CALL TO ORDER

APPROVAL OF MINUTES

- February 20, 2017

GUEST SPEAKERS:

- Senator Mason – R&R and Elections Update

UNFINISHED BUSINESS:

- Policy 4.1.11 – Awarding Incomplete Grades – Reminder: Will be on April Senate agenda for action
- Adding Lecturers/Clinical Faculty to those eligible to serve on Senate
- President Evaluation

NEW BUSINESS:

- Policy Updates – Vice Provost Robinson
  - Policy 4.7.4 – Faculty Grievances
  - Policy 4.4.2 – Intellectual Property

- Discussion Items:
  - Upcoming total solar eclipse and classes
  - Tentative 2017-2018 Faculty Senate Schedule

- Announcements:
  - (if any)

SENATE STANDING COMMITTEES - Liaison Reports

- Academic Quality Committee: Senator Givens
- Budget Committee: Senator O’Brien
- Elections & University Nominations Committee: Senator G. Hunter
- Faculty Club Board of Governors: Senator Kopacz
- Faculty Welfare Committee: Senator Spigelman
- Informational Technology Committee: Senator Slusher
- Rules Committee: last year: Senator Kay
- Rights and Responsibilities Committee: Senator Givens
- Ad Hoc Committees
  - Academics and Athletics – Senator O’Brien
  - Transparency – Senator Givens
  - Ombud Framework – Senator O’Brien

UNIVERSITY COMMITTEES - (reports to XC only if there are issues)

- University Withdrawal Committee: Senator Slusher
- University Residency Appeals Committee: Senator Corley
- University General Education Committee: Senator Givens
- Provost Search Committee: Senator Corley

REPORTS & QUESTIONS:

- Report from the Senate Chair: Senator O’Brien
- Report from the Faculty Regent: Senator Day
- Report from the Provost: Senator Vice

ADJOURNMENT
The Faculty Senate Executive Committee met on Monday, February 20, 2017 at 3:30pm in the Faculty Lounge in the Keen Johnson Building.


APPROVAL OF MINUTES:
Senator Slusher moved approval of the January 23, 2017 minutes as written, seconded by Senator Spigelman. Motion carried.

GUEST SPEAKERS:
• President Michael Benson – Monthly XC Update
  President Benson shared the following:
  o The OVC basketball tournament next year will be held in Evansville, Indiana.
  o Part of the SACS accrediting team arrived today. Some of them are visiting our branch campuses today.
  o On Wednesday, EKU will take ownership of our new Cessna Skyhawk 172 aircraft in Frankfort. As was previously reported, EKU was one of five universities selected to participate in the 2017 Top Hawk Program and as a result will receive the aircraft to support flight training, recruiting efforts and promotional activities.
  o The university is looking at different ways to invest in the Aviation program. Currently we lease our aircraft which means students have to pay hefty flight fees. So the university is reviewing ways to reduce costs by purchasing the aircraft instead.
  o The Senate bill for performance-based funding has been fast tracked. The first hearing will be next week and it will probably go the Senate floor by mid-week next week. Based on what we’re hearing, there probably won’t be too many changes made to the current language in the bill. EKU’s biggest concerns with the bill have to do with the weighting used for the comprehensive and the R1 institutions and the elimination of the sectors.
  o At the last meeting it was announced that discussions are underway to plan renovation of the Moore Building. One option considered to generate funds for the renovation was assessing CLASS students with a building fee. After further discussions, it was determined that would not generate enough funds to proceed with the project. So a non-mandatory university-wide fee is currently being considered for the Richmond campus. No decisions have been made yet.

Senator O’Brien announced that President Benson will attend the XC meeting in March since spring break conflicts with the regularly scheduled meeting with the president.

• Senator Skubik-Peplaski – Rules Committee clarification
  o Role of Lecturers and/or Clinical Faculty within Faculty Senate, regarding voting, voice and total departmental faculty count
  o Lectureships – Policy 4.6.10P
  o Clinical Faculty – Policy 4.6.11P
Senator Skubik-Peplaski asked for clarification on the language in Section 7 of the Faculty Handbook on Senate membership.

XC stated that the current process for membership should be followed for the election process this year. If the committee decides to propose a change to membership to include lecturers and/or clinical faculty, a motion should be brought forward to Senate for consideration.

- **Senator DuPont – Gun Safety on Campus** ([Gun Bills Pending in the KY General Assembly](#))
  - SB 7 (doing away with permit requirements for concealed carry)
  - HB 249 (concealed carry on campus)

Senator DuPont shared a [Guns on Campus](#) factsheet which she downloaded from the website everytownresearch.org. She asked for advice on how to best disseminate the information to faculty.

After discussion, it was suggested that Senator DuPont exercise her right as a citizen to share the information with faculty by visiting campus offices to leave flyers for faculty mailboxes and/or contacting faculty from her private email address.

- **Senators Fitch & Mason – Rights and Responsibilities Clarifications**
  - **Summer and Winter Term Faculty Teaching Stipends & Winter Term Tuition Waiver for Faculty**
    Discussion and information were shared about the need for enrollment. Budget and raises are based upon current financial situation.

  - **Parking Tag Renewal Notifications**
    Senator Mason stated that better notification is needed and that several reminders should be sent to faculty and staff about parking tag renewals.

  - **All-Faiths Calendar**
    The committee is continuing to work on an all-faiths calendar for faculty and staff.

**UNFINISHED BUSINESS:**

- **Building Community with Senators – Senator Vice**
  Provost Vice plans to invite Standing Committee Chairs to lunch along with others, to share information. She will send out invitations soon.

- **Framework Committee for Ombud – Senator O’Brien**
  Senator O’Brien will be sending out a poll to schedule the first meeting. Three staff and five faculty have been selected to serve on the committee.
NEW BUSINESS:

- **Policy Updates** – Vice Provost Robinson
  - **Policy 4.7.4 Faculty Grievances** *(revision) (first read)*
    XC referred the policy back to the drafting team. The policy will return to XC for additional review later.
  - **Incomplete Grade Policy** *(revision) (first read)*
    The revised policy has been approved by CAA and will be presented to the Faculty Senate for first read in March. The materials will be included in the CAA report.
  - **Update on Anti Bullying Policy** *(FS passed May, 2016)*
    The policy is at the stage of second read to Provost Council. Ombud Beck has offered several suggestions. Once the Provost Council votes on the policy, it will come back to FS Executive Committee and then on to Senate as an informational item with changes.

- **Announcements:**
  - **Internal Procedures for Executive Committee** – Senator O’Brien
    The Internal Procedures for Executive Committee should be ready for review next month.
  - **Update on Evaluation of President Benson** – Senator O’Brien
    Chairman Turner should be scheduling a meeting soon.

- **Reports:**
  - **Academic Quality Committee - Senator Givens**
    Concerns have been shared with the committee on athletes and class attendance (Fall soccer; Spring baseball and softball). Concerns have also been raised about flipped classrooms.

    XC encouraged the committee to discuss concerns with Dr. Sheila Pressley, FAR representative.
  - **Budget Committee – Senator O’Brien**
    Senator Kopacz shared a document from Senator Fitch entitled “Change in Administrator/Director Salaries from 2015-2016”. The Budget Committee will discuss the document at their next meeting. At that meeting, Provost Vice will respond to the changes in dean salaries. Deans are under CUPA averages. Concerns have been raised that administrators’ and coaches’ salaries have been adjusted while faculty have not seen any increases. It was noted that as job responsibilities change, salaries often require adjustment to reflect the change in duties.
  - **Elections & University Nominations Committee - Senator Hunter**
    The committee is currently working on upcoming elections and revising their internal procedures.
  - **Faculty Club Board of Governors - Senator Kopacz**
    The committee found the original constitution in the archives and Senator Kopacz shared a newly revised copy with the XC.
o Information Technology Committee – Senator Slusher

Senator Slusher asked for further clarification on the committee’s request to change the wording on two of their charges for this year.

XC agreed that the changes requested by the committee (below) are editorial and the main document listing all of the committee charges should be updated to reflect the requested changes:

**Charge 1** (continue the planned technology training for faculty).
*Action:* Change the word “continue” to “coordinate”.

**Charge 5** (Investigate the current status of support for online instruction throughout the university. Explore how faculty intellectual property is compensated by various colleges and department, inside and outside of eCampus, and provide a status report on current practices.)
*Action:* Delete the second sentence from the charge.

o Rules Committee – Senator Kay

The committee will be meeting on Friday.

o Ad Hoc Committee on Academics & Athletics – Senator O’Brien

Senator Carpenter and the Athletic Director are working collaboratively on the detailed report the committee asked for.

o Transparency – Senator Givens

A few concerns have been raised about open meeting implementation and voting and Senator Givens is following through with additional clarification to committees to address those concerns.

o Provost Search – Senator Corley

The job description has been posted and March 17th is the deadline for consideration. Visit the website at provostsearch.eku.edu/ to learn more.

o Chair’s Report – Senator O’Brien

Senator O’Brien attended the town hall meeting on “Civility on campus and around the globe” on February 7th. She will also be participating in the Exit Visit for SACS on Thursday.

o Provost Report – Senator Vice

Provost Vice has finished meeting with the deans and chairs to provide explanations on performance-based funding. Tanlee Wasson will provide an update to the Senate in March.

**ADJOURNMENT:**

The meeting adjourned at approximately 6:40pm.
Faculty Grievances

Policy Statement

It is the intention of Eastern Kentucky University to treat all employees in a consistently fair manner, and it is the desire of the University that all employees treat each other likewise. However, in the normal course of colleagues working together, problems in the working relationship can be expected to arise. In most cases, these problems can be and should be resolved by the disputing parties or arbitrated at the first level of supervision. But in those instances when a mutually satisfactory resolution cannot be quickly found, the aggrieved party should be given an opportunity to have the grievance complaint considered on the basis of its merit, in an orderly and expeditious manner, and without prejudice or fear of reprisal.

The procedure outlined herein is designed to provide a method of dealing with faculty complaints or grievances in a prompt and equitable manner without placing an unreasonable burden on the University's resources and personnel and does not constitute an adjudicatory process. At each level of appeal, a decision made supersedes a decision made at lower levels.

Grievances include but are not limited to the following:

1. An allegation that existing University policies, rules, regulations, practices, and/or procedures have been violated, misinterpreted, and/or improperly applied. Applies only to procedures not covered within existing policies. When an existing policy contains an appeal procedure, the grievant must use the appeal procedure within that policy rather than the Grievance Policy.

2. An allegation that standards of academic freedom, behavior, and/or practices have been breached by any person(s) covered under this policy.

3. An allegation that actions involving him/her were unfair, inequitable, arbitrary, or capricious.

2.4. A disciplinary action imposed by any administrator on the basis of a finding under this Policy or Policy 1.4.1, Non-Discrimination and Harassment.

Rights of Grievant Complainant and Respondent

1. Both grievant complainant and respondent have the right to be heard.

2. The respondent shall receive a written copy of the grievance, and the grievant complainant shall receive a written copy of the respondent’s reply.

3. The complainant grievant shall not be penalized academically or professionally for making a complaint or filing a grievance in good faith under this policy. (See Policy 1.6.2, Non-Retaliation)

Limitations

1. Disputes which are being or have been processed in the courts are not included under this policy. A grievant must promptly notify the Faculty Grievance Officer (FGO) if he or she initiates litigation against the University while a grievance is pending. A grievant may not pursue a grievance under this Policy while litigating the same issue(s). A grievance filed under this Policy shall be held in abeyance by the FGO pending the conclusion of the litigation.

2. Disputes involving compliance with State or Federal statutes or regulations are not included under this policy.

3. Disputes which involve appeal(s) included in the other policies (e.g., appeals about promotion, tenure, etc.) are not included under this policy.

4. Disputes involving merit pay or salary increments are not included under this policy.

5. Affirmative action and non-discrimination issues which are delineated in other policies should be referred to the Equal Opportunity Office and are not covered by this policy.
Entities Affected by the Policy

- Faculty
- Departments
- Colleges

Eligibility

This policy applies to all of the following personnel:
A. The Faculty-at-Large as defined by the Faculty Handbook; and
B. The Teaching and/or Research Faculty as defined by the Faculty Handbook.

Policy Procedures

FACULTY GRIEVANCE OFFICER

The Faculty Grievance Officer (FGO) shall be the Vice Provost; shall administer the grievance procedures as set forth in this document; and shall advise the parties about appropriate procedures to follow. The FGO shall not serve as advocate for any party to any grievance and may participate in a grievance proceeding only as FGO in a Grievance Hearing, and only as prescribed by this policy. The FGO shall maintain records of all grievances.

Informal Grievance Resolution

All reasonable efforts to seek an informal and timely resolution are encouraged before written grievances are filed. If desired, the parties may seek informal resolution through mediation from the Office of the Ombud.

If the grievant determines that the grievance cannot be informally resolved and the grievant wishes to pursue the grievance, the grievant must submit a written request for a formal hearing to the FGO.

Filing a Grievance

To file a grievance, an individual faculty member must submit a written, signed statement (the “grievance”) to the FGO within thirty (30) calendar days of the request for a formal hearing. The grievance must contain the following information:
- the specific policy or established practice that has allegedly been violated;
- the date(s) of the alleged violation and the date on which the grievant became aware of the alleged violation, or the timeline if alleging a pattern of behavior;
- the facts relevant to the alleged violation;
- the person(s) against whom the grievance is filed (the “respondent”); and
- the redress sought.

The FGO will provide a copy of the grievance and any documents submitted with the grievance to the respondent within five (5) calendar days of receipt. The FGO shall notify the appropriate department chair(s), dean(s), and the Provost that a grievance has been filed.

Jurisdictional and Procedural Decisions

A. Within fourteen (14) days of the date that a grievance is filed, the FGO shall determine whether the following jurisdictional requirements have been met. The FGO may also seek information from appropriate University office(s) to assist in making these jurisdictional determinations:
   a. Whether the grievant has standing under the Faculty Grievance Policy:
b. Whether the grievance has been filed in a timely fashion;
c. Whether the grievance identifies an appropriate respondent(s);
d. Whether the grievance adequately identifies the existing policies and/or established practices alleged to have been violated; and

e. Whether any other jurisdictional issue(s) need to be decided in connection with the initiation of the grievance and, if so, an explanation of such issues.

B. The FGO shall inform the parties in writing whether each jurisdictional requirement has been met, along with the names of any University offices consulted regarding the jurisdictional decisions. If any jurisdictional requirement has not been met, the FGO shall dismiss the grievance.

C. Each party shall have the right to appeal the FGO’s jurisdictional decisions by filing a written statement explaining the reason(s) for the appeal with the FGO within fourteen (14) calendar days of the issuance of such decision.

D. If any party files an appeal of the FGO’s jurisdictional decision(s), the FGO shall submit the written appeal, together with any written response to the appeal from the parties and a written response by the FGO, to a three-person Jurisdictional Appeal Panel drawn randomly by the FGO from the Faculty Grievance Hearing Panel pool. Jurisdictional Appeal Panel members shall not serve on the Hearing Panel for the same grievance case.

E. The Jurisdictional Appeal Panel shall deliberate and submit to the FGO a written decision (including the basis for its decision) on the appeal within seven (7) calendar days of its convening by the FGO.

F. The FGO shall forward a copy of the jurisdictional appeal panel’s decision to the parties within seven (7) calendar days of its receipt from the panel.

If the jurisdictional requirement has been met, the grievant and the respondent may submit any documents that are relevant to the written grievance within seven (7) calendar days of the jurisdictional decision.

Amendments

A grievant may amend his/her grievance until 28 days before the scheduled date for the formal hearing on the grievance, as long as the proposed amendment concerns the same subject matter as the grievance. The FGO shall decide whether to accept the proposed amendment, and any jurisdictional issues generated by the proposed amendment, at least 21 days before the scheduled date for the formal hearing. Either party may challenge the FGO’s decision by filing a written appeal with the FGO within seven (7) days of the FGO’s decision. Such appeals are processed in the same manner as other jurisdictional appeals. Any procedural issues (such as submission of new documents) generated by the amendment shall be decided by the Hearing Panel at the beginning of the hearing.

Consolidation of Grievances

If a grievant files two or more separate grievances against the same respondent(s) that raise related allegations or arise from a common set of facts, the FGO may consolidate such grievances into one grievance to be heard by a single panel. If a grievant files two or more separate grievances concerning different issues and the grievances are not consolidated, such grievances will normally be processed and heard sequentially in chronological order determined by the date on which the initial grievance was filed. Separate grievances filed by different grievants that involve related allegations or arise from a common set of facts may also be consolidated.

Grievance Hearing

Faculty Grievance Hearing Panel

A. The academic colleges and the Libraries shall elect three members from the full-time faculty within the unit to comprise a pool of eligible members for the Hearing Panel. Members shall serve three-year terms, with one third to be elected each year. Elections shall be finalized no later than May 1 prior to the academic year in which service begins. All terms begin August 15 and run for 1 calendar year.

B. In the event a grievance is filed, the Faculty Grievance Hearing Panel shall consist of five members from the Hearing Panel pool, drawn at random by the FGO, excluding the member from the grievant’s and respondent’s unit(s). No college or the Libraries shall have more than one representative on a Hearing Panel. Persons selected for a jurisdictional appeal panel shall not serve on the Hearing Panel for the same grievance case. Panel members shall serve throughout an entire proceeding.

C. The FGO shall serve as a non-voting member of the Faculty Grievance Hearing Panel. The FGO shall apply the rules of procedure consistent with the stated procedures in this policy. The FGO shall not participate in the deliberations.
D. The FGO shall notify each party of the names of the members of the Hearing Panel. Within seven (7) calendar days of that notice, either party may submit a written challenge to any member of the panel for cause. The challenge must explain the cause for removing the panel member. The FGO shall determine whether there is cause to dismiss the challenged member of the panel and randomly draw another member. The FGO shall notify the parties of any replacement members of the panel.

E. If a grievance hearing panel loses two or more of its members during the course of a hearing, the hearing shall be terminated, and a new panel selected.

Grievance Hearing Procedures

A. Hearings shall be scheduled as expeditiously as possible and with due regard for the schedule of both parties. On the rare occasion when a party fails to respond to repeated attempts to schedule a hearing or unreasonably delays the scheduling of a hearing, the FGO will schedule the hearing for the first date available to all other parties. Grievances will normally not be held during summer unless all parties agree and a proper Hearing Panel can be convened. The FGO shall notify all parties and the Hearing Panel of the hearing date.

B. All parties are entitled to counsel of their choice. The counsel shall not act as an advocate or representative of the party during the hearing and shall not be permitted to question any party during the hearing. The party and his/her counsel may take breaks to consult during the proceedings. The name of counsel must be provided to the FGO at least ten (10) calendar days prior to the hearing date.

C. All parties may present their cases in person and may call witnesses on their behalf. The names of witnesses must be provided to the FGO at least ten (10) calendar days prior to the hearing date.

D. The FGO shall convene the Hearing Panel and shall be present during all formal proceedings. The FGO shall provide written notice of the time and place of the hearing, the names of counsel, the names of any witnesses, and copies of any documents submitted by the parties and deemed relevant by the FGO, to each party at least seven (7) days before the hearing.

E. The hearing shall be conducted in good faith and must be completed within 14 calendar days unless the FGO determines that an extension of time is necessary.

F. A party may elect not to appear, in which event the hearing will be held in his or her absence. Absence of a party shall not be prejudicial to the case. The FGO may grant permission for a party to appear via alternate communication methods for good cause.

A hearing panel shall decide whether the preponderance of the evidence supports the allegations made by the grievant. Hearing panels shall resolve any procedural issues raised by the parties, after providing each party the opportunity to be heard on such matters. However, neither party may challenge the FGO's initial jurisdictional findings made pursuant to this Policy. The FGO shall distribute all documents submitted by the parties concerning procedural issues to the hearing panel, and shall include such documents in the grievance record.

Hearing panels shall report their findings and recommendations in writing within 21 days of the completion of the hearing to the FGO, who shall forward them to the grievant, the respondent, the Provost, and the administrator who is the respondent's immediate supervisor. The hearing panel's report is advisory to the Provost and does not bind the Provost to a particular decision. When a hearing panel sustains an allegation made in a grievance, it shall recommend appropriate redress consistent with existing policies, procedures, and practices.

The Provost shall decide the grievance, in writing, within 14 days of receipt of the hearing panel's findings and recommendations. If the Provost does not concur with the recommendations of the hearing panel, the Provost shall state in writing the reason(s) for the differing judgment. All parties shall be notified in writing, with a copy to the appropriate department chair(s) and dean(s) of the Provost's decision and of the right to appeal the decision.

Appeals

1. Following notification of the Provost's decision, either party may appeal the decision only for the following grounds:
   a. decision is arbitrary, capricious, or not supported by factual data
   b. violation of procedural due process

2. The candidate will submit a written request for appeal to the Provost within ten (10) calendar days of notification of the Provost's decision. The request shall state the grounds for an appeal and shall provide evidence in support of such grounds.
3. The Provost shall notify the other party to the grievance and the FGO that an appeal has been filed. The other party may submit a response to the appeal within (10) calendar days.

4. The FGO shall submit the written appeal, together with any written responses to the appeal to a three-person appeal panel drawn randomly by the FGO from the Faculty Grievance Hearing Panel pool. Appeal panel members shall not serve on the Hearing Panel or the jurisdictional appeal panel for the same grievance case.

5. The Appeal Panel shall evaluate the body of evidence as it relates to the grounds for appeal. The Appeal Panel meet with any participant in the grievance case as necessary in order to evaluate the grounds for appeal. The Appeal Panel shall report its findings and recommendations to the Provost within fourteen (14) calendar days of receipt of the case, except in extenuating circumstances.

6. The Provost shall make a judgment on the appeal within fourteen (14) calendar days of receiving the report from the Appeal Panel.

7. The Provost shall notify all parties in writing of the appeal decision, including the appropriate department chair(s) and dean(s), and shall include a copy of the appeal report. All appeal decisions are final.

If an appeal is filed, the Provost's decision on the grievance shall not be implemented until the appeal process is completed.

Confidentiality

All records and information related to grievance proceedings under this Policy (both formal and informal) shall be kept confidential to the degree permitted by law. The FGO, parties to the grievance, their counsel, and other relevant administrators and faculty (including witnesses and panel members) shall respect the confidentiality of information and records and the privacy of all parties whose interests are affected by a grievance.

Sanctions

Sanctions may not be imposed until all of the parties involved in the grievance have had the opportunity to complete the entire grievance procedure. Sanctions covered in KRS 164.230 are the province of the Board of Regents. Sanctions relating to changes in assignments and other disciplinary measures are the province of the proper administrator(s).

Sanctions may include but are not limited to the following:

A. A reprimand, with copies to the chair, dean, and Provost for inclusion in the personnel files of the individual against whom sanctions are imposed.

B. Change in assignment, subject to the condition that the new assignment shall involve duties consistent with the duties of other faculty members with the same academic rank. Such a change might involve removal from a supervisory role or the elimination of special privileges associated with the previous assignment.

C. Proceedings under Policy 4.6.7, Post-Tenure Review.

D. Proceedings under Policy 8.3.4, Progressive Disciplinary Action.

E. Proceedings under KRS 164.230 and policy 4.6.16, Dismissal of Faculty, for dismissal for reasons of incompetency, neglect of or refusal to perform his duty, or of immoral conduct.

Final Disposition

After the grievance procedure has been completed, it shall be the responsibility of the Provost to implement the decision with the final disposition taking place at the appropriate level.

Complaint Resolution

A. All reasonable efforts should be made to settle complaints informally before written grievances are filed.

B. Informal discussion between persons directly involved in a complaint is essential in the early stages of any complaint and is encouraged at all stages. Attempts should be made to solve all complaints at the lowest possible level. The complainant should discuss the disputed issue with the person(s)
involved and try to come to a resolution before any kind of appeal is made through administrative channels.

C. Departments and colleges shall set up regular or ad hoc complaint resolution committees of unbiased faculty members to mediate between disputing parties.

D. If unable to solve the complaint through direct informal discussions, the complainant must initiate discussions through his/her administrative channels before a written grievance is filed. This entire informal complaint resolution process should normally be completed within 60 days of the action that caused the complaint. For exceptions to this time limit, see Initiation of the Grievance Procedure: 3. (below).

Initiation of the Grievance Procedure
1. If informal discussions fail to provide a satisfactory resolution, the complainant may then begin the grievance process. He/she shall state, in writing, not only the specific charges and the remedy expected to resolve the grievance but also that
   a. discussions between the parties have taken place;
   b. the complainant has initiated discussions through administrative channels; and
   c. departmental and college level informal procedures have been exhausted. This written grievance shall be presented to the complainant’s immediate supervisor (chair, dean, or vice president).

   The order of appeals is as follows: chair, dean, vice president, University Grievance Committee, President.

2. This written grievance is to be submitted to the immediate supervisor (chair, dean, or vice president) within 60 days of the action that caused the complaint.

3. In the event that the complainantfiles the grievance after the sixty-day time limit has expired, the immediate supervisor shall notify the Provost and Vice President for Academic Affairs, who shall determine whether such extenuating circumstances exist as to warrant receipt of the grievance beyond the normal time limit. Within five days after receiving this explanation about the late filing of the grievance, the Provost and Vice President for Academic Affairs shall give his/her decision in writing to the immediate supervisor and to the complainant. The Vice President’s decision on this late-filing issue shall be final.

4. Within five working days after receipt of the grievance, the immediate supervisor shall acknowledge receipt of the grievance and shall forward a copy of the grievance to the respondent.

5. The immediate supervisor shall determine whether the grievance is a proper matter for grievance policy consideration. A negative decision is appealable in the same manner as a determination on the merits.

6. At each level of this procedure, the decision shall be based on the written record. All relevant materials should be submitted at the first level of the grievance procedure. Additional materials may be submitted in subsequent levels.

Grievances Originating at Level of Chair
1. If the chair has received the initial grievance, he/she shall follow the procedure in Initiation of the Grievance Procedure: 4. (above) and shall report the grievance to his/her dean and to the Provost and Vice President for Academic Affairs.

2. Every effort shall be made by the chair to deal with the grievance on its merits without undue delay. After notifying the respondent, the chair shall be allowed up to ten working days to resolve the matter satisfactorily.

3. The chair’s decision shall be in writing, and copies of the decision shall be made available to the chair’s dean, to the Provost and Vice President for Academic Affairs, to the complainant, to the respondent, and to all concerned parties.

Grievances Originating at Level of Dean
1. If the dean has received the original grievance, he/she shall follow the procedure in Initiation of the Grievance Procedure: 4. (above) and shall report the grievance to the Provost and Vice President for Academic Affairs.

2. Every effort shall be made to deal with the grievance on its merits without undue delay. After notifying the respondent, the dean shall be allowed up to ten working days to resolve the matter satisfactorily.
3. The dean's decision shall be in writing, and copies of the decision shall be made available to the Provost and Vice President for Academic Affairs, to the complainant, to the respondent, and to all concerned parties.

**Appeals to this Level**

1. If the complainant, the respondent, or any other party to the grievance is not satisfied with the decision of the chair, or if the decision is not received from the chair within the time allowance stated in Grievances Originating at Level of Chair: 2. (above), the complainant, the respondent, or other party to the grievance may appeal to the dean.

2. The appeal shall be made in writing within ten working days after receiving the decision, or if no decision is received within ten working days after expiration of the chair’s time allowance.

3. Every effort shall be made by the dean to deal with the appeal on its merits without undue delay. The decision of the dean shall be given in writing to the complainant within ten working days after receipt of the appeal, and copies of the appeal and the decision shall be made available to the Provost and Vice President for Academic Affairs, to the respondent, and to all concerned parties.

**Grievances Originating at Level of Vice President**

1. If the Provost and Vice President for Academic Affairs have received the original grievance, he/she shall follow the procedure in Initiation of the Grievance Procedure: 4. (above) and shall report the grievance to the University Grievance Committee.

2. Every effort shall be made to deal with the grievance on its merits without undue delay. After notifying the respondent, the Provost and Vice President for Academic Affairs shall be allowed up to ten working days to resolve the matter satisfactorily.

3. The Vice President’s decision shall be in writing, and copies of the decision shall be made available to the University Grievance Committee, to the complainant, to the respondent, and to all concerned parties.

**Appeals to this Level**

1. If the complainant, the respondent, or any other party to the grievance is not satisfied with the decision of the dean, or if the decision is not received from the dean within the time allowance stated in Grievances Originating at Level of Dean: 2. or Appeals to this Level [Dean]: 3 (above), the complainant, the respondent, or other party to the grievance may appeal to the Provost and Vice President for Academic Affairs.

2. The appeal shall be made in writing within ten working days after receiving the decision, or if no decision is received, within ten working days after expiration of the dean’s time allowance.

3. Every effort shall be made by the Vice President to deal with the appeal on its merits without undue delay. The decision of the Vice President shall be given in writing to the complainant within ten working days after receipt of the appeal, and copies of the appeal and the decision shall be made available to the University Grievance Committee, to the respondent, and to all concerned parties.

**Appeals to the University Grievance Committee**

1. If the complainant, the respondent, or any other party to the grievance is not satisfied with the decision of the Provost and Vice President for Academic Affairs, or if the decision is not received within the time allowance stated in Grievances Originating at Level of Vice President: 2. or Appeals to this Level [Vice President]: 3 (above), the complainant, the respondent, or any other party to the grievance may appeal in writing to the University Grievance Committee.

2. The appeal shall be made in writing within ten working days after receiving the decision, or if no decision is received, within ten working days after expiration of the Provost and Vice President for Academic Affairs’s time allowance.

3. The University Grievance Committee shall investigate the appeal and give a decision in writing within 30 working days after receipt of the appeal.

4. A copy of the decision of the University Grievance Committee shall be made available to the President, the Provost and Vice President for Academic Affairs, the complainant, the respondent, and all concerned parties.

**The University Grievance Committee**

I. Composition

A. The University Grievance Committee shall consist of six Teaching and/or Research Faculty members as defined by the Faculty Handbook.
B. The faculty of Libraries shall compose one voting unit. Each of the five colleges of the University shall also compose a voting unit.

C. These six members shall be elected by the Teaching and/or Research Faculty of the Faculty Senate voting units.

D. The faculty of each voting unit shall also elect one alternate member from the same faculty pool as the member.

E. Members and alternates shall serve three-year terms with one-third to be elected each year. Length of terms of the original members and alternates shall be determined by lot.

II. Election Procedure

A. The faculty in each department of each election unit shall nominate one of their members as a candidate. The faculty of the election unit as a whole shall elect two from the nominees thus selected. The candidate with the most votes shall be the member of the University Grievance Committee and the runner-up shall be the alternate. Ties shall be broken by drawing lots.

B. Elections shall be conducted by the six individual units and reported to the President in the spring semester of each year. Terms shall run from the beginning of the fall semester.

III. Operating Procedure

A. The Chair of the Faculty Senate shall convene the University Grievance Committee for its first meeting to elect its chair and to determine length of terms for each member consistent with University Grievance Committee: I(E) (above). Thereafter, the University Grievance Committee shall choose its chair at the beginning of each fall semester, having been convened for that purpose by the previous chair or by a convener (appointed by the Chair of the Faculty Senate).

B. In case the elected member cannot serve, the alternate shall serve in his/her place as needed. In case of conflicts of interest, the member involved shall not serve during that grievance issue. A quorum for all meetings of the University Grievance Committee shall consist of more than 50 percent, and Robert’s Rules of Order shall govern the conduct of meetings.

Appeals to the President

1. If the complainant, the respondent, or any other party to the grievance is not satisfied with the decision of the University Grievance Committee or if the decision is not received within the time allowance stated Appeals to the University Grievance Committee: 3. (above), the complainant, the respondent, or any other party to the grievance may appeal in writing to the President.

2. The appeal shall be made in writing within ten working days after receiving the decision, or if no decision is received, within ten working days after expiration of the University Grievance Committee’s time allowance.

3. The President may investigate the appeal.

4. The President may choose either to give a decision in writing, with a copy to all of the parties, within ten working days after receipt of the appeal or may take the findings of fact and recommendations to the Executive Committee of the Board of Regents.

5. The decision of the President or of the Executive Committee of the Board of Regents shall be made available to the complainant, the respondent, and all concerned parties.

6. If any party to the grievance is not satisfied with the President’s decision, he/she may request in writing that the President submit this grievance to the Executive Committee of the Board of Regents. The President shall determine if the subject matter is appropriate for the Executive Committee of the Board of Regents to consider.

Sanctions

A. At any level of the grievance procedure, the person(s) involved in deciding upon resolution of the grievance may recommend sanctions. No sanctions may be imposed until all of the parties involved in the grievance have had the opportunity to complete the entire grievance procedure. Sanctions covered in KRS 164.230 are the province of the Board of Regents. Sanctions relating to changes in assignments and other disciplinary measures are the province of the proper administrator(s).

B. Sanctions may include but are not limited to the following:
i. A warning that conduct violates professional responsibilities of the faculty member, with copies to the chair, dean, and Provost and Vice President for Academic Affairs for inclusion in the personnel files of the individual against whom sanctions are imposed.

ii. A reprimand, with copies to the chair, dean, and Provost and Vice President for Academic Affairs for inclusion in the personnel files of the individual against whom sanctions are imposed.

iii. Change in assignment, subject to the condition that the new assignment shall involve duties consistent with the duties of other faculty members with the same academic rank. Such a change might involve removal from a supervisory role or the elimination of special privileges associated with the previous assignment.

iv. Proceedings under KRS 164.230 for dismissal for reasons of incompetency, neglect of or refusal to perform his duty, or of immoral conduct.”

Final Disposition

After the grievance procedure has been completed (that is, no further appeals are made), it shall be the responsibility of the Provost and Vice President for Academic Affairs to implement the decision with the final disposition taking place at the appropriate level.

Definitions

Calendar Day Throughout this document calendar day shall be interpreted to mean no later than the specified number of calendar days following the day of notification. If the final calendar day occurs on a weekend or holiday, the due date shall be on the first day on which University administrative offices are open. The time for response may be extended upon agreement by both parties.

Complaint A non-written allegation by any person (or persons) included in the eligibility section of this policy.

Grievance A written allegation by any person (or persons) included in the eligibility section of this policy.

Grievant A person (or persons) who files a grievance within the scope of this policy.

Respondent A person (or persons) against whom a grievance is filed.

Responsibilities

Appeal Panel The Appeal Panel is responsible for reviewing appeals of grievance decisions and making a recommendation to the Provost.

Faculty Grievance Officer At a minimum, the Faculty Grievance Officer is responsible for

- administering the grievance procedures;
- maintaining records of all grievances;
- making jurisdictional decisions for filed grievances;
- facilitating a Hearing Panel.

Hearing Panel The Hearing Panel is responsible for

- conducting a hearing for any grievance that has been referred to it following the jurisdictional decision;
- deciding whether the preponderance of evidence supports the allegations made that the grievant;
- recommending appropriate redress if a grievance has been sustained.

Jurisdictional Appeal Panel The Jurisdictional Appeal Panel is responsible for deciding appeals of jurisdictional decisions for grievances that have been filed.
At a minimum, the Provost is responsible for

- making decisions regarding a grievance and any resulting appeals of a grievance decision.

### Interpreting Authority

Provost

### Policy Adoption Review and Approval

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<tr>
<th>Policy Issued</th>
<th>Entity</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
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<td>Action</td>
</tr>
<tr>
<td>February 1, 1992</td>
<td>Board of Regents</td>
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<td>April 1, 1991</td>
<td>Faculty Senate</td>
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The Intellectual Property (IP) Policy at Eastern Kentucky University (EKU) recognizes that universities are institutions committed to the creation and dissemination of knowledge. The IP Policy affirms the University’s commitment to academic freedom; to a rich and vibrant public environment; and to a healthy local and regional economy. The University supports these endeavors by encouraging, fostering, and protecting scholarship, research, service, and creativity.

IP includes, but is not limited to, copyrights, patents, trade secrets, trademarks, and plant variety protection. Activities resulting in the creation of IP may also contribute to professional development, enhance the institution’s reputation, promote additional educational opportunities, and promote collaborative or cooperative arrangements. Therefore, when faculty, staff, administrators, student employees, students, and/or visiting faculty or researchers develop intellectual property, their IP rights and privileges must be protected and preserved.

The policies set forth here constitute an understanding that is binding on EKU faculty, staff, and students as a condition of their participation in EKU research, teaching, and service programs and for their use of EKU funds, facilities, or other resources.

**Purpose**

Eastern Kentucky University's IP Policy allows for a determination of whether a change will be made regarding ownership or assignment of works made for hire. This policy permits assignment of individual ownership to the creating employee of certain scholarly, artistic, literary, musical and educational materials within the creator’s field of expertise which have historically been treated by institutions of higher education as belonging to the creator, so long as EKU retains a non-exclusive license in IP that was created for and that uses significant university resources for educational, research and service whenever practicable.

**Entities Affected by the Policy**

- University Administrators
- Faculty
- Staff
- Students

**Policy Background**

EKU recognizes the need to protect the intellectual property rights of faculty, staff, students, and the University. It also acknowledges the importance of contributing to a supportive, enabling environment for the University regarding IP. The IP Policy addresses the customary distribution of any benefits arising from activities in which the University and its members are jointly engaged including public recognition and, where appropriate, financial remuneration. It excludes traditional academic scholarly works from its purview and attempts to articulate and balance the sometimes-competing interests involved in IP in a fair, manageable, and productive manner.
Policy Objectives

The objectives of the IP Policy are:

- to delineate the University's policies and procedures with regard to IP
- to encourage research, scholarship, and a spirit of inquiry
- to promote the dissemination of knowledge and technology for the benefit of the University community and society
- to provide an administrative system to assist the University community and its external collaborators in bringing new discoveries and developments into public and/or private use
- to provide for the equitable disposition of interests in shared IP among the creator(s), the University, and, where applicable, any external collaborators(s)
- to contribute to a university environment that encourages the creation of IP
- to assist the University community and its collaborators in seeking adequate and appropriate legal protection against unauthorized use
- to describe employee-excluded works that are not subject to University ownership under the policy
- to provide an administrative system to evaluate, where appropriate, the commercial significance of new discoveries and developments
- to provide for the equitable disposition of interests in shared IP among the creator(s), the University, and, where applicable, any external collaborators(s)
- to contribute to a university environment that encourages the creation of IP
- to assist the University community and its collaborators in seeking adequate and appropriate legal protection against unauthorized use
- to describe employee-excluded works that are not subject to University ownership under the policy

Criteria

Copyrights and Inventions

For the purposes of this policy, IP will be pursued as copyrightable or patentable works. In cases where the determination is unclear (for example, software development, courseware or trademarks) the Investigator is encouraged to contact the Associate Vice President for Research to discuss the appropriate avenue in filing for IP protection.

Copyrights:

Copyright is the ownership and control of the intellectual property in published and unpublished original works of authorship fixed in a tangible medium of expression. Authorship includes literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation but could protect the way these things are expressed. Copyright provides the owner with the right to determine how the work is copied and distributed to others (e.g., through sale, lease, or lending).

Under federal copyright law, the creator of a work is usually the owner. However, this is not the case when a work is created within the scope of employment. Works created within the scope of employment are known as "work made for hire," and are works where the employer is considered the author and owner of such works. Copyright law generally defines a work made for hire as:

1. A work prepared by an employee within the scope of his/her employment; or
2. Certain types of work specially ordered or commissioned where the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. These types of work include a contribution to collective work, a part of a motion picture or other audio/visual work, a translation, a compilation, an instructional text, a test, answer material for a test, an atlas or a supplementary work.

It is the policy of the University that all rights in copyright shall remain with the creator unless the work is a work-for-hire (and copyright vests in the University under copyright law), is supported by a direct allocation of funds through the University for the pursuit of a specific project, is commissioned by the University, or is otherwise subject to contractual obligations.

Inventions:

Inventions are defined as all new processes (including computer programs), machines, manufactured products, compositions of matter, any new and useful improvements thereof, and any new uses for these products or processes that were not obvious to one skilled in the art at the time of invention. The
determination of invention ownership may be complicated. Some categories of works that used to be distinct and about which there were few issues of ownership may now be merged. Examples include, but are not limited to, software, coursework and distance learning. Therefore, EKU’s IP Policy establishes guidelines to be applied in determining ownership interests in the IP invention and permits the University to recover expenses incurred in the work’s creation, protection and/or share in royalties if the work is commercialized.

When EKU faculty, staff, administrators, or students create IPan Invention, which, under the terms of this policy, may be owned or shared by EKU, the creator shall report the IP invention to the Provost/Associate Vice President for Research by completing the appropriate Disclosure Form (see Relevant Links below). The IP creator(s) will cooperate in the execution of legal documents and in the review of literature and prior art (e.g., patent searches); will be given the opportunity to assist in the further commercial development of the IP invention as defined in Section VI; and will receive consideration regarding any income derived from the commercialization of such property.

Commercialization

A. In commercializing IPan Invention, EKU, through the Intellectual Property Committee (IPC), shall be guided by the following principles:

1. Active creator(s’) participation in all commercialization will be vigorously sought.
2. The primary objective and responsibility of EKU shall be to assure that the products of its intellectual activity are brought into the widest possible use for the general benefit of society.
3. IP is treated as an asset and an appropriate return should be sought.

B. In an effort to commercialize IP an Invention, EKU will seek a variety of arrangements such as licenses, outright assignments or sale of rights, partnerships, and joint ventures. The selection of particular arrangements will depend upon the individual circumstances.

C. In some instances, it may be in the best interests of the creator, EKU, and the general public to enter into a commercialization arrangement with entities wholly or partially owned or controlled by the faculty, staff, or students who originated the property. Because these arrangements have the potential of contributing to economic development, such arrangements may be considered and accepted, provided they are not specifically prohibited by law and that adequate provisions, including full disclosure of interests, are made to avoid or otherwise protect against conflict of interest on the part of those involved.

Royalty Income Sharing

A. The IP Fund, the Department Fund, and the College Fund shall be allowed to build across fiscal years. Costs associated with securing IP will be borne by EKU with such costs offset against future income gross revenues. All costs directly related to the acquisition of IP rights will be reimbursed from the first receipt of revenue, with 75% returned to the IP Fund and 25% to the Inventor until all acquisition costs have been recovered, at which point distribution is made to the Inventor, department, college, general fund and IP fund as described in Section A. Similarly, future necessary costs for securing IP rights will be reimbursed by revenues prior to distribution (as above).

A.B. Except as otherwise provided, net revenues derived from the commercialization of IP shall be shared as follows:

- 50% to the creator/Inventor
- 1530% to the IP Fund
- 15% to the General Fund
- 1510% to the Department
- 510% to the College

B. The IP Fund, the Department Fund, and the College Fund shall be allowed to build across fiscal years. Costs associated with securing IP will be borne by EKU with such costs offset against future income. All costs directly related to the acquisition of IP rights will be reimbursed from the first receipt of revenue, with 75% returned to the IP Fund and 25% to the Inventor until all acquisition costs have been recovered, at which point, before distribution is made to the creator/Inventor, department, college, general fund and IP fund as described in Section A. Similarly, future necessary costs for securing IP rights will be reimbursed by revenues prior to distribution (as above).

C. The creator’s Inventor’s rights to share in revenue as stated above (but not including the department’s share) shall remain with the individual or pass to the individual’s heirs and assigns for so long as net income is derived from the property.

D. This policy shall not change revenue-sharing agreements entered into prior to the adoption of this policy.
**Employee-Excluded Student Works.** EKU assigns to the creator-inventor all ownership of IP for all student works, unless the student work is created in a University employment capacity or is part of a sponsor-supported EKU project, in the following categories of work:

1. **Traditional Copyrightable Academic Works**
   - Student works (unless the student work is created in a University employment capacity or is part of a sponsor-supported EKU project.)

**University-Assigned Projects.** University-assigned work, developed in the course and scope of employment, constitutes a work made for hire. Therefore, IP resulting from this work is the property of EKU. Work produced in the course and scope of employment includes, but is not limited to, research, instruction, service, and other assigned activities. The creator(s) will cooperate with the University to execute any and all documentation necessary to assign ownership and, if necessary, to secure protection of this IP.

**University-Assisted Projects.** EKU shares ownership of IP developed by University employees through an effort which makes significant use of University resources. The distribution of possible income based on such IP will be determined in accordance with the Administrative Procedures Section V. of this policy. The University and IP creator(s) will cooperate to execute any and all documentation necessary to assign ownership and, if necessary, to secure protection of the IP. It should be noted that this policy does not construe the use of office space, library resources, personal workstations, or personal computers as constituting significant use of University resources. Significant use of University resources includes, but is not limited to, use of:

- Research funding
- Funding allocated for asynchronous or distance learning programs
- University-paid time within employment period
- Assistance of support staff
- Telecommunication services (excluding telephone service)
- University central computing resources
- Instructional design or media production services
- Research equipment and facilities, or production equipment and facilities

**Sponsor-supported Projects** Sponsor-supported projects are university activities that are funded/supported by an external agency/organization. EKU’s Office of Sponsored Programs (http://www.research.uky.edu/), formerly the Office of Grants and Contracts, reviews and approves these contracts. Sponsored Programs provides assistance to facilitate negotiations among the Principal Investigator, the Sponsor, and the University, including issues related to IP ownership. While the Principal Investigator should refer to this policy to address the protection of IP, in some instances federal and state law may define ownership. Before the contract is accepted and executed, Sponsored Projects will work to ensure that the Principal Investigator and the University are satisfied with the terms before accepting and executing the contract, including:

1. Due diligence milestones should be negotiated on a case-by-case basis in an effective and timely manner. The milestones will provide objectively measurable goals and timetables by which it may be determined if a good faith effort has been made. A reassignment right will be included, exercisable on the part of EKU, when the Sponsor has not made a good-faith effort to meet the milestones.
2. A windfall provision where a specified payment is made upon some mutually agreed upon threshold event. This should be determined on a case-by-case basis.

When a contract is silent on the ownership of the Intellectual Property, ownership will vest with the University. Prior to receiving a grant award to engage in sponsored projects or research, the Principal Investigator (PI) must first participate in the Office of Sponsored Project's orientation meeting. During this meeting, the PI will give the Office of Sponsored Projects a brief overview of the IP that may result from their project. This meeting will help establish whether IP is an issue with the project before a budget number is assigned.

**Visiting Faculty, Researchers, and Scientists.** Visiting faculty, researchers, and scientists will be held to the same policies as permanent faculty, researchers, and scientists.
Outside Consulting. If an employee engages in outside consulting that will involve University resources, then a contract must be executed with the Office of Sponsored Projects and a Disclosure Form must be filed with the Provost/VP.

Individual Projects. If an employee engages in projects that will involve the use of University resources and will result in the creation of IP, then EKU will share in the ownership of such property. Therefore, the employee is required to complete and submit a Disclosure Form.

Other Works. Other works not expressly addressed in this policy will require the creator(s) to submit a Disclosure Form and will be reviewed on a case-by-case basis, including:

1. Electronic publications
2. Online courses
3. Patents
4. Other materials

IP Gifts. EKU may accept gifts of IP through the EKU Foundation. The receipt of an IP gift may require actions on the part of the University and/or Foundation, and the necessary actions will be evaluated as part of the consideration of acceptance. Gifts may be accepted through the EKU Foundation in accordance with the EKU Gifts Acceptance Policies and Procedures and in consultation with the Intellectual Property Committee and the University administration.

Procedures

Selection of the Intellectual Property Review Committee
Upon receipt of an IP Disclosure, the Associate Vice President for Research will collaborate with the Department Chair, Dean of the College and Executive Director of CEDET to form an Intellectual Property Review Committee (IPRC). The Chair and Dean will each appoint two members of their faculty with appropriate expertise to evaluate the merits of the disclosed IP. The Associate Vice President for Research and Executive Director of CEDET will each appoint one additional member. Proposed members will be disclosed to the inventor to identify any potential conflicts of interest and the inventor may request replacements be named for up to two faculty members identified through the process. The full committee should be appointed by no later than 30 days after receipt of the IP disclosure.

Intellectual Property Committee
The Intellectual Property Committee (IPC) is charged with evaluating the recommendation of the IPRC and determining the appropriate course of action in applying patents or copyrights on behalf of the University, or, of returning all rights to the inventor. The IPC shall be a standing committee consisting of the President and twelve official members appointed by the President. The committee shall consist of the following members: shall have five ex-officio members:

- Associate Vice President for Research (Chair)
- University Counsel (non-voting)
- Vice President for University Advancement (or designee) (voting)
- Executive Director of CEDET
- Director of Sponsored Programs (voting)
- Associate Vice President for Research
- Provost (or designee) (voting)
- President (or designee) (non-voting)
- Associate Vice President for Research (Chair)

Other members of the faculty and staff may be appointed by the President, Provost, or Associate Vice President for Research as provided in the IP Policies and Procedures. These shall include six members of the teaching faculty, one representing each college, and one from the Library, selected from a slate submitted by the Executive Committee of the Faculty Senate and two members from the professional staff. Additional expertise in the form of ad hoc resource members may be sought by the IPC as needed in the consideration of IP matters. The IPC is responsible for advising the President with regard to pursuit of the IP on behalf of the University and for securing appropriate resources for the filing of the patent or other costs associated in protecting the IP.

Completion of the Disclosure Form
1. When University faculty, staff, other employee, or student, operating under the scope of this Policy, creates IP, the creator shall notify the Provost/VP Associate Vice President for Research of the IP by completing the Invention Disclosure Form. Should the Provost/VP Associate Vice President for Research be the creator of IP, the completed Invention Disclosure Form will be submitted to the Provost/VP.

2. The Invention Disclosure Form must be completed and submitted to the Associate Vice President for Research Provost/VP upon the recognition of the existence, or potential existence, of intellectual property.

3. The completed Invention Disclosure Form must be submitted to the Associate Vice President for Research Provost/VP with an information copy to the appropriate chair or director and dean.

4. A receipt notification will be mailed to the creator acknowledging receipt of the Invention Disclosure Form within one workweek of its receipt, with a copy of this acknowledgement sent to the members of the IPC.

Review of the Invention Disclosure Form

- The IPC will review disclosures for the purpose of classifying them into one of the categories outlined in the IP Creation and Ownership Scenarios section of this document.

- Part of the review process will involve developing an estimate for the market value for the IP. Working alone or with internal or external collaborators, the IPC will estimate the value of the IP so that EKU better understands the potential commercial value. The IPC, and any other additional resource partners shall have 120 calendar days from the disclosure of the IP to assess the scientific, technical and economic merit as well as decipher the potential commercial value. If this evaluation has not taken place during the 120 days then the time shall have lapsed and primary ownership rights to it shall be returned to the creator.

- If the IPC determines that the IP under consideration is exempt under Employee –Excluded Works (1), the property shall be released to the creator and EKU will not claim ownership, except the non-exclusive right to use the IP for educational, research, or service reasons.

- If the IPC determines that EKU has an interest in the IP, but that the chances of successful commercialization are minimal or the costs of pursuing such commercialization outweigh the income potential, the IPC shall release the property to the creator(s) as above.

- If the IPC determines that EKU has an ownership right but that the creation has not been developed to the point where a decision as to patentability or commercialization is possible, the IPC shall place the creation in a pending status, provide the creator(s) with the reasons for taking such action and request that the creator(s) report back at some specified date.

- If the IPC determines that EKU has ownership interest in the property and an interest in retaining the ownership, the IPC will make a recommendation to the Provost to:

  1. Inform the creator(s) in writing that EKU claims its ownership rights to the IP in accordance with Section VII. Typical and anticipated revenue sharing from royalties are:

     - 65% to the Inventor
     - 15% to the IP Fund
     - 15% to the General Fund
     - 15% to the Department
     2. 5% to the College
     3. 50% to the creator
     4. 15% to the IP Fund
     5. 15% to the General Fund
     6. 15% to the Department
     7. 5% to the College
     8. 3% to the College

  2. Negotiate and record the rights of the creator(s) to share in any income with EKU in accordance with Section VII. 

  3. Inform the President Provost of the IPC’s recommendation as to the appropriate course of action.

     a. The President-Provost will authorize the execution of an acknowledgment and, where applicable, an assignment of ownership rights
     b. The process for licensing, selling, or otherwise conveying IP will comply with any applicable federal or state statutes. All costs associated with these actions shall be borne by EKU, except that such costs shall be offset against future income in accord with Royalty Income Sharing Criteria.
Evaluation of the IP

- The IPC will evaluate the merits of the IP and the equities involved. This evaluation may be made using the materials/information submitted by the creator(s) and/or with the assistance of other university resources or a consultant(s).
- The VP/Provost will advise the creator(s) within one-hundred and twenty (120) calendar days, following the receipt of the Disclosure Form, as to whether or not the University will retain an interest or ownership in the IP, unless the parties mutually agree upon an extension.
- The Provost/VP may extend the deadline if further examination of the IP is needed or additional information is required. This will be done by notifying the creator(s) in writing of the intent to extend the deadline fifteen (15) days prior to the end of the initial 120 calendar day period.
- The Provost/VP must notify the creator(s) of the reason for such an extension.
- The extended period may not exceed forty-five (45) calendar days. However, the extension may be extended for a longer period of time if mutually agreed upon by all parties.
- If EKU elects to release some or all legal rights to the creator(s), or if written notice of the IPC is not given to the creator(s) upon the expiration of 120 calendar day period following receipt of the disclosure or the new deadline, the creator(s) shall be free, subject to law and prior agreements, to proceed independently only with respect to the specific, disclosed IP.

Determination of Royalty Sharing for IP

- When two or more individuals have made substantial creative contributions to IP, they will determine among themselves and in writing the individual share each will receive. A copy of that agreement will accompany the IP disclosure form.
- In the event that agreement cannot be reached, the IP disclosure should be filed and the IPC will hear oral and written statements. After such presentation, the IPC will make a recommendation to the Provost who will issue a finding.
- Due to conditions of employment and/or the nature of work assignments, it may be appropriate to agree to alternate distribution of net income for employees and/or the distribution ratios. Such modifications must be submitted to the Provost/VP, in writing, and will be considered by the IPC.

Commercialization of IP

- Commercialization of IP can be risky. Based on national data, the process fails more often than it succeeds. If no commercialization has occurred within two years after the property is disclosed, the creator(s) may request that all rights be transferred to the creator.
- The request should be addressed to the IPC. It should explain what efforts have been made to date and why the creator(s) should receive ownership.
- The IPC will make a determination as to whether reasonable efforts to commercialize have been taken and will forward a recommendation to the President.

Resolution of Grievances

- If any creator does not agree with any decision made by the VP/Provost, an appeal may be made to the President within seven working days of the issuance of the decision.
- The appeal shall be made in writing, delivered to the President and copies shall be made to the VP/Provost.
- Any appeal shall set forth the specific reasons supporting the position of the party and include any supporting documentation.
- Upon receipt of an appeal of the VP/Provost's decision, the President shall review the information provided and, within twenty (20) working days, shall issue a written decision on the appeal. The decision on this review will be the final decision of the University.

Definitions

Collaborator (Internal or External) - A person with whom the creator works. The collaborator may be a person(s), either within the University or outside the University. Collaborators work together on a literary, artistic or scientific undertaking. This undertaking directly or indirectly results in the creation of intellectual property.
Commercialization
The application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation, or other utilization of IP in order to generate financial or other commercial gains.

Copyright
A form of protection as defined in 17 U.S. Code, which may be amended from time to time. It generally grants protection to authors of “original works of authorship” which includes literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished. These protection rights automatically attach to the work when it is fixed in a tangible medium and formal registration is not required. While registration is not required, it provides certain additional statutory protections. In addition, it is a prerequisite to seek legal redress for copyright infringement in a court of law. Copyrights give the author exclusive rights to reproduce the copyrighted work, to prepare derivative works, to distribute copies of the work, and to perform or display the work publicly. Copyrights also prevent those who are not the original author or otherwise the owner of the work from copying, performing, displaying, distributing or preparing derivative works without proper authorization. Copyrights only protect the particular expression of an idea, and not the underlying idea expressed. A work can be formally registered for copyright protection by the Copyright Office of the Library of Congress. (For more information go to http://www.loc.gov/copyright/)

Discoveries
Acts of disclosing or revealing something that was not previously known to have existed. A disclosure of an object, process, or any other type of occurrence that causes the discoverer to realize the existence of or to uncover a certain idea or concept. A discovery requires that the discoverer is the first to expose or to find out about the revelation.

Due Diligence
The degree of attention or care that is expected of a reasonable person in a given situation.

Electronic Publications
Electronic publications includes software and other technologies and data used to support the capture, storage, retrieval, transformation, and presentation of electronic or digital data and information or to interface between electronic or digital forms and other communications and information media. Examples may include but are not limited to: software, course lecture video or audiotapes, whether electronic, magnetic or digital, electronic publications, electronic textbooks and interactive textbook supplements, Internet-based and on-line courses, web pages, multimedia works, and distance learning materials. As used herein, software means a set of statements or instructions (usually lines of code) used directly or indirectly in a computer to bring about a certain result.

Equity Interest
Shares of common or preferred stock, warrants, options, convertible instruments, units of a limited partnership, or any other instrument conveying ownership interest in a commercial venture. Shares of ownership interest in a commercial venture dealing with intellectual property created under this policy.

Intellectual Property (IP)
Intellectual property includes works of authorship, inventions, and discoveries whether or not subject to protection by patents, copyrights, trademarks, or trade secrets. For the purposes of this policy, Tangible Research Property (as defined below) is included in the definition of Intellectual Property. As defined here, Intellectual Property also includes any new form of Intellectual Property receiving legal protection that may be added to the categories above during the time that this policy is in effect.

Instructional Text
An “instructional text” is a literary, pictorial, or graphic work prepared or otherwise used for commercial publication and with the purpose of use in systematic instructional activities.

Invention
A product or process providing a new way of doing something, or offers new, innovative, technical solution(s) to a problem. Also refers to any new and useful process, machine, manufacture or composition of matter (e.g., life forms, etc) or any new and useful improvement thereof, relating to creative works, research property, and Trade Secrets.

Inventor
Inventors are defined as those persons who have contributed to the conception of an invention and this is ultimately determined by whether a person has contributed to an invention as defined by at least one claim in a patent application and/or an issued patent. A person who reduces an
invention to practice, follows the instructions of another, or suggests an idea of a result to be accomplished rather than the means of accomplishing it, is not an inventor or co-inventor.

**Patent**
The exclusive property rights granted to the creator of an invention issued by the United States Patent and Trademark Office. A patent is defined in 35 U.S. Code, which may be amended from time to time. It generally grants its owner the protection for his/her invention excluding others from making, using, selling, or importing the invention. The requirements for patentability of an invention include that the invention has utility, novelty and is nonobvious. A patent is granted for a limited period of time, which is usually 20 years from the date it is filed. (For more information, see [http://www.uspto.gov/](http://www.uspto.gov/).

**Principal Investigator**
The primary person in charge of investigating or researching a particular matter that may result in the creation of intellectual property.

**Royalties**
The revenue that is received as a result of licensing IP. Royalties may be based on a use rate or a flat rate based on allowing others to use the creation in some fashion for financial gain.

**Sponsor**
A person or organization that pays for or plans and carries out a project or activity.

**Sponsor-Assisted Project**
A project in which a private or governmental sponsor may assist one or more members of the University's faculty, staff, or students by such means as furnishing funds, equipment, or other resources to support research, the creation of a creative work, or any other educational or scientific activity that may result in the creation of IP.

**Sponsor-Supported Project**
Any grant, contract, or similar arrangement between the University and a private or governmental sponsor furnishing funds, equipment, or other resources to support research, the creation of a creative work, or any other educational or scientific activity to be performed by one or more members of the University's faculty, staff, or students that may result in the creation of IP.

**Supplementary Work**
A “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forwards, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

**Tangible Research Material**
Tangible Research Material means materials used or produced in the course of University research projects, examples of which may include but are not limited to: (1) hybridoma or clonal cell lines that produce monoclonal antibodies or recombinant proteins, (2) plants protected by the Plant Variety Protection Act, and (3) non-patented drugs protected by the Orphan Drug Act. Tangible Research Material is subject to the provisions of this policy.

**Trademark**
A distinctive mark or sign that identifies certain goods or services as those that are provided or produced by a specific person or entity. Some examples of trademarks include but are not limited to words, names, logos, sounds and product configurations that uniquely identify a product. The exclusive rights of trademarks are derived from the frequent use of them by the owner or creator and registration of trademarks is not required. Federal registration provides formal protection of trademarks from unauthorized use of the same or very similar types of symbols and can be obtained through the United States Patent and Trademark Office (For more information see [http://www.uspto.gov/](http://www.uspto.gov/).

**Trade Secrets**
Information that a person or entity may keep secret to give them an advantage over their competitors. Trade secrets cannot be formally registered; it is the owners’ responsibility to take appropriate steps to protect the trade secret’s confidentiality.

**Traditional Copyrightable Academic Work**
These shall be defined as a subset of copyrightable works created independently and at the creator’s initiative for traditional academic purposes. Examples include class notes; course instructional documents including: course syllabuses, assignments, exams, information sheets and computer presentations; books; theses and dissertations; articles; non-fiction, fiction and poems; musical works; dramatic works including any accompanying music; pantomimes and choreographic works; pictorial,
graphic, and sculptural works; or other works of artistic imagination that are not created as an institutional initiative. Traditional Copyrightable Academic Works are employee-excluded works pursuant to Section IVb, i; however, see Sections IVb ii-iv for those works that are not excluded from this policy. (Reference Section IVb, part i, ii, iii, iv)

**University**
Eastern Kentucky University

**Working Days**
These days include full days, Monday through Friday, excluding at least half days and full days in which Eastern Kentucky University is closed.

### Responsibilities

| **Intellectual Property Committee (IPC)** | • The IPC shall serve as the custodian of the IP Disclosure form and will identify the IP Category and Ownership structure.  
• The IPC shall review the IP policy, as needed, and make revision recommendations to the Provost. The IPC will also recommend revisions to the Disclosure Form or to any other form required in the disclosure of IP.  
• Actions of the IPC are forwarded to the Provost/VP as recommendations.  
• The IPC will meet at least quarterly. |
| **Intellectual Property Creator(s)** | • The creator(s) shall make available, upon request, originals or copies of all documents and designs, including logs, research workbooks, etc. that are necessary to support an understanding of the IP and its scope and value. Moreover, as necessary the creator(s) shall assist the IPC in obtaining and maintaining legal protection for the IP by disclosing essential information, signing applications and other necessary documents, and assigning technology rights. EKU will reimburse the creator(s) for any/all reasonable expenses incurred complying with IPC requests for additional information. |

*Provost/Vice-President for Academic Affairs Associate Vice President for Research*

• The University administrative contact for issues regarding IP covered under this policy and the disclosure of IP shall be the **Provost/VP Associate Vice President for Research (AVPR)**.  
• The **Provost/VP AVPR** serves as the administrative officer for matters concerning IP, regardless of whether they are generated from an academic or non-academic unit.  
• The interests of EKU and its faculty, staff, and students in the development of IP, except exempted works under Employee –Excluded Works (1), shall be determined by the **Provost/VP AVPR** or designee and the Intellectual Property Committee (IPC), in accordance with this policy.

### Violations of the Policy

NA

### Interpreting Authority

• Provost and Vice President for Academic Affairs

### Policy Adoption Review and Approval
<table>
<thead>
<tr>
<th>Date</th>
<th>Entity</th>
<th>Action</th>
</tr>
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<tbody>
<tr>
<td>January 21, 2005</td>
<td>Board of Regents</td>
<td>Adopted</td>
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<tr>
<td>November 1, 2004</td>
<td>Faculty Senate</td>
<td>Approved</td>
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Patent and Copyright Policy

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<td>January 21, 1989</td>
<td>Board of Regents</td>
<td>Adopted</td>
</tr>
<tr>
<td>February 1, 1988</td>
<td>Faculty Senate</td>
<td>Approved</td>
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Tentative Meeting Dates for 2017-2018

Dates and/or location are subject to change depending on the availability of the South Ballroom in the Keen Johnson Building.

Executive Committee Meetings

<table>
<thead>
<tr>
<th>Fall 2017</th>
<th>Spring 2018</th>
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<tbody>
<tr>
<td>August 28</td>
<td>January 22</td>
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<tr>
<td>September 25</td>
<td>February 19</td>
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<td>October 23</td>
<td>March 19</td>
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<td>November 20</td>
<td>April 23</td>
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Faculty Senate Meetings

<table>
<thead>
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<th>Spring 2018</th>
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<tr>
<td>September 11</td>
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<td>October 2</td>
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<td>November 6</td>
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<td>December 4</td>
<td>May 7</td>
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