

2017-2018 ANNUAL REPORT

University Senate Committee on Intellectual Property, Patents, and Copyright (IPPC) April 2018

Prepared by Guy Rub, IPPC Chair 2017-2018, and approved by IPPC

Composition of IPPC Committee 2017-2018

- Glenn Daehn, Materials Science and Engineering
- Thomas Darrah, Earth Sciences
- Carmen P. DiGiovine, Health and Rehabilitation Sciences
- James Fowler, Mathematics
- Anna Gawboy, Music
- Matt McNair, Vice President, Economic and Corporate Engagement
- Randy Moses, Electrical and Computer Engineering, Interim Senior Vice President for Research (starting in 2018)
- Christopher Pierce, Physics (representing the Council of Graduate Students)
- Guy Rub, Law, chair
- Caroline Whitacre, Medicine, Senior Vice President for Research (during 2017)
- Kristi Williams, Sociology

Regular Non-Voting Attendees:

- Shruti Ja, Senior Manager Operations and Compliance, Technology Commercialization Office
- Dan Kramer, Associate Vice President of Industry Liaison Office
- David Mess, Assistant Director of Licensing, Technology Commercialization Office
- DJ Nag, Associate Vice President, Technology Commercialization, Technology Commercialization Office
- Kim Potter, Policy and Training Director, Office of University Compliance and Integrity
- Mike Steffensmeier, Senior Associate General Counsel, Director of IP Strategy, Office of Legal Affairs

Summary of 2017-2018 Activities

- Since 2014, IPPC has been working on drafting a revised intellectual property policy for the university, after previous attempts in the 1990s and the early 2000s failed to gain consensus.
- IPPC main task this academic year was to complete the drafting and approval of that policy. **The task was successfully completed when the university Board of Trustees, in its April 6, 2018 meeting, approved the revised IP policy.** The new policy became effective on April 15, 2018, and it replaced the university's Patents and Copyright Policy, which has not amended since the 1980s.
- Most of IPPC activities in this academic year revolve around the revision process. The work of this year's committee started in June when IPPC worked together with the Office of University Compliance and Integrity on revising the policy so it would fit with the format of other university policies and university guidelines.
- In August-September, IPPC revised the IP policy to account for what is commonly referred to as the "TAF Model." Under this model, a corporate sponsor agrees to pay Technology Access Fees (TAFs) in return for ownership of all the IP that might be generated from a research project. Because this model is different from the standard licensing model in which commercialization follows successful research, the draft policy had to be revised and set forth a process to distribute those fees among the university units and the research team.
- In September, the draft policy, together with a memorandum that explained the main changes the policy would bring, was sent for comments to all units and colleges of the university and all faculty members. That process generated more than one hundred comments from most of the colleges of the university. The comments were separated into technical and non-technical comments. Technical comments were initially reviewed by a drafting group that IPPC established (the group included Mess, Potter, Rub, Steffensmeier, and Williams) to provide recommendations. IPPC reviewed, discussed, and voted on each comment.
- Many of the comments that IPPC received required changes in the policy. Some of those changes were minor and were designed to clarify ambiguous terms or provisions. Other changes were more significant. For example, some colleges noted that their instructional materials are created in a collaborative process, including through committees of experts. Those colleges asked to be able to use those materials for educational purposes in perpetuity. IPPC, after a long discussion, agreed and added a provision that set forth the rights of colleges in those materials.
- In November, the draft policy went through another round of review and redraft to account for detailed feedback from the University's Policy Review Committee (UPRC). In December, the final changes to the draft policy were made to account for the possibility that in the near future the university might change the ways in which patent expenses

are paid for—a topic that is beyond the scope of the policy—which will affect the distribution of royalties—a topic that the policy addresses.

- From December through April IPPC followed the approval process of the policy. Members of IPPC presented the policy on behalf of IPPC in various forums to explain it and ask for support. During those months the policy was approved by the university's Office of Legal Affairs, Chief Financial Officer, Provost, Steering Committee, Faculty Council, Senior Management Council, President's Cabinet, Senate, and Board of Trustees. See the appendix for a detailed timeline of those activities.
- In connection with the approval of the revised IP policy, IPPC also drafted answers to frequently asked questions regarding the policy, and reviewed and approved the guidelines of the university's Technology Commercialization Office that would allow some staff members to own their works.

Plans for IPPC in 2018-2019

- During the next academic year, IPPC will oversee the implementation of the new IP policy. IPPC will observe what parts of the policy are working well and if anything requires additional revisions. IPPC will also be involved in the preparation of certain guidelines that will be established in connection with the policy, such as the guidelines for the distribution of royalties among colleges, and guidelines for the review and approval of distribution plans for TAF proceeds. Finally, IPPC will, for the first time, handle appeals on decisions pursuant to the policy.
- Outside of the IP policy, IPPC will be involved in other matters relating to the creation, use, and commercialization of IP on campus.
- IPPC elected Jim Fowler to be its chair during the 2018-2019 academic year.

Appendices

Appendix A: The Revised Intellectual Property Policy, as approved and enacted

Appendix B: Answers to Frequently Asked Questions concerning the IP Policy

Appendix C: Timeline of approval of the Revised IP Policy

Appendix D: IPPC Bylaws

***Appendix A:
The Revised Intellectual Property Policy,
as approved and enacted***



Applies to: Faculty, staff, and students

Responsible Office

Office of Business and Finance

POLICY

Issued: 05/03/1985
Revised: 04/15/2018

The university encourages **faculty**, staff, and students to engage in the creation and dissemination of knowledge, including works of authorship, discoveries, inventions, patents, and tangible property that can serve the public through open academic exchange and commercial development. The university is committed to creating a culture and infrastructure that nurtures these activities and highlights the capacity of its **faculty**, staff, and students to advance the well-being of the people of Ohio and the global community through the creation and dissemination of knowledge. The university recognizes the importance of intellectual freedom and autonomy of **faculty**, staff, and students.

Purpose of the Policy

To establish rules regarding the ownership, distribution, and commercialization of **intellectual property** created by university **faculty**, staff, and students.

Definitions

Term	Definition
Artistic works	Works created primarily for their cultural or aesthetic value. Such works may include, but are not limited to, plays, poems, novels, paintings, illustrations, sculptures, and musical compositions.
Copyrighted materials	Works protected by copyright that are authored by the university or its faculty , staff, and students, provided that copyrighted materials will not include inventions for the purpose of this policy.
Creator	A creator is a faculty member, staff member, or student who meets one or more of the following criteria: (a) With respect to copyrighted materials , creator means the author, as that term is defined under U.S. copyright law, provided that if the author is the university due to its position as the employer of the individual creator , then, for the purpose of this policy, the creator will be the individual who would have been considered the author if that individual was not performing the work within the scope of employment. (b) With respect to inventions that are eligible for patent protection, as well as know-how and any other inventions related to such inventions that are eligible for patent protection, creator means any inventor, as the term is construed under U.S. patent law. (c) With respect to tangible research property , creator means any individual who has taken part: (a) in the conception of the idea of the specific tangible research property that is to be made; and/or (b) substantially in making the tangible research property but only when making the tangible research property was not a routine or known practice. An individual will not be considered a creator of a new tangible research property solely because that individual provided materials to be used to produce the new tangible research property . (d) With respect to any other intellectual property that does not fall within the above criteria, creator means any individual who provided substantive and substantial intellectual contribution to the creation of the intellectual property .
Direct expenses	Costs, expenses, taxes, and losses paid or incurred by the university or on its behalf that are directly: (i) attributable to intellectual property being transferred, commercialized, or exploited; (ii) related to the commercialization, preservation, marketing, licensing, and legal protection of specific intellectual property ; or (iii) associated with acquiring, managing, transferring, or liquidating equity to be used for the transference, commercialization, or exploitation of specific intellectual property .
Faculty	Has the meaning set forth in Faculty Rules 3335-5-19 . Without limiting the foregoing, it includes those appointed by the board of trustees with tenure track, non-tenure-track (including clinical faculty, research faculty, and associated faculty), and emeritus faculty titles.
Gross proceeds	All cash received from the transfer, commercialization, or other exploitation of intellectual property including, but not limited to, royalties, option fees, license fees, reimbursement of expenses, and/or cash from dividends or distributions on, or the sale or liquidation of, equity. In the case of sponsored research , the cash or other consideration received by the university from the sponsor of such research to do the

Applies to: Faculty, staff, and students

	research, except for royalties for intellectual property , are not part of the gross proceeds . TAF proceeds are not part of the gross proceeds . Unless an agreement pursuant to section VI under Policy Details provides otherwise, the proceeds received from the commercialization of the intellectual property created in sponsored research , except for any TAF proceeds , are part of the gross proceeds .
Instructional works	Works created primarily for the instruction of students or for continuing education and certification programs. Such works may include, but are not limited to, slides and presentation content to be used in classes, class notes, exercises and assignments, syllabi, and examinations.
Intellectual property	All inventions and copyrighted materials .
Inventions	All rights to and interests in discoveries, inventions, and patents covered by Ohio Revised Code §3345.14(B) , as well as tangible research property .
Net proceeds	Gross proceeds less direct expenses .
OSIF	Ohio State Innovation Foundation. A 501(c)(3) organization, formed in 2013 by the university to manage intellectual property developed at or created by the university and to facilitate the commercialization of such intellectual property . The university may assign to OSIF university IP to be commercialized by OSIF. In return, OSIF will transfer, according to this policy, the net proceeds generated from the university IP so assigned to the Technology Commercialization Office (TCO), to distribute according to this policy. OSIF includes any successive entity to Ohio State Innovation Foundation.
Ohio State proceeds	The amount of net proceeds received by the university directly or as a distribution from OSIF .
Scholarly works	Works created primarily to express and preserve scholarship as evidence of academic advancement or academic accomplishment. Such works may include, but are not limited to, scholarly publications, journal articles, research bulletins, monographs, and books (including textbooks and electronic books).
Software	The source code and/or object code of computer applications and subroutine libraries. Software, for the purposes of this policy, does not include other works in the form of computer software including computer-generated works of art or music or the content of other forms of works, such as traditional scholarship, that is recorded in a software medium.
Sponsored research	Research projects that are supported by funding or other consideration (received by the university) provided in response to a request or proposal to a government or industrial sponsor or supported by specific deliverables in a grant from a funding entity, including research or other activity undertaken by the university or one of its units that is subject to specific written obligations to another party.
TAF proceeds	Any non-refundable, fixed upfront or fixed delayed fees (including related option fees), such as technology access fees, paid by a sponsor of sponsored research in addition to the research project funding that entitles the sponsor to rights in intellectual property arising under the university's performance of such sponsored research project.
TAF Researcher	Any university faculty , staff, or student involved in the performance of a research project for which TAF proceeds are received.
Tangible research property	Research results that are in a tangible form as distinct from intangible property. Examples of tangible property include, but are not limited to: cell lines; data; human, animal, and plant tissue; transgenic animals; antibodies; biological organisms; and integrated circuits. Tangible mediums of expression in which copyrighted materials are fixed, including, but not limited to, books, copies of articles, and music sheets are not tangible research property .
University IP	All intellectual property owned by the university as set forth in this policy.

Policy Details

- I. This policy is subject to all applicable laws including federal and Ohio law, and in particular Ohio Revised Code §3345.14. **Faculty**, staff, and students are bound by this policy by accepting or continuing university employment or by using university resources or facilities and promise to irrevocably assign, and hereby irrevocably assign, all rights, title, and interests in **university IP** to the university.
- II. With the exception of specific written agreements to the contrary (see section VI), and without limiting the general disclosure obligations (see section VII.C), nothing in this policy will be interpreted to prevent any **faculty**, staff, or students from sharing the results of their research and other academic activities with others, including by publishing those results. **Faculty**, staff, and students should however be aware that under certain circumstances disclosure can jeopardize the ability to secure a patent for an **invention** and they are therefore advised to consult with the Technology Commercialization Office (TCO) prior to such public disclosure.



Applies to: Faculty, staff, and students

III. Ownership of **inventions**. Subject to the terms of section VI:

- A. All rights, title, and interests in **inventions** are the sole property of the university. The university hereby assigns to the **creator(s)** every **invention**:
 1. developed by **faculty** or staff acting outside of the scope of their employment provided that such **intellectual property** was developed with no more than insignificant use of university resources, or
 2. developed by a student, provided that the invention was not developed:
 - a. within the scope of employment of a student who is an employee;
 - b. as part of a **sponsored research** project; or
 - c. as part of a course or a university degree program for which the relevant syllabus, made reasonably available to the students before the **invention** was developed, provided that the student will not own such an **invention**.
- B. Every student hereby grants the university the following licenses:
 1. a nonexclusive, perpetual, worldwide, royalty-free license to use any **inventions** created as part of a course or a university degree program for administrative purposes, such as assessment of a work, accreditation, and to prevent and/or remediate research or academic misconduct; and
 2. a nonexclusive, perpetual, worldwide, royalty-free license to any use of any **inventions** that the student owns that were developed by the student with more than insignificant use of university resources not as part of a course or a university degree program. The TCO, in consultation with the relevant principal investigator, may waive or limit that license if it concludes that the invention is not likely to harm future research at the university.
- C. As used in this section III, insignificant use of university resources includes, but is not limited to, de minimis use of: university networks and email systems; office spaces; libraries and their resources; desktops, laptops, cell phones, tablets, and **software** that is commonly installed thereon; servers; and cloud storage services. Insignificant use of university resources does not include the use of:
 1. other university employees or students in developing, testing, or distributing the **inventions**; or
 2. university laboratories or equipment besides the equipment referenced above in this subsection III.C or similar commonly used items.

IV. Ownership of **copyrighted materials**. Subject to the terms of section VI:

- A. All copyrights in **instructional works**, **scholarly works**, and **artistic works** whose **creators** are **faculty** members, except for **software**, remain with their **creators**. The university hereby assigns any of its copyrights in such works, insofar as they exist, to their **creators**. Such works will not be deemed **university IP** under this policy. The copyright in all other **copyrighted materials** whose **creators** are **faculty** members that are created within the scope of the **creators'** employment belong to the university.
- B. The university hereby grants to every **faculty** member who is a **creator** of **software** that is not eligible for patent protection a perpetual, exclusive, worldwide, sublicensable, royalty-free license to use the **software** for any scholarly, instructional, and artistic purpose, as well as grants a perpetual, nonexclusive, worldwide, royalty-free license to allow others, for no consideration, to use the **software**, subject to terms and conditions determined by the **creator**. Without limiting the foregoing, the university may require **faculty** members to agree to limits on their rights under those licenses as a condition for commercialization of the **software**.
- C. Each **creator** who is a **faculty** member grants the university the following licenses with respect to the **instructional works** created during employment at the university:
 1. If the **instructional works** were created with the intention to be used for teaching by others at the university, then the **creators** hereby grant the university a perpetual, nonexclusive, worldwide, royalty-free license to use the **instructional works** for any of the university's teaching and educational purposes as well as for administrative purposes such as accreditation.
 2. If the **instructional works** were not created with the intention to be used for teaching by others at the university, then the **creators** hereby grant the university a nonexclusive, worldwide, royalty-free license to use every such **instructional work** that was used for the instruction of the university's students. Such a license is limited to use for teaching in the same course or in a similar course to that for which they were developed as well as for administrative purposes such as accreditation. The license with respect to each such **instructional work** expires at the earliest of (i) that work reasonably and in good faith becoming

Applies to: Faculty, staff, and students

available on the market or (ii) one year after the **creator** ceases to teach the course for which those **instructional works** were developed for the university.

D. Copyright of works whose **creators** are staff will be owned as followed:

1. Subject to the exceptions set forth below, **copyrighted materials** created by staff within the scope of their employment is owned by the university.
2. The university acknowledges that a limited number of staff members have certain prerogatives to set their own research, scholarly, instructional, artistic, or creative tasks and in certain circumstances personal ownership of copyright arising from these professional endeavors would be appropriate. The TCO will establish reasonable procedures, which will be reviewed and approved by the Intellectual Property, Patents, and Copyrights Committee (IPPC), to allow unit heads and deans to submit an application to the TCO to request that the university assign copyright of specific works or classes of works to their staff-**creator**. TCO, in consultation with the relevant unit head or dean, may grant, deny, or modify such requests. TCO will report to IPPC from time to time, but at least once a year, about the type of requests that have been approved and have been denied under these procedures.
3. Notwithstanding the foregoing, post-doctoral research employees will have the same rights and obligations in **copyrighted materials** they create in their capacity as post-doctoral research employees that **faculty** have.
4. Notwithstanding the foregoing, students who are the instructors of record for a course and author **instructional works** developed for that course own those **instructional works** whether student-employees or not. Those students grant the university the same license that the university would have received under section IV.C above if the works were developed by a **faculty** member.

E. Students retain copyrights in **copyrighted materials** that they author except that the university owns those materials when they are authored by student-employees within the scope of their employment. The university hereby assigns any of its copyrights in such works (excluding works created by a student-employee within the scope of employment), insofar as it exists, to their **creators**. Such works will not be deemed **university IP** under this policy. Every student hereby grants the university a perpetual, worldwide, nonexclusive, royalty-free license to use such **copyrighted materials** in any way for administrative purposes, such as assessment of the work, accreditation purpose, and to prevent and/or remediate research or academic misconduct. In addition, the university may require students to provide a single copy of their thesis or dissertation to the university for non-commercial library use.

F. Rights in co-authored **copyrighted materials** will be determined in the following way. First, the co-authors will be identified, pursuant to applicable law. Then, the ownership rights of each co-author will be determined separately pursuant to Sections IV.A-IV.E, as if that co-author created the entire work. The owners identified in this process will be the joint owners of the work.

V. Proceeds Distribution

A. For **university IP** transferred to **OSIF** for which **OSIF** receives **gross proceeds**, **net proceeds** will be distributed as follows:

1. For **net proceeds** up to \$100,000, **OSIF** will distribute 50% of the **net proceeds** to TCO as **Ohio State proceeds** for distribution to **creators** pursuant to subsection V.B.1. **OSIF** will distribute a share of the remaining 50% of the **net proceeds** to units that have borne, in all or in part, the **direct expenses** in connection to the commercialization of **university IP** for which **OSIF** received the **gross proceeds** (if any), in proportion to the expenses borne by those units, and will retain the rest to cover its unreimbursed expenses.
2. When **net proceeds** exceed \$100,000, the first \$100,000 will be distributed in accordance with subsection V.A.1, and any portion of the **net proceeds** beyond the first \$100,000 will be distributed as follows: 15% of these **net proceeds** will be retained by **OSIF** and 85% of these **net proceeds** will be distributed to TCO on behalf of the university as **Ohio State proceeds** pursuant to subsection V.B.2.

B. **Ohio State proceeds** received as a distribution from **OSIF** will be distributed as follows:

1. For **Ohio State proceeds** up to \$50,000, the **creator(s)** will receive 100% of these **Ohio State proceeds**.



Applies to: Faculty, staff, and students

2. When **Ohio State proceeds** received as a distribution from **OSIF** exceed \$50,000, the first \$50,000 will be distributed in accordance with subsection V.B.1. and any portion of the **Ohio State proceeds** beyond the initial \$50,000 will be distributed as follows:
 - a. 40% to the **creator(s)**;
 - b. 20% to TCO on behalf of the university; and
 - c. 40% to the **creator(s)**' colleges, departments, and centers, according to instructions and guidelines established by the provost.
- C. **Ohio State proceeds** received by the university directly will be distributed as follows:
 1. For **Ohio State proceeds** up to \$100,000, the **creator(s)** will receive 50% of these **Ohio State proceeds**. TCO will distribute a share of the remaining 50% of the **Ohio State proceeds** to units that have borne, in all or in part, the **direct expenses** in connection to the commercialization of **university IP** for which the **Ohio State proceeds** were received (if any), in proportion to the expenses borne by those units, and will retain the rest on behalf of the university.
 2. Any portion of these **Ohio State proceeds** beyond the initial \$100,000 will be distributed as follows:
 - a. 34% to the **creator(s)**;
 - b. 33% to TCO on behalf of the university; and
 - c. 33% to the **creators'** colleges, departments, and centers, according to instructions and guidelines established by the provost.
- D. **TAF proceeds** will be distributed as follows:
 1. For **TAF proceeds** up to \$100,000, the **TAF researchers** will receive, in accordance with subsections V.D.3 and V.D.4, 50% of the **TAF proceeds**, and TCO on behalf of the university will receive 50% of the **TAF proceeds**.
 2. Any portion of the **TAF proceeds** beyond the initial \$100,000 will be distributed as follows:
 - a. 34% to the **TAF researchers**, in accordance with subsections V.D.3 and V.D.4;
 - b. 33% to TCO on behalf of the university; and
 - c. 33% to the **TAF researchers'** colleges, departments, and centers, according to instructions and guidelines established by the provost.
 3. The principal investigator(s) of the research project for which **TAF proceeds** are to be received or that were received will propose to the Office of Research a distribution plan for the **TAF researchers'** share of these proceeds. Such a distribution plan should be created at the commencement of the research project and communicated to the **TAF researchers** who are identified by it. The distribution plan may include details such as what portion of the **TAF researchers'** share each **TAF researcher** will be granted, if any; when distributions to the **TAF researchers** will be made; and whether the portions may or may not be adjusted according to actual contribution of the **TAF researchers**. The distribution plan must be approved by the Office of Research, which may develop, in consultation with the IPPC and TCO, guidelines for the review and approval of such distribution plans.
 4. The **TAF researchers'** share will be distributed only after a distribution plan, pursuant to subsection V.D.3, is approved by the Office of Research and according to the approved plan. If no such distribution plan is approved before the completion of the research project, the **TAF researchers'** share will be distributed according to the Office of Research guidelines among **TAF researchers** who provided substantive and substantial intellectual contribution to the research project as determined by the Office of Research, in consultation with TCO, unless all those **TAF researchers** agree in writing to a different distribution.
- E. When **university IP** has more than one **creator**, the **creators** will equally share the **creators'** share under subsections V.B and V.C, as applicable, unless all the **creators** agree in writing to a different distribution of the **creators'** share. Further, a subset of the **creators** can agree in writing among themselves to have a different distribution of their own share.
- F. When multiple **intellectual property** assets are licensed or otherwise commercialized under a single agreement, TCO, after consulting with the **creator(s)**, will reasonably determine and designate the share of **Ohio State proceeds** to each **intellectual property** asset.



Applies to: Faculty, staff, and students

- G. When there are no identifiable **creators** of **tangible research property**, the portion of the **Ohio State proceeds** distributable under subsections V.B and V.C to **creators** will be distributed instead to the colleges, departments, and centers that obtained the **tangible research property**, according to guidelines established, in consultation with the IPPC and TCO, by the Office of Research. When multiple colleges, departments, and/or centers are involved in obtaining the **tangible research property**, the **Ohio State proceeds** will be divided equally among these units, unless otherwise specified by the guidelines established by the Office of Research.
 - H. Notwithstanding the other provisions in this policy, for licensed plant varieties, proceeds will be distributed pursuant to [Special Circular 178-01](#) entitled “OSU-OARDC Plant Germplasm Release Guidelines and Practices.”
 - I. **Creators** and **TAF researchers** will be entitled to receive a share of the **Ohio State proceeds** and **TAF proceeds** as provided by this policy even if their status with the university changes, including, for example, after their employment or program of study was terminated or completed. Following a change in the university Intellectual Property policy, **creators** will be entitled to receive, with respect to any distribution made after such a change, the greater of (i) the share of the **net proceeds** as provided by the university policy in effect at the time the **intellectual property** was disclosed or (ii) the share of the **net proceeds** as provided by the university policy in effect at the time the distribution is made. Following a change in the university Intellectual Property policy, **TAF researchers** will be entitled to receive, with respect to any distribution made after such a change, the greater of (i) the share of the **TAF proceeds** as provided by the university policy in effect at the time the research project for which the **TAF Proceeds** were received commenced or (ii) the share of the **TAF proceeds** as provided by the university policy in effect at the time the distribution is made. For the avoidance of doubt, **creators** and **TAF researchers** will not be entitled to receive any additional distribution or any other compensation with respect to distributions that were made prior to such a change in the policy.
 - J. Nothing in this policy is intended to limit the transferability of rights of **creators** or **TAF researchers** to their heirs and assigns. Without limiting the foregoing, the distribution of proceeds to **creators** and **TAF researchers** under this section V will be made to **creators** and **TAF researchers**, their heirs and assigns, as applicable.
 - K. This policy will not change the ownership or any other right with respect to **intellectual property** that was created before its effective date. However, any **Ohio State proceeds** or **TAF Proceeds** received after the effective date of this policy will be distributed according to this policy, whether the **intellectual property** was developed before or after the effective date.
- VI. Conflicting agreements
- A. Notwithstanding any other provision in this policy to the contrary, nothing in the policy will be construed to limit the university from entering into specific written agreements with any **faculty**, staff, or student or with any third party (including in connection with **sponsored research**) that will specify different terms regarding the ownership, distribution, and commercialization of **intellectual property**. Such an agreement will supersede the terms of this policy if:
 - 1. The **creator** is a party to such an agreement; or
 - 2. The **creator** explicitly or implicitly consented to the terms of such an agreement prior to the creation of the **intellectual property**. Without limiting the generality of the foregoing, a decision of a **creator** to develop **intellectual property** under circumstances in which the **creator** knows, or should know, that such **intellectual property** is subject to an agreement will be considered consent to that agreement. However, continued employment or affiliation with the university is not, by itself, sufficient to establish consent as required by this section.
 - B. Nothing in the policy will be construed to limit the university from entering into agreements with respect to the commercialization of **university IP**. Subject to subsection VI.A, those agreements would not undermine the university’s obligations under this policy, and in particular, the arrangements set forth in section V.



Applies to: Faculty, staff, and students

PROCEDURE

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VII. Intellectual property Evaluation, Protection, and Dissemination

- A. The senior vice president for business and finance and the provost will implement this policy on behalf of the university. All or a portion of the administration of activities with respect to this policy, except with respect to the responsibilities to administer disputes as set forth in section VIII, may be delegated to other university officials. In consultation with the provost, the senior vice president for business and finance, the senior vice president for research, and IPPC, the vice president responsible for TCO operations will establish operational guidelines and procedures, subject to the terms of this policy, for the administration of **university IP**. This will include, but is not limited to, determination of ownership, assignment, protection, licensing, marketing, maintenance of records, and oversight of revenue collection.
- B. In all its decisions pursuant to this policy, TCO will strive to reasonably: (i) advance the well-being of the people of Ohio and the global community by supporting the creation and dissemination of knowledge, and (ii) maximize the commercial value of **university IP**. Without limiting the foregoing, TCO will:
 1. facilitate evaluation of **university IP**, including consideration of the market for such **university IP** and the competitive market landscape;
 2. identify potential commercial partners for **university IP**, which may include using multiple networks of contacts, including those made available from the **creator(s)**, alumni, and other sources;
 3. negotiate agreements, licensing or otherwise, in connection to the commercialization of **university IP**;
 4. take any other actions reasonably necessary to facilitate the commercialization of **university IP**; and
 5. consult, as reasonably needed, with other constituencies, including university units.
- C. The university trusts **faculty**, staff, and students to participate throughout the **intellectual property** creation and preservation process. **Creators** must promptly disclose in writing all **university IP** they created with commercial value and other **university IP** required to be disclosed pursuant to an obligation to a third party (such as obligations in connection with **sponsored research** arrangements), using a disclosure form.
 1. The disclosure must:
 - a. provide a full and complete description of the **university IP**;
 - b. describe the funding sources used in development of such **university IP**; and
 - c. identify all persons participating in the creation and development of the **university IP**.
 2. Upon request from TCO, the **creator(s)** will furnish any additional reasonable information, including the know-how related to the invention or discovery, and will execute documents in connection with the **university IP**, such as assignments and declarations.
 3. **Faculty**, staff, and students may ask the TCO to verify that pursuant to this policy a specific **intellectual property** is not **university IP** or that it is available for a certain specific use.
- D. Upon receipt by TCO of a disclosure form as described in subsection VII.C, the case will be assigned to a TCO representative. The assigned representative will facilitate evaluation of the **intellectual property** with respect to patentability, commercial potential, and obligations to sponsors or other third parties. This process will include:
 1. a discussion with the **creator(s)** led by the TCO representative;
 2. a search of prior art, if necessary. The TCO representative may reasonably request that the **creator(s)** participate in such search; and
 3. determination of whether **intellectual property** protection, and in particular patent protection, should be pursued, taking into consideration, among other things, commercial potential. Although patent protection is sometimes sought for various noncommercial reasons, such as professional status, TCO will not seek protection for **university IP**, including patent protection, that is not deemed to have commercial potential (even if the **university IP** is intellectually meritorious), unless such protection (i) is requested by the sponsor of **sponsored research** and such sponsor pays for such protection or (ii) is authorized by the senior vice president for business and finance or the provost, at their sole discretion. The evaluation of the



Applies to: Faculty, staff, and students

commercial potential will be based upon, among other things, patentability, scope of potential patent coverage, size of market, competition, and potential market share. The provost and/or the senior vice president for business and finance may establish guidelines regarding the role of the university's units in the process of commercializing and/or protecting the **university IP**.

- E. TCO will regularly update the **creator(s)** on the status of the **university IP** disclosed by such **creator(s)**.
 - 1. TCO will provide the first status update within three months of receiving the disclosure form and a second status update within six months of the date of receipt of a disclosure form. Such status updates will include, but not be limited to, any filing decisions regarding **intellectual property** protection or transfer of the **university IP**.
 - 2. TCO will provide a detailed summary of substantive decisions regarding protection, commercialization, and/or transfer of **intellectual property** promptly after those decisions are made.
- F. In some cases **university IP** will be assigned to its **creator(s)**.
 - 1. Under the following circumstances, **creator(s)** will be allowed to require (subject to any required third party approvals, e.g., approval of a federal funding agency) assignment, free of charge, of **university IP** to them, and TCO will promptly effect such assignment:
 - a. The **creator(s)** provide TCO with evidence of a concrete potential commercialization partner for the **university IP**, such as a potential licensee thereof, and TCO does not complete, in good faith, its review and determination of the university's interest in such opportunity within six months.
 - b. The **university IP** may reasonably be protected by a patent, and TCO does not complete, in good faith, its review and determination of the university's interest in such **university IP** within six months of TCO becoming aware of a public disclosure of such **university IP**. Public disclosure under this section includes any disclosure that will make the **university IP** ineligible for patent protection in the United States, unless patent application is filed within one year of such disclosure.
 - c. TCO does not complete, in good faith, its review and determination of the university's interest in such **university IP** within twelve months of receipt of a disclosure form.
 - 2. The assignment of **university IP** under subsection VII.F.1 will be subject to the following:
 - a. The TCO may reasonably delay, and in extreme cases deny, a request pursuant to subsection VII.F.1 if the **creator's** disclosure pursuant to subsection VII.C lacks material details in bad faith or if the **creator** failed to cooperate in good faith with TCO's reasonable requests;
 - b. All **creators** who are assigned the **university IP** pursuant to subsection VII.F.1 will grant the university a perpetual, worldwide, nonexclusive, royalty-free license limited to non-commercial use of such **intellectual property**; and
 - c. The assignment of **university IP** to the **creator** pursuant to subsection VII.F.1 will not affect any other obligations of the **creator**, including the obligation of disclosure and cooperation, set forth in subsection VII.C, with respect to any other **university IP**.
 - 3. TCO is encouraged to cause assignment to **creators** any **university IP** which, in TCO's discretion, is not currently commercialized by the university or on its behalf and is not expected to be commercialized by the university or on its behalf in the foreseeable future, unless such assignment would have an adverse impact on the ability to commercialize other **university IP** or such assignment cannot be legally made for any reason (e.g., a required third party approval was not secured). The university and **OSIF** may place terms on such assignment including requiring, at TCO's discretion, payment in consideration for such assignment.
 - 4. In the case of multiple **creators**, the university or **OSIF** will assign the **intellectual property** to all **creators** according to this subsection VII.F as joint owners, unless all **creators** agree in writing to a different arrangement. Except for assignment to the **creator(s)** according to this subsection VII.F (or an assignment from the university to **OSIF**), the university and **OSIF** will not assign **university IP** for no consideration.
 - 5. TCO will update the **creator's** unit of any assignment of **university IP** to the **creator** pursuant to this section VII.F.
- G. University employees engaged in external consulting work or business, and those charged with approving such activities, are responsible for ensuring that agreements with external entities do not violate or conflict



Applies to: Faculty, staff, and students

with this policy or any other university policy, including the Faculty Paid External Consulting policy and the Conflict of Interest and Work Outside the University policy.

VIII. Policy Interpretation and Dispute Resolution

- A. University constituents (such as creators, creators' units, employees, and TCO) should make every attempt to resolve disputes informally among themselves and, if needed, with the assistance of the Office of Academic Affairs, the university Ombudsman, and/or the Office of Legal Affairs.
B. If informal processes and consultation do not provide resolution of a dispute regarding this policy, the following actions may be taken:
1. Any person or entity directly affected by decisions or actions of any other person or entity in connection with this policy, may appeal such decisions or actions to the IPPC if such person or entity (the claimant) believes such decisions or actions are inconsistent with this policy.
2. The claimant will submit the complaint in writing to the chair of the IPPC, who will determine whether the claimant has made a reasonable effort to resolve the dispute informally and whether the substance of the dispute appears to be within the scope of the IPPC's review authority under this policy.
3. Proceedings will be informal, but all parties will have adequate notice and an opportunity to be heard. The IPPC may establish additional procedures for resolving such disputes and may designate a sub-committee of its members for such procedures.
4. After considering all relevant information and within 30 days of receipt of the complaint, the IPPC will prepare and send to the senior vice president for business and finance and the provost a report of its findings on the issues raised by the complaint and any corrective actions it recommends, within the scope of this policy.
5. Within 30 days of receipt of the IPPC report, the senior vice president for business and finance and/or the provost will review the IPPC report and make a final decision on behalf of the university and provide this decision to all the parties involved and IPPC.
6. IPPC will publish its reports (after removing certain information, as needed, to address reasonable privacy or secrecy concerns) and the decisions of the senior vice president for business and finance and/or the provost. The publication will be reasonably accessible to the university community. Those reports and decisions will guide future actions and decisions by the TCO and IPPC.

IX. Policy Review and Revisions

- A. IPPC shall maintain this policy and shall review it and its effect, from time to time, as needed. IPPC shall review all proposed changes to this policy, and shall have the power to initiate its own proposed changes to this policy. The chair of IPPC shall be a member of the policy writing group for any revisions to this policy. Revisions to this policy shall be promulgated through the university policy process and then recommended to faculty council and the university senate. All revisions to this policy must be approved by the faculty council and the university senate, in addition to the other approvals required by the university policy process.

Responsibilities

Table with 2 columns: Position or Office, Responsibilities. Rows include Creator(s), Employees engaged in external consulting, and IPPC.

Applies to: Faculty, staff, and students

Position or Office	Responsibilities
	3. Review the policy and its effects from time to time and proposed and review changes thereto as set forth in the policy
IPPC Chair	1. Administer the dispute resolution process as set forth in the policy 2. Participate in the policy writing group activities for any revisions to the policy
Office of Research	1. Review TAF proceeds distribution plans submitted by principal investigators as set forth in this policy 2. Establish guidelines, in consultation with IPPC and TCO, for the distribution of Ohio State proceeds when there are no identifiable creators of tangible research property
OSIF	Distribute proceeds received for university IP as set forth in the policy
Principal Investigators	Propose to Office of Research a distribution plan for TAF proceeds as set forth in the policy
Provost	1. Establish instructions and guidelines with respect to the distribution of certain Ohio State proceeds 2. Together with SVP for B&F, implement the policy as set forth therein 3. Together with SVP for B&F, review IPPC reports regarding disputes pertaining to the policy and make a final decision on behalf of the university as set forth in the policy
Senior vice president for business and finance (SVP for B&F)	1. Together with the provost, implement the policy as set forth herein 2. Together with the provost, review IPPC reports regarding disputes pertaining to the policy and make a final decision on behalf of the university as set forth in the policy
TCO	1. Consider requests from unit heads or deans to assign copyrights to staff- creators and report to IPPC the type of such requests approved and denied 2. Distribute proceeds received for university IP as set forth in the policy 3. Facilitate the commercialization of university IP as set forth in the policy 4. Facilitate the evaluation of the patentability, commercial potential, and obligations to sponsors or third parties of all intellectual property disclosed to TCO as set forth in the policy 5. Update creators on the status of disclosed university IP as set forth in the policy 6. Cause university IP to be assigned to its creators under certain limited circumstances as set forth in the policy and update the creators' units of any such assignments 7. At the request of faculty , staff, or students, verify that a specific intellectual property is not university IP or that it is available for a certain specific use pursuant to the policy
Unit heads and deans	May submit applications to TCO requesting that the university assign certain copyrights to staff- creator(s)
Vice president responsible for TCO	In consultation with the provost, SVP for B&F, SVP for research, and IPPC, establish operational guidelines and procedures for the administration of university IP subject to the terms of the policy
University	1. Assigns certain intellectual property to their creators as set forth in the policy 2. Grants licenses to use software not eligible for patent protection to its creator(s) and others for certain purposes as set forth in the policy 3. Distribute proceeds received for university IP as set forth in the policy

Resources

Forms

Disclosure forms, tco.osu.edu

University Policies and Rules

Conflict of Interest and Work Outside the University policy, hr.osu.edu/public/documents/policy/policy130.pdf

Faculty Paid External Consulting policy, oaa.osu.edu/assets/files/documents/paidexternalconsulting.pdf

Research Misconduct policy, orc.osu.edu/files/Misconduct_Policy.pdf

Faculty Rule 3335-5-19, trustees.osu.edu/index.php?q=rules/university-rules/chapter-3335-5-faculty-governance-and-committees.html

Additional Guidance

Ohio Revised Code §3345.14, codes.ohio.gov/orc/3345.14

Frequently Asked Questions (FAQs), tco.osu.edu/v2/wp-content/uploads/IP-Policy-FAQ.pdf

Academic misconduct information for students, oaa.osu.edu/academic-integrity-and-misconduct/student-misconduct

Academic misconduct information for faculty, oaa.osu.edu/academic-integrity-and-misconduct/faculty-obligations



Applies to: Faculty, staff, and students

OSU-OARDC Plant Germplasm Release Guidelines and Practices Special Circular 178-01, Royalty Distribution
Associated with Licensed Plant Varieties,
kb.osu.edu/dspace/bitstream/handle/1811/71922/OARDC_special_circular_n178.pdf?sequence=1

Contacts

Subject	Office	Telephone	E-mail/URL
Dispute resolution; policy changes	The committee on Intellectual Property, Patents, and Copyrights (IPPC)	614-292-2423	ippc@osu.edu senate.osu.edu
Policy administration; general inquiries	Technology Commercialization Office	614-292-1315	innovation@osu.edu tco.osu.edu

History

Issued:	05/13/1985	Approved by BOT, 05/03/1985, Resolution #85-117; Issued as Patents and Copyrights
Revised:	05/04/1989	Approved by BOT, 05/04/1989, Resolution #89-97
Revised:	04/15/2018	Approved by University Senate, 03/08/2018; Approved by BOT, 04/06/2018, Resolution #2018-92; Renamed Intellectual Property

Appendix B:
Answers to Frequently Asked Questions
concerning the IP Policy

Intellectual Property Policy

Frequently Asked Questions

On April 6, 2018, the university's Board of Trustees approved a new Intellectual Property Policy. The policy governs the ownership, commercialization, and certain other uses of the inventions and copyrighted materials created by the faculty, staff, and students of the university.

These Frequently Asked Questions are aimed to answer a few inquiries that faculty, staff, and students might have. Note that the only the text of the policy is binding and therefore if there is any conflict or tension between the policy and this document, the text of this policy will govern.

The policy can be found here: <https://tco.osu.edu/v2/wp-content/uploads/IP-Policy.pdf>.

What is the scope of the policy?

The policy deals with inventions and copyrighted materials (as those terms are broadly defined in the policy) that are created by faculty, staff, and students of The Ohio State University.

The policy does not address rights in inventions and copyrighted materials that are owned by others, including the use of faculty, staff, and students of intellectual property owned by third parties. For example, the policy does not deal with the use of copyrighted materials in casebooks that are authored by OSU faculty, or the use of patented technology in research on campus. Such use is governed by the applicable law. For questions on those matters, please contact the [university's Office of Legal Affairs](#).

Who owns the inventions and copyrighted materials that are created by faculty, staff, and students?

This is a complex question that the policy addresses in detail. Determining ownership might depend on the position of the creators (are they faculty members, staff, or students?), the nature of the legal right (is it a copyrighted good or a patentable invention?), the nature of the work itself (for example, is it a form of scholarship? Is it software?), and the resources that were used to create the work. For details, see Sections III and IV of the policy.

The [Intellectual Property, Property, and Copyright Committee \(IPPC\)](#) created [an interactive tool](#) to assist faculty, staff in navigating the ownership provisions of the policy.

How are the creators' royalties calculated?

When inventions or copyrighted materials are owned and commercialized by the university, the creators—whether faculty, staff, or students—are entitled to a share of the royalties that the university gets, after deducting for the direct expenses of the commercialization process. The creator is entitled to 50% of the first \$100,000 of net proceeds that the university receives, and 34% for any net proceeds beyond \$100,000.

For details see Section V of the policy.

What if a copyrighted work has more than one creator?

Rights in co-authored copyrighted materials will be determined in the following way: first, the co-authors under copyright law will be identified. Then, the ownership rights of each co-author will be determined separately as if that co-author created the work on his or her own.

For example, if a textbook was created by a faculty member with the assistance of a staff member then, as an initial matter, the authorship status, under copyright law, must be determined. In other words, the question will be whether the faculty and the staff member are considered joint authors of the work or not. [Copyright law has](#)



Intellectual Property Policy

Frequently Asked Questions

[complex tests to address this question](#) that focus on the parties' intent and exercise of control over the creative process.

If the faculty member and the staff member are joint authors, the ownership of each one of them will be determined separately. Faculty members own the textbooks they create while staff member, subject to certain exceptions, do not. Therefore the staff member's rights will be owned by the university. This would mean that the faculty member and the university will be joint authors of the work.

Can the university enter into contracts that set forth different arrangements from those set forth in the policy?

Yes, it can. However, only under the following circumstances will such agreements affect the ownership interest of faculty, staff, and students, or their right to a share of the royalties from commercialization:

1. If the person who created the invention or copyrighted material is a party to such a contract. For example, if the university plans on investing unusually significant resources in a research project, it might require the faculty members who lead such a program to agree to specific arrangements regarding the intellectual property that will be generated in that program. If the faculty members agree to those arrangements in writing they become binding.
2. If the person who created the invention or copyrighted material explicitly or implicitly consented to the terms of such an agreement before the creation of the intellectual property. There can be situations in which creators are not a party to an agreement, but they know, or should have known, that such an agreement is in place. A common example is an agreement that governs sponsored research that states that the intellectual property created in such project will not be owned by the individual creators but by the university or the sponsor. If individuals knowingly chose to work on such a research project, it might be inferred that they knew, or should have known, that the ownership rights in the products of the research project will be determined by the sponsorship agreement and not by the intellectual property policy.

For details, see Section VI of the policy.

What are the main rights and obligations of the creators in the commercialization process of university IP?

The commercialization process is, by its nature, collaborative. A successful process is typically the result of cooperation between the creators and the university's [Technology Commercialization Office \(TCO\)](#).

The process typically starts with a disclosure. The policy states that all faculty, staff, and students who create inventions or copyrighted materials that belong to the university and that have commercial value must promptly disclose that information to the TCO.

It is then the responsibility of TCO to decide if and how to commercialize the work. The policy provides that the creators will receive periodic updates from TCO regarding the commercialization process. Moreover, in unusual circumstances, where needed decisions and actions are not taken, the creator can even require TCO to assign works back to their creators. Nevertheless, IPPC hopes that those involved in the commercialization process will communicate frequently and openly with one another without relying on the core rights set forth in the policy.

For details regarding the commercialization process, see Section VII of the policy.



Intellectual Property Policy

Frequently Asked Questions

What if there is a dispute?

IPPC recognizes that the policy will need to be interpreted and applied in various situations. Such interpretation and application will be conducted by many entities and individuals, and especially TCO.

If anyone disagrees with any such interpretation or application, the parties involved should make every attempt to resolve their disagreement informally among themselves and, if needed, with the assistance of the Office of Academic Affairs, the university Ombudsman, and/or the Office of Legal Affairs.

If those informal attempts to resolve the disagreement fail, a party can bring the matter to IPPC. IPPC will investigate the matter and submit its report and recommendations to the senior vice president for business and finance and/or the provost, who will then decide the dispute on behalf of the university.

For details, see Section VIII of the policy.

What if I have additional questions or suggestions?

Questions regarding specific works should be directed to the Technology Commercialization Office (TCO).

Questions or suggestions regarding the policy in general should be directed to the Intellectual Property, Patents, and Copyright Committee (IPPC). IPPC will review the policy from time to time and might suggest revising it. IPPC is therefore interested in hearing feedback and suggestions regarding the policy.



***Appendix C:
Timeline of approval of the Revised IP
Policy***



Responsible office: Technology Commercialization Office, Business and Finance
 Type of policy work: Revision
 Policy Name and Number: Patents and Copyrights being renamed Intellectual Property
 Applies to: Faculty, staff, students

Dates	Policy Process Step	Who's Responsible
Predevelopment		
	IPPC Chair or Responsible office policy coordinator notifies policy director/assistant director of policy revision/combination work beginning; assemble writing team; review history, FAQs, etc.; identify/confirm designated Legal Affairs attorney	– IPPC chair (Williams)
Materials Due: June 29 Meeting: July 5	Notify SMC (and University Senate and BOT) of upcoming revision	– Ben Givens to notify Senate as applicable – Givens to notify Blake Thompson (BOT) as applicable
Development		
June 2017	Transfer existing document to university policy template; initial OUCI editorial review	– OUCI policy director (Savarese)
June 2017	Templated policy returned to IPPC for review of OUCI editorial review	– IPPC representative (Rub and Williams)
<i>Ongoing work - Coordinate in advance of approval</i>	Prepare implementation and communication plan for respective constituents	– Responsible office (TCO); coordinated with/informed by IPPC
July 2017	Prepare memo from IPPC/Senate/OUCI	– IPPC chair (Rub)
August 2017	Send memo to OUCI for packaging prior to feedback	– IPPC representative (Rub) send to OUCI policy director Kim Potter
August 2017	OUCI to review feedback memo IPPC prepared; OUCI confirm list of recipients with IPPC/Givens/TCO; OUCI schedule onCampus and policy website dissemination	– Potter
August 2017	Determine how to disseminate to all faculty (Sent via University Senate)	– Faculty leaders
August 2017	Legal review	– Designated Legal Affairs attorney (Mike Steffensmeier)
August 2017	Responsible executive review	– Matt McNair
August 2017	Responsible executive review	– Geoff Chatas
September 2017	Advance copy of policy and feedback memo to Bruce McPheron	– Givens, Rub
Open for 4 weeks Sept 21 – Oct 18	– Solicit university-wide feedback via university policy process with feedback request additionally emailed to all faculty – OUCI forwards feedback weekly to Rub, Steffensmeier, McNair and Givens	– OUCI policy director Potter – IPPC/Senate Office
Oct 17 – Nov 6	Integrate university-wide feedback at IPPC meeting	– IPPC (with OUCI policy director) – With assistant from the drafting group (Williams, Rub, Steffensmeier, Mess, and Potter)
Dates		
Materials Delivered: Nov 6 Meeting: Nov 9	OUCI submits to University Policy Review Committee for review and feedback at special session for IP policy	– OUCI policy director and UPRC chair (Potter) – IPPC chair (Rub) comes to UPRC
Nov 11	Provide redline version reflecting UPRC feedback to IPPC for review and approval	– OUCI policy director (Potter) sends to IPPC chair (Rub), McNair, Steffensmeier
Nov 11- Nov. 29	Consider/integrate UPRC feedback to finalize policy; determine desired effective date; consider and vote on all open issues	– IPPC
Nov 30 – Dec. 1	Final editorial review (grammar, policy brand guidelines, accessibility)	– OUCI policy director (Potter)



Dec. 1-Dec 5	Legal review (<i>Designated Legal Affairs attorney signature</i>)	– Responsible office policy coordinator (Lisa Plaga) and designated Legal Affairs attorney (Steffensmeier) sign
Dec 6-28	Responsible executive review (<i>Responsible executive signatures</i>)	– Responsible executives (McNair; Chatas, McPheron) – McNair signs
Dec 28-Jan. 4	Final IPPC review and approval	– IPPC chair and membership
Materials Submitted: Jan 4 Meeting: Jan 11	Submit final policy to Senate Steering for review and endorsement	– Senate Steering Chair (Sharon Schweikhart, Rub to present the policy)
Meeting: Jan 18	Submit final policy to Faculty Council for review and approval	– Faculty Council Chair (Blaine Lilly, Rub and Williams to present the policy) – Faculty Council Chair (Lilly) signs
Materials Due: Jan 31 Meeting: Feb 7	Submit final policy to SMC for review and endorsement (<i>SMC chair signature</i>)	– OUCI policy director (Potter) submits materials – Responsible office SMC member presents (Papadakis presents, McNair and Rub attend) – SMC chair (McPheron) signs
Materials Due: Feb 8 Meeting: Feb 12	Submit final policy to President’s Cabinet for review and approval	– OUCI policy director (Potter) submits materials – Responsible office (Papadakis) cabinet member presents – Hall, on behalf of the cabinet, signs
Materials Submitted: Feb 21 Meeting: March 1	Return final policy to Senate Steering for review; endorse to move to University Senate agenda	– IPPC prepares and submits a motion – Senate Steering Chair to bring to the committee (Schweikhart, Rub to present the policy)
Meeting: March 8	Submit final policy to University Senate for review and approval	– Senate Secretary (Givens, Rub to present the policy and IPPC’s motion) – Senate secretary (Givens) signs
March 15	Final Policy director review of signatures	– OUCI policy director (Potter)
Materials Due: March 9 Meeting: April 5-6	Submit final policy to BOT for review and approval (<i>BOT committee chair signature</i>)	– Senate Office (Givens)/OUCI policy director (Potter) submit materials – Academic Affairs Student Life Committee approves (McPheron presents, Moses and Rub attend) – Fiscal Committee informed (Papadakis presents, Williams and Rub attend) – Full Board approval – Secretary of the Board (Thompson) certifies
Implementation		
April 15	Implement policy and communication plan	– Responsible office (TCO) – IPPC prepares FAQs
Ongoing thereafter	Monitor compliance; review audit and investigation findings	– Responsible office (TCO) and IPPC
Ongoing thereafter	Collect feedback for next review of policy	– Responsible office (TCO) and IPPC

Leadership groups involved in REVISIONS (i.e., substantive changes) to the policy:

- B&F (TCO) – approve/sign-off
- OLA – sign-off on legal review
- IPPC – review any changes (throughout)
- Faculty Council – approve
- University Senate – approve
- SMC (Provost) – endorse
- President’s Cabinet – approve
- BOT (need to determine committee) – approve



University Policy Process
Policy Revision Approval Signatures

Name of Policy: Intellectual Property
Person Submitting Policy: Matt McNair, VP of Economic and Corporate Engagement
Responsible Office: Office of Business and Finance

Summary of policy and major policy changes:

This policy establishes rules regarding the ownership, distribution, and commercialization of intellectual property created by university faculty, staff, and students. Because the current policy (named Patents and Copyrights) was last revised in 1989, the proposed revised policy is nearly a complete rewrite. The following major changes were made from the current policy to the attached revision:

- o Clarifies the rights of faculty members with respect to their scholarship, instructional works, and artistic works
- o Addresses the rights of software creators.
- o Revises the process for the commercialization of inventions, discoveries, and patents.
- o Addresses the rights of staff members with respect to their intellectual creation.
- o Adjusts the royalties-sharing mechanism.
- o Establishes a dispute resolution mechanism.

Groups, offices, and positions/individuals consulted during policy review:

University Senate Steering Committee	Office of Research
Faculty Council	Office of Legal Affairs
Office of Business and Finance	Office of University Compliance and Integrity
Technology Commercialization Office	Multiple colleges and departments

Responsible Office Policy Coordinator Review:

 1/11/18
 Lisa Plaga Controller Date

Legal Affairs Review:

 1/11/18
 Michael Steffensmeier Sr. Associate General Counsel Date

Approval of Responsible Executive:

 1/12/18
 Geoff Chatas Senior VP for Business and Finance Date

Approval of Responsible Executive:

 1-12-18
 Matt McNair VP of Economic and Corporate Engagement Date

Approval of Faculty Council:

 1-18-18
 Blaine Lilly Chair, Faculty Council Date

Endorsement of Senior Management Council (attach meeting agenda):

Frank Muth EVP & Provost 7 Feb 2018
Signature Title Date

Approval of President's Cabinet (attach meeting agenda):

Mike Hall Chief of Staff Feb 12, 2018
Signature Title Date

Approval of University Senate:

Ben Givens Secretary, University Senate 3/8/18
Signature Title Date

Policy Director Review:

Kim Potter Policy & Training Director, OUCI 3/15/18
Signature Title Date

Approval of Board of Trustees (note resolution number, approval date, and attach certified resolution from BOT office):

2018-92 04/06/18
Resolution Number Date



REVISION OF THE PATENTS AND COPYRIGHTS POLICY

Resolution No. 2018-92

Synopsis: Revision of the university's Patents and Copyrights policy (renamed Intellectual Property policy), is proposed.

WHEREAS The Ohio State University encourages the creation and dissemination of knowledge, including works of authorship, discoveries, inventions, patents and tangible property that can serve the public through open academic exchange and commercial development; and

WHEREAS The Ohio State University Board of Trustees previously adopted the Patents and Copyrights policy in May 1985, to create a process to oversee such efforts; and

WHEREAS the Patents and Copyrights policy was most recently revised, with approval by the Board of Trustees, in May 1989; and

WHEREAS there is now a desire to revise the Patents and Copyrights policy to clarify the rights of faculty members with respect to their scholarship, instructional works and artistic works; address the rights of software creators; update the process for the commercialization of inventions, discoveries and patents; address the rights of staff members with respect to their intellectual creation; adjust the royalties-sharing mechanism; establish a dispute resolution mechanism; align the policy with the university's standard policy template; and rename it the Intellectual Property policy; and

WHEREAS rule 3335-13-06 states that the University Senate's intellectual properties, patents and copyrights committee (IPPC) shall review and have the power to propose changes to the policy on intellectual property, patents and copyrights; and

WHEREAS rule 3335-13-06 also states that revisions to the policy must be approved by the Faculty Council and University Senate, in addition to the other approvals required by the university policy process; and

WHEREAS after a multi-year drafting process, the IPPC approved the proposed revised Patent and Copyrights policy (renamed Intellectual Property policy); and

WHEREAS the senior vice president for Business and Finance and chief financial officer reviewed the proposed revised policy and recommended such revisions to the Senior Management Council and the president's cabinet; and

WHEREAS the Senior Management Council endorsed, and the president's cabinet approved, the proposed revised policy; and

WHEREAS the Faculty Council and the University Senate approved the proposed revised policy; and



REVISION OF THE PATENTS AND COPYRIGHTS POLICY (cont'd)

WHEREAS the University Senate and the president's cabinet recommend the adoption of the revised Patents and Copyrights policy (renamed Intellectual Property policy):

NOW THEREFORE

BE IT RESOLVED, That the Board of Trustees hereby approves the revised Patents and Copyrights policy (renamed Intellectual Property policy) as set forth in the attachment, proposed to be effective April 15, 2018.

CERTIFIED

This is to certify that the foregoing is a true and accurate excerpt from the minutes of the Board of Trustees meeting held April 6, 2018.


Blake Thompson
Secretary

***Appendix D:
IPPC Bylaws***

Bylaws

Intellectual Property, Patents, and Copyright Committee

May 2016

Article I. Authorization.

Section 1. University Rule.

The Intellectual Property, Patents, and Copyright Committee (hereafter IPPC) is a standing committee of the University Senate and operates pursuant to Rule 3335-5-48.19 of the Administrative Code.

Section 2. Subordination.

All activities of IPPC are subject to the University Rules. These Bylaws are likewise subject to, and must be consistent with, the University Rules and the University's policies regarding Intellectual Property. Where these Bylaws may differ from the University Rules or such policies, the Rules or policies will govern.

In questions of procedure and organization which are not specifically covered by these Bylaws or by the Rules, then the current edition of Robert's Rules of Order, will govern.

Article II. Charge.

The Intellectual Property, Patents, and Copyright Committee will

- review, recommend, and advise the university senate on matters relating to the university policy on intellectual property, patents, and copyright and faculty rules 3335-13-06 and 3335-13-07 of the Administrative Code;
- review the procedures used in implementing and administering the university policy on intellectual property, patents and copyrights, and where deemed necessary, develop and recommend changes in standards and procedures to the vice president for technology commercialization, the vice president for research, the executive vice president and provost, and other appropriate officers of the university;
- consult with the vice president for technology commercialization and the vice president for research when requested;
- review from time to time the current University's policies regarding intellectual policies, issue written reports to the senior vice president for business and finance, the vice president of research, and the provost thereof, propose changes to such policies, and review changes to such policies proposed by others; and
- serve as a board to hear and decide on appeals related to the administration of the University's policies regarding intellectual policies, as provided by such policies.

Article III. Membership.

Section 1. Membership.

According to University Rule 3335-5-48.19, the IPPC consists of eleven members.

1. Eight faculty members: four tenured faculty, two probationary tenure-track faculty, and two non-tenure track faculty from any of the categories. Each member is to serve three years with one-third of the members rotating off each year. Five faculty members are appointed by the executive committee of faculty council and three faculty members are appointed by the university president in consultation with faculty leadership.
2. One graduate student.
3. The vice president for technology commercialization.
4. The vice president for research.

A vacancy does not prevent the IPPC from conducting its business.

Section 2. Term of Appointment.

With respect to the faculty members of the committee, service on the committee shall be for terms not to exceed three years. A faculty member may become eligible for committee service again after an absence from the committee of at least one year.

Section 3. Calendar year.

Each term begins on August 15 of the appointment year.

Section 4. Responsibilities.

Members are expected to attend meetings, to contribute collegially to discussions, to send and receive e-mails from the membership and officers, and to study relevant issues or cases which are placed before the IPPC.

Article IV. Officers.

Section 1. Election.

The election of new officers proceeds by a written and recorded vote.

Section 2. Officers.

The officers of IPPC consist of a Chair and a Secretary.

Section 3. Eligibility.

Only members of the IPPC are eligible to be officers, and the Chair must be a member of the University faculty in the second or third year of a three-year term.

Section 4. Election.

Each officer of IPPC is elected by a recorded and written majority vote of the membership.

Section 5. Term and Schedule.

Officers of the IPPC are elected in the Spring Semester at the last regular meeting of the academic year or via Electronic Voting. Officers hold office for 1 year, with their term beginning on the August 15 following their election and ending one year later.

Section 6. Temporary absence.

When the Chair is temporarily absent, the Chair must appoint another faculty member of IPPC to serve as Chair. When the Secretary is absent, the Chair may appoint another member to record minutes, or may record the minutes him/herself.

Section 7. Duties of Officers.

1. Chair.

The Chair calls and presides over all meetings of the IPPC and is responsible for the general direction of the IPPC and for setting the agenda of each meeting. The Chair will distribute an agenda prior to each scheduled meeting via e-mail.

The Chair is responsible for complying with FOIA and any other reporting requirements, including the initial drafting of the annual report. At the conclusion of each Academic Year, the Chair ensures that the annual report and an accurate copy of these Bylaws are submitted to the Secretary of the University Senate.

2. Secretary.

The Secretary will supervise meetings, will take accurate minutes and attendance records of each meeting of the IPPC, and will file a draft of the minutes with the Chair promptly after the conclusion of each meeting of the IPPC.

Article V. Meetings.

Section 1. Scheduling.

Notice of a meeting must be made via e-mail to all IPPC members as early as possible but at least a week in advance of any regular meeting. All meeting announcements must contain a time and place. All reasonable attempts will be made to schedule meetings of the IPPC at a time convenient for the membership.

The Chair will circulate an agenda for each regular meeting as early as possible and at least 72 hours before such meeting. The agenda will include, among others, the topics to be discussed and the issues to be voted on in the meeting. IPPC will not vote in a meeting on issues that were not included in such agenda.

Section 2. Public.

At regular meetings of the IPPC, all members of the University are welcome to attend. The Chair may request non-members to be present at a regular meeting of the IPPC.

Section 3. Quorum.

A majority of the voting membership constitutes a quorum. When a quorum is present, the action of the majority of those present shall constitute the action of the entire IPPC, except as provided in these Bylaws.

Section 4. Private hearings.

Under certain University policies, the IPPC may be called upon to adjudicate certain appeals. Unless such policies state otherwise, such hearings are not open to the public.

Such hearings do not constitute a regular meeting of the IPPC for the purpose of doing business.

Section 5. Electronic voting.

Business of the IPPC may be conducted electronically. Any member may make a proposal by sending e-mail to all other members of the IPPC containing the text of the proposal and a deadline (at least a week in the future) when votes will be counted. The proposal, if approved by a majority of the members, will take effect immediately at the scheduled deadline, as if a special meeting had been called.

All votes must be made in public by e-mailing the membership of IPPC. A record of all such proposals and the results of such votes will be recorded in the meetings of the next regular meeting of the IPPC.

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Section 6. Subcommittees.

The Chair may establish subcommittees as he/she may deem appropriate to accomplish specific short-term projects. Such subcommittees will act in an advisory role to IPPC and may not take action on behalf of IPPC. Subcommittees will provide timely reports to the full committee.

Article VI. Super Majority Votes.

The following decisions will require a super majority vote of at least six members of IPPC:

- (a) Any amendment to these Bylaws.
- (b) Any proposed revision to any of the University's policies regarding intellectual property.