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SECTION IV: UNIVERSITY POLICIES AFFECTING FACULTY

A. PROCEDURES AND RECORDS

1. Payroll Procedures

Each employee signs an Employee's Withholding Exemption Certificate, Form W-4, as required by the United States Treasury Department, before being placed on the payroll. Ordinarily, a faculty appointee will have received this form, together with a copy of the *Faculty Manual* and the Biographical Data Sheet prior to the start of employment. The Form W-4 is to be completed, signed, and returned promptly to the Benefit and Payroll Services. The social security number is a basic identifying number in the Washington State University payroll system and must be shown on the Form W-4 if the employee has a number. A copy of an applications for a social security number may be submitted with the Form W-4; an employee will not be placed on the payroll until a social security number is receive. For other purposes, disclosure of the faculty member's social security number shall be voluntary, and refusal to disclose that number shall not be grounds for denying a faculty member any right, benefit or privilege provided by law. If the faculty member refuses to disclose his or her social security number for such other purposes, the University shall assign a random number to that faculty member for its record-keeping purposes.

Payment for annual leave for faculty who retire, resign, or terminate their employment and who are entitled to a lump sum payout for accrued annual leave will be paid on the first payroll date following the last day worked. Faculty who retire, resign, or terminate their employment, and who are not entitled to a lump sum payout for accrued annual leave will be maintained on the payroll until the accrued annual leave is exhausted with usual payroll procedures applicable. Academic-year faculty do not earn annual leave.

An employee may sign an authorization in the Benefits and Payroll Services to have the payroll check sent directly to a bank. If no authorization is signed, the check will be sent to the employee's home address. In either case, the check will be mailed on official University pay dates established in conjunction with the state legislature or by regulation. These dates are listed in the Payroll Documents Schedule. (For information about this schedule see the *Business Policies and Procedures Manual, 55.04*) Washington State University is prohibited by law from paying salary in advance.

2. Personnel Records

A permanent cumulative personnel record is maintained for each member of the faculty. Each new member of the faculty fills out a Faculty Personnel Questionnaire, thus providing initial information for the file. Material submitted by deans and department chairs, pertinent correspondence, and other information also become part of the cumulative record. Anonymous communications relating to faculty members are not made a part of the personnel files.

3. Faculty Work Load

Washington State University does not specifically prescribe a division of workload for each faculty member, but, each unit is obligated to specify the proportion of duties that individual faculty will devote to teaching, research/creative activity, and service.

B. POLICIES ON WAIVER OF TUITION AND FEES FOR PERMANENT EMPLOYEES

The objective of this policy is to allow half-time and full-time permanent employees of Washington State University to take advantage of educational opportunities for both professional and personal fulfillment and development. This policy is consistent with chapter 82, laws of 1979 of the state of Washington (RCW 28b.15.535).

1. Eligibility and Enrollment Restrictions

a) Eligibility

- (1) Faculty, on permanent, half-time, or full-time, nine- or twelve-month appointments are eligible.
- (2) Faculty on temporary, full-time, nine- or twelve-month, USDA/Agriculture Research and ROTC appointments are eligible.
- (3) Employees who are not eligible for the tuition and fee waiver are faculty on adjunct appointment; retired faculty, undergraduate and graduate assistants, associates, or others holding positions with student status

b) Limitations

- (1) Up to six credits in any one semester or four credits in the summer session (including audited course work and courses offered at any of the Washington State University branch campuses, courses offered through the Office of Extended University Services, or Washington State University courses offered over the Washington Higher Education Telecommunication System) may be taken by eligible employees under the provisions of this tuition waiver
- (2) Eligible employees desiring to take more than six credits in a semester or four credits in the summer will pay regular tuition and fees for all credits over the limit allowed under the fee waiver.
- (3) Tuition-exempt employees will be admitted to classes when space and facilities are available; i.e., in cases requiring limitations of class size, tuition-exempt employees will have lowest priority
- (4) Tuition-exempt employees will have the responsibility for paying a non-refundable five dollar registration fee, plus any special course fees laboratory, late registration, and so forth
- (5) Tuition-exempt employees are not eligible for student benefits under this program

2. Implementation of the Program

The tuition waiver applies to all courses except internships and courses numbered 499, 600, 700, 702, 800 and; tutorials, private lessons or practicums; Extended Degree Program or flexible enrollment courses; those designated as supplemental or self-sustaining, whether or not the course work is job-oriented.

a) Procedures

- (1) Authorization for the employee to take classes must be given by the immediate supervisor and/or the head of the department or unit. The appropriate personnel officer from Human Resource Services (French Administration Building 139) must determine the employee's eligibility to take classes and sign the authorization form
- (2) At the discretion of the employer, an employee authorized to take a class that is job-related may or may not be required to make up the time
- (3) When a full-time employee is authorized to take a class that is not job-related, the supervisor should arrange, in a cooperative effort, for the employee to make up work missed during the employee's absence to attend class
- (4) The employee should provide a copy of his or her class schedule to the supervisor so arrangements can be made to maintain the employee's work responsibilities while he or she is attending class

C. POLICY ON PURSUIT OF ADVANCED DEGREES AT WASHINGTON STATE UNIVERSITY

In special circumstances faculty members may pursue programs of study leading to advanced degrees at Washington State University. Requests to do so are considered on a case-by-case basis by the Dean of the Graduate School and the Graduate Studies Committee. Approval is subject to all rules and regulations of the Graduate School and requires the concurrence of the Graduate Studies Committee. Review of applications will include consideration of factors such as:

1. Abstention from service on the Washington State University Faculty Senate, Graduate Studies Committee, and Research and Arts Committee
2. Avoidance of situations which may constitute a conflict of interest
3. Impact upon the unit in which a faculty member is appointed
4. Preparation in advance of admission of a general program of study with a stated timeline and
5. Abstention from pursuit of degrees in units which are administratively related to the faculty member's unit.

D. POLICY ON COMPENSATED OUTSIDE SERVICE BY FACULTY MEMBERS— CONSULTING

1. General

Washington State University encourages worthwhile professional outside services by faculty.

Full-time faculty members are compensated for full-time service to the University in instruction, research, public service, extension, or combinations of these responsibilities. The University expects that each full-time faculty member will assume a proper share of the functions and responsibilities of the department, college, or other equivalent administrative unit, and the University.

University employees, as consultants, can be valuable resources to government, industry, and public and private organizations. The University encourages consulting that does not interfere with the employee's performance of University duties and when no conflict of interest exists. Under certain circumstances and within certain limits, a faculty member may receive compensation for outside professional service work beyond the scope of prescribed duties.

2. Guidelines

The following guidelines are intended to provide for certain employees to engage in a limited amount of outside work for pay and to protect the integrity of the employee-public university work relationship.

a) Consulting.

Consulting, which must be consistent with the University's mission and enhance the faculty member's professional development, includes consulting, advising, research, demonstrating, or teaching for others in areas of professional competence for which the faculty member is employed by Washington State University. Not included is appearance on the program of a scientific or scholarly meeting attended mainly by professional peers or outside profit-making business activities engaged in for personal monetary gain. Some such activities are covered in section VI.E Extended Professional Activities.

b) Non-Interference with Professional Duties

Outside work must not interfere with a faculty member's normal official University duties, including those non-classroom responsibilities expected of all faculty members.

c) Remuneration

Compensation for outside work includes salaries, fees, honoraria and gifts beyond actual expenses. No compensation may be accepted by faculty members for tutoring students in courses they teach.

d) Solicitation

Attempts to arrange outside work must be consistent with state law (RCW 42.18 especially 42.18.200 through 42.18.217) and University policy.

e) Limit and Approval

The University values faculty-student exchanges and high quality of performance of duties. Therefore, without special consent of the Dean or other comparable unit administrator, and of the Provost and Academic Vice President, on recommendation of the department chair, full-time faculty are allowed to spend the equivalent of one day per week in outside work for each week worked equivalent to the entire year of employment. All outside work must be disclosed promptly and reported annually by the faculty member to the department Chair or comparable unit administrator. Such work by a department Chair or Dean must be reported to the Provost and Academic Vice President. These provisions do not apply to full-time faculty on nine-month appointments outside periods of obligated service.

Part-time faculty members may be self-employed or may accept additional employment outside the University up to a level corresponding to a full-time position.

The department Chair, or other comparable unit administrator, must determine in each specific case whether outside professionally related service activities by an employee are interfering with official University duties. If, contrary to expectation, such activities prove in the judgment of the department Chair or comparable unit administrator to interfere with prescribed standard University duties and obligations, the faculty member must either seek an acceptable revision of outside work activities or apply for a partial or full leave of absence. A faculty member deemed not to be meeting University obligations will be dealt with as provided in the *Faculty Manual*.

f) Use of Facilities

University facilities (equipment, materials, space, or clerical service) may not be used in connection with compensated outside professionally related service work.

g) Responsibility

The University assumes no responsibility for the competence or performance of a faculty member who engages in outside work for compensation. No such responsibility may be implied in any advertising or contractual documents. University stationery may be used only for official University business.

E. EXTENDED PROFESSIONAL ACTIVITIES

1. General

The policies and procedures of WSU should allow the expertise of University faculty and staff to be available to society without interfering with University programs or academic freedom, and without leading to conflict of interest.

A University employee's commercial involvements may at times go beyond ordinary relationships arising from normal duties, professional affiliations, and consulting agreements and thus may not be covered by University policies on extra compensation, patents, and copyrights. These extended involvements also raise the possibility of: conflicts of interest, constraints on the free exchange of information, or excessive diversion from the employee's primary responsibilities to the University. The following policy and procedures for disclosure and approval of extended professional activities apply to extended involvement and permit supervisors flexibility for dealing with unusual situations.

As used in this section, the word *supervisor* means: Chair and Dean or Director for faculty who are not administrators; Dean or Director for Chairs, The Provost and Academic Vice President for Deans, Directors, and Vice Provosts; the President for Vice Presidents and the Provost and Academic Vice President; and the unit head (Chair, Dean, Director, Vice President, Provost and Academic Vice President, or President) for staff. Supervisors bear responsibility for approval of activities under this section. However, as part of the approval process, supervisors should review their actions with the Provost and Academic Vice President.

2. General Provisions

a) Activities for which approval shall be obtained under this policy include the following:

- (1) Ownership of substantial equity in a commercial enterprise that carries on activities closely related to the employee's area of University work
- (2) Holding a line management position in such a commercial enterprise
- (3) Participation in the day-to-day operations of such a commercial enterprise
- (4) Assumption of an important continuing role in the scientific or technical aspects of such a commercial enterprise
- (5) Transfer, for personal gain, to a commercial enterprise of nonpatented technology or potentially marketable information developed in University research programs

In case 5, approval from the Intellectual Property Committee as well as the supervisors is required.

b) Activities for which approval need not be obtained under this policy include the following:

- (1) Minor holding of stocks
- (2) Uncompensated service on boards of directors and, in some instances, compensated service on company boards when this service does not conflict with the employee's University obligations
- (3) Ownership of or equity in a corporation used solely for the employee's consulting as reported under the policy on extra compensation

The supervisor may determine that outside activities of certain temporary or part-time employees do not conflict with the University position and therefore exempt them from the requirements of this section.

c) Requests for approval of such commercial involvements must disclose:

- (1) Nature of the relationship with the commercial entity
- (2) Short- and long-term commitment of time and effort
- (3) Financial aspects, including extent of compensation, equity, indirect or potential economic value
- (4) Expected benefits to the commercial entity
- (5) Expected benefits to the employee and to the University

d) Supervisors should consider the following factors for acceptability of such requests:

- (1) The relationship should benefit the employee and the University
- (2) The relationship should not interfere with the employee's primary obligations to the University, nor should it detract from the integrity of the University; in particular, there should be no conflict of interest as defined in RCW 42.18
- (3) The employee's total time commitment during periods of obligated service, averaged over the term, to commercial involvements and outside work of all kinds should not exceed one day a week
- (4) There must be no anticipated distortion of academic programs or direction of students, the protection of whose intellectual property should receive special attention
- (5) There must be free access to the results of all research conducted at the University
- (6) With rare exceptions, holding a line management position or participating in day-to-day operations in a commercial entity should not be approved for full-time employees; employees may engage in such activities if their appointments to the University are at an appropriate level less than full time
- (7) If the applicant for approval is a department Chair or program Director, the request should be consistent with unit goals, which the supervisor should determine by consulting representative members of the unit

e) The information disclosed by the employee and a record of the supervisor's action on the employee's request shall be transmitted to the Provost and Academic Vice President and placed in the employee's file where it will be protected from public disclosure to the extent permitted by law. Moreover, the supervisor shall not disclose financial aspects of the request except to his or her own supervisors.

3. Appeals

Negative decisions by the supervisors may be appealed to the Provost and Academic Vice President. When this occurs, the Provost and Academic Vice President shall establish a suitable review process in consultation with the Faculty Status Committee. The appeal shall be filed within fifteen days of the decision and the Provost and Academic Vice President shall reply within thirty days after receiving the appeal.

4. Evaluation

a) By November 1, each employee who in the preceding year has had commercial involvements in areas related to his or her University responsibilities approved under the provisions of this section shall submit a summary of those activities to the approving supervisor(s) with a copy to the Provost and Academic Vice President. Review may result in revision of activities based on apparent or emerging conflicts with University policy

b) Before the end of each fall semester, the Deans, Directors, and Vice Presidents shall review employee commercial involvements, as treated in this section and reported under 1, and prepare an evaluative report for the President

c) The summaries and reports required in items 1 and 2 may be combined with those prescribed for outside consulting. See also *Business Policies and Procedures Manual*, 60.44

F. INTELLECTUAL PROPERTY

1. Introduction

a.) Intellectual property is the inherent value produced by human creativity and invention, protected by law from unauthorized exploitation by others, and includes patents, copyrights, trademarks, and other proprietary information.

b.) The University's patent and copyright policies are intended to encourage a healthy atmosphere conducive to research and development through a system of rewards and incentives for the creation of intellectual property while at the same time giving proper consideration to the responsibilities that the University has as a public land-grant university.

c.) The strength of the University lies in its employees. The University's policies can provide invaluable assistance in bringing employee ideas to development and fruition within a framework of mutual trust and collegiality.

d.) These policies are intended to spell out the responsibilities of the University and its employees and establish a framework for ethical conduct. While employees are encouraged to consider the potential market value of their inventions, they shall not be held liable for failing to recognize a potentially patentable invention. Nothing in this policy shall be construed as abridging a faculty members' academic freedom in the classroom.

e.) Employees of Washington State University may create copyrightable works and patentable discoveries. It is desirable in the public interest in some cases to seek University intellectual property protection for these works and discoveries. Commercialization through licensing the use of the property provides an opportunity for both income to the inventor and support for further University research and scholarship.

f.) This Intellectual Property Policy applies to all University Employees. For the Purposes of this Intellectual Property Policy, “Employee” shall be defined as any person receiving compensation for service, or any person volunteering services for the benefit of the University. Employees shall include, but not be limited to, faculty, administrative and professional personnel, classified staff, research fellows, staff assistants, and all other student employees. “Faculty” shall be defined as permanent and temporary teaching, research, service, extension, library, or student affairs appointment faculty, graduate teaching and research assistants, visiting scientists, and postdoctoral researchers. The uncompensated activities of students in furtherance of their education shall not be considered service that benefits the University within the meaning of this policy unless an agreement exists to the contrary.

g.) All employees accept the terms of these policies as conditions of employment or gratis association. Employees shall agree to execute an assignment of their future patentable works and discoveries to the University. These policies may be modified by the administration with approval from the Board of Regents after consulting with faculty and staff of the University.

2. Applicable Laws

a.) Federal law governs the creation of intellectual property. The United States Constitution, Article III, Section 8, gives to Congress, in order "to promote the progress of science and the useful arts, "the power to grant, for limited periods of time, to authors and inventors, the exclusive right to their respective writings and discoveries." The Copyright Act, in Title 17 of the United States Code, sets out the requirements by which an author of literary, artistic, and similar works may obtain copyright protection, and provides that in the case of a “work made for hire,” the employer is the author for copyright purposes. 17 U.S.C. § 201(b). The Patent Act, in Title 35 of the United States Code, sets out the requirements by which inventors of new and useful processes, machines, manufactures, or compositions of matter may obtain patent protection.

b.) The Washington State Ethics Law (Ethics Law), RCW 42.52, and the rules promulgated pursuant to the law, restrict the use of state resources for private purposes, and state employees are individually responsible for complying with this law. For Ethics Law purposes as it relates to this Policy, state employees are defined as all faculty, staff, and students employed by the University. The Ethics Law provides that "No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another." RCW 42.52.160. However, the Ethics Law allows state officers and employees to receive "honoraria" if "authorized by the agency where they serve." Honoraria is defined in the Ethics Law to mean “money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer’s or state employee’s official role.” RCW 42.52.010(11).

c.) Consistent with the Ethics Law, this Policy authorizes University employees, under defined circumstances, to retain ownership to certain intellectual property created with University resources. Additionally, this Policy authorizes University employees to receive royalty payments from commercialization of certain University-owned intellectual property that they created.

3. Intellectual Property Committee

- a.)** The Intellectual Property Committee serves as an advisory committee to the Vice Provost for Research on all University intellectual property (i.e., patent, copyright, trademark, and proprietary information) especially with regard to University policy on these matters. All members of the Committee shall hold confidential all matters coming before the Committee regarding specific intellectual property.
- b.)** The composition and tenure of the Intellectual Property Committee shall be:
- (1) Six faculty with three-year terms, one of who will be appointed chair. The Faculty Senate may suggest faculty members to be considered by the President.
 - (2) Two Deans or Associate Deans of the colleges for three-year terms.
 - (3) One member of the administrative and professional personnel or staff, with a three-year term.
 - (4) Director of OIPA who serves as secretary to the Committee. Director of the Office of Grant and Research Development. Both Directors act as ex officio members to the committee.
- c.)** The quorum required for voting at a committee meeting must be no fewer than five voting members; three of whom must be faculty.

4. Office of Intellectual Property Administration

- a.)** The Office of Intellectual Property Administration (OIPA) ([http:// www.wsu.edu/~oipa](http://www.wsu.edu/~oipa)) serves the University and its employees by promoting the transfer of technologies, encouraging the disclosure of intellectual property, conducting preliminary reviews of commercial potential of invention disclosures, and recommending copyright and patent protection and licensing to the Washington State University Research Foundation (WSURF). OIPA works closely with the WSURF, a private non-profit organization responsible for the commercialization and licensing of inventions and other University intellectual property. In association with the WSURF, OIPA monitors invention disclosures, patent status, license agreements, marketing efforts, federal reporting, and royalty income. The professional staff includes the Executive Director, Program Support Supervisor, and Technology Licensing Associate(s).

G PATENT POLICY

An invention may be a design, process, code, biological material, or device that shows novelty, usefulness, and non-obviousness. A patent is a contract between the inventor and the government to allow the inventor exclusive rights to make, sell, or use the invention for a definite period of time (generally 20 years from the filing date). Plant Variety Protection, international Plant Variety Rights, and international patents are other forms of invention protection. Transfer of biological material, software source code, or proprietary information may be protected through confidentiality agreements. For further information about patents, refer to the U.S. Patents and Trademarks Office at <http://www.uspto.gov/>.

1. Scope of Policy.

a.) This policy applies to potentially patentable discoveries and proprietary information which are developed using Washington State University equipment, supplies, facilities, employee time, or proprietary information, or which relate directly to the University's business, research, or development. The University will be assigned ownership in patents and other tangible research property developed by its employees as a result of their University research or employment. The University does not claim rights in inventions for which no equipment, supplies, facilities or proprietary information was used and which was developed entirely on the employee's own time.

2. Sponsored Research.

a.) Where the invention has been developed through research sponsored by a grant or contract with the federal government (or its agencies), it must be reported to the agency and the agency joins the University to determine distribution of the rights in the invention, to determine if patent prosecution should be sought, and how the patent should be administered or disposed of in the public interest. The WSU Office of Grant and Research Development (OGRD) is responsible for the submission and acceptance of sponsored projects to the University. For further information, you may refer to OGRD's home page at <http://www.ogrd.wsu.edu/>.

b.) Where private industry or foundations have sponsored research, licensing of patents or other intellectual property shall be negotiated between the sponsor and the University, or its agent where appropriate. The University will strive to protect the financial interests of all and ensure that the University retains the traditions of self-governance and academic freedom. The University, on behalf of its constituent colleges, schools, or departments, will not accept grants or enter into agreements for the support of instruction or research that confer upon an external party the power to censor, unduly delay, or exercise effective veto power over either the content of instruction or the publication of research. Publication of research findings may temporarily be delayed in order to protect patent rights or permit the research sponsor to review the proposed publication for the sole purpose of identifying proprietary information furnished by or belonging to the sponsor.

c.) The University normally retains ownership of property developed under sponsorship agreements and will negotiate rights to license the property. The proprietary rights of the University and of the University's employees shall be subject to the agreement between the sponsor and the University. Agreements with outside sponsors shall be approved by the Vice Provost for Research or his or her designees.

3. Disclosure of Potentially Patentable Discoveries.

a.) Prior to employment by the University and for the protection of the employee's interests at the time of employment, each new employee shall disclose to OIPA all inventions previously developed or being developed by the employee for the purpose of establishing his or her ownership rights to developments made.

b.) While employed at the University, employees shall disclose patentable inventions and discoveries to OIPA for review. The Executive Director of OIPA will provide assistance in filling out forms for disclosure. Invention Disclosure forms may be found at <http://www.wsu.edu/~oipa/agreements.htm>

4. Patent Ownership.

- a.) The University shall own the rights to all patentable property and other tangible research and scholarship developed as a result of University employment, or when the equipment, supplies, facilities, employee time or proprietary information of the University are used. After the employee terminates his or her Washington State University employment and is re-employed elsewhere, the University retains ownership of subsequent inventions where the invention is a direct outgrowth of the University's business or University research and development.
- b.) Under the federal patent and trademark legislation of 1980 (35 U.S.C. § 200 et seq.), the University has the right of first refusal to title in inventions made in the performance of federal grants and contracts. The University will assert title to and attempt to license inventions made with federal government funds so that the Congressional purpose of fostering the development of industry in the United States will be furthered.
- c.) For any patentable inventions and other discoveries in which the University, its assignee, or a sponsor has an interest, the employee shall execute promptly all assignments, waivers, and other legal documents necessary to vest in the University, its assignee, or the sponsor any and all rights to the invention, including assignment of any patents or patent applications.

5. Patent Ownership Appeals.

- a.) If there is a question of ownership, OIPA will determine whether the potentially patentable property is owned by the University, by the employee, jointly by the University and the employee, or by an outside sponsor. The Office may determine that the employee or sponsor is a partial owner of the intellectual property with the University in cases where it would be unfair to determine that the property is wholly owned by the University, e.g., when an employee disclosed enabling discoveries that occurred before employment with the University or when the sponsor's employees have contributed to the invention. In such cases, OIPA shall notify the previous employer (if any) and negotiate percentages of respective ownership. If OIPA deems it to be in the best interests of the University to release its rights to the invention, it may do so.
- b.) When a question of ownership arises, the procedure for determination of ownership shall be as follows. OIPA shall make its determination of ownership, or request additional time, within 45 business days of full disclosure. If OIPA asks for additional time, it must, in any event, make its determination within 35 business days of its request for additional time. The employee will be notified of OIPA's decision within 5 business days of its determination. The employee shall have 30 business days from the date of OIPA's mailing of the notice of the determination of ownership to appeal the decision to the Vice Provost for Research. If the Vice Provost for Research cannot resolve determination of ownership within 5 business days of the appeal, the appeal shall be heard by the Intellectual Property Committee within 20 business days of the notice of the appeal. The Intellectual Property Committee will make its recommendation to the Vice Provost for Research. The decision on appeal shall be issued within 30 business days of the deadline for submitting material. If OIPA fails to notify the employee in writing of determination of ownership within 50 business days of full disclosure or 80 business days if additional time is requested, then the University's rights in the patentable property shall automatically become the property of the employee or sponsor.

c.) Following this internal appeal process, the employee will have recourse to settle ownership by binding arbitration administered by the American Arbitration Association (AAA) under AAA Patent Arbitration Rules. The employee shall file his or her claim with any Washington office of the AAA within 60 business days of the Vice Provost's decision, and provide a copy of such claim to OIPA within the same period of time. Costs of the arbitration shall be shared equally by the parties.

d.) After the determination by OIPA and exhaustion of the employee's right of internal and external appeal, the employee shall execute documents of assignment to convey to the University, its assignee, or the sponsor all of the employee's interest in the invention determined to be owned by the University, its assignee or the sponsor and assist in obtaining, protecting, and maintaining patent rights.

e.) In the event an appeal results in ownership by the employee, the University shall formally release all claims to the employee's invention.

6. Publication and Disclosure to Third Parties.

a.) Once an invention is identified as potentially patentable, premature publication, public use, or disclosure of an invention can jeopardize the rights of the employee, or the university or its assignee to secure patent protection - particularly patent protection in other countries. In close consultation with the employee inventor and for the benefit of employee inventor, University, and possible Licensee, there shall be no publicity or disclosure concerning the invention until patent applications have been filed. OIPA shall act in a timely fashion in such cases so as to not unreasonably delay employee publications. All publicity, public reports, interviews, news releases, speeches, public disclosures, or public demonstrations of the invention subsequent to the filing of the application shall have prior clearance in writing from the University or its assignee.

b.) This section shall not be applicable to sponsorship agreements that impose different obligations on disclosure.

7. Management of Patents.

a.) The University will assign its interests in all patents and other intellectual property to the WSURF for development. The assignment will take place under the agreement between the University and the WSURF. Copies of the agreement between the University and the WSURF may be obtained from OIPA. If the agreement is terminated, the University shall select a managing agent and execute the proper assignments to the agent.

b.) Patent protection prosecution and commercialization through licensing are complex and expensive endeavors requiring active participation by the inventors and the University over a period of 20 years after patent filing. The WSURF reserves the right to return the invention to the University if commercialization is not possible. For inventions that were enabled through sponsored research, the federal, state, or private sponsoring agency must be notified and allowed the right to patent the invention. If there was no enabling sponsored research, or the sponsor or the University declines to pursue the invention, then the invention rights will be returned to the inventor.

8. Division of Patent Royalties.

a.) All monetary proceeds from commercialization of University-owned inventions are the property of the WSURF. The WSURF will collect and distribute royalties, fees, equity interests, or dividends to inventors and University in accordance with procedures established by the University.

(1) The WSURF will deduct the costs of obtaining and maintaining legal protection for each invention to arrive at “adjusted income.”

(2) The WSURF will deduct twenty percent (20%) from adjusted income and the remainder will be “net income.” This deduction is directed toward covering the expenses (excluding direct patent expenses) for administering OIPA and provides initial funds for patent prosecution for other inventions without obvious commercial partners.

(3) Distribute net income according to the following schedule.

Cumulative Net Income	Inventor	University
\$1-\$10,000	100%	
\$10,001 - \$200,000	50%	50%
Above \$200,000	25%	75%

(4) With consideration to other University priorities and policies, the University will distribute a portion of its share to the Office of the Vice Provost for Research to be invested in further research and technology efforts for the University and at least 20% of its share to be split equally between the inventor's department and College (or relevant branch campus when appropriate) for further research.

b.) Inventors, whose technology was previously assigned to the WSURF for administration, will be given the one-time option of selecting the above Division of Royalty policy over any pre-existing royalty policy.

c.) In the event of multiple inventors, the inventors will agree among themselves as to the distribution of the income accruing to the inventors; distribution of the inventors' share shall be made only upon receipt of a signed agreement among the inventors.

d.) The WSURF may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to royalty and/or monetary consideration as a part of an agreement relating to inventions or Copyrighted Works. Neither the WSURF nor University acts as a fiduciary for any person concerning equity nor other consideration received under the terms of this regulation.

9. Public Released Agricultural Research Center Plant Varieties

a.) The research and development, patent or plant variety protection, and public release of plant varieties requires the cooperation of the plant breeder/breeder team, funding agency (USDA), Variety Release Committees, WSU Agricultural Research Center (ARC), Washington State Crop Improvement Association (WSCIA) or similar commodity groups, and OIPA. The distribution of Research Fees and Royalties will follow this schedule:

b.) Seed Propagated Crops

- (1) The WSURF will deduct the costs of obtaining and maintaining legal protection for each plant variety.
- (2) WSCIA typically collects a two percent (2%) management fee for its services in producing and distributing seeds, and collection and distribution of research fees.
- (3) Seventy percent (70%) of the adjusted income will be distributed to the Agricultural Research Center for enhancement of plant variety programs.
- (4) The remaining thirty percent (30%) of the adjusted income will be distributed
 - 10% to WSURF
 - 10% to WSU-ARC
 - 10% to plant breeder/breeder teams

c.) Vegetated propagated crops

- (1) The WSURF will deduct the costs of obtaining and maintaining legal protection for each plant variety.
- (2) Fifty percent (50%) of the adjusted income will be distributed to the Agricultural Research Center for enhancement of plant variety programs.
- (3) The remaining fifty percent (50%) will be distributed as follows:
 - 10% to WSURF
 - 10% to WSU-ARC
 - 30% for breeder/breeder teams

H COPYRIGHT POLICY

The United States government grants a copyright to the author or creator of original works of authorship. Copyrights for works created after January 1, 1978, are granted for the term of the author's life and an additional 70 years. In the case of a work made for hire, the term of the copyright is 95 years from the year of first publication or 120 years from the year of creation, whichever expires first. The copyright allows the author or persons assigned rights for the author to rightfully withhold others from copying or using the works without permission. A copyright is automatically secured when the work is created or "fixed" in a tangible medium. No publication or registration or other action in the Copyright Office is required; however, it is required that a copyright be registered before a lawsuit is brought. Refer to the U.S. Copyright Office at <http://lcweb.loc.gov/copyright/> for further information.

1. Copyright Policy Objectives.

- a.)** The University encourages the publication of scholarly works as an inherent part of its educational mission. In this connection, it acknowledges the right of faculty, staff, and students to prepare and publish, through individual initiative, architectural designs, photographs and slides, illustrations, computer software, multimedia presentations, sound recordings, video productions, telecasts, music, grant proposals, scholarly publications, and other material. The

following statement of University policy on ownership of copyrightable material is provided to clarify the respective rights and responsibilities of individuals and the University in this important area. OIPA will administer the policy.

2. Copyright Ownership.

a.) University Ownership of Copyrighted Works

(1) **Work Made for Hire.** Except as otherwise provided in the Employee Ownership of Copyrighted Works section of this Policy, the University shall own all copyrightable works that were created as a “work made for hire.” “Work made for hire,” as defined by the Copyright Act, includes (1) works prepared by University employees within the employee’s scope of employment, or (2) works not created within the employee’s scope of employment but that are specially commissioned by the University pursuant to a written agreement that is signed by both the University and the employee.

(3) **Sponsored Agreements.** The University shall have the right to perform its obligations with respect to copyrightable works, data, prototypes, and other intellectual property under any contract, grant, or other arrangement with third parties, including sponsored research agreements, license agreements, and the like. Employees shall assign all rights to the University or as required by the sponsored agreement necessary to facilitate obligations under grants and contracts.

(4) The Employee shall own copyrightable works unrelated to the employee’s University employment responsibilities that are developed on an employee’s own time and without University support or use of University facilities.

b) Faculty Ownership of Copyrighted Works.

(1) The University shall not assert ownership in the following works created by Faculty within the Faculty’s scope of employment, unless (1) substantial kinds or amounts of University resources, as defined below, were used to create the works; (2) the works are created pursuant to a written agreement between the employee and the University; or (3) the works are created pursuant to a third-party sponsored agreement, contract, or grant, specifically allocating ownership rights to the University.

- (a) scholarly material,
- (b) educational material,
- (c) art works,
- (d) musical compositions, and
- (e) dramatic and nondramatic literary works.

(2) **Substantial University Resource Use Resulting in University Ownership.** The University shall assert an ownership interest for works identified in the previous paragraph to which the University contributes substantial kinds or amounts of resources. Each department or unit of the University may publish, with the approval of the Provost, a description of what constitutes substantial kinds or amounts of University resources. In the event that a department or unit does not publish such a policy prior to the creation of the works,

substantial kinds or amounts of resources shall mean the use of staff or clerical time other than peer review; provision of university funding specifically for or in support of the development of the work; not to include professional leave, and provision of equipment, facilities, and supplies beyond that which is usually provided for meeting employment obligation.

c.) Student Writings. Students employed by the University in any capacity are covered by the terms of this policy. In addition, where a student receives financial aid or remuneration under a sponsored research, training, or fellowship program, his or her rights in copyrightable material are limited by the terms of the University agreement with the sponsoring agency. The University has no ownership rights in copyrightable material developed by students who are not employees.

d.) Patentable Works. Some works, particularly certain types of computer programs, may qualify for patent as well as copyright protection. An author, upon recognizing that one of his or her works is of this kind, is responsible for disclosing it to OIPA for a determination of (i) ownership and (ii) whether the University wishes to seek patent protection should ownership be vested in the University. OIPA, following the procedures set out in the University's patent policy, will make these determinations. If ownership of such a work is vested in the University under the patent policy, but the University decides not to protect the work, ownership and disposition of the work is then determined in accordance with this Policy. If Faculty wish to appeal OIPA's or its staff's decisions, the procedure set out in section 6 of the Patent Policy shall be followed.

3. Administration of the Copyright Policy

a.) Disclosure. Material subject to copyright and owned by the University under the circumstances set forth in the Copyright Policy should be promptly disclosed to OIPA.

b.) Determination of Ownership in Unclear Cases. Such determinations will be made by OIPA and will follow the guidelines set out in this Policy. Either the University or the author may initiate this review.

c.) Distribution of Royalties. See the Division of Copyright Royalties section of this document.

d.) General Advice and Assistance. Contact the Washington State University, Office of Intellectual Property Administration, WSU Research and Technology Park, Pullman, WA 99164-1802, telephone (509) 335-5526.

4. Management of Copyrights.

a.) The University will either assign its copyright interests to WSURF or retain ownership for development by other University publishing units, e.g., Office of Publications and Printing, Educational Telecommunications and Technology, Information Technology, or the Extended Degree Program. For the WSURF the assignment will take place under the agreement between the University and the WSURF. Copies of the agreement between the University and the WSURF may be obtained from OIPA. If the agreement is terminated, the University shall select a managing agent and execute the proper assignments to the agent.

b.) Copyright registration is simple. Software commercialization through sale or licensing may be complex and expensive requiring active participation by the authors and the University. The WSURF reserves the right to return the copyright to the University if commercialization is not possible.

5. Division of Copyright Royalties.

a.) In cases where the University assigns its copyright interest to the WSURF, all monetary proceeds from commercialization of University-owned copyrighted works (often software) are the property of the WSURF. Often the WSURF will collect and distribute royalties, fees, equity interests, or dividends to authors and University in accordance with procedures established by the University. The guidelines as follows will be used most commonly, but the University reserves the right to adjust the distribution of its share.

(1) The WSURF will deduct the costs of obtaining and maintaining legal protection for each copyrighted work to arrive at “adjusted income.”

(2) The WSURF will deduct twenty percent (20%) from adjusted income. This deduction is directed toward covering the expenses for administering OIPA.

(3) If required by the University, the WSURF will first reimburse the University for expenses in developing and distributing the copyrighted work, e.g., distance learning courseware. The remaining income is the Net Income.

(4) Copyright royalty income will be distributed as identified in Patent Policy V. a.2.

b.) In the event of multiple authors, the authors will agree among themselves as to the distribution of the income accruing to the authors; distribution of the authors’ share shall be made only upon receipt of a signed agreement between the authors.

c.) The WSURF may negotiate, but shall not be obligated to negotiate, for equity interests in lieu of or in addition to royalty and/or monetary consideration as a part of an agreement relating to Inventions or Copyrightable Works. Neither the WSURF nor the University acts as a fiduciary for any person concerning equity or other consideration received under the terms of this regulation.

I. USE OF FACULTY AUTHORED, EDITED OR PREPARED SCHOLARLY MATERIAL

Faculty members are expected to educate our students using the best scholarly materials and knowledge available. In some cases, this will result in faculty producing materials, such as textbooks or unpublished laboratory manuals, for student purchase. Requiring the use of faculty authored materials must only be done to promote appropriate educational goals. It must not be done for personal benefit or to obtain special privileges for faculty (See the Ethics in Public Service Act, RCW 42.52). Faculty members may not sell any materials directly to students. Students may be required to use textbooks or other material written by WSU faculty only if:

- the faculty member receives no financial gain from sales to WSU students, or

- the materials are printed and copyrighted by a recognized publishing house and either in widespread use in other institutions or with evidence of independent external review by peers, or
- the materials are reviewed and approved for use by a group designated by the Faculty Senate Executive Committee. A request for review and approval must be submitted

J. TRADEMARKS

University trademarks include the names, designs, logos, and colors for “Washington State University”, “WSU”, “Cougars”, “Go Cougs”, “Ask Dr. Universe”, and others. Permission of the University is required before use of these trademarks. Commercial use requires licensing and payment of royalties. Royalty income from licensing of University and Athletic marks is administered by the Washington State University Foundation. The Trademarks Officer may be contacted through OIPA.

From time to time other University trademarks are registered for software, plant varieties, or devices in conjunction with their patent or copyright protection. These trademarks may generate royalty through commercialization. Net royalty income received by the WSURF shall be distributed according to the schedule used for Patents.

K. FACULTY INVOLVEMENT AND RESIDUAL RIGHTS IN FILMS, VIDEOTAPES, AND OTHER INSTRUCTIONAL MEDIA

Washington State University may transmit or reproduce by television, radio, or other means, for local or general distribution, news and general information programs prepared by Washington State University on which faculty members have appeared. The negotiation of a contractual agreement between the responsible faculty member(s) and the University is handled through the Provost and Academic Vice President.

Nothing in this policy shall be construed as abridging a faculty member's academic freedom in the classroom.

L. BUSINESS POLICIES AND PROCEDURES

Many additional policies and procedures which may affect faculty are included in the *Business Policies and Procedures Manual* which is available online on the WSU homepage at www.wsu.edu/~forms/manuals.html. Among the policies covered in detail in that manual are the following.

1. Use of Name and Logo

The name Washington State University and its logo are the exclusive property of the institution and consequently, should not be used in support of claims or advertisements by any outside organization without permission of the President. Research grants from commercial concerns are given in accordance with a memorandum of understanding which states that the name of the University or any of its departments shall not be used in connection with advertising except by permission.

Faculty members publish a considerable number of reports in the form of bulletins, circulars, scientific articles, monographs, and books, some of which are copyrighted and others which are not. Material from such recognized publications is, of course, quotable, and proper recognition should be given both to the individual author and to the publishing institution of quotations.

University stationery may be used only for official University business. No report or statement relating to private consulting or other services may use the name of Washington State University or be attributed to it. The use of official titles for personal gain or publicity is not appropriate procedure. See *Business Policies and Procedures Manual*, 60.44. www.wsu.edu/~forms/manuals.html

2. Project Funds From Outside Sources

The University encourages individual investigators, departments, and other units to seek financial support for research and other scholarly and creative activities from sources outside the funds ordinarily available to the Board of Regents. Numerous organizations, governmental units, and other agencies offer support for research programs. Demonstrated ability and recognized professional standing of an individual or group constitute the most important means of attracting financial assistance.

Policies and procedures relative to projects supported by outside agencies have been established. A copy of these policies is included in the *Business Policies and Procedures Manual*. All proposals for research, academic, scholarly, creative, instructional, extension, and service activities require approval of the Chair of the department, the Dean of the college, and the Vice Provost for Research, to whom the authority has been delegated for giving final University approval to all such proposals. Aid in the preparation of proposals to external agencies is available through the Office of Grant and Research Development. Before an application is forwarded to an external agency, this office is responsible to ensure approval of all concerned units.

Acceptance of any grant, gift, or contract resulting from such proposals must be approved and confirmed in writing by the Vice President of Business Affairs, and copies of all pertinent documents must be deposited with this officer and the Dean concerned.

3. Faculty and Staff Travel

Authorized travel by University employees is subject to state regulations and to such budgetary and travel regulations as are established by the University, as well as by certain units thereof. Expense of travel not within the scope of these regulations will not be reimbursed from University funds nor from any funds administered by it. For purposes of these regulations, in-state travel includes only travel within the state of Washington.

Travel authorization forms should be submitted to the principal administrative officer via channels established by the respective units for the contemplated travel by all employees. *Business Policies and Procedures Manual, Chapter 95.01.*

4. Applicant Travel

It is occasionally important that potential faculty members be invited to the campus for interviews. A recommendation for each such visit is to be submitted to the principal administrative officer on the Personal Professional Service Request form. Following approval of

this recommendation, the invitation to come to the campus should be sent by the department Chair, Dean, or Director concerned. It should include a statement that travel expenses will be reimbursed at a rate not to exceed round-trip, coach airfare. See *Business Policies and Procedures Manual, Chapter 95.01*.

5. Equipment

All equipment purchased by or given to the University or to one of its departments is the property of Washington State University and not the property of a department or other unit. Priority in the use of a piece of equipment ordinarily is held by the department that purchased it out of its department funds. No individual has any proprietary interest in property of the University, nor are University buildings available for the permanent or continuing storage of employee personal property not used in official operations. Property continuously stored in University buildings is presumed to be state property. Department Chairs and principal administrative officers are responsible for maintaining inventories of equipment and are the custodians of the property assigned to their respective units. University equipment may not be borrowed by or loaned to an individual for private use. The Controller is authorized to rent certain items of equipment at times not needed in University operations.

6. Purchasing

All purchases by any unit of the University must be arranged through the Division of Purchasing prior to acquisition of the merchandise or equipment by the University or by one of its employees. Forms as furnished by the Purchasing Manager must be used to place purchase orders. Purchasing procedures are prescribed by state law and regulation and must be observed by all units of the University. The acquisition or custody of property not covered by normal purchasing procedure should be reported to the Vice President of Business Affairs.

7. Cash Received by Employees outside Controller's Office

Except for those departments traditionally considered as vendor departments, no department can sell goods or services to students, employees, other departments, or the general public without obtaining specific authority from the Assistant Vice President of Business Affairs. The procedures for handling cash sales must be coordinated with the Controller. Washington State University receipts and invoices or other receipts or invoice documents approved by the Controller must be used by all departments to record payments or charges immediately upon receipt. All payments made to employees handling accounts and sales of produce, poultry, trees, and other property of the University, or for which the University is responsible, are to be deposited intact within a week with the Office of the Controller. Cash, checks, or other payments totaling \$100 or more are to be deposited daily. The department must be responsible for providing adequate safeguards for cash.

(Departments may take charge sales only when authorized by the Office of the Controller.)

8. Approval of Contracts and Memoranda of Agreements

The Vice President of Business Affairs, or designee, the Assistant Vice President of Business Affairs, is the contracting officer for the University. Each agreement or arrangement that any unit of the University or any employee wishes to enter into which, if made, would commit the University to any obligation, financial or otherwise, must formally documented in a contract or memorandum of agreement. These contracts or memoranda of agreement must be approved and

signed by the Assistant Vice President of Business Affairs. Persons wishing to negotiate such an agreement should, with the approval of their Dean or Director, discuss it in principle with the Assistant Vice President of Business Affairs in advance or at least in the early stages of negotiation. A sufficient number of copies of each proposed contract or memorandum of agreement should be routed to the Assistant Vice President of Business Affairs to permit the retention of one copy in the permanent contract files. *Business Policies and Procedures Manual*, 70.21 <http://www.wsu.edu/~forms/manual.html>.

9. Bonding of Employees

Every member of the faculty and staff is bonded in the amount of \$100,000 as an employee of the State of Washington. It is not consistent with University policy for any employee to handle funds for any other organization as a part of his or her duties as a University employee.