I. Approve the revised institutional Intellectual Property Policy to replace the existing policy, approved in 1989.

II. Issue
Update EKU’s Intellectual Property Policy to reflect current case law, expand the committee membership to include one member from each college, define the role of the committee, describe the administrative process, provide a grievance procedure, and establish typical revenue sharing percentages.

III. Background and Process
The current policy is outdated. The President convened the Intellectual Property Committee (IPC), formerly the Patents and Copyrights Committee, in 2002 and charged them with the responsibility of evaluating the existing policy and proposing an updated version. The Committee studied EKU-benchmark universities’ policies, intellectual property policies from other universities in the Commonwealth of Kentucky, and high performing institutions with regard to commercialization of university developed intellectual property. The IPC developed a draft policy in the spring of 2004. After a review of the policy by a UK expert, it was distributed by e-mail to the University Community by President Glasser. A web site was developed and the URL distributed where interested people could view the old policy, the new policy, a chart comparing the two versions and submit questions to the Committee via e-mail. Additionally, two educational forums on IP were held for the University Community during the spring. In the fall, two more educational forums were held in partnership with the Teaching and Learning Center. A one-day seminar on IP was held on campus in October featuring Dr. Joseph Fondacaro, an expert on University-based intellectual property management from the University of Cincinnati’s College of Medicine. Dr. Fondacaro provided the IPC with a favorable evaluation of the proposed policy. The Faculty Senate voted to approve the policy, with one amendment, at their November meeting.

IV. Alternatives
Continue to operate with the existing policy.

V. President’s Recommendation
Upon the recommendation of the Intellectual Property Committee and the approval of the Faculty Senate, the President recommends approval.
I. Introduction/Background

The Intellectual Property (IP) Policy at Eastern Kentucky University (EKU) recognizes that universities are institutions committed to the creation and dissemination of knowledge. The IP Policy affirms the University's commitment to academic freedom, to a rich and vibrant public environment, and to a healthy local and regional economy. The University supports these endeavors by encouraging, fostering, and protecting scholarship, research, service and creativity.

EKU recognizes the need to protect the intellectual property rights of faculty, staff, students, and the University. It also acknowledges the importance of contributing to a supportive, enabling environment for the University regarding IP. The IP Policy addresses the customary distribution of any benefits arising from activities in which the University and its members are jointly engaged including public recognition and, where appropriate, financial remuneration. It excludes traditional academic scholarly works from its purview and attempts to articulate and balance the sometimes-competing interests involved in IP in a fair, manageable, and productive manner.

II. Objectives of the Intellectual Property Policy

The objectives of the IP Policy are:

a. to delineate the University's policies and procedures with regard to IP
b. to encourage research, scholarship, and a spirit of inquiry
c. to promote the dissemination of knowledge and technology for the benefit of the University community and society
d. to provide an administrative system to assist the University community and its external collaborators in bringing new discoveries and developments into public and/or private use
e. to provide an administrative system to evaluate, where appropriate, the commercial significance of new discoveries and developments
f. to provide for the equitable disposition of interests in shared IP among the creator(s), the University, and, where applicable, any external collaborators(s)
g. to contribute to a university environment that encourages the creation of IP
h. to assist the University community and its collaborators in seeking adequate and appropriate legal protection against unauthorized use
i. to describe employee-excluded works that are not subject to University ownership under the policy
III. Definitions

a. Collaborator (Internal or External) - A person with whom the creator works. The collaborator may be a person(s), either within the University or outside the University. Collaborators work together on a literary, artistic or scientific undertaking. This undertaking directly or indirectly results in the creation of intellectual property.

b. Commercialization - The application, publication, development, use, assignment, licensing, sub-licensing, franchising, exploitation, or other utilization of IP in order to generate financial or other commercial gains.

c. Copyright - A form of protection as defined in 17 U.S. Code, which may be amended from time to time. It generally grants protection to authors of “original works of authorship” which includes literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished. These protection rights automatically attach to the work when it is fixed in a tangible medium and formal registration is not required. While registration is not required, it provides certain additional statutory protections. In addition, it is a prerequisite to seek legal redress for copyright infringement in a court of law. Copyrights give the author exclusive rights to reproduce the copyrighted work, to prepare derivative works, to distribute copies of the work, and to perform or display the work publicly. Copyrights also prevent those who are not the original author or otherwise the owner of the work from copying, performing, displaying, distributing or preparing derivative works without proper authorization. Copyrights only protect the particular expression of an idea, and not the underlying idea expressed. A work can be formally registered for copyright protection by the Copyright Office of the Library of Congress. (For more information go to http://www.loc.gov/copyright/)

d. Discoveries - Acts of disclosing or revealing something that was not previously known to have existed. A disclosure of an object, process, or any other type of occurrence that causes the discoverer to realize the existence of or to uncover a certain idea or concept. A discovery requires that the discoverer is the first to expose or to find out about the revelation.

e. Due Diligence - The degree of attention or care that is expected of a reasonable person in a given situation.

f. Electronic Publications - Electronic publications includes software and other technologies and data used to support the capture, storage, retrieval, transformation, and presentation of electronic or digital data and information or to interface between electronic or digital forms and other communications and information media. Examples may include but are not limited to: software, course lecture video or audiotapes, whether electronic, magnetic or digital, electronic publications, electronic
textbooks and interactive textbook supplements, Internet-based and on-
line courses, web pages, multimedia works, and distance learning
materials. As used herein, software means a set of statements or
instructions (usually lines of code) used directly or indirectly in a
computer to bring about a certain result.

g. Equity Interest – Shares of ownership interest in a commercial venture
dealing with intellectual property created under this policy.

h. Intellectual Property (IP) – Intellectual property includes works of
authorship, inventions, and discoveries whether or not subject to
protection by patents, copyrights, trademarks, or trade secrets. For the
purposes of this policy, Tangible Research Property (as defined below) is
included in the definition of Intellectual Property. As defined here,
Intellectual Property also includes any new form of Intellectual Property
receiving legal protection that may be added to the categories above
during the time that this policy is in effect.

i. Instructional Text – An “instructional text” is a literary, pictorial, or
graphic work prepared or otherwise used for commercial publication and
with the purpose of use in systematic instructional activities.

j. Invention – A product or process providing a new way of doing something,
or offers new, innovative, technical solution(s) to a problem. Also refers to
any new and useful process, machine, manufacture or composition of
matter (e.g., life forms, etc) or any new and useful improvement thereof,
relating to creative works, research property, and Trade Secrets.

k. Patent – The exclusive property rights granted to the creator of an
invention issued by the United States Patent and Trademark Office. A
patent is defined in 35 U.S. Code, which may be amended from time to
time. It generally grants its owner the protection for his/her invention
excluding others from making, using, selling, or importing the invention.
The requirements for patentability of an invention include that the
invention has utility, novelty and is nonobvious. A patent is granted for a
limited period of time, which is usually 20 years from the date it is filed.
(For more information, see http://www.uspto.gov/.)

l. Principal Investigator – The primary person in charge of investigating or
researching a particular matter that may result in the creation of
intellectual property.

m. Royalties – The revenue that is received as a result of licensing IP.
Royalties may be based on a use rate or a flat rate based on allowing
others to use the creation in some fashion for financial gain.
n. Sponsor – A person or organization that pays for or plans and carries out a project or activity.

o. Sponsor-assisted Project – A project in which a private or governmental sponsor may assist one or more members of the University’s faculty, staff, or students by such means as furnishing funds, equipment, or other resources to support research, the creation of a creative work, or any other educational or scientific activity that may result in the creation of IP.

p. Sponsor-supported Project - Any grant, contract, 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’s faculty, staff, or students that may result in the creation of IP.

q. Supplementary Work - A “supplementary work” is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forwards, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

r. Tangible Research Material – Tangible Research Material means materials used or produced in the course of University research projects, examples of which may include but are not limited to: (1) hybridoma or clonal cell lines that produce monoclonal antibodies or recombinant proteins, (2) plants protected by the Plant Variety Protection Act, and (3) non-patented drugs protected by the Orphan Drug Act. Tangible Research Material is subject to the provisions of this policy.

s. Trademark - A distinctive mark or sign that identifies certain goods or services as those that are provided or produced by a specific person or entity. Some examples of trademarks include but are not limited to words, names, logos, sounds and product configurations that uniquely identify a product. The exclusive rights of trademarks are derived from the frequent use of them by the owner or creator and registration of trademarks is not required. Federal registration provides formal protection of trademarks from unauthorized use of the same or very similar types of symbols and can be obtained through the United States Patent and Trademark Office (For more information see http://www.uspto.gov/)

t. Trade Secrets - Information that a person or entity may keep secret to give them an advantage over their competitors. Trade secrets cannot be
formally registered; it is the owners' responsibility to take appropriate steps to protect the trade secret's confidentiality.

u. Traditional Copyrightable Academic Work - These shall be defined as a subset of copyrightable works created independently and at the creator's initiative for traditional academic purposes. Examples include class notes; course instructional documents including, course syllabuses, assignments, exams, information sheets and computer presentations; books; theses and dissertations; articles; non-fiction, fiction and poems; musical works; dramatic works including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works; or other works of artistic imagination that are not created as an institutional initiative. Traditional Copyrightable Academic Works are employee-excluded works pursuant to Section IVb, i; however, see Sections IVb ii-iv for those works that are not excluded from this policy. (Reference Section IVb, part i, ii, iii, iv)

v. Working Days – These days include full days, Monday through Friday, excluding at least half days and full days in which Eastern Kentucky University is closed.

IV. General Policy
a. Overview
   i. Intellectual property (IP) includes, but is not limited to, copyrights, patents, trade secrets, trademarks, and plant variety protection. Activities resulting in the creation of IP may also contribute to professional development, enhance the institution's reputation, promote additional educational opportunities, and promote collaborative or cooperative arrangements. Therefore, when faculty, staff, administrators, student employees, students, and/or visiting faculty or researchers develop intellectual property, their IP rights and privileges must be protected and preserved.
   ii. Under federal copyright law, the creator of a work is usually the owner. However, this is not the case when a work is created within the scope of employment. Works created within the scope of employment are known as "work made for hire," and are works where the employer is considered the author and owner of such works. Copyright law generally defines a work made for hire as:
      1. A work prepared by an employee within the scope of his/her employment; or
      2. Certain types of work specially ordered or commissioned where the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. These types of work include a contribution to collective work, a part of a motion picture or other audio/visual work, a translation, a compilation, an
instructional text, a test, answer material for a test, an atlas or a supplementary work.

EKU's IP Policy allows for a determination of whether a change will be made regarding ownership or assignment of works made for hire. This policy permits assignment of individual ownership to the creating employee of certain scholarly, artistic, literary, musical, and educational materials within the creator's field of expertise, as set forth below, which have historically been treated by institutions of higher education as belonging to the creator, so long as EKU retains a non-exclusive license in IP that was created for and that uses significant university resources for educational, research and service use whenever practicable.

The determination of ownership may be complicated. Some categories of works that used to be distinct and about which there were few issues of ownership may now be merged. Examples include, but are not limited to, software, courseware and distance learning. Therefore, EKU's IP Policy establishes guidelines to be applied in determining ownership interests in the IP and permits the University to recover expenses incurred in the work's creation and/or share in royalties if the work is commercialized.

iii. When EKU faculty, staff, administrators, or students create IP, which, under the terms of this policy, may be owned or shared by EKU, the creator shall report the IP to the Provost/VP by completing a Disclosure Form (Attachment 1). The IP creator(s) will cooperate in the execution of legal documents and in the review of literature and prior art (e.g., patent searches); will be given the opportunity to assist in the further commercial development of the IP as defined in Section VI; and will receive consideration regarding any income derived from the commercialization of such property.

b. IP Creation and Ownership Scenarios

i. Employee-excluded Works. EKU assigns to the creator all ownership of IP in the following categories of work:
   1. Traditional Copyrightable Academic Works
   2. Student works (unless the student work is created in a University employment capacity or is part of a sponsor-supported EKU project.)

ii. University-assigned Projects. University-assigned work, developed in the course and scope of employment, constitutes a work made for hire. Therefore, IP resulting from this work is the property of EKU. Work produced in the course and scope of employment includes, but is not limited to, research, instruction, service, and other assigned activities. The creator(s) will cooperate with the University to execute any and all documentation
necessary to assign ownership and, if necessary, to secure protection of this IP.

iii. University-assisted Projects. EKU shares ownership of IP developed by University employees through an effort which makes significant use of University resources. The distribution of possible income based on such IP will be determined in accordance with the Administrative Procedures Section V. of this policy. The University and IP creator(s) will cooperate to execute any and all documentation necessary to assign ownership and, if necessary, to secure protection of the IP. It should be noted that this policy does not construe the use of office space, library resources, personal workstations, or personal computers as constituting significant use of University resources. Significant use of University resources includes, but is not limited to, use of:

1. Research funding
2. Funding allocated for asynchronous or distance learning programs
3. University-paid time within employment period
4. Assistance of support staff
5. Telecommunication services (excluding telephone service)
6. University central computing resources
7. Instructional design or media production services
8. Research equipment and facilities, or production equipment and facilities

iv. Sponsor-supported Projects. Sponsor-supported projects are university activities that are funded/supported by an external agency/organization. EKU's Office of Sponsored Programs (http://www.research.eku.edu/), formerly the Office of Grants and Contracts, reviews and approves these contracts. Sponsored Programs provides assistance to facilitate negotiations among the Principal Investigator, the Sponsor, and the University, including issues related to IP ownership. While the Principal Investigator should refer to this policy to address the protection of IP, in some instances federal and state law may define ownership. Before the contract is accepted and executed, Sponsored Projects will work to ensure that the Principal Investigator and the University are satisfied with the terms before accepting and executing the contract, including:

1. Due diligence milestones should be negotiated on a case-by-case basis in an effective and timely manner. The milestones will provide objectively measurable goals and timetables by which it may be determined if a good faith effort has been made. A reassignment right will be included, exercisable on the part of EKU, when the Sponsor has not made a good-faith effort to meet the milestones.
2. A windfall provision where a specified payment is made upon some mutually agreed upon threshold event. This should be determined on a case-by-case basis.

When a contract is silent on the ownership of the Intellectual Property, ownership will vest with the University.

Prior to receiving a grant award to engage in sponsored projects or research, the Principal Investigator (PI) must first participate in the Office of Sponsored Project's orientation meeting. During this meeting, the PI will give the Office of Sponsored Projects a brief overview of the IP that may result from their project. This meeting will help establish whether IP is an issue with the project before a budget number is assigned.

v. Visiting Faculty, Researchers and Scientists. Visiting faculty, researchers, and scientists will be held to the same policies as permanent faculty, researchers, and scientists.

vi. Outside Consulting. If an employee engages in outside consulting that will involve University resources, then a contract must be executed with the Office of Sponsored Projects and a Disclosure Form must be filed with the Provost/VP.

vii. Individual Projects. If an employee engages in projects that will involve the use of University resources and will result in the creation of IP, then EKU will share in the ownership of such property. Therefore, the employee is required to complete and submit a Disclosure Form.

viii. Other Works. Other works not expressly addressed in this policy will require the creator(s) to submit a Disclosure Form and will be reviewed on a case-by-case basis, including:
   1. Electronic publications
   2. Online courses
   3. Patents
   4. Other materials

ix. IP Gifts. EKU may accept gifts of IP through the EKU Foundation. The receipt of an IP gift may require actions on the part of the University and/or Foundation, and the necessary actions will be evaluated as part of the consideration of acceptance. Gifts may be accepted through the EKU Foundation in accordance with the EKU Gifts Acceptance Policies and Procedures and in consultation with the Intellectual Property Committee and the University administration.

V. Administrative Procedures
a. Oversight of the Policy

The interests of EKU and its faculty, staff, and students in the development of IP, except exempted works as described in Section IV.b. i., shall be determined by the Provost/VP or designee and the Intellectual Property Committee (IPC), in accordance with this policy. The Provost/VP serves as the administrative
officer for matters concerning IP, regardless of whether they are generated from an academic or non-academic unit.

The IPC shall be a standing committee consisting of the President and twelve official members appointed by the President. The committee shall have five ex-officio members:

- University Counsel (non-voting)
- Vice President for University Advancement (or designee) (voting)
- Director of Sponsored Programs (voting)
- Provost (or designee) (non-voting)
- President (or designee) (non-voting)

Other members of the faculty and staff will be appointed by the President to provide broad technical expertise across various disciplines. These shall include six members of the teaching faculty, one representing each college, and one from the Library, selected from a slate submitted by the Executive Committee of the Faculty Senate and two members from the professional staff. Additional expertise in the form of ad hoc resource members may be sought by the IPC as needed in the consideration of IP matters.

The University administrative contact for issues regarding IP covered under this policy and the disclosure of IP shall be the Provost/VP. Actions of the IPC are forwarded to the Provost/VP as recommendations.

b. Duties.
   The IPC shall serve as the custodian of the IP Disclosure form and will identify the IP Category and Ownership structure pursuant to Section V.b. of this policy.

i. Custodial Function. The IPC shall review the IP policy, as needed, and make revision recommendations to the Provost. The IPC will also recommend revisions to the Disclosure Form or to any other form required in the disclosure of IP. The IPC will meet at least quarterly.

ii. Disclosure Function. When University faculty, staff, other employee, or student, operating under the scope of this Policy, creates IP, the creator shall notify the Provost/VP of the IP by completing the Disclosure Form. Should the Provost/VP be the creator of IP, the completed Disclosure Form will be submitted to the President. The Disclosure Form must be completed and submitted to the Provost/VP upon the recognition of the existence, or potential existence, of intellectual property. The completed Disclosure Form must be submitted to the Provost/VP with an information copy to the appropriate chair or director and dean. A receipt notification will be mailed to the creator acknowledging receipt of the Disclosure Form within one workweek of its receipt.
with a copy of this acknowledgement sent to the members of the IPC.

The creator(s) shall make available, upon request, originals or copies of all documents and designs, including logs, research workbooks, etc. that are necessary to support an understanding of the IP and its scope and value. Moreover, as necessary the creator(s) shall assist the IPC in obtaining and maintaining legal protection for the IP by disclosing essential information, signing applications and other necessary documents, and assigning technology rights. EKU will reimburse the creator(s) for any/all reasonable expenses incurred complying with IPC requests for additional information.

The IPC will evaluate the merits of the IP and the equities involved. This evaluation may be made using the materials/information submitted by the creator(s) and/or with the assistance of other university resources or a consultant(s). The VP/Provost will advise the creator(s) within one-hundred and twenty (120) calendar days, following the receipt of the Disclosure Form, as to whether or not the University will retain an interest or ownership in the IP, unless the parties mutually agree upon an extension. The Provost/VP may extend the deadline if further examination of the IP is needed or additional information is required. This will be done by notifying the creator(s) in writing of the intent to extend the deadline fifteen (15) days prior to the end of the initial 120 calendar day period. The Provost/VP must notify the creator(s) of the reason for such an extension. The extended period may not exceed forty-five (45) calendar days. However, the extension may be extended for a longer period of time if mutually agreed upon by all parties.

If EKU elects to release some or all legal rights to the creator(s), or if written notice of the IPC is not given to the creator(s) upon the expiration of 120 calendar day period following receipt of the disclosure or the new deadline, the creator(s) shall be free, subject to law and prior agreements, to proceed independently only with respect to the specific, disclosed IP.

iii. Review Function

1. The IPC will review disclosures for the purpose of classifying them into one of the categories outlined in Section IV.b. of this document. Part of the review process will involve developing an estimate for the market value for the IP. Working alone or with internal or external collaborators, the IPC will estimate the value of the IP so
that EKU better understands the potential commercial value. The IPC, and any other additional resource partners shall have 120 calendar days from the disclosure of the IP to assess the scientific, technical and economic merit as well as decipher the potential commercial value. If this evaluation has not taken place during the 120 days then the time shall have lapsed and primary ownership rights to it shall be returned to the creator.

- If the IPC determines that the IP under consideration is exempt under Section IV.b.1., the property shall be released to the creator and EKU will not claim ownership, except the non-exclusive right to use the IP for educational, research or service reasons.

- If the IPC determines that EKU has an interest in the IP, but that the chances of successful commercialization are minimal or the costs of pursuing such commercialization outweigh the income potential, the IPC shall release the property to the creator(s), as above.

- If the IPC determines that EKU has an ownership right but that the creation has not been developed to the point where a decision as to patentability or commercialization is possible, the IPC shall place the creation in a pending status, provide the creator(s) with the reasons for taking such action and request that the creator(s) report back at some specified date.

If the IPC determines that EKU has ownership interest in the property and an interest in retaining the ownership, the IPC will make a recommendation to the Provost to:

1. Inform the creator(s) in writing that EKU claims its ownership rights to the IP
2. Negotiate and record the rights of the creator(s) to share in any income with EKU in accord with Section VII. Typical and anticipated revenue sharing from royalties are:
   - 50% to the creator
   - 15% to the IP Fund
   - 15% to the General Fund
   - 15% to the Department
   - 5% to the College
3. Inform the President of the IPC's recommendation as to the appropriate course of action.
   a. The President will authorize the execution of an acknowledgment and, where applicable, an assignment of ownership rights
   b. The process for licensing, selling, or otherwise conveying IP will comply with any applicable federal or state statutes. All costs associated with these actions shall be borne by EKU, except that such costs shall be offset against future income in accord with Section VII.b.

iv. Resolution of Grievances
   a. If any creator does not agree with any decision made by the VP/Provost, an appeal may be made to the President within seven working days of the issuance of the decision.
   b. The appeal shall be made in writing, delivered to the President and copies shall be made to the VP/Provost.
   c. Any appeal shall set forth the specific reasons supporting the position of the party and include any supporting documentation.
   d. Upon receipt of an appeal of the VP/Provost's decision, the President shall review the information provided and, within twenty (20) working days, shall issue a written decision on the appeal. The decision on this review will be the final decision of the University.

VI. Commercialization
   a. In commercializing IP, EKU, through the IPC, shall be guided by the following principles:
      i. Active creator(s') participation in all commercialization will be vigorously sought.
      ii. The primary objective and responsibility of EKU shall be to assure that the products of its intellectual activity are brought into the widest possible use for the general benefit of society.
      iii. IP is treated as an asset and an appropriate return should be sought.
   b. In an effort to commercialize IP, EKU will seek a variety of arrangements such as licenses, outright assignments or sale of rights, partnerships, and joint ventures. The selection of particular arrangements will depend upon the individual circumstances.
   c. In some instances, it may be in the best interests of the creator, EKU, and the general public to enter into a commercialization arrangement with entities wholly or partially owned or controlled by the faculty, staff, or
students who originated the property. Because these arrangements have the potential of contributing to economic development, such arrangements may be considered and accepted, provided they are not specifically prohibited by law and that adequate provisions, including full disclosure of interests, are made to avoid or otherwise protect against conflict of interest on the part of those involved.

d. Commercialization of IP can be risky. Based on national data, the process fails more often than it succeeds. If no commercialization has occurred within two years after the property is disclosed, the creator(s) may request that all rights be transferred to the creator. The request should be addressed to the IPC. It should explain what efforts have been made to date and why the creator(s) should receive ownership. The IPC will make a determination as to whether reasonable efforts to commercialize have been taken and will forward a recommendation to the President.

VII. Royalty Income Sharing Policy

a. Except as otherwise provided, net revenues derived from the commercialization of IP shall be shared as follows:
   - 50% to the creator
   - 15% to the IP Fund
   - 15% to the General Fund
   - 15% to the Department
   - 5% to the College

b. The IP Fund, the Department Fund, and the College Fund shall be allowed to build across fiscal years. Costs associated with securing IP will be borne by EKU with such costs offset against future income. All costs directly related to the acquisition of IP rights will be reimbursed from the first receipt of revenue, before distribution is made to the creator, department, college, general fund and IP fund. Similarly, future necessary costs for securing IP rights will be reimbursed by revenues prior to distribution (as above).

c. The creator's rights to share in revenue as stated above (but not including the department's share) shall remain with the individual or pass to the individual's heirs and assigns for so long as net income is derived from the property.

d. When two or more individuals have made substantial creative contributions to IP, they will determine among themselves and in writing the individual share each will receive. A copy of that agreement will accompany the IP disclosure form. In the event that agreement cannot be reached, the IP disclosure should be filed and the IPC will hear oral and written statements. After such presentation, the IPC will make a recommendation to the Provost who will issue a finding.

e. Due to conditions of employment and/or the nature of work assignments, it may be appropriate to agree to alternate distribution of net income for employees and/or the distribution ratios. Such modifications must be
submitted to the Provost/VP, in writing, and will be considered by the IPC.

f. This policy shall not change revenue-sharing agreements entered into prior to the adoption of this policy.

VIII. Binding Nature of this Policy
The policies set forth here constitute an understanding that is binding on EKU faculty, staff, and students as a condition of their participation in EKU research, teaching, and service programs and for their use of EKU funds, facilities, or other resources.
near future.

**STANDING COMMITTEE REPORTS:**

Budget Committee. Senator Eakin reported that after gathering information on how EKU summer salaries are calculated and the formula that is used, the committee members are now compiling a master spreadsheet for all of the benchmark institutions to see whether they use a similar formula. The committee also plans to do a comparison of the cost of living figures in the different areas, as well.

Rules Committee. Senator Johnson reported that the committee has met twice since the last Senate meeting. At the first meeting on October 13th the committee concluded the changes for the Senate Internal procedures.

The committee also addressed two proposed changes in the Senate Rules. One changes the way the number of delegates for each election unit is decided and the other change brings the Senate meeting times and dates listed in the Senate rules in compliance with present practices.

At the October 27th meeting the Committee discussed the charges for the 04-05 academic year and those will be addressed in the following order: Internal procedures, Senate rules, structure of the executive committee and the mission of the existing Senate committees, and review the possible creation of a new Senate academic committee.

The next meeting will be November 10th.

Rights & Responsibilities Committee. Senator Kristofik reported that the Rights and Responsibilities Committee has met six times since the beginning of the semester. Senator Kristofik was elected chair. The Committee is proceeding with the charge to look at the recommendations of the University Committee’s Ad Hoc Committee on Promotion and Tenure.

Faculty Welfare Committee. Senator Hubbard reported that the committee met on October 21st. The Provost informed the committee of how he intends to proceed with the dispersion of the salary equity money for the 2004-2005 academic year. Senator Chapman intends to use a formula to figure out the total money necessary to bring all eligible faculty up to equity in a period of three to four years. This money would then be dispersed using the formula over the aforementioned timetable. After this process is completed then a new equity review would be implemented.

**UNFINISHED BUSINESS:**

Intellectual Properties Policy Motion. Cheryl Stone was in attendance to give a brief history of the policy and to answer questions.

Senator Marchant moved, seconded by Senator Kelly, to amend area III on page five as follows:

- to insert after Examples include:
  Course instructional documents including, course syllabuses, assignments, exams,
  Information sheets and computer presentations;

The motion to amend the proposal was approved by the Senate.

The amended Intellectual Properties Policy motion was approved by the Senate.

General Education Motions. Tom Watkins was in attendance to give a brief overview of the goals and objectives and the framework motions and to answer questions.

Motion 1 (Goals & Objectives). The general education goals and objectives motion was approved by the Senate.

Motion 2 (Framework). Senator Ciocca moved, seconded by Senator Eakin, to amend section "A" of the framework motion. The motion failed for lack of support.

Senator Coyer moved, seconded by Senator Smith, to amend the framework motion to allow professional programs to use general education courses to meet accrediting standards and certification requirements. The motion failed for lack of support.

Senator Carmean moved, seconded by Senator G. Wolf, to amend Block S Social & Behavioral Sciences, to change the wording from 'one history course' to 'one historical science course'. The
Why is a new policy being proposed?
- 2 years ago, President Glasser reconvened the Committee
- Charged us with the responsibility to update policy
- The committee examined our benchmark Universities’ policies, high performing universities’ policies and other institutions in KY

By last Spring, the IPC had concluded its work and sent Pres. Glasser a copy. She asked us to move forward providing abundant opportunities for university community input:
- Disseminated the old policy, new policy and a chart comparing them to the full university community
- Received an outside evaluation of the policy draft from a UK law professor who specializes in IP litigation
- Posted these documents on a website and published its address
- Provided university community with the opportunity to e-mail questions
- Held 2 forums in the Spring
- (these activities were in addition to the on-going input from the faculty obtained through our committee’s faculty members.)

Given the small amount of participation and input, President Glasser asked us to solicit more university input this Fall
- Held 2 more faculty forums
- Hosted a seminar on IP and Tech Transfer
- Received an outside evaluation of the policy draft from a Tech Transfer/IP professional

The review of the policy has generated generally favorable comments. However, the IPC thinks it is important to review and update the policy and, at least initially, will do so annually.

How is this policy better?
- It expands the definition of IP to reflect recent changes in the law
- Continues the exemption of traditional academic scholarly works and creates a threshold of SIGNIFICANT USE of University resources in University-assisted projects. (significant use includes research funding, funding allocated for distance learning programs, university-
paid time, assistance of support staff, telecommunication services excluding telephone, central computing resources, instructional design or media production, research equipment and facilities, production equipment and facilities.)

- Provides key operational definitions

- Changes the make-up of the committee to include one rep from each college and the Libraries
- Establishes standardized IP creation and ownership scenarios
- Describes a new administrative process
- Defines the role of the committee
- Vests administration for IP with the Provost
- Establishes grievance procedures
- Specifies time limitations (120 days from disclosure to assess the scientific, technical and economic merit as well as the potential commercial value, grievance appeal 20 days.)

Reviewer:
Dr. Joseph D. Fondacaro
Director of Intellectual Property and Venture Development
Research Professor of Pediatrics
Cincinnati Children’s Research Foundation

Division for net revenues:
- 50% to the creator
- 15% to the IP Fund
- 15% to the General Fund
- 15% to the Department
- 5% to the College
STUDENT AFFAIRS

Amendments to the Residence Hall Association Constitution

President Funderburk said that Dr. Thomas Myers, Vice President for Student Affairs, had transmitted two proposed amendments to the Residence Hall Association Constitution, which had been approved by the Council on Student Affairs. Dr. Funderburk recommended that the Board approve one of the proposed amendments and noted that the other was being withheld from consideration pending further review. The recommended amendment is as follows:

ARTICLE VI

Section 1.4 Qualifications of Committee Chairs
must live in a residence hall or Brockton singles apartment
must be a full-time student
must not be on unsuspend suspension
must have at least a 2.0 grade point average on a 4.0 scale

Mr. Bates made a motion to approve this amendment, and the motion was seconded by Dr. Gray and passed by voice vote.

The Residence Hall Association Constitution, as amended, is reflected in its entirety in the Official Minutes of the Board of Regents.

Amendments to the Student Association Constitution

Dr. Funderburk said he had been advised by Dr. Myers that several amendments to the Student Association Constitution had been approved by the Council on Student Affairs, and that he concurred, and recommended their approval by the Board of Regents. Mr. Bates made a motion to approve the amendments, which was seconded by Mr. Lambert, and passed by voice vote.

The Student Association Constitution, as amended, is reflected in its entirety at the end of these minutes.

OTHER BUSINESS

Audit Committee Report

Mr. Begley noted that the Audit Committee had further reviewed the A-110 audit of Federal program funds conducted by Rankin, Rankin and Company. He recommended that the audit be officially accepted, and made a motion to that effect. Mr. Spurluck seconded the motion, and it passed.

Mr. Begley also reported that the Audit Committee had voted to recommend that the option to renew the contract with the external auditor, Rankin, Rankin and Company be exercised. He noted that the expense of the audit for the fiscal year ending June 30, 1989, would be $39,400. He then made a motion to renew the contract. The motion was seconded by Mr. Gillis. A roll call vote was called for and the following members voted "aye": Mr. Bates, Mr. Begley, Mr. Cooper, Mr. Gilbert, Mr. Gillis, Dr. Gray, Dr. Gross, Mr. Lambert, Mr. Spurluck, and Mr. Stratton.

EXECUTIVE COMMITTEE

Patents and Copyrights

Mr. Stratton reported that the Executive Committee had given favorable review to the proposed Patents and Copyrights Policy which had previously been distributed to the Board. Mr. Cooper made a motion to approve the policy and the motion was seconded by Mr. Begley. The motion was passed by a voice vote.

Football Coach Retirement Plan

President Funderburk said that he had received a request that the University's football coaches be allowed to participate in the 401(k) retirement plan sponsored by the American Football Coaches Association. He said that this participation would similar to a tax sheltered annuity, and would be handled through payroll deduction without additional cost to the University. Mr. Gillis made a motion to approve this request, which was
have already joined, thank you very much.

The next COSFL meeting will be in Bardstown from 10:30-3:00 on October 17. Any EKU COSFL member who is interested in attending should notify me or Senators Masagatani or Costello.

REPORT OF STANDING COMMITTEES

COMMITTEE ON ELECTIONS

Senator Costello gave the following report:

The Committee on Elections met on Wednesday, September 16, 1987 at 11:45 a.m. Patricia Costello was elected chair.

Three replacement senators from the Model Laboratory School have been elected. They are:

Sybil Martin  (term expires 1988)
Katherine Zuzula  (term expires 1989)
Bruce Bonar  (term expires 1989)

In addition, John Wernegreen, Department of Natural Sciences, has been elected to replace Senator Judith Smallwood and as a result of the merger of the Dept. of Learning Skills and English, Senator Shirley Baechtold will remain in the Senate as a representative of the Dept. of English.

Finally, an election needs to be held to replace Rex Morrow on the Committee on Elections.

Senator Masagatani opened the floor for nominations to replace Senator Morrow on the Committee on Elections. Senator Jennings was nominated by Senator Kirkpatrick. Senator Gray moved, seconded by Senator Adkins that nominations be closed. Senator Jennings was confirmed as the new member of the Committee on Elections.

COMMITTEE ON COMMITTEES

The Committee reported the election of Senator Kirkpatrick as the Chair of the Committee.

UNFINISHED BUSINESS

PROPOSED POLICY ON PATENTS AND COPYRIGHTS

Senator LeVan presented the following motion:

That the Faculty Senate send the document on patents and copyrights back to committee with the following instructions:

(1) Any policy regarding patent and/or copyright material should begin with the premise that all such material is normally to be considered the sole property of the person or persons who developed it. Any unusual circumstances which might result in the University having claim to a portion of any profits accruing from faculty or staff activities should be clearly
and specifically listed in the document.

(2) In the event that the document is to contain an arbitration policy to cover instances where there is disagreement between the developers of the material and the University administration regarding the distribution of funds resulting from patents or copyrights, such a policy should specify that the final decision in such matters should reside with neither party.

The motion was seconded by Senator Heberle. The motion passed.

NEW BUSINESS

REPORT FROM THE COUNCIL ON ACADEMIC AFFAIRS: VICE PRESIDENT ROWLETT

Vice President Rowlett estimated a fall 1987 enrollment in excess of 13,000 students.

Vice President Rowlett moved, and Senator Gale seconded, the adoption of the Proposed Academic Transfer Bankruptcy Policy (See Attachment I to these Minutes).

The motion passed.

Vice President Rowlett, seconded by Senator Reed, moved for adjournment.

The Senate was adjourned at 4:09 p.m.

Respectfully submitted by,

John L. Flanagan, Secretary