

3356-10-18 Intellectual property rights.

- (A) Policy statement. Youngstown state university (“university”) encourages the development and dissemination of intellectual property that benefit the public, the university and its faculty, staff, and students. Research and scholarship are encouraged through an appropriate allocation of intellectual property rights between the creator and the university. An employee’s or student’s rights to copyrightable materials shall be governed by the applicable provisions of state and federal law. For all other intellectual property not governed by the copyright protection laws, the applicable state and federal laws shall govern the employee, student, university and external entity rights to such property. The president and the provost or director of research services are specifically designated to serve as authorized institutional officials with the right to approve licensing and royalty agreements with entities entering into a contractual or grant relationship for research and development activities to be carried out by the university.
- (B) Purpose. To establish rules regarding the ownership, distribution, and commercialization of intellectual property created by university faculty, staff, and students.
- (C) Definitions.
- (1) “Commercialization” includes, but is not limited to, the creation, protection, marketing, or licensing of intellectual property, manufacturing of a product based on a license of intellectual property, or the sale of technology based on a license of intellectual property.
 - (2) “Copyright/copyrightable” means that bundle of rights that protect original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device that may be protectable under the copyright laws of the United States or foreign country.
 - (3) “Distance Education” means the process that culminates in the acquisition of knowledge and skills through mediated information and instruction, encompassing all technologies and other forms of learning at a distance. The planned learning process normally

occurs in a different place from teaching and as a result requires special techniques of course design, special instructional techniques, special methods of communication by electronic and other technology, as well as special organizational and administrative arrangements, including web-based, web-centric, hybrid and video conferencing.

- (4) “Intellectual property” includes inventions, discoveries, works of authorship and/or other creative works that may be subject to protection under federal or state patent, copyright, trademark and/or trade secret laws arising from or related to the works or efforts of faculty, staff and students.
- (5) “Invention” is any discovery, product, process, machine, composition of matter and/or improvements which may be patentable.
- (6) “Joint Efforts” are projects in which the faculty member and the university knowingly and voluntarily enter into a written agreement, including a sponsored project, as part of the fulfillment of the faculty member’s normal duties and responsibilities. The signing of a specific contract with YSU for the subsidized research cannot be a stipulated condition of employment.
- (7) “Patent/patentable” means that bundle of rights that protect inventions or discoveries, which constitute any new and useful process, machine manufacture, or composition of matter, or any new and useful improvement thereof that may be patentable under the patent laws of the United States or foreign country.
- (8) “Trade secret” is any information that (a) derives economic value from not being readily known or available to others and (b) is protected from disclosure by reasonable efforts.
- (9) ”Works for Hire” includes works prepared by an employee as a specific responsibility of the position for which the employee is hired, works specifically commissioned or ordered by the university for which a written agreement specifying copyright or ownership has been executed prior to the completion of the work, works created under a sponsorship/contractual agreement with copyright provisions defined, and other work created through a

direct and significant allocation of university resources to a specified project. Note: A faculty member's general obligation to produce scholarly works does not constitute a specific responsibility as included in this definition.

(10) "Works of Authorship" such works include, but are not limited to, the following: literary, musical, dramatic, audiovisual, architectural, pictorial, graphic and sculptural works and sound recordings. Computer software are works of authorship to the extent they are protected by the federal copyright laws.

(D) Parameter. Section 3345.14 of the Revised Code provides that all rights to discoveries, inventions, or patents that result from research or investigation conducted in any facility of a state university are the sole property of the university. The board of trustees may assign, license, transfer, or sell these rights as the board deems appropriate.

(E) Procedures.

(1) The-provost or director of research services are responsible for administering intellectual property procedures as described in the "Handbook on Ownership of Intellectual Property" and for procedures for the allocation of income from intellectual property. Any faculty member, employee, or student who creates intellectual property that can be patented under applicable federal laws must disclose that information to the provost or director of research services according to the procedures described in the "Handbook on Ownership of Intellectual Property."

(2) As part of the duties of the provost or director of research services, and as authorized institutional officials for grants and sponsored programs, those individuals may agree to assignment of intellectual property to the funding agency, provided that such assignment is appropriate to the project and maintains university rights to all or an equitable portion of royalties that may be generated by the project as permitted under the applicable guidelines of the particular funding agency. Externally sponsored research is always between the sponsor, as grantor, and the university, as grantee. Therefore, the university exercises intellectual property ownership over all intellectual property resulting from sponsored program support. No employee, other

than an authorized institutional official, may sign on behalf of the university for any sponsored program, licensing, or related agreement.

- (3) The university general counsel advises the provost or director of research services regarding the ownership of intellectual property and the distribution of income derived from the intellectual property in conjunction with the procedures described in the “Handbook on Ownership of Intellectual Property” and current collective bargaining agreements.

(F) Ownership.

- (1) “Employee-owned.” Intellectual property privately created, made or originated by a faculty member, employee, or student without the use of university facilities shall be the sole and exclusive property of the creator(s), except as he or she may voluntarily choose to transfer such property, in full or in part.

- (2) “University-owned.” The university shall own the intellectual property in the following circumstances:

- (a) Any work prepared by a faculty member, employee, or student that meets the definition of section 3345.14 of the Revised Code or paragraph (C)(9) of this policy, “Works for Hire,” including distance education courses. However, the university hereby grants the faculty member or employee a nonexclusive, perpetual, royalty-free license to use works created as course materials for teaching and education purposes in the event they are no longer employed by the university.
- (b) The university expressly directs a faculty member, employee, or student to create a specified work or the work is created as a specific requirement of employment or a credit-bearing course or as an assigned institutional duty that may, for example, be included in a written job description or an employment agreement.
- (c) The faculty member, employee, or student has voluntarily transferred the intellectual property, in whole or in part, to

the institution. Such transfer shall be in the form of a written document signed by the transferring individual.

(d) The faculty member, employee, external entity, or student has contributed to a “Joint Effort.” Absent specific agreement for the ownership of intellectual property resulting from a sponsored program supported by an external entity, the intellectual property will be the property of the university.

(e) Unless agreed in writing, otherwise, all intellectual property developed by students shall be the property of the university.

(3) Distribution of royalties/income. All net income and royalties received as a result of university ownership of intellectual property will be distributed according to the current collective bargaining agreements and/or other contractual agreements with external organizations acting on behalf of the university.

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