

# Intellectual Property Policy

## Summary

Columbus State University's policy on intellectual property explains the rights of intellectual property and the revenue distribution, if applicable.

## Purpose

The purpose of this document is to describe the definitions and stakeholders related to intellectual property and this policy and the aspect of rights and revenue as they relate to intellectual property.

## Policy

### I. Preamble

Columbus State University is dedicated to teaching, research and the extension of knowledge to the public. Its personnel recognize as two of their primary objectives the creation, development and production of new knowledge and the dissemination of both old and new knowledge. Inherent in these objectives is the need to encourage the development of new and useful materials, devices, programs, processes, and other inventions and creations, some of which may have potential for commercialization, and/or the production and publication of creative and scholarly works and educational materials. CSU believes such activities:

1. Contribute to the professional development of the faculty, staff and students involved;
2. Enhance the reputation of the University;
3. Provide additional educational opportunities for participating students; and
4. Promote the general welfare of the public at large.

Patentable inventions and copyrightable materials often come about because of the activities of CSU faculty, staff and students who have been aided by the use of CSU resources. As part of the CSU's mission, it is important to insure the utilization of such inventions, creations and materials for the public good and to expedite their development and delivery to the public.

At the same time, the CSU encourages the protection of the rights and privileges, and endorses the initiative and incentive of the Creator(s) so that their abilities, as well as those of all other faculty, staff and students, are further stimulated and rewarded.

CSU recognizes the publication of scholarly works as an integral part of the processes of teaching, research and service. Therefore, the University encourages faculty, staff and

students to regularly prepare for publication, either through individual or collaborative effort and initiative, articles, pamphlets, books, works of art and other scholarly works which may be subject to copyright and which may generate royalties for the Creator.

Publication may also result from work supported either partially or completely by CSU. With the advent of current and future technology, the variety and number of materials that might be created in a university community has increased significantly, causing the ownership of such copyrightable materials to become increasingly complex.

CSU strives to be at the forefront of teaching and to provide diverse high-quality learning environments. To achieve these goals, CSU encourages and provides incentives for innovators and creators in the development of improved educational materials. Through the efforts of faculty and staff, digital and other storage, and transmission media will have an increasing role in expanding educational effectiveness and accessibility. When such materials are used to expand programs outside the traditional campus, they deserve Intellectual Property (IP) protection.

CSU recognizes the need for enhanced development and dissemination of software technology as a means of expressing both old and new knowledge. CSU is also aware of the dynamic nature of software and that the value of such IP is derived from the ability of its owner to control its use. Indeed, its value is directly related to the degree of protection it enjoys under the law. CSU encourages the protection of such expressions of knowledge by the utilization of appropriate IP laws and the creation of comprehensive software technology transfer policies and procedures.

The foregoing considered, and in order to establish the respective rights and obligations of the University and its faculty, staff and students with regard to current and future Intellectual Property, CSU does hereby establish the following Intellectual Property Policy.

## II. Definitions

1. **“Commercialization”** means the process of marketing and licensing Intellectual Property to parties outside CSU who, in turn, will develop products or services based on that IP to sell or license to others. By way of counter-example, this term does not apply to CSU offering a course or seminar for a fee.
2. **“Copyrighted Materials”** shall include the following: (i) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and proposals; (ii) lectures that are written, recorded or otherwise captured, musical or dramatic compositions, unpublished scripts; (iii) films, filmstrips, charts, transparencies, and other visual aids; (iv) digital video and audio discs and cassettes; (v) live video and audio broadcasts; (vi) programmed and instructional materials; (vii) mask works; (viii) research notes, research data reports, and research notebooks; and (ix) other materials or works other than software, which qualify for protection under the copyright laws of the United States (see 17 U.S.C. 102 et seq.) or other protective statutes whether or not registered there-under.

3. **“Creator”** means a member of the CSU faculty, staff, or student body who creates or develops an invention, as defined under the U.S. patent law, or who participates in the creation of a copyrightable work, under U.S. copyright law, or both. One is a participant in creating a copyrighted work when one makes an original work of authorship (or part thereof) fixed in any tangible medium of expression from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Being an editor or otherwise facilitating a creation does not ordinarily qualify one as a “Creator.” The term Creator shall be understood to refer to either singular or multiple creators.
4. **“CSU Research and Service Foundation, Inc.”** (CSURSF) is the entity formed for the purpose of evaluating, administering, owning and licensing IP created by CSU faculty, staff and/or students. CSURSF is a non-profit organization whose sole purpose is to support CSU.
5. **“Disclosure Form”** is the document by which faculty, staff and/or students disclose to the CSURSF the project or program being conceived of or developed. This document is due before work begins on such project or program.
6. **“Faculty member, staff member and student”** shall include, for the purposes of this policy, students who are enrolled for any course at CSU, as well as all faculty or staff members who are employed on a full- or part-time basis by CSU.
7. **“Individual Efforts”** are those activities directed toward a research project or a creative project which are initiated and undertaken by a CSU faculty or staff member and/or student during which:
  1. only incidental use of University resources is made;
  2. the project is developed on one’s own time and is not in accordance with the terms of a sponsored project; and
  3. the project is not undertaken in whole or in part as a University assignment.
8. **“Intellectual Property”** shall be deemed to refer to copyrighted materials, patentable processes or materials, software, trademarks, and trade secrets, whether or not formal protection is sought.
9. **“Lead Creator”** shall be the person in charge of the project or program which develops the IP. There may be more than one Lead Creator on a project or program, however, this must be specified in the Disclosure Form.
10. **“Mask Work”** means a series of related images, however fixed or encoded: (i) having or representing the predetermined, three dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of semiconductor chip product; and (ii) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product (See 17 U.S.C. 901).
11. **“Net Revenue”** shall mean the revenue received through commercialization of any IP less the associated expenses which may include, but not be limited to, patent costs, attorney’s fees, marketing costs, reproduction, mailing, consumables, accounting costs, unreimbursed development costs, etc.
12. **“Novel Plant Variety”** means a novel variety of sexually reproduced plant (See 7 U.S.C. 2321 et seq.).

13. **“Patentable Materials”**\* shall be deemed to refer to items which reasonably appear to qualify for protection under the patent laws of the United States or other protective statutes whether or not patentable there-under. These are to include Novel Plant Varieties and Patentable Plants.
14. **“Patentable Plant”** means an asexually reproduced distinct and new variety of plant (See 35 U.S.C. 161).
15. **“Software”** shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term “computer program” shall mean a set of instructions, statements or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.
16. **“Sponsored Efforts”** are those research and other projects undertaken by faculty, staff and/or students which are paid for, either wholly or substantially in part, by outside entities. Such entities may include, but not be limited to, governmental, corporate, Defense Department, or private foundation. A sponsored effort may be in the form of a grant or a contract whose purpose is to produce a result through research, writing, programming, construction or other effort.
17. **“Trademarks”** shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University System of Georgia or any of its institutions (see 15 U.S.C. 1127).
18. **“Trade Secrets”** means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons, who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (See O.C.G.A 10-1-761).
19. **“University-Assigned Efforts”** are those efforts which the University assigns to a College, department, specific faculty member(s), staff, and/or student(s). The assignment may be either explicit, as in a directive from the president, provost, a dean, department chair or other administrative or governance body, or implicit, as in an effort undertaken as a part of one’s job. Excluded are those scholarly and creative works produced under the general obligation faculty and students have for developing such works which include, but are not limited to, textbooks, associated supplementary material, dissertations, class assignments, other books, musical compositions, works of art, and journal articles.
20. **“University-Assisted Efforts”** are those undertaken by faculty, staff and/or students on their own initiative which receive institutional support (financial or otherwise) or use institutional resources in more than a purely incidental way. Such resources include, but are not limited to, use of funding provided by the University or a University-associated foundation, use of University-paid time within the employment period and/or by others involved, use of support staff

and/or students, and use of University facilities other than one's office and the CSU library.

21. **“University Managed/Operated Efforts”** are those in which a department is expected to develop IP to help carry out its primary mission and to assist in defraying departmental expenses. The University, Faculty and Staff recognize that these departments include elements that go beyond the traditional teacher/student/classroom relationships, though those elements are included and considered of primary importance as well. Departments that fit this category include, but are not limited to, the Coca Cola Space Science Center, Oxbow Meadows, The CSU Social Research Center, and the Cunningham Center.

**\*Note:** “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.” United States Code Annotated, Title 35, Section 101, as amended.

### **III. Intellectual Property Committee**

#### **Composition**

Intellectual Property activities at CSU shall be under the general oversight of an institutional Intellectual Property Committee (IPC). This committee shall be appointed by the president and shall consist of nine (9) members as follows:

1. up to six faculty with at least one from each colleges
2. up to three staff with at least one each from the offices of the provost and the vice president of business and finance.
3. up to one student

Ad hoc advisors may be added by the chair at any time to consider a particular case if necessary. Five members shall constitute a quorum. The chair shall be elected by the IPC and shall serve as chair for the duration of his/her term.

Term length shall be three years with staggered term lengths for the initial committee members. Members may request to remain on the IPC for successive terms subject to the approval of the President.

#### **Duties of the Intellectual Property Committee**

1. To advise the President on policy matters relating to Intellectual Property;
2. To implement the IP Policies as defined herein;
3. To recommend IP Policy revisions and amendments as it deems necessary;
4. To arbitrate disputes over IP;
5. To approve deviations from the IP policy; and
6. To review IP that is referred to it through the disclosure process.

## **Meetings**

The IPC shall meet as necessary but at least once during the academic year.

## **IV. Intellectual Property Management**

The IPC is responsible for implementation of the University's Intellectual Property Policy. CSURSF is responsible for determining whether or not to administer such Intellectual Property by undertaking the efforts necessary to protect and/or license, or otherwise commercialize, that IP.

### **1. Management of Sponsor-Supported Efforts**

IP created through Sponsor-Supported Efforts, subject to provisions of the Sponsor, shall be managed by CSURSF, should CSURSF opt to do so.

### **2. Management of University-Assigned Efforts**

IP created through University-Assigned Efforts shall be managed by CSURSF, should CSURSF opt to do so.

### **3. Management of University-Assisted Individual Effort**

IP created through University-Assisted Efforts shall be managed by CSURSF, should CSURSF opt to do so.

### **4. Management of Individual Efforts**

It shall be the responsibility of the Creator(s) to demonstrate that IP developed as a result of individual efforts while employed by the University meets the criteria set forth in section 2(G). In each case, when agreed to by the IP Committee, the IP will be acknowledged as belonging to the Creator to dispose of as the Creator sees fit.

If both the Creator and CSURSF agree in writing, Individual Effort IP may be managed by the CSURSF on the Creator's behalf. For purposes of income distribution such IP managed by the CSURSF shall be treated as University-Assisted Intellectual Property.

### **5. Declined Intellectual Property**

Whenever CSURSF elects not to manage Intellectual Property, or elects to cease managing Intellectual Property that is at the time under its purview, such Intellectual Property, subject to any obligations to a sponsor, may be assigned by CSURSF to the Lead Creator to dispose of as the Lead Creator sees fit.

## **V. Determination of Rights and Equities in Intellectual Property**

### **1. Sponsor-Supported Efforts**

Sponsored project agreements may contain specific provisions with respect to ownership of IP developed during the course of such work. Should ownership of any IP produced be shared between the sponsor and CSU or individual performing the work, then ownership of the university/individual's portion shall vest in CSU.

Income, if any, from such IP developed from Sponsor-Supported Efforts shall be shared, subject to the sponsor agreement, in accordance with Section 6.

## **2. University-Assigned Efforts**

Ownership of IP developed as a result of University-Assigned Efforts, including any effort normally associated with one's discipline and position, shall reside with the University. Copyrightable works created by an employee in the course of that employee's employment are considered to be works made for hire under copyright law, with ownership vested in the employer. The general obligation among faculty and students to produce scholarly and creative works, such as textbooks and associated supplementary material, dissertations, other books, musical compositions, works of art, and journal articles does not constitute a specific assignment for this purpose and would constitute an Individual Effort.

Work supported by CSU or CSU Foundation grants or stipends shall be considered University-Assigned Efforts unless the work falls under the general obligation to produce scholarly and creative works.

Income, if any, from such IP developed from University-Assigned Efforts shall be shared as described in Section 6.

## **3. University-Assisted Efforts**

Ownership of IP developed by CSU employees or students through University-Assisted Efforts as defined in Section 2(T) shall reside with the University, unless the CSURSF determines that the IP is not commercially viable at which point ownership shall be assigned to the Creator.

Income, if any, from such IP developed from University-Assisted Efforts shall be shared as described in Section 6.

## **4. Individual Efforts**

Ownership of IP developed by University personnel shall reside with the Creator(s) of such IP provided that it meets the definition of Individual Efforts in Section 2(G) and that the Creator(s) has decided not to use the CSURSF to commercialize the IP.

It shall be the responsibility of the Creator of the IP, if requested, to demonstrate that this classification applies to the IP.

## **5. University-Managed/Operated Efforts**

Ownership of IP developed by University-Managed/Operated Efforts is subject to the same considerations and definitions as those described above and defined in Section 2(U) and shall reside with the University.

Income, if any, from such IP developed by University Managed and Operated Efforts shall be shared as described in Section 6.

**VI. Distribution of Income**

Net Revenue generated from Intellectual Property administered by CSURSF shall be shared on the following basis:

	<b>Creator</b>	<b>Creator's Department</b>	<b>Creator's College</b>	<b>Creator's Research Efforts</b>	<b>CSURSF</b>	<b>Provost's Office for Faculty Research &amp; Development</b>
Sponsored	65%	10%	5%	5%	5%	10%
Univ.-Assigned	50%	15%	10%	10%	5%	10%
Univ.-Assisted	65%	10%	5%	5%	5%	10%
Individual Efforts	100%	-	-	-	-	-
Univ.-Managed/Operated						
CCSSC	15%	80%	-	-	5%	-
Cunningham	15%	80%	-	-	5%	-
SRC	10%	60%	-	-	5%	25%
UITS	15%	85%	-	-	5%	-

Shares which go to the Creator’s academic Department and College, and to Faculty Research and Development shall only be used to fund new research or to pay for faculty development opportunities such as scholarly conferences.

Should a person in an academic unit not affiliated with a College create intellectual property under the guidelines above, which is then commercialized, the share which would have gone to the College will instead go to the Provost for further faculty research and development. The library shall be treated as a college for purposes of this section of the policy.

The shares going to the Creator’s Department shall be administered by the administrative department head or the academic department chairperson. The share going to the Creator’s College shall be administrated by the Dean of the College, and the share going to Faculty Research and Development shall be administered by the Provost. The share designated for the Creator’s Research Efforts may only be used for future research efforts



by the project's Lead Creator or for professional development and is only in effect while the Lead Creator(s) is employed by, and conducting research at, the University. If the Lead Creator leaves the employ of the University, then this share is returned to CSURSF.

The share going to the CSURSF shall be used for administrative expenses including, but not limited to, tax return preparation, audits, and commercialization efforts.

The Creator's share of Net Revenue shall be divided equally among joint Creators of the IP unless a written statement signed by all joint Creators which provides for a different distribution formula is filed with CSURSF prior to the first distribution of shared Net Revenue.

*It is the Lead Creator's responsibility to reach a signed income distribution agreement with all co-creators, including students, prior to the commencement of a project. This agreement must be filed with the CSURSF.*

In the event the Creator, or one of the Creators leaves the University, that Creator will then receive half of their original share. The other half shall then go to the Faculty Research and Development fund. The only exception being a student Creator who graduates, in which case the student shall continue to receive their full share for 10 years after graduating and then shall receive a half share with the other half going to the Faculty Research and Development fund.

In the event of the death of a Creator, any payment due, or which would have been due to such Creator, shall be made to the Creator's estate for a period of ten (10) years from the date on the Creator's death certificate. After the ten year period, those royalties shall revert to CSURSF.

In the event the terms of any license of IP provide CSURSF with equity, or an option to acquire equity in the entity which licenses the IP, the share of such equity due to the Creator as identified above will be distributed to the Creator when such equity is transferable or convertible to cash.

In the event that IP is licensed to the Creator, the Creator shall waive the right under the University Intellectual Property Policy to receive the Creator's share of Net Revenue specified above. Additionally, if the Creator owns or controls 25% or more of the entity that licenses the IP, the Creator shall waive the right under this University IP Policy to receive the Creator's share of Net Revenue specified above.

In the event the Creator does not receive the Creator's share, that share shall be distributed to any joint Creators identified in writing in the proportions specified in the above chart, or if there are none, shall revert to CSURSF.

## **VII. Disclosure of Intellectual Property**

All faculty, staff and students who initiate work on a research or other project which could produce IP are required to disclose their efforts at the outset of the project to the CSURSF.

The purpose of IP Disclosure is to record IP that may be, is being, or was created and the circumstances under which it is or was created. It provides the basis for a determination of patentability, for drafting a patent application, and/or for registering a copyright. It also provides the initial basis for determining the commercial viability of the possible IP to be created.

An Intellectual Property Disclosure Form needs to be completed when something new and useful has been conceived of or developed, or when unusual, unexpected, or unobvious research results have been achieved.

An Intellectual Property Disclosure Form also needs to be completed when other forms of IP are created by faculty, staff, or students, unless the works are specifically excluded as noted in Sections 2, 4 and/or 5.

Once the form is signed by the Creator, the form and supporting documents should then be submitted to the CSURSF.

Disclosures are not required for Individual Efforts or for scholarly and creative works produced under the general obligation faculty and students have for developing such works which include, but are not limited to, textbooks, associated supplementary material, dissertations, class assignments, other books, musical compositions, works of art, and journal articles.

## **VIII. Dispute Resolution and Appeals**

All cases in which questions arise as to equities, rights, division of royalties, or any other Intellectual Property-related matter shall first be referred to the Intellectual Property Committee for consideration, interpretation of policy, and decision.

CSU Faculty, staff and students shall have the right to appeal the decisions of the Intellectual Property Committee. Any appeal of an Intellectual Property Committee decision shall be first to the Provost, then, if one desires, to the President, and finally to the Board of Regents.

Appeals within the CSU must be made in writing within thirty (30) days of written notice of a final decision and will be adjudicated within 30 days after receipt by the entity at the next level in the appellate process. Appeals to the Board of Regents shall be made in accordance with Article IX of the Bylaws of the Board, which requires that all appeals be filed within twenty (20) days of the final decision of the President of the University.

## **IX. Collaboration**

Collaboration between CSU personnel and persons not employed or associated with the University, including researchers at other universities or companies can result in the development of IP jointly owned by CSU and other persons or their employers. Protection and commercialization of such joint Intellectual Property can be difficult without extensive cooperation and written agreement among the Creators. Accordingly, it is important for University personnel involved in, or contemplating collaborative efforts with outside entities which may result in the development of IP to advise their immediate supervisors, the Office of Research Services and Sponsored Programs, and the Director of the CSURSF of such activities. An agreement in writing between the parties will need to be signed prior to the collaboration.

## **X. Confidentiality**

Certain contractual obligations and governmental regulations may require that information be maintained in confidence. Additionally, some works, such as certain computer software, may best be protected and licensed as trade secrets, and inventions must be maintained in confidence for limited periods to avoid the loss of patent rights. Accordingly, the timing of publications is important, and CSU Personnel shall use their best efforts to keep the following items confidential:

All information or material designated confidential in a contract, grant, or the like;

All information or material designated or required to be maintained as confidential under any applicable governmental statutes or regulations; and

All information relating to IP developed by CSU Personnel which may be protected under this Policy until application has been made for protection.

## **XI. Obligations of Lead Creators**

Lead Creators shall be responsible for informing co-workers, including students, of their rights and obligations under this Policy as well as under contracts, grants and the like before initiation of a research, creative or other project which would fall under this IP Policy.

## **XII. Heirs and Assigns**

The provisions of this Policy shall inure to the benefit of and be binding upon the heirs and assigns of (i) all CSU personnel and (ii) all others who agree to be bound by it.

## **XIII. Prevailing Policy**

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

#### **XIV. Changes in Policy**

This IP Policy may be changed by the President on the recommendation of the Intellectual Property Committee, with the endorsement of the Faculty Senate.

#### **XV. Retention of Ownership**

Ownership of IP will normally be retained by the CSURSF. This is to ensure that all licensable knowledge, processes and devices created or invented will be available for public use. Licensing agreements granted by the CSURSF will contain a due diligence provision which will require that the license revert to the CSURSF within a reasonable period of time if the licensee does not make the IP available to the public.

#### **XVI. Policy Applicability**

This IP Policy applies to all full or part-time faculty, staff and students of Columbus State University.

### **Related USG Policy**

N/A

### **Last Update**

N/A

### **Responsible Authority**

General Counsel