the extent possible, the following policies shall apply to these relationships:

1. For the purpose of assuring any rights the University may have and may choose to retain in Inventions are appropriately protected, all agreements with private industry, with foundations, or with other universities utilizing University resources to conduct research shall be reviewed and approved by the Office of Graduate Education, Research and Outreach.
2. Consulting: It is the responsibility of individual members of the NKU community to ensure that the terms of their consulting agreements with third parties do not conflict with this policy or any of their other commitments to NKU. Such individuals do not have the right to assign ownership of or to license Inventions that are owned by the University, unless otherwise agreed in writing in advance by the Office of Graduate Education, Research and Outreach. Each individual should (a) make clear the nature of their obligations to NKU to any third party for whom the individual expects to consult and (b) inform such third parties of NKU's Inventions and Patents policy and Copyrights policy, and further inform third parties that such policies are available online on the [NKU policy website](#). More specifically, the scope of any consulting services should be expressly distinguished from the scope of research commitments at NKU and should not utilize any NKU facilities or resources without first consulting with the Office of Research, Grants and Contracts to establish an appropriate Sponsored Research Agreement. Rights to inventions arising from a business or industry sponsored research project should be prescribed in the Sponsored Research Agreement.
3. The University shall protect the right to publish as provided in the NKU Copyrights policy [\(add link\)](#).
4. The University shall agree that proprietary information or materials received from a private entity remain the property of that entity, subject to the terms of a written agreement, which shall provide for clear designation of information that is considered to be proprietary in nature, the scope of the information or material, and the method of protection.

H. PUBLIC DOMAIN PREFERENCE

NKU will not assert intellectual property rights when Innovators have placed their inventions in the public domain, provided the Innovator(s) disclosed the invention(s) first to NKU, along with the Innovator's request that they be allowed to disseminate the intellectual property by placing it in the public domain, and NKU has agreed to the request. After review by NKU, and with written permission, the Innovator (or Innovators acting collectively when there are more than one) is free to place an invention in the public domain for non-commercial, academic dissemination purposes if that would be in the best interest of the invention, and if doing so is not in violation of the terms of any agreements that supported or governed the work. NKU reserves the right to use inventions for student engagement and educational purposes.

II. RESPONSIBILITIES/ADMINISTRATION

The Office of the Provost is responsible for overseeing administration of the University's patent program and designates the Office of Graduate Education, Research and Outreach to be primarily responsible for the following functions:

- A. Act upon recommendations of NKURF.
- B. Authorize commitment of resources necessary to carry out NKURF recommendations.

- C. Annually, or at such other intervals as the NKURF Board shall direct, provide the Board with a summary report of the University's intellectual property and licensing activity, including total revenues derived from all outstanding technology transfer contracts for the period covered by the report as well as current problems, issues, and trends.
- D. Function as a contact point and resource with regard to NKU's Patents and Inventions policy and Copyrights policy, and as the liaison to Kentucky Commercialization Ventures or any other third-party commercialization partner.
- E. Receive reports of all Inventions.
- F. Exercise responsibility for assessing the commercial potential of Inventions.
- G. Control the preparation and prosecution of intellectual property applications and maintenance of any issued intellectual property assets on Inventions governed by this policy, in collaboration with the Office of General Counsel and outside contracted vendors as appropriate.
- H. Exercise responsibility for marketing Inventions.
- I. Approve terms for licensing, sale, assignment, transfer, or other disposition of the University's intellectual property rights in Inventions.
- J. Comply with legal and sponsor obligations related to the intellectual property.

III. POLICY DETERMINATIONS; INTELLECTUAL PROPERTY COMMITTEE

Determinations to be made by the University under this policy shall be made by the Provost or designee. In addition, there shall be established a University Intellectual Property Committee, which shall report to the Provost or designee. The committee shall be composed of no more than five (5) members, three (3) appointed by the Provost or designee, and two (2) appointed by the president of the Faculty Senate, and shall be chaired by one of the members. Specific functions of the Intellectual Property Committee shall be the following:

- A. Provide advice, as requested, to the Provost or designee as to whether the University should:
 - 1. Prepare and prosecute a provisional patent or other intellectual property application on an Invention.
 - 2. Determine if a reported invention or discovery falls outside the scope of this policy (i.e., is not an Invention).
 - 3. Waive some or all University rights in an Invention to the Innovator(s).
- B. Act as a fact-finding body and make recommendations to the Provost or designee on any disagreements arising out of the administration of this policy.
- C. Resolve disputes between the Innovator and the University that cannot be resolved by NKURF.

The Provost designates the Vice Provost of Graduate Education, Research and Outreach as its designee for purposes of this section.

IV. REFERENCES AND RELATED MATERIALS

REFERENCES & FORMS

Intellectual Property Disclosure Form

RELATED POLICIES

Copyrights

REVISION HISTORY

REVISION TYPE	MONTH/YEAR APPROVED
Revision & Name Change – Intellectual Property policy revised to be this policy & Copyrights policy	
Revision - Policy (Intellectual Property) also in Faculty Handbook Appendix F & Sec. 16.16	November 11, 2009
Formerly Administrative Regulation AR-II-2.0-4 & Faculty Handbook Section 16.16	November 9, 2005

INVENTIONS AND PATENTS

PRESIDENTIAL APPROVAL

PRESIDENT

Signature

Date

Cady Short-Thompson

BOARD OF REGENTS APPROVAL

BOARD OF REGENTS (IF FORWARDED BY PRESIDENT)

- This policy was forwarded to the Board of Regents on the ***Presidential Report (information only)***.
Date of Board of Regents meeting at which this policy was reported: ____/____/____.
- This policy was forwarded to the Board of Regents as a ***Presidential Recommendation (consent agenda/voting item)***.
 - The Board of Regents approved this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing approval of policy.)
 - The Board of Regents rejected this policy on ____/____/____.
(Attach a copy of Board of Regents meeting minutes showing rejection of policy.)

EXECUTIVE SECRETARY TO THE BOARD OF REGENTS

Signature

Date

Tammy Knochelmann