SUMMARY:

The creation of copyrighted works is one of the ways Coastal Carolina University (“the University”) fulfills its mission of contributing to the body of knowledge for the public good. The University encourages the creation of original works of authorship and the free expression and exchange of ideas.

This Policy is intended to embody the spirit of academic tradition, which provides copyright ownership to faculty for their scholarly and aesthetic copyrighted works, and is otherwise consistent with the United States Copyright Law, which provides the University ownership of its employment-related works. This policy should be read in conjunction with the Coastal Carolina University ownership of intellectual property policy.

POLICY:

I. Purpose and Scope

This statement sets forth the University's Policy on the Copyright Ownership for works produced at, by, or through Coastal Carolina University. This Policy applies to University employees, students, and other persons or entities using designated University facilities or acting under an employment agreement with the University for commissioned works. This Policy addresses ownership of copyright; it does not address ownership or access to the underlying research results. It is does not change or affect obligations under any other applicable University policy regarding intellectual property such as trademarks or patents. If, in any case, the application of the two policies gives rise to a conflict, the ownership principles of the Coastal Carolina University ownership of intellectual property policy shall apply.
II. Definitions

For purposes of this Policy, the following definitions shall apply:

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. Copyright

1. Copyright is the intangible property right granted by Federal statute for an original work fixed in a tangible form of expression. Copyright provides the owner with the following exclusive rights in a work:

   a. to reproduce;
   b. to prepare derivative works;
   c. to distribute by sale or otherwise;
   d. to perform publicly; and
   e. to display publicly.

C. Designated Academic Appointees

Those University employees who have a general obligation to produce scholarly/aesthetic works. Appointees in other academic titles may also be designated by the appropriate University personnel, which includes the President, Executive Vice-President, Provost, and Chief Financial Officer, acting singly or in concert, as having the obligation to produce scholarly/aesthetic works.

D. Independent Academic Effort

Inquiry, investigation, or research carried out by designated academic appointees to advance knowledge or the arts where the specific choice, content, course, and direction of the effort is determined by the designated academic appointee without
direct assignment or supervision by the University. The general obligation of designated academic appointees to produce scholarly/aesthetic works is considered independent academic effort.

E. License

A contract in which a copyright owner grants to another permission to exercise one or more of the rights under copyright.

F. Originator(s)

One who produces a work by his or her own intellectual labor. When there is more than one originator, the ownership of each originator's contribution shall be considered separately pursuant to this Policy.

G. Permissible Consulting Activities

Professional or scholarly services provided by University employees for compensation, which do not interfere with regular University duties, do not utilize University resources, and are not prohibited by terms of the University employment or other applicable University agreements or policies.

H. Royalties

A payment made to an owner of a copyright for the privilege of practicing a right under the copyright.

I. 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.
J. Sponsor

An organization or agency which provides funding, equipment, or other support for the University to carry out a specified project in research, training, or public service pursuant to a written agreement. Sponsors include Federal, State, local, and other governmental entities as well as private industry, educational institutions, and private foundations.

K. University Facilities

Buildings, equipment, and other facilities under the control of the University, that are designated by the appropriate University personnel, which includes the President, Executive Vice-President, Provost, and Chief Financial Officer, acting singly or in concert, as requiring an advance agreement, from non-University personnel and University personnel acting outside the scope of their employment, concerning the disposition of any copyrighted works that are originated with the use of these facilities. Such facilities normally include campus computer centers and normally do not include University libraries.

L. University Funds

Funds, regardless of source, that are administered under the control, responsibility, or authority of the University.

M. University Resources

University funds or facilities.

N. Work

Any copyrighted expression, including literary work (written lectures are included); musical work including any accompanying words; dramatic work, including any accompanying music; pantomimes and choreographic work; pictorial, graphic, and sculptural work; motion pictures and other audiovisual work; sound recordings; and computer software.
III. Copyright Ownership by Category of Work

A. Scholarly/Aesthetic/Industrial Duty Work

1. A scholarly/aesthetic/industrial work is a work originated by a designated academic appointee resulting from independent academic effort. Example: performing works for third parties unrelated to University business and without the use of University resources.

2. Ownership of copyrights to scholarly/aesthetic works shall reside with the designated academic appointee originator, unless they are also an Assigned Duty or involve “significant use of general funds” pursuant to the Coastal Carolina University ownership of intellectual property policy, are sponsored works or contracted facilities works or unless the designated academic appointee agrees to participate in a project which has special provisions on copyright ownership pursuant to Section VI.C. of this Policy.

B. Personal Work

1. A personal work is a work that is prepared outside the course and scope of University employment (except for permissible non-University consulting activities) without the use of University Resources.

2. Ownership of copyrights to Personal works shall reside with the originator.

C. Student Work

1. A student work is a work produced by a registered student without the use of University funds (other than Student Financial Aid), that is produced outside any University employment, and is not a sponsored, contracted facilities, or commissioned work.

2. Ownership of copyrights to student works shall reside with the originator.

D. Sponsored Work

1. A sponsored work is a work first produced by or through the University in the performance of a written agreement between the University and a sponsor. Sponsored works generally include interim and final technical reports, software, and other works first created in the performance of a sponsored agreement. Sponsored works do not include journal articles, lectures, books or other copyrighted works created through independent academic effort and
based on the findings of the sponsored project, unless the sponsored agreement states otherwise.

2. Ownership of copyrights to sponsored works shall be with the University unless the sponsored agreement states otherwise. Any sponsored work agreement which provides for ownership by other than the University generally shall provide the University with a free-of-cost, nonexclusive, world-wide license to use and reproduce the copyrighted work for education and research purposes.

E. Commissioned Work

1. A commissioned work is a work produced for University purposes by individuals not employed at the University or by University employees outside their regular University employment.

2. When the University commissions for the production of a work, title normally shall reside with the University. In all cases, copyright ownership shall be specified in a written agreement. Any such agreement which provides for ownership by other than the University, generally shall also provide the University with a free-of-cost, nonexclusive, world-wide license to use and reproduce the copyrighted work for education and research purposes.

F. Contracted Facilities Work

1. A contracted facilities work is a work produced by non-University personnel or University personnel acting outside the course and scope of their employment, using designated University facilities pursuant to a written agreement.

2. Ownership of copyrights to contracted facilities work shall be governed by the agreement permitting use of the specified University facilities. Depending on the nature of the facility and the nature and extent of the use, the agreement may specify that ownership of resulting copyrights rests with the University, or the University simply may be paid a fee for the use of the facility, or some other arrangement may be appropriate.

G. Institutional Work

Except as otherwise provided in this Policy, the University shall own all copyrights to works made by University employees in the course and scope of their employment and shall own all copyrights to works made with the use of University resources.
H. Work Acquired by Assignment or Will

The University may acquire copyrights by assignment or will, pursuant to the terms of a written agreement or testament. The terms of such agreements should be consistent with this Policy on Copyright Ownership and other University policies governing such acquisitions.

IV. Copyright Ownership of Jointly Originated Works

Copyright ownership of jointly originated works shall be determined by separately assessing the Category of Work of each originator pursuant to Section III above. Rights between joint owners of a copyright shall be determined pursuant to copyright law.

V. Copyright Agreement and Notification

A. Prior to any use of a University facility by non-University personnel or by University personnel outside University employment, a signed agreement shall be required that specifies the disposition of copyrighted works. University employees using University facilities for work outside University employment are responsible for bringing this to the University’s attention so that an appropriate agreement for use can be negotiated. (See III.F. above.)

B. Designated academic appointees participating in sponsored projects must have an agreement on file with the designated campus official which acknowledges:

1. Individual and joint responsibility to produce and deliver sponsored work to the sponsor, as required by the terms of the sponsored project agreement, and/or to the University when so requested, and

2. That copyright ownership of sponsored works, unless reserved to the sponsor or otherwise provided for in the sponsored project agreement, shall vest in the University. (See III.D. above).

C. Any designated academic appointee, other employee, or student wishing to participate in a specified University project that includes copyright ownership requirements other than provided in Section III of this Policy must sign an agreement indicating his or her concurrence with that project's special conditions. The appropriate University personnel, which includes the President, Executive Vice-President, Provost, and Chief Financial Officer, acting singly or in concert, shall designate special University projects that shall require such special copyright agreements.
VI. Release of University Rights

The University may release its ownership rights in copyrighted works to the originator(s) when, as determined by the University:

A. There are no overriding or special obligations to a sponsor or other third party; and

B. The best interests of the University would be so served. Such release of ownership rights must be contingent on the agreement of the originator(s) that no further effort on, or development of, the work will be made using University resources and that the University is granted a free-of-cost, nonexclusive, worldwide license to use and reproduce the work for education and research purposes.

VII. Licensing and Royalties

The University may assign or license its copyrights to others. Royalty or income received from such transactions may be shared with the originator(s) of such works, as determined by the appropriate University personnel, which includes the President, Executive Vice-President, Provost, and Chief Financial Officer, acting singly or in concert, taking into account the originator's contribution, the University's costs, any provisions imposed by sponsors or other funding sources, and any other applicable agreements concerning the copyright.

VIII. Copyright Responsibilities and Administration: President, Executive Vice-President, Provost, and Chief Financial Officer.

For copyrighted works under their respective jurisdictions, the President, Executive Vice-President, Provost, and Chief Financial Officer, acting singly or in concert, are authorized to:

A. Issue guidelines, implementing procedures, and supplementary local policies consistent with this Policy. These may include directives regarding licensure, disposition of royalty income, and other rights related to copyrights. Copies of such guidelines, policies and procedures shall be sent to the President;

B. Identify campus, laboratory, and other University facilities or projects as having special copyright assignment obligations and issue guidelines and implementing procedures regarding assignment of copyright in works produced using such facilities or projects;
C. Register copyrights, accept copyrights from third parties, and sell, assign, or grant licenses in the name of The Board of Trustees for any rights to copyrights; and

D. Release University ownership rights to copyrighted works which are in the name of Coastal Carolina University pursuant to Section VI.