



TO: Faculty Senate

FROM: Alexander Cohen, Chair; Bill MacKinnon, Vice-Chair; and Mahesh Banavar, Secretary

SUBJECT: Agenda for Faculty Senate Meeting being held on Monday, March 21, 2022

LOCATION: 4pm on Zoom

(<https://clarkson.zoom.us/j/96160920770?pwd=cW9YV0ZxK25Na1F0M0g3SzMVZVRMVFYQT09>)

Faculty Senate: <https://intranet.clarkson.edu/administrative/faculty-senate/>

Official Senate submission form (2021-2022): <http://tinyurl.com/clarksonsenaterequest>

Senate Feedback form: <http://tinyurl.com/clarksonsenatefeedback>

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- I. Approval of the Agenda
  - II. Approval of (Sen. Doc. #2022-81) Meeting Minutes from February 21, 2022
  - III. Informational items (Not planning a discussion or vote without an explicit motion to do so)
    - A. (Sen. Doc. #2022-82) Memo to Administrative Council re: Senate approvals of items at 02.21.22 meeting.
    - B. (Sen. Doc. #2022-83) Presidential review of Administrative Council Approvals
    - C. (Sen. Doc. #2022-84) Proposed Certificate Changes for Online MBA Program, sent to CAP for review
  - IV. Committee Reports
    - A. Curriculum and Academic Policy (CAP) Committee, Chair David Schelly.
    - B. Budget and Long Range Planning Committee, Chair Alex Cohen.
    - C. (Sen. Doc. #2022-85) Teaching Excellence Committee Report, Chair Katie Kavanagh
  - V. Q&A with the Provost
  - VI. Discussion items
  - VII. Decision Items Requiring a Vote
    - A. (Sen. Doc. #2022-86) Proposed changes to section 6.6 “Intellectual Property Policy” of the Operations Manual, Robyn Hannigan
  - VIII. For the Good of the Order



## Faculty Senate Communication

TO: All Faculty

SUBJECT: Minutes of Faculty Senate Meeting held on Monday, March 7, 2022

LOCATION: Zoom

Attendees: A. Cohen, M. Banavar, A. Stephenson, A. Michalek, K. Fite, S. Melville, D. Schelly, J. Matthews, S. Chaudhry, E. York, A. Pickering (ex-officio), & R. Hannigan (ex-officio)

Guests: K. Wallace (senator elect), E. Bollt (senator elect), L. Yazhou Jiang (senator elect), A. Lado, A. Grosso, A. Ohl, A. Zebedee, A. McGaheran, B. Galluzzo, B. Randall, C. Snyder, C. McNamara, C. Robinson, D. Scriven, D. Denault, D. Trivedi, D. Bohl, E. Podlaha-Murphy, G. Towler, J. Oppenlander, J. Ball, J. Davinack, J. Goss, K. Kavanagh, L. Perry, L. Johns, L. Njoki, M. Richards, M. Marko, O. Brown, P. Cummins, P. McGrath, Q. Li, R. Milne, S. Treptow, S. Duan, S. Zeigler, S. Bird, S. Wojtkiewicz, S. Powers, T. Langen, & W. Wu

Total Zoom Attendees: 54

Minutes prepared by S. Treptow and M. Banavar.

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4:00 pm meeting called to order by Senate Chair Alex Cohen.

- I. Approval of the Agenda
  - A. A. Cohen moves to approve the agenda. Approved by unanimous consent.
- II. Approval of (Sen. Doc. #2022-76) Meeting Minutes from February 21, 2022
  - A. A. Cohen moves to accept. Approved by unanimous consent.
- III. Informational Items (Not planning a discussion or vote without an explicit motion to do so).
  - A. (Sen. Doc. #2022-77) Memo to Administrative Council re: Senate approvals of items at 02.21.22 meeting.
- IV. Committee Reports
  - A. Curriculum and Academic Policy (CAP) Committee, Chair David Schelly.
  - B. Budget and Long Range Planning Committee, Chair Alex Cohen.
- V. Q&A with the Provost
- VI. Discussion items

- A. (Sen. Doc. #2022-56.R1) Amendment to the final report of the ad hoc Committee on Tenure and Promotions
  - B. (SenDoc2022-78) Proposal to continue recognition of the Institute for a Sustainable Environment as an academic unit at Clarkson University, Susan Powers
  - C. (SenDoc2022-79 and SenDoc2022-80) Changes to the Climate and Engagement Committee (with presentation slides), Jen Ball / Bebonchu Atems
- VII. Decision Items Requiring a Vote
- A. (Sen. Doc. #2022-74.R1), COVID-19 Tenure Timeline Extension, Robyn Hannigan / Alexander Cohen
    - 1. A. Cohen moves to endorse the proposal. Motion carries. (10 yes).
- VIII. For the Good of the Order
- IX. Executive Session (Motion by A. Cohen, 5 yes)

6:23 pm adjournment.



Clarkson

FACULTY SENATE  
8 Clarkson Avenue  
Potsdam, New York 13699

MEMO

TO: Amanda Pickering, Executive Director of Academic Affairs and Chair of the Administrative Council

CC: Senate Executive Committee, Bill MacKinnon (Vice-Chair) and Mahesh Banavar (Secretary)

SUBJECT: Senate endorsement of items at March 7<sup>th</sup> meeting

DATE: 8 March 2022

At its March 7<sup>th</sup> meeting, the Faculty Senate voted to endorse the following proposals:

- Sen. Doc. #2022-74.R1, COVID-19 Tenure Timeline Extension

Sincerely,

A handwritten signature in black ink that reads "Alexander H. Cohen".

Alexander H Cohen  
Assistant Professor of Political Science and Chair, Faculty Senate



# Clarkson

Administrative Council

Memorandum

February 28, 2022

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TO: President Tony Collins  
FROM: Amanda J. Pickering, Chair of the Administrative Council  
SUBJECT: Items Approved at the February 28, 2022 Administrative Council Meeting

The following items were approved at the February 28, 2022, regular meeting of the Administrative Council. I am submitting them to you for Presidential review and approval.

- a. (Sen. Doc #2022-44.R1) Certificate of Advanced Study in Adolescent Special Education
- b. (Sen. Doc. #2022-75) Program Name Change from the current BS in Communication Program to a BS in Communication, Media & Design Program
- c. (Senate Doc. #2022-57) Changes to OM 5.7.0 – Clinical Faculty Promotions Criteria
- d. (Sen. Doc. #2022-58.R1) Changes to OM 5.9.0- Teaching Track Faculty Promotion Criteria
- e. (Sen. Doc #2022-56), Final Report of the ad hoc Committee on Tenure and Promotions- Changes to the Structure of the Tenure and Promotions Committee

Approved: \_\_\_\_\_  
Anthony G. Collins, President

Date 3/1/2022



# Clarkson

March 8, 2022

To Members of Faculty Senate:

Please accept this letter as notification, we, the Provost's Council, endorse the following item voted unanimous to move forward in the internal approvals process:

Academic Program	Date of Vote
Changes to the following Advanced Certificate Programs in the Reh School:  Human Resource Management Management in Leadership	3/7/2022

Note: This endorsement recognizes no additional faculty resources are required for this change to go into effect.

Please advise if there are questions or concerns.

Sincerely,

Amanda J. Pickering  
AVP of Academic Affairs & Student Achievement  
Office of the Provost

**Intent Document**  
**Proposal of New Programs and/or Reorganized Academic Unit**

This is a proposal for (check all that apply):

- New Academic Unit (School, Center, Institute, etc.)
- Reorganization of an existing unit(s)
- New Academic Program, please specify Name \_\_\_\_\_ and Level *Choose an item.*

Name(s) and Academic Unit Home(s) of Proposer(s) \_\_\_\_\_

Are there additional Academic Unit(s) impacted and/or collaborating?  Yes.  No.

If yes, which units and what impacts, if any? *Click or tap here to enter text.*

Has there been communication in support of this proposal from impacted/collaborating units?

If yes, with whom and approximately when? \_\_\_\_\_

Intended Date of Program/Unit Inception \_\_\_\_\_

Will the new or reorganized unit require external professional accreditation?

- Yes, please specify \_\_\_\_\_
- No

**Please provide:**

1. A brief description of a need that specifies the particular role of the proposed unit/program within the University's mission. Please include a description of the proposed administrative reporting structure for the unit/program, and proposed review cycle.
2. A description of how the proposed unit/program serves the University in a way that cannot be achieved by existing units/programs.
3. Outcomes the intended unit/program intends to produce.
4. For existing programs/reorganized units, please detail current FTE and future FTE targets. For new programs/academic units, please detail future FTE projections only.
5. A short summary describing the current market for new student recruitment, institutional competition, and job market forecast for graduates.
6. A brief discussion of adequacy of resources for new program/reorganized unit (e.g., faculty, staff, facilities, equipment, IT, SAS, space) and any need for new resources

Please submit to Provost Hannigan at [rhanniga@clarkson.edu](mailto:rhanniga@clarkson.edu) with cc to [apickeri@clarkson.edu](mailto:apickeri@clarkson.edu)  
Proposals will be shared with Academic Leadership Cabinet with feedback returned to the proposer(s).

8/24/2019



**Clarkson**<sup>TM</sup>  
DAVID D. REH SCHOOL OF BUSINESS

February 15, 2022

To: Faculty Senate (and University CAP Committee)

From: Dennis Yu, Associate Dean of Graduate & Professional Programs

The Reh School of Business

dyu@clarkson.edu

315-268-6435

RE: Proposed Certificate Changes for Online MBA Program

Please find the **proposed changes to two existing certificates of the Online MBA program by the Reh School of Business**. The proposed changes include credit hours and course requirements of the two certificates: **Certificate in Human Resource Management** and **Certificate in Management and Leadership**. Both certificates are in the catalog and registered with NYSED. The Reh School Graduate Policy Committee (GPC) and faculty have approved the proposed certificate changes as an essential initiative to offer these credentials to the students in the Online MBA program.

**Background and Rationale:**

Those mentioned above two existing certificates were inherited from the merger with the Union Graduate College (UGC) by combining the two distance MBA programs from Clarkson and UGC as a Hybrid MBA program with 48 credit hours. Each one of the certificates has a requirement of 18 credit hours. However, the Reh School has not offered the certificates due to the insufficient faculty teaching capacity. In Fall 2019, the Reh School reverted the 48-credits Hybrid MBA program to the 42-credits Online MBA program, making it even less likely to deliver the two 18-credits certificates.

With the inputs from students and the faculty who teach the program, the changes to the certificates are proposed to essentially **reduce the required number of credit hours from 18 (six courses) to 12 (four courses)** and substitute sustainable courses for several obsolete courses (which have not been offered for a number of years). Please see the attachment for details. Eventually, the reduced-credits certificates will be consistent with another existing NYSED registered Certificate in Global Supply Chain Management which requires 12 credits.

**Impact:**

No new resource is required to implement the proposed changes. The Reh School will be able to offer the two certificates on the books for the Online MBA program. The certificates will be more sustainable in terms of credit/course requirements going forward.



## (I.) Certificate in Human Resource Management

The Certificate Program in Human Resource Management will provide the educational background necessary to make informed decisions in management as related to human resource issues. The certificate holder will have the resources for strategic critical thinking necessary to optimize the human resources of an organization.

### Current Requirements:

Required Courses	
OS 603	Leadership and Organizational Behavior
OS 675	Human Resource Management Systems
OS 676	Current Issues in Human Resource Management
Specialty Courses (3)	
OS 677	International Human Resources
OS 651	High Performance Leadership
OS 656	Leading Organizational Change
OS 659	Women and Management
OS 654	Labor Relations
OS 650	Competing by Design
OS 660	Executive Decision Processes in Dynamic Environments
Elective	MBA Elective

### Proposed Changes:

*Required Curriculum (12 total credits, 9 credits of electives, and one MBA core)*

#### **Required Courses**

OS 603 Leadership and Organizational Behavior  
OS 676 Current Issues in Human Resources

#### **Choose two**

OS 667 Negotiations and Relationship Management  
SB 655 Building and Leading Effective Teams  
SB 651 Communicating Globally

## (II.) Certificate in Management and Leadership

The Certificate in Management and Leadership is designed to give entry and middle level managers the core business skills in organizational processes, change management, resource management and leadership. It is focused on assisting managers and executives in enhancing their management and leadership skills in order to positively affect their current organization and provide them career advancement potential.

### Current Requirements:

Required Courses	
OS 603	Leadership and Organizational Behavior
OS 651	High Performance Leadership
Specialty Courses (4)	
AC 604	Financial and Managerial Accounting for Decision Making
OS 660	Executive Decision Processes in Dynamic Environments
OS 656	Leading Organizational Change
OS 659	Women and Management
OS 676	Current Issues in Human Resource Management
Elective	MBA Elective

### Proposed Changes:

A.) *Name Change - Certificate in Leadership*

B.) *Required Curriculum (12 total credits, 9 credits of electives, and one MBA core)*

#### **Required:**

OS 603 Leadership and Organizational Behavior

OS 651 High Performance Leadership

#### **Choose two (2):**

OS 656 Leading Organizational Change

OS 667 Negotiations and Relationship Management

SB 655 Building and Leading Effective Teams

SB 620 Business Process Analysis

## **The Faculty Senate Teaching Excellence Committee Need for Departmental Input: Documenting Teaching Effectiveness**

Excellent teaching is critical to all stakeholders at the university. Previous efforts from this committee revolved around reviewing the efficacy of student course evaluations as a measure of teaching effectiveness with an eye towards modifying the current system for evaluating teaching. The findings indicated that student ratings need to be augmented with other forms of evaluation beyond peer classroom observations. A wide range of models exist in practice and are well-documented in the literature.

To this end, the current charge of the committee is to *analyze and develop a protocol for (1) defining teaching effectiveness within and across units and (2) assessing teaching effectiveness measures to*

- a. Assist faculty in reflecting on the quality of their teaching*
- b. Assist faculty in seeking guidance on improving their teaching*

Our current course of action is based on the following motivating factors:

- The mechanisms that are used to measure teaching effectiveness should be revisited and reviewed regularly as new evidence-based tools and models develop and are applied in higher education.
- The evaluation of teaching is used for assessing faculty, particularly in terms of tenure and promotion so documenting/communicating specific expectations and offering strategies for improvement is necessary to support faculty.
- The criteria for good teaching may (and likely will) differ from department to department, and even within a department depending on various courses.
- Programs of teaching effectiveness need to include both formative (feedback for improvement) and summative (data for tenure and promotion decisions) aspects.
- We want our students to be successful and to be prepared for the workforce. We want our alumni to look back favorably on their classroom experiences.

*We propose that each department reflects on and documents their own Teaching Effectiveness Program (TEP) to be submitted no later than May 6.* The goal is to help faculty develop into the best teachers they can be, and thereby provide our students with the best possible instruction. A TEP should consist of three parts:

1. Defining how teaching excellence is characterized
2. Defining how teaching behavior (course content and the delivery) is documented (thinking beyond student ratings)
3. Defining how that documentation is used to evaluate and improve our teaching

*Remarks:*

- Some units on campus may already have a solid TEP in place. This is an opportunity to document that so others can learn from them.
- These efforts were already proposed in the School of Arts and Sciences in June 2020 and some TEPs have already been adapted. Most departments formed ad-hoc committees to review literature and create a draft. All faculty members were asked to review, reflect, and revise the draft.
- Please note that this is a request from a Committee of the Faculty Senate and was not produced at the behest of administration.



# Clarkson

OFFICE OF THE PROVOST  
8 Clarkson Avenue  
Potsdam, New York 13699  
315-268-6544  
clarkson.edu

## Memorandum

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To: Faculty Senate  
From: Robyn Hannigan, Provost  
Re: IP Policy changes  
Date: 10 March 2022

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This memo accompanies proposed changes to section 6.6 “Intellectual Property Policy” of the Operations Manual. The reason for the proposed changes stems from discussions initiated in spring 2020 accompanying the pivot to remote learning during the early stages of the COVID-19 pandemic. Senator Jeanna Matthews (Arts & Sciences) asked that the University review its policy to ensure that the ownership of audio-visual materials produced for instructional purposes is clear and that the parameters of university use are defined. Over the past 18 months, there has been slow but steady effort to make necessary adjustments to the policy that engaged Senator Matthews in early discussions and subsequently work with the Chief Information Officer and Director of Legal Affairs, Compliance, and Risk Management as well as the Associate Vice Provost for Research under which this policy falls.

Enclosed with this memo is the current language of section 6.6, proposed changes to section 6.6, and a Policy Guideline for course material ownership (FAQ) to be posted online.

Cc: Josh Fiske, Chief Information Officer; Debra Drescher, Director of Legal Affairs, Compliance and Risk Management; Shannon Robinson, Associate Vice Provost for Research and Technology Transfer

Encl: current section 6.6 intellectual property policy.docx  
proposed changes to section 6.6 intellectual property policy.docx  
Course Material Ownership Policy Guideline.docx

# ORIGINAL LANGUAGE

## I. Preamble

It is the policy of Clarkson University (the "University") to encourage creativity and inventiveness in its faculty, staff, and students. By providing facilities, equipment, information, resources, and personnel, and by obtaining external support from public and private sources, the University strives to create an environment fostering the interests of the academic community. The University wishes to offer incentives to its faculty, staff, and students to develop scholarly and creative works and other intellectual property, which can be used for the good of the University and public at large.

## II. Objectives

2.1 Promote the publication of scholarly works and new discoveries;

2.2 Encourage the full and free exchange and expression of creative and scholarly ideas and further scholarly comment within the context of the teaching, research, and public service missions of the University and applicable law and regulation;

2.3 Maintain and enhance the reputation of the University as a teaching and research institution;

2.4 Promote the public good by producing, disseminating, and, when appropriate, commercializing works of artistic, scientific, and practical value;

2.5 Enhance opportunities for cooperation and productive interaction with external sponsors funding University research and creative endeavors; and

2.6 Establish the basis on which income resulting from the commercialization of Intellectual Property developed by members of the University is shared by the University with faculty, staff, or students responsible for its creation.

## III. Definitions

Whenever used in this Policy, the following capitalized terms shall have the meanings given to them below.

3.1 Creator - each Member of the University who develops or creates Intellectual Property. An individual's status and royalty or other rights as Creator shall continue even if the individual leaves the University.

3.2 Creative Works - articles, papers, books, novels, compilations, theses, poems, texts, and other literary works; graphic designs, paintings, drawings, sculptures, musical compositions, films, photographs, choreographic works, and other visual and performing art works; architectural and engineering drawings; and all other works subject to protection under copyright law; provided, however, that the term "Creative Works" shall not include computer software or mask works.

3.3 Intellectual Property - inventions (patentable and non-patentable), creations, innovations, discoveries, Creative Works, trade secrets, computer software, mask works, trademarks, service

marks, and tangible research property. Tangible research property is any physical item, not otherwise listed in the preceding sentence, used or generated in connection with any research, scholarly, or administrative activity conducted by any Member as part of the Member's normal and customary duties or responsibilities to the University which relate to research, including notes, charts, graphs, compilations of data in any form, draft grant applications, draft or unpublished articles, computer printouts, cell lines, prototypes, constructions, video tapes, films, biological materials, integrated circuit chips, engineering and architectural drawings, etc.

3.4 Members - faculty, staff, students, and visitors of the University, whether or not compensated for their services; persons performing research or engaging in work or study utilizing University resources or facilities; and other persons contracted by the University to perform research whether or not using University resources and facilities.

3.5 Sponsored Program - any grant, contract, agreement, or similar arrangement between the University and a private or governmental sponsor furnishing funds, equipment, or other resources to support research, the creation of a Creative Work, or any other educational or scientific activity to be performed by one or more Members of the University that may result in the creation of Intellectual Property.

3.6 University Resources - facilities, library resources, equipment, funds, salary, personnel, and other resources belonging to or supplied by the University.

## IV. Ownership of Intellectual Property

### 4.1 Ownership of Intellectual Property

With the exception of student theses as described below in Section 4.3 (Ownership of Copyrights in Theses), rights in patentable inventions, mask works, tangible research property, trademarks, and copyrightable works, including software ("Intellectual Property"), made or created by Members including Clarkson faculty, students, staff, and others participating in Clarkson University programs, and visitors are as follows:

4.1.1 Inventor(s)/author(s) will own Intellectual Property that is:

- i) not developed in the course of or pursuant to a sponsored research or other agreement (the faculty advisor, administrative officer, or the Director of the Division of Research can advise on the terms of the agreements that apply to specific research); and
- ii) not created as a "work-for-hire" by operation of copyright law (a "work-for-hire" is defined, in part, as a work prepared by an employee within the scope of his or her employment) and not created pursuant to a written agreement with Clarkson University providing for a transfer of copyright or ownership of Intellectual Property to Clarkson University; and
- iii) not developed with University funds or use of facilities administered by Clarkson University.

4.1.2 Ownership of all other Intellectual Property will be as follows:

- i) ownership of Intellectual Property developed in the course of or pursuant to a sponsored research or other agreement will belong to the University unless specified differently in the sponsor research Agreement;
- ii) ownership of copyrightable works created as "works-for-hire" or pursuant to a written agreement with Clarkson University providing for the transfer of any Intellectual Property or ownership to Clarkson University will vest with Clarkson University;
- iii) ownership of Intellectual Property developed by faculty, students, staff, and others participating in Clarkson University programs, including visitors, with the use of funds or facilities administered by Clarkson University will vest with Clarkson University.
- iv) in cases in which the University has an ownership interest in an invention pursuant to this policy and either does not file a patent application within nine months, or fails to make a positive determination regarding pursuit of a patent within a period of six months from the date of disclosure, all of the University's rights shall be reassigned to the inventor upon request in writing to the University, subject only to such external sponsor restrictions as may apply.

#### **4.2 Use of Resources Administered by Clarkson University**

When Clarkson University faculty, students, staff, visitors, or others develop Intellectual Property while participating in Clarkson University programs using Clarkson funds or Clarkson University facilities, Clarkson University will own the Intellectual Property. If the material is not subject to a sponsored research or other agreement giving a third party rights, the issue of whether or not use was made of Clarkson University facilities will be determined by an ad-hoc committee of five selected by the Provost and composed of administration and faculty. Textbooks developed in conjunction with class teaching are excluded from the "resources used" category and not considered "works-for-hire," unless such textbooks were developed using Clarkson University-administered funds paid specifically to support textbook development. Otherwise, the author is the owner. Generally, an Invention, software, or other copyrightable material, mask work, or tangible research property will not be considered to have been developed using Clarkson University facilities if:

- a) the Intellectual Property has been developed outside of the assigned area of research of the inventor(s)/author(s) under a research assistantship or sponsored project, and
- b) only a minimal amount of time has been spent using Clarkson University facilities and equipment (note: use of office, library, and traditional desktop personal computers are examples of facilities and equipment that are not to be considered), and
- c) the development has been made on the personal, unpaid time of the inventor(s)/author(s).

When a created item of Intellectual Property is not subject to a sponsored research or other agreement (such as an equipment agreement), but has been developed using Clarkson University funds or facilities, the DOR may, at its discretion and consistent with the public interest, license the inventor(s)/author(s) exclusively or nonexclusively on a royalty basis. The inventor(s)/author(s) must demonstrate technical and financial capability to commercialize the Intellectual Property, and the DOR will have the right to terminate such license if the inventor(s)/author(s) have not achieved effective dissemination by the time agreed upon in the license Agreement. Where such a license is issued, the inventor(s)/author(s) may be required to assume the costs of filing, prosecuting, and maintaining any patent rights.

### **4.3 Ownership of Copyrights in Theses**

In all cases the student shall own the copyright to his/her doctoral dissertation or master's thesis. Consequently dissertation and master's thesis advisors must take responsibility to ensure that the contents of dissertations and master's theses do not fall under Intellectual Property agreements precluding the student owning the copyright to any portion of a doctoral dissertation or master's thesis. Intellectual Property, other than the copyright of the doctoral dissertation or master's thesis, created doing research toward a doctoral or master's degree is subject to all the other terms of this policy.

### **4.4 Evidence of Ownership**

For ownership documentation and protection of ownership of Intellectual Property by the University (e.g. patents, trademark registrations, copyright registrations, etc.) as established by this policy, members shall sign any and all documents reasonably necessary or desirable, as determined by the University in its sole discretion for these purposes.

### **4.5 Reservation of Rights**

Whenever the University grants rights in, or transfers ownership of, Intellectual Property, the University hereby reserves for itself, without further act or deed, the royalty-free right to (a) use the Intellectual Property for its own academic, educational, and research purposes, and (b) permit other academic institutions to use the Intellectual Property for academic, educational, and research purposes.

## **V. Disclosure and Protection of Intellectual Property**

5.1. Inappropriate or premature disclosure of Intellectual Property to persons, firms, or corporations outside the University may jeopardize the ability to protect it. Prompt disclosure to the University of Intellectual Property is essential to the proper administration of this Policy. In addition, Sponsored Programs frequently give the sponsor the right to review or inspect a discovery or invention. Each Member shall promptly disclose to the Division of Research any creation, invention, discovery, improvement, or other Intellectual Property developed or created by the Member or under his or her supervision if the University has or may have an ownership interest under this policy. Disclosure shall be made in the manner and with the degree of specificity as the Division of Research may prescribe. No other disclosure shall be made without the proper approval of the Director, Division of Research.

5.2 After consulting with the Creator and other appropriate parties, the University, in its discretion, shall determine whether and to what extent to seek legal protection of Intellectual Property owned by the University. If the University elects not to seek legal protection within six months of disclosure, as per Section 4.1.2.iv above, ownership may revert to the Creator as specified in Section 3.1.

5.3 The University may make suitable arrangements not inconsistent with the provisions of this Policy with agencies or firms for the purpose of obtaining services and advice with respect to the patentability of inventions, obtaining patent or copyright protection, and the management and commercialization of Intellectual Property.

5.4 The Creator shall cooperate and assist the University in all phases of the process of seeking protection for the University's Intellectual Property, including execution of documents of assignment.



The costs of obtaining legal protection for the University's Intellectual Property shall be paid by the University, by sponsors or by partners where appropriate in connection with the commercialization of Intellectual Property.

5.5 In cases where the University has not obtained legal protection for its Intellectual Property and has elected to transfer ownership to the Creator, the Creator may place the Intellectual Property in the public domain without obligation to the University. The University will maintain a file of its Intellectual Property dedicated to the public domain and will arrange for copies to be available to the public through the Educational Resources Center.

## VI. Distribution of Income from Commercialization of Intellectual Property

6.1 It is the general policy of the University to encourage the commercialization of Intellectual Property resulting from the scientific or educational endeavors of its Members.

6.2 In recognition of the efforts and contributions of Creators who develop Intellectual Property owned by the University, the University will share income derived from its commercialization with the Creators in accordance with the following guidelines.

6.2.1 From gross income derived from the commercialization of its Intellectual Property (whether from sale, licensing, royalties, or otherwise), the University will retain enterprise expenses in an amount equal to the costs and expenses incurred in connection with the legal protection, development, promotion, marketing, and licensing of the Intellectual Property, and any other direct costs associated with its commercialization. The Director of Research and the Controller's Office shall identify such expenses.

6.2.2 the balance (the "Net Income") shall be distributed within three months of receipt as follows:

25% of up to \$400K income (40% of additional income) to the University	To help defray costs of managing the Intellectual Property program generally. (This money will be allocated to an Intellectual Property account for other related expenses)
50% to the Creator(s)	Joint Creator(s) shall determine in writing what percentage of the Creator(s)' share of income shall be allocated to the respective Creators.
25% of up to \$400K income (10% of additional income) to the Creator(s)' Department, or School in the absence of a Department.	For the benefit of the Creator(s)' appropriate subunit, typically the department.  In the case of Intellectual Property supported by two or more departments or units of the University, this portion of the Net Income shall be allocated and made available to the appropriate departments, or comparable unit on an equitable basis as determined by the Director of the Division of Research.

6.2.3 The above guidelines are subject to certain pre-existing and ongoing requirements ("Requirements") affecting income from and license or other rights in various categories of Intellectual Property, including Requirements relating to Intellectual Property created or developed at, or through the use of, the facilities of the Center for Advanced Materials Processing in accordance with Section 23 of New York State Laws of 1987, Chapter 839, and any agreement between the University and the New York State Urban Development Corporation ("UDC") pursuant to that legislation.

Unless the terms of the applicable Requirement provide otherwise, Net Income for purposes of this Policy shall exclude all amounts payable to UDC or to others as required by such Requirement.

6.3. The provisions of this Policy dealing with the distribution of income shall apply only to income received from Intellectual Property disclosed to the University subsequent to the effective date of this Policy.

## VII. Administration of Intellectual Property Policy

7.1 Responsibility for all Intellectual Property matters, including the interpretation and administration of this Policy, shall rest with the Division of Research in consultation with an Intellectual Property Committee.

7.2 The Division of Research will provide the following support and supervision for implementation of this Policy:

- assure that Members are aware of and adhere to provisions in research contracts or other agreements with outside parties restricting publication rights or otherwise relating to the creation, use, or disposition of Intellectual Property;
- facilitate the early identification of potentially patentable inventions and discoveries, the preparation of disclosures, and the review thereof;
- advise on available methods for the protection of copyrightable works, and, if appropriate, assist in negotiations for publication or commercialization;
- review the terms and conditions governing others' Intellectual Property acquired for use in University-sponsored programs and activities and advise on compliance with those terms and conditions;
- issue guidelines or other information and materials applicable to this Policy;
- for Intellectual Property management purposes, the University shall also maintain an internal (within DOR) searchable database on all assigned and unassigned Intellectual Property disclosed to the University and evaluate, in consultation with Creators, invention disclosures in order to confirm ownership or applicable grant and contract terms.
- determine whether legal protection (e.g., patent filing, formal copyright registration, or other mechanism) should be procured and, if so, the territory to be covered.

7.3 Intellectual Property Committee

7.3.1 The Intellectual Property Committee shall provide advice, and make recommendations to the Director, Division of Research, with respect to interpretation and implementation of this Policy, amendments to this Policy, and such other matters as the Director may deem appropriate.

7.3.2 The Intellectual Property Committee shall be comprised of nine persons as follows: a chair of the committee; five members of the faculty (provided that no department shall have more than one member); a member of the professional nonteaching Staff; and, ex officio, the Vice President for Business and Finance and the Director, Division of Research. The Faculty Senate shall nominate for the President's approval the faculty members of the Committee (other than, ex officio members), as well as the chair of the Committee who shall be a senior, tenured member of the faculty. Administrative Council shall nominate the professional non-teaching staff member. The President must approve all nominees.

7.3.3 Faculty and other Staff members (other than ex officio members) of the Committee shall be appointed for three year terms, renewable for a maximum of two additional terms. Terms shall be staggered so that no more than three new members will be appointed each year.

7.3.4 Should any member of the Committee be unable to complete his or her term of service, the Faculty Senate (or Administrative Council) will nominate, for the approval of the President, another member of the faculty (or the professional staff), as appropriate, to serve for the duration of the unexpired term.

7.3.5 No member of the Intellectual Property Committee may participate in the deliberations of the Committee if that member has a personal interest or direct involvement in matters to be discussed,

7.3.6 The Director of Division of Research and the chair of the Intellectual Property Committee shall jointly report annually to the President of the University upon matters of significance relating to the administration of this Intellectual Property Policy,

## PROPOSED LANGUAGE

### OM Section 6.6.0 Clarkson University Intellectual Property Policy

#### I. Preamble

It is the policy of Clarkson University (the "University") to encourage creativity and inventiveness in its faculty, staff, and students. By providing facilities, equipment, information, resources, and personnel, and by obtaining external support from public and private sources, the University strives to create an environment fostering the interests of the academic community. The University wishes to offer incentives to its faculty, staff, and students to develop scholarly and creative works and other intellectual property, which can be used for the good of the University and public at large.

#### II. Objectives

2.1 Promote the publication of scholarly works and new discoveries;

2.2 Encourage the full and free exchange and expression of creative and scholarly ideas and further scholarly comment within the context of the teaching, research, and public service missions of the University and applicable law and regulation;

2.3 Maintain and enhance the reputation of the University as a teaching and research institution;

2.4 Promote the public good by producing, disseminating, and, when appropriate, commercializing works of artistic, scientific, and practical value;

2.5 Enhance opportunities for cooperation and productive interaction with external sponsors funding University research and creative endeavors; and

2.6 Establish the basis on which income resulting from the commercialization of Intellectual Property developed by members of the University is shared by the University with faculty, staff, or students responsible for its creation.

#### III. Definitions

Whenever used in this Policy, the following capitalized terms shall have the meanings given to them below.

3.1 Faculty Member(s) / Academic Appointee – an individual holding an instructional appointment title (Section 5.1). This includes individuals employed by an outside entity that also have a university faculty appointment. This policy covers them for their work related to the University.

3.2 Copyright – a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression (e.g., painting, musical composition, publication, movie).

3.1-2 Creator - each Member of the University who develops or creates Intellectual Property. An individual's status and royalty or other rights as Creator shall continue even if the individual leaves the University.

3.2-3 Creative Works - articles, papers, books, novels, compilations, theses, poems, texts, and other literary works; graphic designs, paintings, drawings, sculptures, musical compositions, films, photographs, choreographic works, and other visual and performing art works; architectural and

engineering drawings; and all other works subject to protection under copyright law; provided, however, that the term "Creative Works" shall not include computer software or mask works.

3.4 Institutional Works - works that have been or will be created or developed over a period of time by multiple Members of the University Community, simultaneously or consecutively, where it is not appropriate or not possible to attribute authorship to a defined group, and works created that include holdings or unique data sets that are periodically employed by Academic Appointees or students other than the author or authors of the works.

3.5 Instructional Materials - the content, assessment, and structure of the course and materials prepared in any form, including but not limited to, lectures, lecture notes, course syllabi, reading lists, exams, supplemental materials, assignments, study guides, bibliographies, visual aids, diagrams, slides, lab exercises, tools, simulations, multimedia presentations, web pages, reading lists, or digital media, or any combination thereof. Refer to Section 4.1.2.iv for specific guidance on audio-visual works.

3.3-6 Intellectual Property - inventions (patentable and non-patentable), creations, innovations, discoveries, Creative Works, trade secrets, computer software, mask works, trademarks, service marks, and tangible research property. Tangible research property is any physical item, not otherwise listed in the preceding sentence, used or generated in connection with any research, scholarly, or administrative activity conducted by any Member as part of the Member's normal and customary duties or responsibilities to the University which relate to research, including notes, charts, graphs, compilations of data in any form, draft grant applications, draft or unpublished articles, computer printouts, cell lines, prototypes, constructions, video tapes, films, biological materials, integrated circuit chips, engineering and architectural drawings, etc.

3.4-7 Members - faculty, staff, students, and visitors of the University, whether or not compensated for their services; persons performing research or engaging in work or study utilizing University resources or facilities; and other persons contracted by the University to perform research whether or not using University resources and facilities.

3.5-8 Sponsored Program - any grant, contract, agreement, or similar arrangement between the University and a private or governmental sponsor furnishing funds, equipment, or other resources to support research, the creation of a Creative Work, or any other educational or scientific activity to be performed by one or more Members of the University that may result in the creation of Intellectual Property.

3.9 Staff – Non-academic appointee employees

3.6-10 University Resources - facilities, computing resources and facilities, instructional development, library resources, equipment, funds, salary, personnel, and other resources and assets belonging to or supplied by the University.

3.11 Work Made for Hire - defined under the Copyright Act as a work (1) created by an employee within the scope of the employee's employment; or (2) where the work is not created by an employee under (1), when specially ordered or commissioned for use in certain works enumerated in the Copyright Act, if the parties expressly agree in writing that the work will be a Work Made for Hire. Works made for hire include works created by staff in the course of their employment. Also, if the University enters a contract with "Work for Hire" provisions, any work product created under the contract would belong to

the University. Copyrightable works of scholarly research, course materials or artistic works made by faculty members are subject to the “academic tradition” exception and are the property of the author or authors.

#### IV. Ownership of Intellectual Property

##### 4.1 Ownership of Intellectual Property

With the exception of student theses as described below in Section 4.3 (Ownership of Copyrights in Theses), rights in patentable inventions, mask works, tangible research property, trademarks, and copyrightable works, including software ("Intellectual Property"), made or created by Members including Clarkson faculty, students, staff, and others participating in Clarkson University programs, and visitors are as follows:

4.1.1 Inventor(s)/author(s) will own Intellectual Property that is:

- i) not developed in the course of or pursuant to a sponsored research or other agreement (the faculty advisor, administrative officer, or the Director of the Division of Research can advise on the terms of the agreements that apply to specific research); and
- ii) not created as a "work-for-hire" by operation of copyright law (~~a "work-for-hire" is defined, in part, as a work prepared by an employee within the scope of his or her employment~~) and not created pursuant to a written agreement with Clarkson University providing for a transfer of copyright or ownership of Intellectual Property to Clarkson University; and
- iii) not developed with University funds or use of facilities administered by Clarkson University.

4.1.2 Ownership of all other Intellectual Property will be as follows:

i) ownership of Intellectual Property developed in the course of or pursuant to a sponsored research or other agreement will belong to the University unless specified differently in the sponsor research Agreement;

ii) ownership of copyrightable works created as "works-for-hire" or pursuant to a written agreement with Clarkson University providing for the transfer of any Intellectual Property or ownership to Clarkson University will vest with Clarkson University;

iii) ownership of instructional materials created by Academic Appointees, in their role as instructors in a Clarkson University course, shall be owned by the Academic Appointees in adherence to the long standing “academic tradition” exception subject to the license retained by the University pursuant to Section 4.5 and the restrictions on use provided in this policy. Academic Appointees may not distribute or sell Instructional Materials for commercial purposes or use Instructional Materials to teach the same course outside of the University while employed at the University. Academic Appointees must seek permission of the Provost or designee to use Instructional Materials owned by the University under Section 4.1 unless such use will be at another non-commercial institution during the Academic Appointees’ employment at the University for scholarly presentations (See Provost Policy Guideline on Course Materials Ownership). Once the Academic Appointee is no longer employed by the University, the Academic Appointee may make use of Instructional Materials created while employed at the University for the Academic Appointee’s own scholarly, non-profit, non-competing purposes. Instructional Materials collectively generated by a class are considered Institutional Works by the University and the copyright belongs to the University;

iv) ownership of audio-visual works (including audio, video, photographic or any form of digital reproduction) created for a class or course offered to students of the University or presentation made by Members of the Clarkson University Community to students in a class or course. The consent of all people who are to be included in the Recordings must be obtained prior to making the Recording (see FERPA 34 CFR 99.3 "Education Record"), unless the Recording is being made for the sole purpose of a reasonable accommodation for a qualified person with a disability. Recordings owned by the University may not be distributed or re-used internally unless by the creator or externally without the permission of the instructor, if not deceased, and provost. No Recordings may be distributed outside of the University for any purpose without the permission of everyone who appears in the Recording;

v) ownership of Intellectual Property developed by faculty, ~~students~~, staff, and others participating in Clarkson University programs, including visitors, with the use of funds or facilities administered by Clarkson University will vest with Clarkson University;

Works created by students in the course of their education shall be owned by the individual student subject to the University's reservation of rights. Student-created works posted in a course online forum are owned by the student and cannot be reproduced or published by instructors without written permission from said student.

ivvi) in cases in which the University has an ownership interest in an invention pursuant to this policy and either does not file a patent application within nine months, or fails to make a positive determination regarding pursuit of a patent within a period of six months from the date of disclosure, all of the University's rights shall be reassigned to the inventor upon request in writing to the University, subject only to such external sponsor restrictions as may apply.

#### **4.2 Use of Resources Administered by Clarkson University**

When Clarkson University faculty, students, staff, visitors, or others develop Intellectual Property while participating in Clarkson University programs using Clarkson funds or Clarkson University facilities, Clarkson University will own the Intellectual Property. If the material is not subject to a sponsored research or other agreement giving a third party rights, the issue of whether or not use was made of Clarkson University facilities will be determined by an ad-hoc committee of five selected by the Provost and composed of administration and faculty. Textbooks developed in conjunction with class teaching are excluded from the "resources used" category and not considered "works-for-hire," unless such textbooks were developed using Clarkson University-administered funds paid specifically to support textbook development. Otherwise, the author is the owner. Generally, an Invention, software, or other copyrightable material, mask work, or tangible research property will not be considered to have been developed using Clarkson University facilities if:

- a) the Intellectual Property has been developed outside of the assigned area of research of the inventor(s)/author(s) under a research assistantship or sponsored project, and
- b) only a minimal amount of time has been spent using Clarkson University facilities and equipment (note: use of office, library, and traditional desktop personal computers are examples of facilities and equipment that are not to be considered), and
- c) the development has been made on the personal, unpaid time of the inventor(s)/author(s).

When a created item of Intellectual Property is not subject to a sponsored research or other agreement (such as an equipment agreement), but has been developed using Clarkson University funds or facilities,

the ~~DOR-Office of Sponsored Research Services (SRS)~~ may, at its discretion and consistent with the public interest, license the inventor(s)/author(s) exclusively or nonexclusively on a royalty basis. The inventor(s)/author(s) must demonstrate technical and financial capability to commercialize the Intellectual Property, and the ~~DOR-SRS~~ will have the right to terminate such license if the inventor(s)/author(s) have not achieved effective dissemination by the time agreed upon in the license Agreement. Where such a license is issued, the inventor(s)/author(s) may be required to assume the costs of filing, prosecuting, and maintaining any patent rights.

#### **4.3 Ownership of Copyrights in Theses**

In all cases the student shall own the copyright to his/her doctoral dissertation or master's thesis. Consequently dissertation and master's thesis advisors must take responsibility to ensure that the contents of dissertations and master's theses do not fall under Intellectual Property agreements precluding the student owning the copyright to any portion of a doctoral dissertation or master's thesis. Intellectual Property, other than the copyright of the doctoral dissertation or master's thesis, created doing research toward a doctoral or master's degree is subject to all the other terms of this policy.

#### **4.4 Evidence of Ownership**

For ownership documentation and protection of ownership of Intellectual Property by the University (e.g. patents, trademark registrations, copyright registrations, etc.) as established by this policy, members shall sign any and all documents reasonably necessary or desirable, as determined by the University in its sole discretion for these purposes.

#### **4.5 Reservation of Rights**

Whenever the University grants rights in, or transfers ownership of, Intellectual Property, the University hereby reserves for itself, without further act or deed, the royalty-free right to (a) use the Intellectual Property for its own academic, educational, and research purposes, and (b) permit other academic institutions to use the Intellectual Property for academic, educational, and research purposes.

### **V. Disclosure and Protection of Intellectual Property**

5.1. Inappropriate or premature disclosure of Intellectual Property to persons, firms, or corporations outside the University may jeopardize the ability to protect it. Prompt disclosure to the University of Intellectual Property is essential to the proper administration of this Policy. In addition, Sponsored Programs frequently give the sponsor the right to review or inspect a discovery or invention. Each Member shall promptly disclose to ~~the Division of Research~~SRS any creation, invention, discovery, improvement, or other Intellectual Property developed or created by the Member or under his or her supervision if the University has or may have an ownership interest under this policy. Disclosure shall be made in the manner and with the degree of specificity as the ~~Division of Research~~SRS may prescribe. No other disclosure shall be made without the proper approval of ~~the Director, Division of Research~~the Associate Vice Provost for Research.

5.2 After consulting with the Creator and other appropriate parties, the University, in its discretion, shall determine whether and to what extent to seek legal protection of Intellectual Property owned by the University. If the University elects not to seek legal protection within six months of disclosure, as per Section 4.1.2.iv above, ownership may revert to the Creator as specified in Section 3.1.

5.3 The University may make suitable arrangements not inconsistent with the provisions of this Policy with agencies or firms for the purpose of obtaining services and advice with respect to the patentability



of inventions, obtaining patent or copyright protection, and the management and commercialization of Intellectual Property.

5.4 The Creator shall cooperate and assist the University in all phases of the process of seeking protection for the University's Intellectual Property, including execution of documents of assignment. The costs of obtaining legal protection for the University's Intellectual Property shall be paid by the University, by sponsors or by partners where appropriate in connection with the commercialization of Intellectual Property.

5.5 In cases where the University has not obtained legal protection for its Intellectual Property and has elected to transfer ownership to the Creator, the Creator may place the Intellectual Property in the public domain without obligation to the University. The University will maintain a file of its Intellectual Property dedicated to the public domain and will arrange for copies to be available to the public through the Educational Resources Center.

## VI. Distribution of Income from Commercialization of Intellectual Property

6.1 It is the general policy of the University to encourage the commercialization of Intellectual Property resulting from the scientific or educational endeavors of its Members.

6.2 In recognition of the efforts and contributions of Creators who develop Intellectual Property owned by the University, the University will share income derived from its commercialization with the Creators in accordance with the following guidelines.

6.2.1 From gross income derived from the commercialization of its Intellectual Property (whether from sale, licensing, royalties, or otherwise), the University will retain enterprise expenses in an amount equal to the costs and expenses incurred in connection with the legal protection, development, promotion, marketing, and licensing of the Intellectual Property, and any other direct costs associated with its commercialization. The ~~Director of Research~~ Associate Vice Provost for Research and the Controller's Office shall identify such expenses.

6.2.2 the balance (the "Net Income") shall be distributed within three months of receipt as follows:

25% of up to \$400K income (40% of additional income) to the University	To help defray costs of managing the Intellectual Property program generally. (This money will be allocated to an Intellectual Property account for other related expenses)
50% to the Creator(s)	Joint Creator(s) shall determine in writing what percentage of the Creator(s)' share of income shall be allocated to the respective Creators.
25% of up to \$400K income (10% of additional income) to the Creator(s)' Department, or <u>Institute/School</u> in the absence of a Department.	For the benefit of the Creator(s)' appropriate subunit, typically the department.  In the case of Intellectual Property supported by two or more departments or units of the University, this portion of the Net Income shall be allocated and made available to the appropriate departments, or comparable unit on an equitable basis as determined by the <del>Director of the Division of Research</del> <u>Associate Vice Provost for Research</u>

6.2.3 The above guidelines are subject to certain pre-existing and ongoing requirements ("Requirements") affecting income from and license or other rights in various categories of Intellectual Property, including Requirements relating to Intellectual Property created or developed at, or through the use of, the facilities of the Center for Advanced Materials Processing in accordance with Section 23 of New York State Laws of 1987, Chapter 839, and any agreement between the University and the New York State Urban Development Corporation ("UDC") pursuant to that legislation.

Unless the terms of the applicable Requirement provide otherwise, Net Income for purposes of this Policy shall exclude all amounts payable to UDC or to others as required by such Requirement.

6.3. The provisions of this Policy dealing with the distribution of income shall apply only to income received from Intellectual Property disclosed to the University subsequent to the effective date of this Policy.

## VII. Administration of Intellectual Property Policy

7.1 Responsibility for all Intellectual Property matters, including the interpretation and administration of this Policy, shall rest with ~~the Division of Research~~ Sponsored Research Services in consultation with an Intellectual Property Committee.

7.2 ~~The Division of Research~~ Sponsored Research Services will provide the following support and supervision for implementation of this Policy:

- assure that Members are aware of and adhere to provisions in research contracts or other agreements with outside parties restricting publication rights or otherwise relating to the creation, use, or disposition of Intellectual Property;
- facilitate the early identification of potentially patentable inventions and discoveries, the preparation of disclosures, and the review thereof;
- advise on available methods for the protection of copyrightable works, and, if appropriate, assist in negotiations for publication or commercialization;
- review the terms and conditions governing others' Intellectual Property acquired for use in University-sponsored programs and activities and advise on compliance with those terms and conditions;
- issue guidelines or other information and materials applicable to this Policy;
- for Intellectual Property management purposes, the University shall also maintain an internal (within ~~DORSRS~~) searchable database on all assigned and unassigned Intellectual Property disclosed to the University and evaluate, in consultation with Creators, invention disclosures in order to confirm ownership or applicable grant and contract terms.
- determine whether legal protection (e.g., patent filing, formal copyright registration, or other mechanism) should be procured and, if so, the territory to be covered.

### 7.3 Intellectual Property Committee

7.3.1 The Intellectual Property Committee shall provide advice, and make recommendations to the ~~Director, Division of Research~~ Associate Vice Provost for Research, with respect to interpretation and implementation of this Policy, amendments to this Policy, and such other matters as the ~~Director~~ Associate Vice Provost may deem appropriate.

7.3.2 The Intellectual Property Committee shall be comprised of nine persons as follows: a chair of the committee; five members of the faculty (provided that no department shall have more than one member); a member of the professional nonteaching Staff; and, ex officio, the Vice President for Business and Finance and the ~~Director, Division of Research~~ Associate Vice Provost for Research. The Faculty Senate shall nominate for the ~~President's Provost's~~ approval the faculty members of the Committee (other than, ex officio members), as well as the chair of the Committee who shall be a senior, tenured member of the faculty. Administrative Council shall nominate the professional nonteaching staff member. The President must approve all nominees.

7.3.3 Faculty and other Staff members (other than ex officio members) of the Committee shall be appointed for ~~three-year~~ three-year terms, renewable for a maximum of two additional terms. Terms shall be staggered so that no more than three new members will be appointed each year.

7.3.4 Should any member of the Committee be unable to complete his or her term of service, the Faculty Senate (or Administrative Council) will nominate, for the approval of the Provost and President, another member of the faculty (or the professional staff), as appropriate, to serve for the duration of the unexpired term.

7.3.5 No member of the Intellectual Property Committee may participate in the deliberations of the Committee if that member has a personal interest or direct involvement in matters to be discussed,

7.3.6 The ~~Director of Division of Research~~ Associate Vice Provost for Research and the chair of the Intellectual Property Committee shall jointly report annually to the Provost and President ~~of the University~~ upon matters of significance relating to the administration of this Intellectual Property Policy,

#### **VIII. Responsibilities**

All individuals to whom this policy applies are responsible for becoming familiar with and following this policy. University supervisors are responsible for promoting the understanding of this policy and for taking appropriate steps to help ensure compliance with it.

#### **IX. Consequences for Violating this Policy**

Failure to comply with this and related policies is subject to disciplinary action, up to and including suspension without pay, or termination of employment or association with the University, in accordance with applicable (e.g., staff, faculty, student) disciplinary procedures.

## Course Materials Ownership Policy Guidance.

### Ownership of Course Materials Including Online Instruction Materials

Ownership and use of intellectual property created by Clarkson University employees, including faculty, are governed by the University's Intellectual Property Policy (OM Section 6.6). Faculty also must be mindful to avoid use of such intellectual property in a manner that conflicts with their obligations under the University's Conflict of Interest Policy (OM Section 7.20).

1. **Who owns the copyright in materials created by faculty?** The copyright in materials created by an employee within the scope of employment are owned by the employer under the "work made for hire" doctrine unless otherwise specified. In adherence with long-standing tradition relating to course materials (and scholarly publications), the Clarkson University considers most course materials created by its faculty exempt from the "work made for hire" doctrine subject to a reservation of specific rights to the University as well as certain restrictions on use.
2. **Which course materials are exempted by the University from the "work made for hire" doctrine and considered owned by the faculty-creator?**  
Ownership of copyright for all of the below belong to the faculty-creator unless the material in question was (a) developed with significant input from others at Clarkson University, (b) derived significantly from use of University resources and/or assets, or (c) the faculty-creator received supplemental or additional compensation to create the course beyond their regular salaried appointment. Examples of course materials owned by the faculty-creator include:
  1. Course syllabi
  2. Written or in-lecture produced lecture notes
  3. Digital presentations (e.g., powerpoint, google slides etc.)
  4. Ungraded class assignments, exams, and supplemental materials (graded materials are owned by the student)
  5. Digital course materials, including a limited, insubstantial part of a digitally produced or digitally reproduced lecture (but not the entirety of any single lecture or multiple lectures)
  6. Simulations, instructional videos, software
3. **What rights does the University retain in course materials exempted from the "work made for hire" doctrine and what restrictions does the University place on the use of such course materials?**  
The University retains the right to use such course materials for its own educational and research purposes, including archiving the materials (OM Section 6.6).
  - a. Faculty may NOT distribute or sell course materials or content for commercial purposes.
  - b. Faculty may NOT use course materials or content to teach the same course outside of Clarkson University while employed at Clarkson University.
  - c. The University may NOT distribute or sell course materials or content for commercial purposes.
  - d. The University may NOT use course materials or content to have someone other than the faculty-creator teach the same course at Clarkson University while that faculty-creator is employed at Clarkson University.
4. **How may faculty use exempted course materials?** Audio and video materials cannot be re-used unless all FERPA requirements have been met and all permissions of individuals associated with the material have been secured.

Examples of common uses include but are not limited to:

- a. Distribution of content to peers at other academic institutions for noncommercial academic or personal use outside of Clarkson University.
- b. Distribution for scholarly publication
- c. Inclusion in an occasional lecture at another institution while still employed at Clarkson University.
- d. Teach or otherwise re-use at other non-profit educational institutions after leaving Clarkson University.
- e. Faculty may NOT distribute or sell content for commercial purposes

5. **Which course materials are not exempted by the University from the "work made for hire" doctrine and considered owned by the University?**

Materials developed with significant input from others at Clarkson University working within the scope of their employment, materials that required significant use of university resources, or materials from courses for which the faculty member receives supplemental or additional compensation from the University beyond their regular salaried appointment.

6. **What are current examples of materials "for which the faculty member receives supplemental or additional compensation from the University beyond their regular salaried appointment"?**

Current examples of materials for which the faculty member received supplemental or additional compensation from the University beyond their regular salaried appointment include without limitation:

- a. Teaching a course outside of their normal work load due to exigency
- b. Development and design of a new course ahead of hiring of new instructor

7. **What are current examples of "significant input from others at Clarkson University," or "substantial use of University resources"?**

- a. Digital productions, reproductions, or other recordings of courses, or parts thereof, that are made at the University's expense (including use of the University's automated lecture capture system or use of University-employed videographers)
- b. Multiple hours of assistance from the Teaching and Learning Corner or other Clarkson University staff in developing online content
- c. Extensive use of students in developing an online course or course materials (e.g., videotaping, background research). Interactions between faculty and students such as normally occur in the preparation of scholarly materials do not constitute "extensive use." Graduate teaching assistants specifically assigned to an effort to produce course content or online content for on or off campus teaching does represent substantial use of university resources.
- d. Note that receipt of the academic year salary, availability of faculty office space, use of library resources, typical administrative staff resources, or use of computer equipment, among other things, are not regarded as constituting "substantial use of University resources".
- e. If there are questions about whether the resources being contributed by the University constitute "significant input" or "substantial use," the University and faculty member must explicitly agree in writing as to ownership of the course materials before resources are accessed, used or otherwise supplied. Any question about what constitutes substantial input or substantial resources should be referred to the Provost's office.

8. **Who owns course materials collectively generated by a class (e.g., collaborative wiki space)?**

Course materials collectively generated by a class are considered "institutional work," by the University and the copyright belongs to the University. Works created by students in the course of their education shall be owned by the individual student subject to the University's reservation of rights. Student-created works posted in a course online forum are owned by the student and cannot be reproduced or published by instructors without written permission from said student.

9. **What might the University do with course materials created by faculty, either individually or collectively by a class, and owned by the University?**

Possible uses include but are not limited to:

- a. Re-use, reproduce, adapt, modify, update, exhibit, display, archive, use in compilations or create derivative works (faculty-creator permission would be secured if still employed at Clarkson University)
- b. License the content to other non-profit institutions without a fee (faculty-creator permission would be secured if still employed at Clarkson University)
- c. License non-classroom lecture videos for commercial use or to other non-profits in return for a fee (faculty-creator permission would be secured if still employed at Clarkson University and royalties allocated on a model similar to patents)

10. **Will the faculty-creator be allowed to use the course materials created by faculty and owned by the University at another non-commercial institution, either during or after their employment at Clarkson University?**

Faculty should seek permission on a case-by-case basis. However, generally

- a. During the time of employment at Clarkson University, faculty may make limited use of such material without obtaining the express written consent of the University for scholarly presentations that will not be widely distributed.
  - b. Once the faculty-creator is no longer employed by Clarkson University, the faculty-creator may make use of lectures that he/she created while employed at Clarkson University for his/her own scholarly, non-profit, non-competing purposes.
11. **What are examples of course materials created by faculty that are likely to contradict Clarkson's conflict of interest policy?**
- a. Accepting employment outside of Clarkson University, for the purpose of creating online or in-person teaching materials without written approval of provost.
  - b. Creating teaching materials (for example, course lectures) for a course intended to be taught outside of Clarkson University that the faculty member might reasonably be expected to teach while at Clarkson, without written approval of the provost.
12. **Can faculty use the Clarkson University brand on courses and/or course materials they own and, as permitted, teach elsewhere?**
- No. Faculty may not use Clarkson trademarks or other identifying designations without the prior written consent of the University on courses or course materials they teach elsewhere.
13. **If courses or course modules are developed using government or other external grant funding which specifies that the results must be openly accessible, does the University have the right to control access to this content?**
- No. Access to the course and/or course content is controlled by the terms of the grant and neither the University nor the faculty member can control access except in accordance with the terms and conditions of the grant.
14. **When should faculty and the University sign an agreement or contract indicating ownership rights of a course, course module, or course materials intended to be distributed online?**
- Whenever there is any ambiguity regarding the ownership of intellectual property in which University resources are being used, a written agreement designating who will own the intellectual property must be entered into before the creation and/or development of the material in question.
15. **If course materials are owned by the faculty-creator, will Clarkson University be responsible for helping protect the copyright?**
- No. The faculty-creator is responsible for protecting their proprietary interest in the course materials. Faculty are encouraged to add a copyright notice or symbol to materials he/she owns and to use a Creative Commons license to grant permissions for their use (<https://creativecommons.org/licenses/>) but should consult with their own legal counsel.

These questions were developed through review of FAQs from other institutions (thank you Brown University!) as well as questions often asked of the provost's office. The answers are developed through a similar consultation with other institutional policies and are in alignment with existing Clarkson University intellectual property and conflict of interest policies. The University reserves the right to change either or all of the referenced policies, and, consequently, the document and/or the relevant responses to the questions.