

Professional Concerns Committee

Minutes for December 2, 2021

Virtual Meeting (on Zoom Conferencing Software), 3:30 pm

Members in Attendance: S. Alexander, R. Boyce, W. Darnell, K. Fuegen, B. Green, P. Hare, G. Hatchett, J. Herman, K. Katkin, A. Miller, K. Munte, M. Nakamura, G. Newell, M. Providenti, H. Riffe, G. Sun, J. Washburn-Moses, M. Washington

Guests in Attendance: J. Bloch, M. Cecil, G. Hiles

Members Not in Attendance: T. Cata, L. Dynan, R. Gall, N. Grant, B. Karrick

1. Call to Order, Adoption of the Agenda

- a) The meeting was called to order at 3:31pm. The agenda was adopted unanimously without changes.

2. Approval of the minutes from the November 18 meeting

- a) Draft minutes from the November 18 meeting were approved without dissent.

3. Chair's Report and Announcements

- a) Senate Report:

- i. Hybrid University

– Provost Cecil reported that we are starting from a position of strength. NKU is an institution that provides primarily an on-campus education. We are not an online only institution. There are no plans to move to an online only institution. There are no plans to implement a high flex model across campus because it would give students an excuse to stay at home and not come to campus. The focus of the conversation is how we can reach additional audiences and improve the delivery of services.

-- Senate President John Farrar said conversations are ongoing among working groups tasked with looking at what a hybrid university might look like.

- ii. Advising Hub for first year students:

-- Provost Cecil said 10 new advisors would be hired in January in a cluster hire. Salaries for existing advisors already at NKU will increase.

- iii. Upcoming agenda for Faculty Senate:

-- Senate President John Farrar provided a look ahead to the spring agenda including the Moonshot Initiative, Success by Design, and ways to improve program review. There was an ad hoc working group last summer that was looking at ways to review academic programs. In the spring the intent is to include more faculty in discussions regarding what the criteria should look like for the evaluation of academic programs.

- iv. General Education:
 - Some faculty would like to see 300 level courses included in Gen Ed. Right now they are not. This is a controversial issue which will come to Senate in the spring for discussion.
- v. Faculty Senate Constitution:
 - A draft revision of the Senate Constitution will be coming to PCC in the spring. This draft would alter the timing of elections for senators and potentially the faculty advocate. Currently, the constitution says new senators would be elected in the fall but would not begin to serve until the following summer. The faculty advocate is elected at a different time as the committee chairs. The draft language alters the time when senators are elected and have the faculty advocate elected at the same time as chairs. Expect PCC to be looking at that part of the Senate Constitution.
- vi. Teaching Effectiveness and Enhancement Committee (TEEC) Chair Chris Lawrence spoke about NKU interviewing new providers of student evaluation of instruction software. He has asked those providers if they have mechanisms whereby certain student comments that are discriminatory, harassing, or irrelevant to instruction could be redacted. One company can do that but they cannot also redact the corresponding numerical ratings. This would remove the context for an inflammatory rating.
 - Holly Riffe's PCC subcommittee will be looking at this question over the next several weeks. The subcommittee will talk about the feasibility of NKU developing a procedure that would allow faculty to request that certain comments be removed from student ratings of instruction.
- vii. President Vaidya
 - He did not attend the Senate meeting. He was waiting to catch a plane.
 - He has announced that all current employees that have been hired prior to since January 4, 2021 will receive a 1% bonus. Minimum \$500, maximum \$1000.
 - He also announced a parental leave benefit that will go into effect in February 2022. Full time employees with 12 months of consecutive service as of February 1 will be eligible for 6 weeks of paid leave. Note: NKU does not yet have a formal policy and when there is, PCC will review it. Charlisa Daniels (Benefits Chair) is currently working with Human Resources to develop a policy. The president's paid leave is an interim measure until the formal policy is in place.
- viii. Senate discussed 2 issues approved by PCC.
 - 1. Replacing language in Appendix A of the Handbook regarding administrators returning to faculty status. No controversy regarding the proposed change.

2. Changes to section 5 of the Handbook, concerning the promotion process in which we replaced the word “continuing” with “continued.” Again, no controversy.
- ix. Upcoming Senate meeting:
 - Senate meets on December 17, 2021 and will vote on the recommendation to update Appendix A and section 5 of the Handbook.
- x. Next PCC meeting: We will meet January 20, 2022. The website says we will meet in person in the UC Ballroom but this is up in the air. If we do meet in person we will have a Zoom option. However, we may meet exclusively on Zoom.

4. Old Business

a) Discussion Item: Grievances (Handbook section 14)

Background:

We are revising section 14 for minor and major reasons. Minor updates are needed since it has not been updated in a long time (e.g., grievant needs to turn in 8 papers copies – we can replace this with electronic communication). The need for major revisions became apparent last spring when a grievant brought forth issues about how this policy is interpreted:

- who can file (only one person or multiple people);
- conflict of interest (what if a school director or department chair is named in the grievance – should this change how and to whom the petition is delivered?);
- many issues deal with RPT but other non RPT issues can also be grieved as well (do we need to stipulate that an RPT committee be involved? State an RPT chair receives a copy of the grievance only in issues related to RPT?).

How does the current policy fall short? Who files – any faculty member can file a grievance. Do we want to enable multiple faculty members to file a joint grievance? For example, multiple members of a department share concerns of abuse or retaliation about a school director or department chair, or if a director or chair makes unilateral decisions without consulting the faculty, should these concerns be heard by a peer review committee?

Currently there are a couple avenues: major issues concerning a faculty member’s appointment are heard by a peer review committee. For all others, there is a complaint process. Should matters that concern a school director or department chair be heard by a peer review committee or should these matters be treated as complaints for purposes of our grievance process?

PCC members who have experience to share in this area include H. Riffe and R. Boyce who have served on peer review committees. A. Miller has had experience on an RPT committee during which a faculty member filed a grievance.

What matters (outside RPT) should be subject to peer review and how could we

clarify which matters would be heard by peer review committees and which matters are to be treated as complaints?

Discussion:

-- The process is not clear – even members of the Complaint Advisory Committee struggle to determine where a faculty member in the process would go. Even for a faculty member who has served on Appeals and Hearing Committees, it is not clear how this works.

-- K. Fuegen: PCC will probably will need to look at the Peer Review and Complaint processes at the same time to understand what should go where. (Screen share of complaint process, Handbook 14.3).

-- If there is a problem with a department chair or director (e.g. bad, incompetent, disrespectful) and a complaint is filed to a peer review committee, what could be the complaint committee's recommendation? (Usually a complaint concerns a specific decision that could be reversed).

-- Support offered for the current structure where individual job-related grievances that have specific resolutions can have the formal process of a peer review panel. Other kinds of grievances can be settled informally through the complaint process. What would happen if the complaint was that the director was disrespectful or did things not in the interest of the faculty or the school, but not a specific thing that would require specific fact-finding and that could be reversed? That might be more suited for the complaint process or the upstream review process. The upstream review process could be used by upper admins – if a large number of people thought an admin needed to be removed, that might have more impact.

-- K. Fuegen: We need to speak explicitly about the role of the Faculty Advocate. This section of the Handbook was written well before the Faculty Advocate position was created.

-- It would be good to mention the Faculty Advocate as one of the informal means to resolve a complaint when a faculty member has a complaint concerning an administrator.

-- In theory, resolving a complaint through the Faculty Advocate sounds good, but it hasn't worked yet. When a complaint is not an RPT matter, it goes back to the dean. The dean could ignore the recommendation of the peer review committee. Unless it is an RPT decision, the process fails.

-- If a chair is named in a complaint, for instance, as incompetent, that complaint can go to the dean. Could the peer review committee recommend the chair be removed? What could the committee actually recommend?

-- A complaint advisory committee wouldn't recommend anything as large as the removal of a chair. In more specific cases with the possibility of a specific resolution, a decision of the complaint advisory committee may not be binding on a dean but the provost could see that and suggest the dean follow the decision. This can happen for smaller, concrete matters where a decision can simply be reversed. There isn't a need for greater formality in that process.

- K. Fuegen: Is it clear whether a grievant should file a petition with the peer review committees or lodge a complaint? 14.2 – peer review committees. 14.3 – complaint process. 14.2 deals with a faculty member’s professional development, 14.3 deals with all other issues. Handbook section 8, on APR, has an appeals procedure for dealing with things we disagree with written into the APR document. This section says that “A faculty member convinced that misevaluation is damaging his/her professional status or advancement may pursue one of the complaint processes...” (Handbook, Section 8.4 “Appeal Procedures”). How would a complainant know which process to follow?
- This question articulates the role of Faculty Advocate as someone who can help others navigate this process. The Faculty Advocate would be aware of patterns of complaints that could potentially lead to exploring larger issues.
- The role of Faculty Advocate role needs to be defined in the Handbook. (mentioned twice)
- K. Fuegen: Should faculty be able to jointly file a grievance?
- No for grievance but yes for complaint. Grievances are better for individual personnel disputes, like RPT, where formal fact-finding is involved. General problems with administrators is more suited for complaints.
- K. Fuegen: In 14.2, RPT matters are not the only matters subject to peer review. Also included: alleged discrimination, professional ethics and responsibility, termination, program reduction, reassignment, disagreement with post-tenure review. Violation of professional ethics and responsibilities or program reduction could lead to a joint grievance.
- Opinion above (“no for grievance”) reversed, now yes for grievance. It might be useful to think in terms of the legal concepts of standing (you can’t file a complaint because of something that happened to someone else) and class action (more than one person is actually injured), for example, in the case of program reduction. Suggested language “Individuals who suffered an individual adverse action could bring a complaint either individually or jointly.”
- Do we need a separate section for collective complaints against administrators? In many of these cases, people are seeking a personnel change.
- What if we had different names for the different processes to better suggest which to use? What if we separate the items listed in Handbook 14.2 into separate sections for clarity?
- K. Fuegen: Who constitutes a peer? Only tenured faculty members can serve on these committees. What if the grievant is non-tenure track?
- Part of having tenure is being able to speak out for those without protections of tenure.
- Analogy to law – federal judges have life tenure, that gives them the independence to be fair. Tenured faculty have institutional memory and familiarity with policies.
- NTTRs are sometimes in conflict with tenured faculty. Can NTTRs trust a panel of only tenured faculty to adjudicate issues between NTTRs and tenured faculty?
- Could we add at-large NTTR people to these committees?

- The committees are not blind – everyone meets before the committee.
- Not every committee member serves on every hearing. Complainants don't know who is on the appeals committee until a decision is rendered whether there is a prima facie case or not.
- Can the complainant have an advocate present during a hearing? Even if a complainant brings an attorney, the attorney cannot speak within the hearing (they could whisper advice to the complainant).
- This is a scary, onerous process. There are 18 steps and the process is confusing.
- K. Fuegen: PCC's challenge is to make this process less confusing.
- We could reduce the scope of peer review. Things like RPT disputes or program elimination are only applicable to tenure track faculty. Peer review committees could be limited to adverse job actions. Other things could go through more informal processes that could include non-tenure track faculty.
- A lot happens behind the scene that prevent things getting to peer-review: settlement, lawsuit, threatened lawsuit. This is another burden on faculty who just need a safe working environment.

Action:

- Discussion will continue in January 2022. In the meantime K. Fuegen will discuss this with the Faculty Advocate regarding his view on working with faculty going through this process.

5. Adjournment

- a) The meeting adjourned at 4:30pm.

Submitted,
M. Providenti, Secretary

APPENDIX F

INTELLECTUAL PROPERTY POLICY

(Revised Version – 10/26/2009)

I. Preamble

Northern Kentucky University, hereinafter referred to as the “University,” is dedicated to teaching, research, and the sharing of knowledge with the public. The University recognizes as two of its major objectives the production of new knowledge and the dissemination of old and new knowledge. Inherent in these objectives is the need to encourage the production of creative and scholarly works and the development of new and useful materials, devices, processes, and other inventions, some of which may have potential for commercialization. Such activities contribute to the professional development of the individuals involved, enhance the reputation of the University, provide additional educational opportunities for participating students, and promote the general welfare of the public at large. Such creative and scholarly works and inventions that have commercial potential may be protected under the laws of various countries that establish rights regarding “Intellectual Property,” a term that includes patents, copyrights, trade secrets, trademarks, plant variety protection, and other rights. Such Intellectual Property often comes about because of activities of University faculty, administrators, staff and students who have been aided through use of University resources, including facilities, equipment, funds, etc. The University as well as the authors, creators, or inventors, hereinafter referred to as the “Originators,” have rights that must be protected in order that future creativity may be encouraged and stimulated. It is therefore important to establish clear policies regarding the ownership, commercialization, and financial rewards resulting from the creation of such Intellectual Property. In order to establish the respective rights and obligations of the University and Originators regarding Intellectual Property, the University has established the following Intellectual Property Policy.

II. Objectives of the Policy

- A.** To clarify the University’s values with regard to intellectual property.
- B.** To encourage the creation and transfer of knowledge.
- C.** To clarify rights and responsibilities of all parties involved in the development of intellectual property.
- D.** To provide for a system to assist Originators and the University in bringing new discoveries into public use.
- E.** To define the legal rights of all parties and to provide for the disposition of these interests.
- F.** To safeguard intellectual property against unauthorized use.

III. Definitions

- A.** “**Copyrightable Works**” shall include but is not limited to any copyrightable material as defined by federal law. For purposes of this Policy, Copyrightable Works is divided into two categories: (1) Traditional Copyrightable Works, and (2) Encoded Copyrightable

Works. However, some materials created at the University are both copyrightable and patentable (*e.g.*, a Encoded Copyrightable Work may embody a patentable invention).

- B. “Traditional Copyrightable Works”** shall include but is not limited to printed materials such as books, manuscripts, journal articles and reviews; works of art such as paintings, sculptures, musical or dramatic compositions, choreographic works, pictorial or graphic works, movies, and television programs; course materials such as lecture notes, exams, class syllabi, workbooks, laboratory manuals; and any other materials that have historically been the property of the Originator.
- C. “Encoded Copyrightable Works”** shall include but is not limited to computer software, databases, circuit diagrams, engineering drawings and other technologies used to support the electronic capture, storage, retrieval, transformation and presentation of digital data and information or to interface between digital forms and other communications and information media. The University will exercise its equitable ownership interest in Encoded Copyrightable Works under the circumstances identified below.
- D. “Invention”** shall include but is not limited to any discovery, process, composition of matter, article of manufacture, know-how, design, model, technological development, biological material, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, which is or may be patentable or which may be commercially licensable, and any mark used in connection with these items.
- E. “Intellectual Property”** refers to all Copyrightable Works and Inventions.
- F. “Originator”** shall include faculty (including part-time, visiting and lecturer appointments), visiting researchers, staff, administrators, students, volunteers, any groups or combinations thereof, and any others using funds, facilities or resources of the University as the authors, creators, or inventors of Intellectual Property. If a group of individuals with assistance from the University originate Intellectual property, they will be treated as an individual with respect to this policy. Therefore, they are responsible to decide issues that relate to their shared ownership.
- G. “Substantial Use of University Resources”** refers to the use of University funds (including grants, contracts or awards made to the University or its designee by extramural sponsors), laboratory, office space, studio, audiovisual, video television, broadcast, personal computers, servers, licensed software, computer networks, or other facilities, equipment, resources and faculty, staff or students which (1) fall outside of the scope of the Originator’s normal job responsibilities or the student’s academic program, or (2) entails the Originator’s use of such resources that are not ordinarily available to all or virtually all faculty, administrators, staff or students with comparable status in the

same division, college, department/school or academic program. The term does not include the use of personal office space, local telephone, library resources and personal computer equipment incidental to outside activities that are permitted under the University's Ethical Principles and Code of Conduct (Administrative Regulation AR-I-1.0-1) and the Faculty Handbook.

- H. “University Assigned Works” or “Works for Hire”** refer to those works within the scope of the Originator’s University employment or, in the case of faculty, specifically assigned to the Originator by the University. This includes projects that have been assigned for the purpose of use by a larger University audience – *e.g.* a syllabus template, course materials for use in a multiple section course, distance learning or online course materials or videos for which the creator is compensated for developing, promotional materials for a department or other unit of the University. The conditions of such an assignment are negotiable between the Originator and the University and must be documented prior to commencing the assignment. Documentation will address compensation, ownership of the Intellectual Property, reproduction and usage rights, and be signed by the Originator and the University's authorized designee.

IV. Ownership Rights in Intellectual Property

All Intellectual Property produced by an Originator is presumed to be owned by the University or its designee unless it falls within one of the exceptions defined herein. In general, the University will assign all of its ownership rights in Intellectual Property to the Northern Kentucky University Research Foundation, Inc. (NKURF). NKURF shall manage the Intellectual Property on behalf of the University according to the policies laid out in this document.

A. Copyrightable Works:

This policy recognizes the longstanding custom and understanding that faculty members own copyright to their scholarly and creative work. In general, this understanding extends to administrators, staff and students with regards to their professional work or studies. Therefore, copyright ownership of all work created by faculty, administrators, staff, students or others shall vest in the Originator except under the following circumstances:

For both Traditional and Encoded Copyrightable Works:

1. *Subordination to Other Agreements:* Copyright ownership of all material that is developed in the course of or pursuant to a sponsored research or other agreement to which the University or its designee is a party shall be determined in accordance with the terms of the sponsored research or other agreement. In the absence of terms specifically assigning ownership, the copyright shall become the property of the University only if the terms of such agreement directly or indirectly create University

obligations as to Intellectual Property developed thereunder or if ownership is conferred upon the University by operations of another provision of this Policy.

2. *University Assigned Work or "Works for Hire"*: The copyright of material that is created by administrators, staff or students within the scope of University employment or by faculty pursuant to a specific direction or agreed assigned duty (other than the traditional obligation of teaching courses) from the University or any of its units shall be the property of the University.

For Encoded Copyrightable Works Only:

1. *Substantial Use of University Resources*: Copyright ownership of all Encoded Copyrightable Works which are developed with the Substantial Use of University Resources shall reside in the University.

B. Inventions:

All Inventions made by an Originator with a University appointment and resulting from activities carried out in furtherance of his or her University responsibilities, and/or with the Substantial Use of University Resources, including those provided through an externally funded grant, contracts, or other type of award or gift to the University, shall be owned by the University or its designee.

C. Student Ownership Issues:

Intellectual Property created by students are additionally subject to the following rules:

1. The University makes no claim to copyright or patent ownership of works created by students working on their own, *i.e.* not within the scope of an employment relationship with the University or in conjunction with one of its employees, and not making Substantial Use of University Resources.
2. Students working on a project governed by a contract or agreement to which the University is a party shall be bound by the terms of that contract or agreement.
3. Students who are hired to perform specific tasks that contribute to Intellectual Property will ordinarily not have rights to ownership of that work, regardless of the source of funds from which they are paid or the portion of work performed or contributed by the student.
4. Students working collaboratively (*i.e.* unpaid or unfunded work) with other Originators on projects that result in Intellectual Property *may* be granted the same rights and obligations as any other Originator working collaboratively on the project. Students and other Originators should establish these rights in writing *at the outset of*

their collaboration. Unless otherwise informed by the parties, the University will presume that any Student working collaboratively on a project with other Originators has no rights and obligations with regard to the Intellectual Property.

5. If none of the above relationships apply, students performing work compensated by the University are subject to the same provisions governing any other Originator of Intellectual Property.
6. Where Intellectual Property arising out of the student's own original work and participation in programs of study at the University is retained by the student, including copyright in theses or dissertations, the student shall grant to the University or its designee a royalty-free perpetual non-exclusive license and consent to reproduce, use and publicly distribute the Intellectual Property for the following limited purposes of the University: (1) institutional promotion and marketing, (2) education and instructional use, and (3) entries into appropriate competitions. In each instance, the University shall clearly recognize or acknowledge the student for his/her creative or scholarly work.

D. Waivers

The rights and responsibilities set forth herein constitutes an understanding which is binding on the University faculty, administrators, staff and students as a condition of their participation in University research, teaching, educational programs and service programs, and for their use of University funds, space, or facilities. Provisions of this policy may be waived only in extraordinary and compelling circumstances by the provost or the president.

V. Procedures and Responsibilities

A. Disclosure

Whenever an Originator creates Intellectual Property which is, or may be, owned by the University as set forth in this policy, s/he must disclose as soon as practicable, but not more than thirty (30) calendar days after the work is completed, the Intellectual Property to the University or its designee by completing the "Intellectual Property Disclosure Form" available in the Office for Research, Grants and Contracts, and submitting it to:

**Northern Kentucky University
Research Foundation, Inc.
Attn: Executive Director
Nunn Drive, AC 616
Highland Heights, KY 41099**

Originator's duty to disclose the creation of Intellectual Property shall be completed before disclosing the work to any other third party internal or external to the University.

Faculty or staff members who engaged in consulting work or in private business activities outside of their regular University employment are responsible for ensuring that such services or activities do not conflict with this Policy nor with the University's commitments; and that the University's rights and the individual's obligations to the University are in no way abrogated or limited by the terms of such agreements. Faculty and staff members shall make it clear to those with whom they make such agreements their obligations to the University and shall ensure that other parties to the agreement are provided with a current copy of this Policy.

B. Commercialization of Intellectual Property

The primary functions of the University are education, research and public service. It is in the context of public service that the University supports efforts directed toward bringing the fruits of University research and creative works to public use and benefit. In many cases, mere publication of the work will be sufficient to transfer University research and artistic works to the public. In other cases, it is necessary to encourage industry, through protection of the Intellectual Property and the granting of certain licensing rights, to invest its resources to develop products and processes for use by the public. To this end, the University and Originators agree to be responsible for the following:

1. Responsibilities of the University

The Northern Kentucky University Research Foundation (NKURF) will be responsible for determining the feasibility of commercializing Intellectual Property. If the property is deemed to have commercial value, the NKURF will have the legal and financial responsibility to carry the commercialization forward. All costs, including protecting and promoting copyright or patent applications, will be paid by the University or the NKURF and be filed in its name. The University or its designee will be solely responsible for making decisions regarding the marketing and/or licensing of all Intellectual Property. In general, all licenses will include a nonrefundable license fee, patent or copyright expense reimbursement, royalty and minimum royalty payments, and a requirement of diligence and march-in rights where the licensee does not perform adequately.

In cases where the University has an ownership interest in Intellectual Property and NKURF or other designee has not provided the Originator a report detailing its ownership right and the current state of commercialization, including any steps taken in patenting, marketing or licensing the Intellectual Property, within one (1) year of receipt of a completed disclosure form, the Originator of the Intellectual Property may request in writing that all University rights in such Intellectual Property be reassigned to the Originator. To the extent the Intellectual Property is not subject to any sponsored project

rights or restrictions, and provided that all other co-Originators, if any, of the subject Intellectual Property consent to the request, the University or its designee shall reasonably consider such a request. Any reassignment of the rights by the University to the Originator shall be limited only to the substance disclosed in the original disclosure form officially on record with NKURF and further subject to the University reserving the rights to use the subject Intellectual Property for research and other educational purposes.

2. Responsibilities of the Originator

In addition to the disclosure responsibilities set forth in Section A above, Originator will cooperate with the University or its designee in its effort to evaluate and protect the commercial value of any University Intellectual Property. This would include but not be limited to notifying the appropriate office of any third party interest in the property and assisting in the preparation of any legal documents required to protect the Intellectual Property. The Originator will also work collaboratively with NKURF to determine the best course of action regarding the commercialization and marketing of the Intellectual Property.

3. Royalties

Except in the case of Works for Hire, royalty income received by the University through the sale, licensing, leasing or use of Intellectual Property, which the University owns pursuant to any section of this Policy, will first be used to reimburse documented expenses in the following order:

- a. documented out-of-pocket costs paid by the Originator,
- b. costs as described in a contract of support. This would occur when University funds provided a grant, sabbatical, or other support for research that led to the Intellectual Property and where a contract specifying repayment accompanied the grant, sabbatical, or offer of support;
- c. direct costs paid by the University or its designee in conjunction with
 - i. processing of patent or copyright protection,
 - ii. marketing or licensing the Intellectual Property, and
 - iii. any other legal costs related to technology transfer and commercialization.

After expenditures are reimbursed, the royalties and other income will be disbursed as described in the table below:

Distribution of Royalties for Intellectual Property Owned by University

<u>Net License Revenue</u>	<u>Originator¹</u>	<u>College²</u>	<u>NKURF</u>	<u>General Fund</u>
≤ \$5,000	100%			
\$5,001 < \$50,000	60%	20%	20%	
\$50,001 < \$100,000	50%	20%	20%	10%
≥ \$100,000	25%	15%	15%	45%

In general, these royalties are awarded to the Originator in recognition of his or her significant intellectual contribution to the University. Royalty payments to the Originator's college are given to promote additional research and creative works within the college. NKURF's portion of the royalties will be used as operating funds in support of its general mission, ongoing management of Intellectual Property matters and to cover the costs of commercialization. Royalties deposited in the University's General Fund are to compensate it for the use of public resources as well as to provide general support for other research and scholarly activities on campus.

C. Appeals

Disputes arising over the application of this policy shall be brought to the attention of the Provost, who shall refer the matter to the Intellectual Property Committee. This will be a five person, standing committee appointed by the President with two persons nominated by the Faculty Senate, and one each nominated by the Staff Congress, Student Government Association, and the provost. The committee will render a determination in writing within thirty (30) days of receiving the Originator's written appeal. A copy of the decision shall also be forwarded to the Office of Legal Affairs and General Counsel for review. The Committee's decision regarding disputes may be appealed in writing to the president and the Board of Regents, respectively, within thirty (30) days of the committee's decision. The decision of the Board of Regents will be final.

VI. Advice and Interpretation

Members of the University community may obtain advice from the Office of the Associate Provost for Research on the application of this Policy to their work or studies, and from the Office of Research,

¹ The Originator's rights to share in net income as stated above shall remain with the individual or pass to the individual's heirs and assigns for so long as revenue is derived from the property. In cases where the Originator is a group of individuals, the individuals within the group will determine the allocation of the Originator's share of the royalties. It is recommended that this determination be made before the research or creative work is begun. If the parties cannot agree on the distribution, the money shall be deposited into an escrow account until such time as an agreement is negotiated or adjudicated.

² If the Originator does not report to a college dean, then the administrative unit most comparable to the college will receive this share of the royalties.

Grants and Contracts information about restrictions on Intellectual Property ownership related to grants or other sponsored agreements. Disclosure forms and other model agreements regarding this Policy can also be obtained from the Office of Research, Grants and Contracts.

VII. Policy Modifications

Recommendations regarding changes to this policy should be sent to the chairperson of the Intellectual Property Committee for appropriate action.

14. GRIEVANCES

14.1. DEFINITION

For the purposes of this Handbook, there are two categories of grievances:

- Major issues concerning a faculty member’s professional appointment that are heard by the peer review committees (Section 14.2 below), and
- All others (see Section 14.3 below, Complaint Process)

14.2. PEER REVIEW PROCESS

The Peer Review Process is confidential except as agreed to by the grievant faculty member and the University, through its appointed representatives, or as provided herein, or as may be required in a court of law.

14.2.1. MATTERS SUBJECT TO PEER REVIEW

Only the following matters, all of which affect a faculty member’s professional employment at the University, may be appealed to or heard by the Peer Review Process:

- Denial of reappointment, promotion or tenure;
- Cases involving alleged illegal discrimination, except for cases of alleged sexual discrimination which are covered in Section 16.8, Sexual Harassment/Gender Discrimination, of this Handbook;
- Cases involving alleged violation of professional ethics and responsibilities, as set forth in Section 16.3, Professional Ethics and Responsibilities, in this Handbook;
- Termination for medical reasons, as set forth in Section 10.5, Termination for Medical Reasons, in this Handbook;
- Program reduction and faculty reassignment, as set forth in Section 10.6 in this Handbook;
- Termination for cause, as set forth in Section 10.8, Termination For Cause, in this Handbook; and
- Cases involving disagreement with a post-tenure review development plan, as set forth in Section 9.6.4 in this Handbook.

The Peer Review Process will deal with appeals and grievances of matters listed above only for persons who receive a faculty contract; no person who receives an administrative contract (e.g. director, dean, associate provost, vice president) may utilize the Peer Review Process. Section 14.3, Complaint Process, applies to all other complaints, grievances and appeals by faculty members.

14.2.2. COMPOSITION OF PEER REVIEW COMMITTEES

14.2.2.1. MEMBERSHIP OF THE COMMITTEES

There shall be two peer review committees. The Peer Review Advisory Committee shall consist of five members and five alternate members. The Peer Review Hearing Committee shall consist of five members and five alternate members. Alternate members of either Peer Review Committee may be called upon to serve on the other Peer Review Committee; however, no alternate can serve on both Committees to hear the same case. If it is necessary to constitute a full committee, the Faculty Senate Executive Committee shall appoint members to serve until elected members replace them. Members will serve four-year terms beginning on July 1 of the initial year and extending through June 30 of the final year of service. If a

Commented [KF1]: Does this list encompass all matters that ought to be subject to peer review? Are there any matters that ought to be added?

Commented [KF2]: Committees

Commented [KF3]: 16.2

Commented [KF4]: Do we want to clarify that this policy applies to tenure-track and non-tenure-track faculty? Full-time and part-time faculty?

From the Handbook preface: “This Faculty Handbook is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members.”

hearing is in progress, Committee members are required to continue their service beyond June 30 of the final year until the hearing is concluded.

14.2.2.2. ELECTION OF THE COMMITTEE MEMBERS

The members of the Peer Review Committees will be elected at large by the full-time faculty of the University eligible to vote for Faculty Senators. The election shall be conducted by the Faculty Senate Elections Committee. Nominations shall be sought from all full-time faculty eligible to vote for Faculty Senators. Persons holding full-time administrative appointments, as defined in Section 1.8.1, are not eligible to serve on the peer review committees.

Elections will be held according to the schedule of elections developed by the Elections Committee of the Faculty Senate. Members shall be elected by frequency of votes. In event of a tie, the matter will be settled by the Elections Committee, with the advice and consent of the affected individuals and the President of the Faculty Senate. Membership on the Peer Review Committees should be from a broad representation of the University faculty; therefore, no Department or School will be represented by more than one faculty member on each Committee.

14.2.2.3. TERMS OF THE COMMITTEE MEMBERS

Members of the Peer Review Committees must be tenured full-time faculty. They shall serve staggered four-year terms (1 July to 30 June) to provide continuity of membership. The alternates will serve two-year terms (1 July to 30 June).

14.2.2.4. CHAIRS OF THE COMMITTEES

Each committee will elect a chair who shall serve for one year.

14.2.2.5. CONFLICT OF INTEREST

No member of either Peer Review Committee shall serve in the appeal or review of any matter arising from the department(s) or school of his/her appointment, in any case in which the member participated prior to referral to the Peer Review Committee on which the member participates, nor in any matter in which the member may legitimately be called as a witness. It is the responsibility of committee members to exclude themselves from participating on a committee in any proceeding in which they have a real or apparent ~~by other~~ conflict of interest. Prior to filing a petition, the grievant shall be given the opportunity to object in writing to the presence of any member of the Peer Review committees, based on conflict of interest. If the member does not recuse him- or herself, this fact shall be noted in the committee's report.

14.2.3. PROCEDURE

14.2.3.1. FILING THE PETITION

Commented [KF5]: It might be argued that a peer review committee comprised entirely of tenured faculty is not a committee of one's peers, if the grievant is non-tenure track. Do we need to clarify that peers are faculty, regardless of tenure status?

Commented [KF6]: Added to clarify who may serve. Section 1.8.1: "Full-time administrators with academic rank are members of the University administration who hold faculty rank in probationary or tenured positions. Such persons may be assigned teaching responsibilities. This provision is intended to encompass high-level administrators, e.g. the President, vice presidents, deans, and other similarly situated persons."

Formatted: Not Highlight

Commented [KF7]: Should department chairs or school directors be eligible to serve on the committee, provided that they are in a different department/school than the grievant?

Commented [KF8]: Do we need to define conflict of interest? COI is defined in the research misconduct policy as follows: A conflict of interest may include, but is not limited to, co-authorship on a paper or book a professional or personal relationship, professional or personal relationship or antagonism, financial ties, or contact regarding possible employment with either the respondent or the complainant.

Commented [KF9]: Adapted from 16.7.4.3: formal investigation of research misconduct

Commented [KF10]: Before filing a petition, the faculty member should consult with the Faculty Advocate. Faculty member should attempt to resolve the issue through normal channels (e.g., chair/director, dean, provost).

Any faculty member wishing to initiate a review by the Peer Review Process must file with the provost one original and eight copies of a written petition. The provost shall retain the original and the eight copies should be sent to:

Commented [KF11]: Specify that electronic version is acceptable.

- Copies 1 – 5 shall go to the Chair of the Peer Review Advisory Committee,
- Copy 6 shall go to the dean of the college in which the faculty member resides,
- Copy 7 shall go to the department chair/school director in which the faculty member resides,
- Copy 8 shall go to either the chair of the Reappointment, Promotion and Tenure committee in the department or school in which the faculty member resides or other respondents to the grievance.

Commented [KF12]: Define “respondent” as the person against whom the grievance was filed.

Commented [KF13]: Only relevant if he grievance pertains to tenure, promotion or reappointment; otherwise, send a copy to other respondents to the grievance

The petition must:

- Clearly state the nature of the grievances and any/all attempts that the faculty member has made to resolve the grievance(s); only those grievances listed in Section 14.2.1 of the Handbook can be investigated by the Peer Review Committees.
 - If the faculty member wishes to submit supporting documentation, one original and eight copies of the documentation must be included with the copies of the written petition to the provost. Although decisions regarding the inclusion of supporting documentation are the sole responsibility of the faculty member, the Peer Review Committees discourage the submission of documents unrelated to the specific grievance(s).
- Be filed within the time limits prescribed by the applicable section of this Handbook; for reappointment, promotion, and/or tenure decisions the time limit is fifteen (15) University working days of receipt of the notice from the provost (Section 3.2.134); if no time limit is prescribed elsewhere in this Handbook, the petition must be filed no later than 60 days of the date of the alleged grievous conduct; if a petition is filed after the prescribed time, it shall be dismissed.

Commented [KF14]: Desired resolution?

Commented [AM15]: Indented

14.2.3.2. WITHDRAWING THE PETITION

An aggrieved faculty member may withdraw a petition for Peer Review at any time prior to the completion of the Peer Review Process. The faculty member must file a written request with the provost asking that the petition be withdrawn. Withdrawal of the petition shall be effective on the date the written request is received in the office of the provost and all further consideration of the petition shall cease immediately.

14.2.4. PEER REVIEW ADVISORY COMMITTEE

14.2.4.1. INITIATING THE PROCESS

Within five (5) working days of receipt of a timely filed petition and any supporting documentation, the provost shall forward copies of the petition and any supporting documentation received from the faculty member to the Chair of the Peer Review Advisory Committee, the dean of the college in which the aggrieved faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee of the grievant faculty member’s department/school, and/or any other legitimate respondent to the grievance.

Commented [AM16]: Delete reworded with bullets below and additions

Within five (5) working days of receipt of a filed petition, the provost shall forward the copies of the petition and any supporting documentation received from the faculty member to:

- the dean of the college in which the faculty member resides,
- the department chair/school director,
- if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
- and/or other respondents to the grievance.

The chair of the Peer Review Advisory Committee will provide each Advisory Committee member with copies of all correspondence.

14.2.4.2. THE COMMITTEE PROCESS

Upon receipt of a petition and any supporting documentation for peer review, the dean of the college in which the faculty member resides, the department chair/school director, the chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents may each file a written response to the petition, including supporting evidence, with the Peer Review Advisory Committee within ten (10) University working days of receipt of the faculty member's documentation. Any respondent filing a written response to the petition shall provide the grievant with a copy of said response. The grievant faculty member may respond in writing within ten (10) University working days of receipt of the response(s) from the dean, department chair/school director, chair of the Reappointment, Promotion and Tenure Committee, and/or other respondents. The chair of the Peer Review Advisory Committee will notify, in writing, all the parties described above of their right to submit a response and will provide each Advisory Committee member with copies of all correspondence.

Normally the Peer Review Advisory Committee will meet no more than ten (10) University working days after receipt by the committee's chair of the petition and all of the responses described in the previous paragraph.

Within ten (10) University working days of receipt of the faculty member's documentation from the provost, those noted below have a right to submit a written response to the petition and to include supporting evidence. The written response should be sent to the provost within 10 University working days of receipt of the faculty member's documentation

1. the dean of the college in which the faculty member resides,
2. the department chair/school director,
3. if the grievance is pertaining to tenure, promotion or reappointment, the chair of the Reappointment, Promotion and Tenure Committee
4. and/or other respondents to the grievance.

Within ten (10) University working days of receipt of the above noted responses, the grievant faculty member may respond in writing.

No more than ten (10) University working days following the above noted responses, the chair of the Peer Review Advisory Committee will convene the meeting of the committee.

The chair of the Peer Review Advisory Committee will convene the meeting of the committee. A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary. Based upon the written information it has received, the committee members will determine whether a *prima facie* case for a hearing by the Peer Review Committee is presented. All committee members present shall vote. The committee's determination shall be conveyed in writing to the petitioning faculty

Commented [KF17]: If the grievant files the petition electronically (proposed change to 14.2.3.1), there is no need for the provost to forward copies to these parties. The parties will already have the petition.

Commented [KF18]: If the grievance does not pertain to tenure, promotion, or reappointment, then other respondents to the grievance

Commented [AM19]: Delete reordered with some additions

Commented [KF20]: Are all these responses necessary for the peer review advisory committee to determine whether a prima facie case exists?

Commented [KF21]: Replace with "petition"

Commented [KF22]: In the paragraph above, the written response is sent to the Peer Review Advisory Committee.

Commented [KF23]: petition

member, to the president of Faculty Senate, and to the provost, all within three university working days of the committee's decision. If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee, accompanied by written reasons explaining the committee's decision. If the committee determines that a prima facie case was presented, the case shall be returned to the provost for further action. If there is a tie vote, the grievant faculty member's petition shall be forwarded to the provost for further proceedings with a finding that a prima facie case is presented. The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. If the petition has been dismissed, there shall be no further peer review proceedings. The provost is responsible for safekeeping the record

Commented [KF24]: Peer review advisory committee provides redacted copy of respondent's response to grievant.

Commented [AM25]: I worked on this section, but after reading 14.2.5.3. SCOPE OF REVIEW, 14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE (page 7) I'm not sure that any of this applies to the RPT decision.

My question is this, if the scope of the decision is what is stated in 14.2.5.3.1 then if a prima facia is found, then shouldn't the RPT committee reconvene with the written decision of the committee?

Because if a prima facia is found, then isn't the committee operating outside the boundaries of the policy? Shouldn't the committee be directed to work within the boundaries of the policy?

If so, then it seems the Scope section should within the committee process and the resolution by negotiation should only be included for the grievances that are not RPT decisions.

Commented [KF26R25]: Section 14.2.1 suggests that RPT matters fall under the purview of the peer review advisory committee, though this is not explicit.

STOP HERE

Below is what was drafted in April of 2020. Please read the note on page 4 before moving onto this section.

A quorum of the committee shall consist of four of the five members. In the case of a conflict of interest, alternate members may be used as necessary. All committee members present shall vote.

Based upon the written information received, the committee members will determine whether a prima facie case for a hearing by the Peer Review Committee is presented.

- If the Committee determines that no prima facie case was presented, the petition will be dismissed by the Committee. If the petition has been dismissed, there shall be no further peer review proceedings.
- If the committee determines that a prima facie case was presented or if there is a tie vote, the case shall be returned to the provost for further action per the procedure set forth in Section 14.2.4.3 Resolution by Negotiation

Within three (3) university working days of the committee's decision, the Committee will notify all parties of their determination in writing.

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

Commented [KF27]: The chair will be aware of the committee's decision. Should the Faculty Senate president be notified? (See paragraph at bottom of page 4.)

Commented [KF28]: Omit "or"

The entire committee file and record, including the petition and all copies of written statements and documents, shall be forwarded to the provost. The provost is responsible for safekeeping the record.

14.2.4.3. RESOLUTION BY NEGOTIATION

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation. The provost may consult with his/her staff, the deans of the University's colleges, and/or

Commented [KF29]: If the provost is named in the grievance, s/he has a conflict of interest.

other appropriate persons while making this decision. In that event the entire record may be reviewed by those consulted so that proper advice may be given.

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with the grievant faculty member for the purpose of seeking a mutually agreeable settlement. If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member. Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

Commented [AM30]: Delete, reordered below and some changes/additions

In the event that the Peer Review Advisory Committee determined that a prima facie case was presented, the provost may review the entire record to determine whether the petition might be resolved by negotiation.

Commented [AM31]: Within how many days?

In making this decision, the provost shall consult with all parties below and ensure all parties have a copy of the entire record

- the aggrieved faculty member
- the Chair of the Peer Review Advisory Committee,
- the dean of the college in which the aggrieved faculty member resides,
- the department chair/school director,
- and/or any other legitimate respondent to the appeal, including the chair of the Reappointment, Promotion and Tenure Committee if the grievance is pertaining to tenure, promotion or reappointment

Commented [KF32]: Omit "or"

If the provost determines that negotiation might resolve the matter, he/she or his/her designee shall negotiate with all parties noted above for the purpose of seeking a mutually agreeable settlement.

- If such a settlement is reached, it will be reduced to writing and signed by the provost and the faculty member.
- Upon settlement, the provost shall notify in writing all parties to the grievance.

Commented [KF33]: This represents a departure from existing language: the provost negotiates only with the aggrieved faculty member (see page 5).

Such an agreement shall not become binding on either party until approved by the university president and Board of Regents, if required. Approval of the Board of Regents is required only as to matters that the Board of Regents must approve, such as reappointment, promotion and grant of tenure.

SECTION 14.2

14.2.4.4. NON-RESOLUTION BY NEGOTIATION

If the petition for peer review is resolved by negotiation, there shall be no further peer review proceedings. If negotiation was not pursued by the provost or the matter was not successfully resolved by negotiation, the provost shall expeditiously forward the petition to the chair of the Peer Review Hearing Committee and to the president of Faculty Senate.

14.2.5. PEER REVIEW HEARING COMMITTEE

14.2.5.1. REPRESENTATION AT THE HEARING

The provost may designate him/herself, a dean of a college within the University, but not the college in which the grievant faculty member is assigned, or a department chair, but not the chair of the department

in which the grievant faculty member is assigned, to be the University representative before the Peer Review Hearing Committee.

14.2.5.2. TIMING OF THE HEARING

The Peer Review Hearing Committee shall proceed expeditiously to schedule a hearing and reach a decision.

14.2.5.3. SCOPE OF REVIEW

14.2.5.3.1. REAPPOINTMENT, PROMOTION AND/OR TENURE

When hearing a case involving denial of reappointment, promotion and/or tenure, the Peer Review Hearing Committee may receive evidence and consider only the following in order to determine whether or not the faculty member's rights have been violated:

- Whether or not the policies and procedures set forth in Sections 3, Evaluation; 4, Reappointment; 5, Promotion; 6, Tenure and/or 7, Appointment, Reappointment, Promotion, and Tenure for Librarians of this Handbook were correctly followed in reaching a decision affecting the faculty member's professional appointment;
- Whether or not the faculty member received a reasonable opportunity to present his/her side of the matter at issue; and/or
- Whether or not the decision affecting the faculty member's professional appointment was made in a fair and/or reasonable manner, i.e. whether there was some rational basis to support the decision.

14.2.5.3.2. ILLEGAL DISCRIMINATION

When hearing a case involving alleged illegal discrimination (except cases of alleged sexual harassment/gender discrimination which are covered by different procedures and not within the purview or responsibility of the Hearing Committee), the Hearing Committee shall determine whether there was illegal discrimination which affected the decision from which the appeal is taken, and if there was illegal discrimination, make a recommendation for a remedy.

14.2.5.3.3. VIOLATION OF PROFESSIONAL ETHICS AND RESPONSIBILITIES

When hearing a case involving alleged violation of professional ethics and responsibilities, the Hearing Committee shall be guided by Section 16.2 of this Handbook. The Hearing Procedures provided below apply.

14.2.5.3.4. TERMINATION FOR CAUSE

When the Hearing Committee is hearing a case of termination for cause, the Committee shall be guided by Section 10.8, Termination for Cause. The Hearing Procedures provided below are modified in Section 10.8.

14.2.5.3.5. TERMINATION FOR MEDICAL REASONS

When the Hearing Committee is hearing a case of termination for medical reasons, the Committee shall be guided by Section 10.5, Termination for Medical Reasons. The Hearing Procedures provided below apply.

14.2.5.3.6. PROGRAM REDUCTION AND FACULTY REASSIGNMENT

When the Hearing Committee is hearing a case of program reduction and faculty reassignment, the Committee shall be guided by Section 10.6, Program Reduction and Faculty Reassignment. The Hearing Procedures provided below apply.

14.2.5.4. HEARING PROCEDURES

14.2.5.4.1. QUORUM

A quorum of the committee shall consist of four of the five members. Alternate members may be used as necessary.

14.2.5.4.2. PRIORITY

Hearings involving non-reappointment or termination shall be given preference over all other cases.

14.2.5.4.3. STATEMENT AND WITNESS LISTS

The committee must request a written statement of the grievant's case and a written list of witnesses. The University representative must be given an opportunity to respond with a written statement of the University's case and a written list of witnesses. These statements and witness lists must also be exchanged between the grievant and the University representative.

14.2.5.4.4. CLOSED HEARING

Hearings will be closed unless both the grievant faculty member and the University representative agree to an open hearing. That agreement must be in writing and signed by both the grievant faculty member and the University representative, and will be subject to approval by the provost and the University president.

14.2.5.4.5. ADVISORS

The grievant faculty member may bring a person, including an attorney, to serve as an advisor. This shall be at the grievant faculty member's expense. If the grievant faculty member intends to bring an advisor, that fact shall be communicated to the Hearing Committee and to the University representative within five university working days of the day on which the grievant faculty member is asked to give the committee a list of witnesses. If the grievant faculty member brings an advisor, the University representative may bring an advisor, including an attorney if the grievant's advisor is an attorney. Neither advisor may

address the Hearing Committee nor question any witness(es); the sole role of the advisor shall be to advise the person to whom they are the advisor.

14.2.5.4.6. FORM AND PROCEDURE

Hearings shall be non-adversarial in form and procedure. The committee shall seek to learn the truth. The rules of evidence binding upon courts of law are not to be observed; however, the committee shall seek to keep the evidence received pertinent to the issue(s) raised in the proceeding.

14.2.5.4.7. EVIDENCE AND WITNESSES

The grievant faculty member may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. Thereafter the University representative may present evidence and call witnesses and submit documentation, all of which must be pertinent to the issue(s) raised. The Committee may call any witness(es) and request any documentation it deems appropriate and pertinent to its investigation. The grievant, the University representative, and the committee shall all be given the opportunity to question each witness before that witness is excused.

14.2.5.4.8. HEARING TRANSCRIPT

A complete transcript of the hearing shall be made, including all written documents submitted by any person or witness. The transcript shall be reduced to writing.

14.2.5.5. DECISION OF THE COMMITTEE

Following completion of the hearing and upon receipt of the complete transcript, the Peer Review Hearing Committee shall promptly meet to deliberate and reach a decision. The decision shall be determined, following discussion, by simple majority vote, which may be by secret ballot, including the vote of the committee chair. A tie vote must be reconsidered. In the event the final committee vote is a tie vote, the grievant faculty member's petition shall be dismissed. The committee may make the recommendation(s) it deems appropriate, within the scope of its charge as stated above. The decision and recommendations shall be in writing. The decision and recommendation(s) must be based upon written findings of fact, which may be a separate document or included in the decision and recommendation(s).

14.2.5.6. COMMITTEE REPORT

The Peer Review Hearing Committee's written findings of fact, decision and recommendation(s) shall be delivered to the University president, to the president of Faculty Senate, and to the grievant faculty member within five (5) University working days of reaching its decision. The University president and faculty member shall each receive a copy of the complete transcript of the hearing, including all documents received in evidence.

14.2.5.7. PRESIDENT'S DECISION

If the matter does not have to be presented to the Board of Regents for a decision, then upon receipt of the written findings of fact, decision and recommendation(s) of the Peer Review Hearing Committee, the president shall make a decision. If the matter requires action by the Board of Regents, the president shall formulate a recommendation to the Board of Regents. In doing so, the President may consult with the provost and with the deans of the University's colleges, and in that event the provost and the deans may

have access to the complete transcript, documents received in evidence, and to the written findings of fact, decision and recommendation(s). The president shall communicate his/her decision or recommendation to the grievant faculty member, to the provost and to the Board of Regents.

14.2.5.8. BOARD OF REGENTS' DECISION

If the decision must be made by the Board of Regents, the president shall forward his/her recommendation and all previous recommendations pertaining to the hearing to the Board of Regents for final action. The Board of Regents shall deliberate the case and reach its decision. The Board of Regents shall communicate its decision to the president, the provost and to the faculty member, which may be through the president. The president shall implement the Board's decision.

14.2.5.9. COMMUNICATION

In the event that the case provides instruction to any aspect of the University and its procedures, the president may provide a means for that instruction to be communicated to appropriate persons, with confidentiality of the Peer Review Process otherwise maintained.

14.2.5.10. KEEPING OF THE RECORD

The President is responsible for safekeeping the record.

14.3.

COMPLAINT PROCESS

The following process will apply to all complaints other than those heard by the peer review committees and those not covered elsewhere in this Handbook.

14.3.1. PROCESS APPLICABILITY

A faculty member initiates the complaint process when a concern can no longer be resolved through informal discussion and is not governed by the peer review process.

14.3.2. COMPLAINT PROCESS PROCEDURE

The faculty member addresses the complaint in writing to his/her department chair, with copies to the appropriate dean and the provost. The complaint should identify clearly the nature of the concern and record any earlier attempts to resolve the complaint through discussion.

If the matter remains unresolved at the chair's level, the faculty member may address the complaint in writing to the appropriate dean with copies to the provost and the department chair.

If the matter remains unresolved at the dean's level, the faculty member may address the complaint in writing to the provost with copies to the department chair and the dean.

The provost or an associate or vice provost assigned at the provost's discretion will provide oversight throughout the complaint process and will ensure that careful consideration is given to the complaint at every level without prejudice to the complainant.

The department chair, the dean, and the provost are required to respond to the complainant in writing.

15.

14.3.3. COMPLAINT ADVISORY COMMITTEE

Each college shall elect one at-large member to serve on the Complaint Advisory Committee. The members shall serve staggered two-year terms. This election will be conducted by the Faculty Senate at the time of other Faculty Senate elections. Members of the Complaint Advisory Committee will be full-time tenured faculty.

The vice president of the Faculty Senate shall be responsible for calling the first meeting of the Committee, which will then choose a chair from among its elected members. The vice president of the Faculty Senate will also act as an alternate member of the Complaint Advisory Committee should one be needed because of illness or conflict of interest. The Complaint Advisory Committee may be called on to review any complaint and make recommendations to either the department chair or the dean during the procedure outlined in Section 14.3.2, above. If the complaint is addressed in writing to the provost, the provost is required to consult the Complaint Advisory Committee, which will then make recommendations in writing to the provost for resolution of the complaint. The provost and the Complaint Advisory Committee will work as expeditiously as possible to resolve the complaint promptly. The Complaint Advisory Committee shall be provided copies of the written complaint, all written correspondences of the administrator(s) and the complainant, and if the Committee considers it necessary, it may meet with the complainant and others mentioned in the complaint. The complainant and the vice president of Faculty Senate shall also receive a copy of the Complaint Advisory Committee's recommendations.

A member of the Complaint Advisory Committee may not hear a complaint if he/she is from the same department as the complainant. In this event, the vice president of the Faculty Senate will serve as alternate.

COPYRIGHTS

POLICY NUMBER: HYB-COPYRIGHTS

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

A. RIGHTS AND OBLIGATIONS OF THE PARTIES

1. Traditional Works

In keeping with longstanding academic custom, the 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, staff, and students. 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.

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.

In the case of Traditional Works that are instructional materials to the administration of an academic program (such as, but not limited to, laboratory manuals, placement tests, internship handbooks), the Creator(s) will grant to NKU a perpetual, royalty-free right and license, at no cost, to use, reproduce, modify, and create derivatives of such works for all traditional, customary, or reasonable academic purposes of the University.

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 through its designated agent, the NKU Research Foundation (NKURF), 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. 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 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.

4. University Supported Works

The University claims copyright to works produced with significant use of its 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 significant use of University resources for purposes of this paragraph. All proposals for use of extraordinary University resources must be approved in advance by the Office of Graduate Education, Research and Outreach by recommendation of the Intellectual Property Committee.

Proposals for the use of significant 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. In the case of Traditional Works, regardless of the original purpose, the Creator shall grant, or use best efforts to cause others to grant, to the University, at no cost, a perpetual, royalty-free right and license to use, perform, display, copy, or reproduce such works, for all traditional, customary or reasonable academic or research purposes of the University.

In the case of Traditional Works that are instructional materials to the administration of an academic program (such as, but not limited to, laboratory manuals, placement tests, internship handbooks), the University shall also have a perpetual, royalty-free right and license to use, reproduce, modify, and create derivatives of such works, for all traditional, customary, or reasonable academic purposes of the University.

- b. The Creator shall report promptly all copyrightable works to which the University claims ownership under this policy 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 would claim copyright ownership in a work, the work should be disclosed.

- c. The Creator shall assign title to the work to the University, with the exception of Traditional Works as described above.
- d. 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.
- e. 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.
- f. The Creator shall receive a share of any royalties or licensing fees that may be due in accordance with an applicable agreement.
- g. The Creator shall receive title to any work for which the University chooses not to retain title.
- h. 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 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.

- c. The University shall give notice to a Creator(s) of the intention of the University to retain title to a work.
- d. 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 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 invention or as a result of a third-party commercialization partnership) and
- b. any fees or costs directly attributable to the university invention being licensed. Examples of such direct fees are patent filing fees, fees for patent searchers and legal advice, fees arising out of litigation, copyright registration fees, trademark registration fees, fees from commercialization, or marketing costs. Indirect university overhead and other university costs normally associated with the operation of a university and not directly attributable to the university invention shall not be deducted from gross royalties or otherwise allocated to costs or fees associated with the university invention.

For all university inventions for which the University receives royalties, the royalties received by the University shall normally be distributed as follows:

- a. Zero dollars (\$0) to two hundred and fifty thousand dollars (\$250,000) total Net Royalties:
 - 60% to the Creator(s)
 - 40% to NKURF
- b. 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 NKURF to fund provisional patent applications
 - 15 % to the Office of Graduate Education, Research and Outreach to provide commercialization support, such as market analysis and prototype development

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. College and department 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.

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 & 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 & Patents policy.

This exemption does not apply to written articles, publications, or presentations describing patentable inventions covered by the NKU Inventions & Patents policy; provided the invention has been properly disclosed to NKU per the Inventions & 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. Such a request must be approved by the Provost, and will 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. RESEARCH AGREEMENTS INVOLVING COPYRIGHT

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. 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 considered inventions and all rights are retained by NKU and NKURF.

F. COPYRIGHT NOTICE

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

Copyright © (year), Northern Kentucky University. All rights reserved.

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 significant 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 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.

Work Covered by Other Agreements

In some cases, copyright ownership and 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 the both the Creator and University.

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.

Extraordinary Resources

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 & Technology in Education \(CITE\)](#); 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 Extraordinary Resources for purposes of this Copyrights policy.

Extraordinary Resources should be considered the allocation of a “substantial” amount of money that has 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; nonetheless, the University reserves the right in special cases to designate some or all of a start-up package as “extraordinary resources” and to require recipients to complete a Standard Copyright Agreement.

For purposes of this Copyrights policy only, government or private sponsored research monies shall not constitute a University investment of Extraordinary 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

A. OFFICE OF GRADUATE EDUCATION, RESEARCH AND OUTREACH

The Office of Graduate Education, Research and Outreach shall have overall responsibility for administration of Northern Kentucky University’s (NKU) copyright program, including assuring that valuable property rights are not lost to the University. Specific responsibilities of this office shall be to do 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 University resources.
3. Develop and approve agreements for the use of 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 marketing, licensing, or distributing copyrightable works in which the University retains title.

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.

B. UNIVERSITY RESEARCH FOUNDATION BOARD

The Northern Kentucky University Research Foundation (NKURF) board shall have the responsibilities for copyright program administration that are set forth in this policy and in addition shall advise the Vice Provost of Graduate Education, Research and Outreach on the administration of University copyright policy.

V. COMMITTEE

There shall be established a university Intellectual Property Committee, which shall report to the Vice Provost of Graduate Education, Research and Outreach (VP GERO) or designee. The committee shall be composed of no more than five (5) members, three (3) appointed by the VP GERO or their 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 VP GERO or their designee as to whether the University should:
 1. Prepare and prosecute a provisional patent or other intellectual property application on a university invention.
 2. Determine if a reported invention or discovery falls outside the scope of this policy (i.e., is not a university invention).
 3. Waive some or all University rights in a university invention to the Innovator(s).
- B. Act as a fact-finding body and make recommendations to the VP GERO or their designee on any disagreements arising out of the administration of the University's Inventions & Patents and Copyrights policies.
- C. Resolve disputes between the Creator and the University that cannot be resolved by NKURF.

VI. REFERENCES AND RELATED MATERIALS

RELATED POLICIES

Inventions & 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

PRESIDENT

Signature

Date

Ashish K. Vaidya

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.)

VICE PRESIDENT & CHIEF STRATEGY OFFICER

Signature

Date

Bonita J. Brown

INVENTIONS & PATENTS

POLICY NUMBER: HYB-INVNTSPATNTS

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) 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 normal scholarly activities, NKU faculty, staff, other employees, and students add to the knowledge base. Some of these activities are supported by NKU from its own resources and by contracts or grants with outside sponsors. NKU should disseminate such knowledge, to the extent allowed and possible, for the public good. In this context, facilitating the process whereby NKU creative and scholarly works may be put to public use and 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 scholars and employees to any inventions or discoveries that could be protected and commercialized, including, but not limited to, patentable materials (hereinafter referred to as "intellectual property"), resulting from their work. Copyrightable works are covered in a separate policy ([add link to Copyrights policy](#)). The revenues from intellectual property owned by NKU are distributed according to the formula set out in this policy.

A. RIGHTS AND OBLIGATIONS OF THE PARTIES

All rights to and interests in university inventions shall be the sole property of Northern Kentucky University (NKU). All such rights and interests may be licensed, transferred, assigned, sold or otherwise disposed of, in whole or in part, in accordance with the University's policies and related legal and contractual obligations and procedures.

1. Innovator Obligations and Rights

a. Innovator Obligations

- i. The Innovator shall report promptly to the Office of Graduate Education, Research and Outreach all university inventions. The Innovator makes this report by completing and submitting the appropriate [Intellectual Property Disclosure Form](#).

- ii. The Innovator shall assign all rights, title, and interest in the university invention to NKU.
- iii. The Innovator shall cooperate:
 - (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 university invention;
 - (c) In reasonable marketing efforts related to the invention or discovery;
 - (d) In providing any information, data, or knowledge related to the invention or discovery necessary for the University to evaluate the commercial potential of the University's rights in the protectability of and the technical feasibility of the university invention or discovery;
 - (e) To execute an agreement acknowledging an obligation to execute all papers necessary to obtain appropriate legal protection for the university invention or discovery.
- iv. If, at their sole discretion, the Innovator wants to assign to NKU their rights to intellectual property developed that may not be otherwise assigned to NKU, they may do so, provided that the institution reviews and accepts it.

b. Innovator Rights

- i. Upon disclosure to NKU of a university 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 university 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 university invention.
- iii. The Innovator shall receive title to any university 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.

2. University's Obligations

- a. The University shall keep the faculty, staff, and students apprised of the University's policy on inventions and discoveries through means that include a website containing links to relevant University rules and any associated commentary and forms.
- b. After a university invention is reported, the University shall act in a timely manner to determine whether the University chooses to retain title and to determine whether an intellectual property application should be filed and to inform the Innovator of its determination.
- c. For any university 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 university invention for which the University chooses not to retain title subject to the conditions set forth in this policy.

B. INTELLECTUAL PROPERTY RESEARCH 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 NKURF may retain assistance from third-parties in the course of this process; these person(s) will be under confidentiality 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 innovation 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 Research 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 innovation be developed such that there may be commercial value, and said improvement was made with University resources, the innovation should be reported with a new Intellectual Property Research 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 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 NOTICE TO INNOVATOR by providing a copy of such NOTICE and the decision therein conveyed.

C. 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.

D. DEVELOPMENT OF TECHNOLOGY

Upon ELECTION of the Invention in the Intellectual Property Disclosure, the Office of Graduate Education, Research and Outreach 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.

E. ROYALTIES

“Net Royalties” shall be defined as gross royalties received by the University 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) and
2. any fees or costs directly attributable to the university invention being licensed. Examples of such direct fees include, but are not limited to, patent filing fees, fees for patent searchers and legal advice, fees arising out of litigation, trademark registration fees, fees from commercialization, or marketing costs. Indirect university overhead and other university costs normally associated with the operation of a university and not directly attributable to the university invention shall not be deducted from gross royalties or otherwise allocated to costs or fees associated with the university invention.

For all university inventions for which the University receives royalties, the royalties received by the University shall normally be distributed as follows:

1. Zero dollars (\$0) to two hundred fifty thousand dollars (\$250,000) total net royalties:
 - 60% to the Innovator
 - 40% to the NKURF
2. 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 Graduate Education, Research and Outreach to provide commercialization support, such as market analysis and prototype development

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. College and department 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.

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.

F. RESEARCH AGREEMENTS INVOLVING INTELLECTUAL PROPERTY RIGHTS

It is not uncommon for university investigators to conduct research that is funded by private industry and 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 university 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 university inventions are appropriately protected, all agreements with private industry, with foundations, or with other universities utilizing University resources to conduct research shall be reviewed by the Office of Graduate Education, Research and Outreach and with other institutional representatives, as appropriate.
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. Each individual should (a) make the nature of their obligations to NKU clear to any third party for whom the individual expects to consult and (b) inform such third parties of NKU's Inventions & Patents and Copyrights policies, 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.

G. 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/are 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. ENTITIES AFFECTED/APPLICABILITY

This policy applies to all discoveries, inventions, or patents that result from research or investigation conducted by the Innovator(s), including 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 volunteers (collectively, referred to herein as "non-faculty staff") in any laboratory, research facility, or other facility of the University or with funding, equipment, or infrastructure provided by or through the University; or acting within the scope of their employment, through activities carried out in furtherance of their University responsibilities, regardless of the location of the research or the nature of the funding, equipment, or infrastructure used.

Any such discovery, invention, or patentable subject matter shall be defined as a "university invention."

Students play an important role in innovation at the University, and the University recognizes that inventions may result from student coursework. A student who was not performing work for the University and did not make significant use of University resources in developing the invention may request that the University release its rights in the invention and assign the rights to the student. Significant use of University resources does not include a student's use of resources to fulfill course requirements (unless it is a research intensive course), nor does it include nominal or incidental use of resources, including the use of routinely available office equipment, assigned office space, desktop and laptop computers, telephones, library facilities, and copiers. Funding obligations may require that NKU take assignment of innovations arising from certain agreements. To the extent reasonable and possible, NKU will notify students of this before work has started.

III. RESPONSIBILITIES/ADMINISTRATION

The Office of Graduate Education, Research and Outreach shall have overall responsibility for administration of Northern Kentucky University's (NKU) patent program. Specific responsibilities of this office, which may be delegated to an intellectual property officer, shall be to do the following:

- A. Act upon recommendations of the NKU Research Foundation (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 & Inventions and Copyrights policies, and as the liaison to Kentucky Commercialization Ventures or any other third-party commercialization partner.
- E. Receive reports of all university inventions.
- F. Exercise responsibility for assessing the commercial potential of inventions and discoveries.
- G. Control the preparation and prosecution of intellectual property applications and maintenance of any issued intellectual property assets on inventions and discoveries governed by this policy, in collaboration with the Office of General Counsel and outside contracted vendors as appropriate.

- H. Exercise responsibility for marketing inventions and discoveries.
- I. Approve terms for licensing, sale, assignment, transfer, or other disposition of the University's intellectual property rights in inventions, discoveries, and patents.
- J. Comply with legal and sponsor obligations related to the intellectual property.

IV. INTELLECTUAL PROPERTY COMMITTEE

There shall be established a University Intellectual Property Committee, which shall report to the Vice Provost of Graduate Education, Research and Outreach (VP GERO) or designee. The committee shall be composed of no more than five (5) members, three (3) appointed by the VP GERO or their 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 VP GERO or their designee as to whether the University should:
 - 1. Prepare and prosecute a provisional patent or other intellectual property application on a university invention.
 - 2. Determine if a reported invention or discovery falls outside the scope of this policy (i.e., is not a university invention).
 - 3. Waive some or all University rights in a university invention to the Innovator(s).
- B. Act as a fact-finding body and make recommendations to the VP GERO or their designee on any disagreements arising out of the administration of the University's Inventions & Patents and Copyrights policies.
- C. Resolve disputes between the Innovator and the University that cannot be resolved by NKURF.

V. REFERENCES AND RELATED MATERIALS

REFERENCES & FORMS

[Intellectual Property Research 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 & PATENTS

PRESIDENTIAL APPROVAL

PRESIDENT

Signature

Date

Ashish K. Vaidya

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.)

VICE PRESIDENT & CHIEF STRATEGY OFFICER

Signature

Date

Bonita J. Brown