SUMMARY:

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

POLICY:

I. DEFINITIONS

A. 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.

B. 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 will be considered to be funds and facilities provided by or through the University, and, accordingly, constitute state general funds.
C. 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.

D. Intellectual property - This refers to anything or any portion of anything developed by anyone covered by this policy that fits into one or more of the following categories:
   1. a potentially patentable machine, article of manufacture, composition of matter or process, or improvement in any of these;
   2. an issued patent;
   3. a legal right that inheres in a patent;
   4. an issued patent;
   5. a legal right that inheres in a patent;
   6. anything that is copyrightable.

E. 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 said 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.

II. OWNERSHIP OF INTELLECTUAL PROPERTY - In certain cases, Coastal Carolina University owns intellectual property invented or created by faculty. The following protocols provide guidance as to when the University will assert its interest in intellectual property.

A. Ownership of intellectual property - 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 coursework 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 prerequisite 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 of University facilities, personnel or other resources by the student.

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 will be responsible for prompt written notification to the administrator of such participation and development. The written notification will 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 will be signed by each participant. The participants will furnish additional information as reasonably requested by the administrator. Failure to notify will be interpreted as forfeiture of ownership of all rights, revenue and privileges of the property.

D. The University will claim its interest in intellectual property by written notice from the administrator to the inventors or creators. This written notice will 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 will constitute a waiver by the University of any interest the University might otherwise claim.

E. Where the University properly claims its interest in intellectual property, the inventor or creator will 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.

III. ADMINISTRATION OF POLICY

A. The Vice President for Research is hereby designated as the administrator of this policy. The administrator will:
1. Develop standards and procedures appropriate for the implementation of this policy.
2. Review the merits of each notification submitted for review and may convene an ad-hoc committee to assist in this process.
3. Advise the inventors and creators as to ownership of intellectual property in which the University claims an interest.
4. Promptly consider all written notifications required by the policy and determine the circumstances of creation to establish whether the intellectual property is that in which the University will assert an interest. Such determinations must be made within ninety (90) calendar days by written notice to the participants.
5. 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.

6. 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.

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

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

9. In addition, the administrator may:
   a. Distribute royalties accruing to the University as a result of the implementation of this policy.
   b. 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.

B. The University Research Council will serve as the advisory committee to the Vice President for Research regarding intellectual property issues. The committee will:
   1. Assist the administrator in implementing this policy.
   2. Recommend amendments in this policy as needed.

II. CONFIDENTIALITY

A. The contents of written notifications to the administrator by inventors and creators will be confidential and will 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 Vice President for Research 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.
III. DISPUTE RESOLUTION

A. In any case in which a 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 will be entitled and obligated to pursue an administrative appeal within the University before pursuing any other legal or equitable remedy. The administrative appeal will be conducted as follows:

1. The aggrieved persons will file with the Vice President for Research 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 Vice President for Research will refer the matter to the University Research Council, which will, within thirty (30) calendar days of the filing of the statement of appeal, 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 will 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 will then be referred to the President of the University who will 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 will be final within the University and no further administrative appeal will be available to the aggrieved parties or to the administrator.