SUMMARY:

Coastal Carolina University owns intellectual property invented or created by faculty, staff or students in certain cases.

POLICY:

Definitions

Throughout this policy, where appropriate, the singular form of a noun also includes the plural, the masculine gender also includes the female gender, and the term "participants" means inventors, creators or authors.

1. Assigned Duty

"Assigned duty" is narrower than "scope of employment," and is an undertaking of a task or project as a result of a specific request or direction. A general obligation to do research, even if it results in a specific end product such as a vaccine, a published article, or a computer program, or to produce scholarly publications, is not a specific request or direction and hence is not an assigned duty. In contrast, a specific obligation to develop a particular vaccine or write a particular article or produce a particular computer program is a specific request or direction and is therefore an assigned duty.

2. Significant Use of General Funds

The phrase "significant use of general funds" and the phrase "developed wholly or significantly through the use of state general funds" mean that state general funds provided $10,000 or more of the identifiable resources used to develop a particular intellectual property. A reasonable cost should be assigned to those resources for which a cost figure is not readily available, such as salary, support staff, and other equipment and resources dedicated to the creator’s efforts. Resources such as libraries that are available to employees generally should not be counted in the assessment of the use of general funds. For purposes of this policy, funds and facilities provided by governmental, commercial, industrial, or other private organizations which
are administered and controlled by the university shall be considered to be funds and facilities provided by or through the university and, accordingly, constitute state general funds.

3. Employee
This includes permanent and temporary faculty; full- or part-time classified employees; administrative staff; and students who are paid for specific work by the university. Students may be employees for some purposes and not for others. If they are paid as student assistants, for example, or given grants to do specific research, they will be employees for purposes of this policy. Students receiving general scholarship or stipend funds would not normally be considered employees for purposes of this policy.

4. Intellectual Property
This refers to anything or any portion of anything developed by anyone covered by this policy that fits one or more of the following categories:

– a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of these;
– an issued patent;
– a legal right that inheres in a patent;
– anything that is copyrightable

5. Net Royalties or Other Income
This refers to the total value of any property received, including cash payments, in consideration for the sale, transfer, lease, licensing or other disposition of intellectual property in which the university has an interest, after subtracting the direct and identifiable expenses of the university in developing intellectual property, securing a copyright or patent, and the direct expenses of marketing the same (excluding any indirect costs, such as overhead, from such calculation), and payment of any taxes on the same.

Coastal Carolina University owns intellectual property invented or created by faculty, staff or students in certain cases. The following policy provides guidance as to when the University will assert its interest in intellectual property.

I. Ownership of Intellectual Property

A. The university has an interest in intellectual property only if:

1. the property results from or is developed by faculty or employees acting within the scope of assigned duties; or

2. the property results from or is developed wholly or significantly through the use of state general funds.

B. Absent a prior contractual agreement, the university will not claim an interest in intellectual property invented or created in connection with course work by students who are not university
employees. When significant use by students of university facilities, personnel, or other resources is contemplated, the university may require, as a condition precedent to such use by students, that ownership of the student-developed invention or creation be reserved to the university, in whole or in part. In such cases, a written understanding regarding ownership and use of student creations or inventions should be signed by the student and the University prior to such significant use by the student of university facilities, personnel, or other resources.

C. All faculty, employees, students, and visitors at the university who participate, as inventors or creators, in the development of intellectual property in which the university may have an interest shall be responsible for prompt written notification to the administrator of such participation and development. The written notification shall be a full disclosure of the type of intellectual property being developed, the identity of all persons participating in such development, and the percentage of interest, if any, claimed by each of the participants. The notification shall be signed by each participant. The participants shall furnish additional information as reasonably requested by the administrator.

D. The University shall claim its interest in intellectual property by written notice from the administrator to the inventors or creators. This written notice shall be made within ninety (90) calendar days from the time written notification is received by the administrator, as specified above. Failure of the administrator to so notify the inventors or creators that the university is claiming an interest in such intellectual property shall constitute a waiver by the university of any interest which the University might otherwise claim.

E. Where the University properly claims its interest in intellectual property, the inventor or creator shall be entitled to receive fifty percent (50%) of net royalties or other income accrued to the university by its sale, lease, licensing, exchange or other disposition of such intellectual property.

II. Administration of Policy

Administrator

A. The Executive Vice President is hereby designated as the administrator of this policy. The administrator shall:

1. Develop standards and procedures appropriate for the implementation of this policy.

2. Advise the inventors and creators as to ownership of intellectual property in which the university claims an interest.

3. Promptly consider all written notifications required of the policy and determine the circumstances of creation to establish whether the intellectual property is that in which the university will assert its an interest. Such determinations shall be made within ninety (90) calendar days by written notice to the participants.
4. Determine whether to copyright a work or patent an invention in the university’s name, or to waive some or all of those rights in favor of the creator or inventor.

5. Determine whether the intellectual property in which the university holds an interest is marketable and, if so, take appropriate steps on behalf of the university for marketing the property, including transferring the university’s rights to a Coastal Carolina University foundation.

6. Establish guidelines for distribution of royalties when the university and the inventors or creators share in ownership of the intellectual property.

7. In consultation with the Provost, compile and submit to the State Commission of Higher Education, annually, such information on its intellectual property as required.

B. In addition, the administrator may:

1. Distribute royalties accruing to the university as a result of the implementation of this policy.

2. Transfer, where appropriate, any interest which the university may possess in patents, copyrights or other intellectual property addressed in this policy while ensuring compliance with state policy.

III. Advisory Committee

A. The University Research Council shall serve as the advisory committee to the Executive Vice President regarding intellectual property issues. The committee shall:

1. Assist the administrator in developing standards and procedures for implementing this policy.

2. Recommend amendments in this policy as needed.

IV. Confidentiality

A. The contents of written notifications to the administrator by inventors and creators shall be confidential and shall not be disclosed to others within or without the university, except as may be reasonably necessary in the following situations:

1. Disclosure by participants, in confidence, to legal counsel, accountants or other professionals assisting in the development or protection of intellectual property of the participants.

2. Disclosure by the administrator, in confidence, to the university’s legal counsel, accountants or other professionals assisting in the development or protection of intellectual property in which the university may claim an interest.
3. Disclosure by the participants or the administrator, in confidence, to the University Research Council or Executive Vice President as part of the dispute resolution procedures of this policy.

4. Disclosure as required by judicial process, including proper pretrial discovery.

5. Reporting as required by statutory reporting requirements established by the General Assembly and implemented by the State Commission on Higher Education.

V. Dispute Resolution

In any case in which any creator or inventor of intellectual property disagrees with a decision of the administrator in respect to the ownership of intellectual property in which such persons claim an interest, or in respect to the sharing of royalties or other income accruing to the university through the sale, lease, licensing or other disposition of such property, such persons shall be entitled and obligated to pursue an administrative appeal within the university before pursuing any other legal or equitable remedy. The administrative appeal shall be conducted as follows:

1. The aggrieved persons shall file with the Vice President for Academic Affairs a written statement of appeal specifically identifying the nature of the dispute and specifically stating the relief requested. This statement must be filed within thirty (30) days after receipt by the aggrieved persons of written notice of the Administrator's decision which is being appealed.

2. Upon receipt of such a statement of appeal, the Provost shall refer the matter to the University Research Council, which shall, within thirty (30) calendar days of the filing of the statement of appeal with the Provost, make written findings of fact and recommendations regarding resolution of the dispute, unless within such time the Administrator and the aggrieved persons acknowledge in writing that they have resolved their dispute. The committee may require, upon reasonable notice, that the aggrieved parties or the Administrator or both appear before it and provide the committee with additional information relevant to the dispute.

3. Upon receipt of the written findings and recommendations of the committee, the Provost shall have fifteen (15) calendar days to state his or her decision, in writing, to the aggrieved parties and to the Administrator. He may affirm, modify or reject any determination of the committee.

4. If the Provost and the Administrator disagree, the matter shall then be referred to the President of the University who shall have fifteen (15) calendar days to state his or her decision, in writing, to the aggrieved parties, the Administrator, and the Provost.

5. The decision of the President shall be final within the University and no further administrative appeal shall be available to the aggrieved parties or to the Administrator.
APPROVED

Pat West
Executive Director of Human Resources
and Organizational Development

Date