

**NOVA SOUTHEASTERN UNIVERSITY
OFFICE OF SPONSORED PROGRAMS
POLICIES AND PROCEDURES**

**COMPLIANCE /AWARD ACCEPTANCE
INTELLECTUAL PROPERTY – PATENTS, COPYRIGHTS & INVENTIONS
EFFECTIVE 12-01-08, REVISED 12-26-2014, 8-28-2016
POLICY #15
PAGE 1 OF 3**

PURPOSE:

To establish a mechanism for protecting certain property rights of the university and its employees and the basis for such rights and to comply with requirements under sponsored agreements.

DEFINITIONS:

Invention: Any new process, design, machine, manufacture, or composition of matter or any new improvement thereof, including but not limited to, computer software and databases, biological materials, integrated circuits and firmware, circuit diagrams, engineering drawings, and prototype devices and equipment, whether patentable or copyrightable.

Patent: Grant by the U.S. Patent and Trademark Office (USPTO) or foreign counterpart (e.g. European Patent Office - EPO) to an inventor of the right to exclude others for a limited time from making, using, or selling his/her invention. To be patentable, an invention must be novel, useful, and non-obvious.

Copyrights: Protection by law that covers books, periodicals, lectures, dramatic or dramatic-musical compositions, maps, works of art, drawings or plastic works of a scientific or technical nature, computer programs, software and other electronic media, photographs, pictorial illustrations, labels, motion pictures and video tapes, and audio recordings. The copyrightable material need not be novel; it must only be the original product of the creator.

POLICY:

As a condition of employment, all university employees and students, as applicable, shall be required to adhere to the terms of the Copyright and Patent Policy (<http://www.nova.edu/hr/policies/index.html>). Each new employee is required to acknowledge they have reviewed the Copyright and Patent Policy as part of the new hire process. Such acknowledgement shall be placed in the employee's official file.

It is the university's policy that students, faculty, and staff comply with all relevant laws pertaining to copyright. Further, that reasonable effort shall be made to obtain compliance therewith, including but not limited to, appropriate posting, brochures, and training sessions. The Vice President for Research and Technology Transfer must be notified if an employee has any patents or copyrights pending. In addition, if copyrights or patents are generated as a result of a sponsored activity, the Office of Sponsored Programs (OSP) must be notified immediately to comply with sponsor requirements and award terms and conditions. Rights to any invention made by a recipient under a federal grant, contract, or cooperative agreement are owned by the recipient subject to the federal government's nonexclusive free license and other march-in rights. The specific rights and responsibilities are described in more detail in 37 C.F.R. Part 401.

Data, databases, and software rights to work produced or purchased under a federal grant or cooperative agreement are determined by 2 CFR 200.315 (rights in data under federal contracts are governed by Federal Acquisition Regulations). The recipient may copyright any work that is subject to copyright and was

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POLICY #15
PAGE 2 OF 3**

developed, or for which ownership was purchased, under an award. The federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for federal purposes and to authorize others to do so.

The university must report on activities involving the disposition of certain intellectual property rights that result from federally-funded research. In order to facilitate compliance with provisions of this federal law for cases in which inventions, patents, and licenses have resulted from federal funding agreements, an Internet-based system has been developed. The system, Interagency Edison (iEdison), provides recipients of federal funding agreements with the means to learn more about the Bayh-Dole Act and its regulations, as well as to comply with regulations by submitting invention, patent and invention utilization reports to any of a number of federal agencies through a single user interface.

REFERENCES:

- OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, <https://federalregister.gov/a/2013-30465>
- OMB Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>
- NIH Intellectual Property Policies, <http://grants.nih.gov/grants/intell-property.htm>
- iEdison at <https://s-edison.info.nih.gov/iEdison/>
- Bayh-Dole Act, 35 U.S.C. § 200 et seq.
- 37 CFR 401, Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements.
- NIH Grants Policy Statement, <http://grants.nih.gov/grants/policy/policy.htm#gps>
- NSF Proposal and Award Policies and Procedures Guide, <http://www.nsf.gov/bfa/dias/policy/>
- HHS Grants Policy Statement, <http://www.hhs.gov/grants/grants/policies-regulations/index.html>
- Employee Policy Manual, Policy No. 9 – Copyright and Patent, <http://www.nova.edu/hr/policies/index.html>
- Federal Acquisition Regulations, FAR 52.227-14, Rights in Data - General

PROCEDURE:

Disclosure of Discoveries and Inventions: Any faculty member, staff member or student of the University who has made a discovery or Invention that may be patentable or copyrightable shall disclose the discovery or Invention to the Vice President for Research and Technology Transfer (VP-RTT). The disclosure may be made verbally, followed by submission of the official NSU Invention Disclosure Form which can be requested by contacting the VP-RTT, www.nova.edu/ott/index.html, or made initially via the official NSU Invention Disclosure Form. To avoid any potential loss of intellectual property rights, the disclosure shall be completed within one month of the discovery or invention.

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POLICY #15
PAGE 3 OF 3**

1) Authority and Responsibility of the Vice President for Research and Technology Transfer (VP-RTT)

With respect to discoveries and inventions, the VP-RTT, subject to appeals to the President, shall have the following authority and responsibility with respect to discoveries and inventions:

- a) To receive and act upon NSU Invention Disclosures.
- b) To determine the ownership of discoveries and inventions and to determine the dates of their conception, disclosure and reduction to practice.
- c) To determine the equities of the University, the inventor or inventors, and other parties in discoveries and inventions and to provide equitably for the sharing between the University and the inventor or inventors of royalties received for any patented or patentable discovery or invention in which the University has a property interest, in accordance, however, with the following:
 - i) In situations where an agreement, letter or other document involving the University and another party or governmental agency having an interest in such discovery or invention requires that royalties on such discovery or invention be distributed in a particular manner, the sharing of such royalties between the University and the inventor or inventors shall be in accordance with the royalty distribution provisions of such agreement, letter or other document. In all other cases, the procedure set out hereafter in NSU's Copyright and Patent Policy (www.nova.edu/hr/policies.index/html) shall be followed; provided, however, that where an agreement, letter or other document involving the University and another party or governmental agency having an interest in such discovery or invention places a limitation upon the amount of royalties to be paid to the inventor or inventors, then the amount of royalties to be paid to the inventor or inventors in accordance with NSU's Copyright and Patent Policy shall not exceed such limitation.

2) The VP-RTT and OSP will coordinate to ensure invention disclosures are properly reported in accordance with sponsor terms and conditions.