

## DALTON STATE COLLEGE INTELLECTUAL PROPERTIES POLICY

### PREAMBLE

Dalton State College is dedicated to teaching and serving as an educational broker to meet the needs of business and industry and to provide opportunities for all persons within its service area to live self-fulfilling and productive lives. While the primary objective of the faculty and staff of Dalton State College is in the dissemination of both old and new knowledge, another objective of the faculty and staff of the college is in the production of new knowledge. An inherent part of both of these objectives is the publication of scholarly works, as well as the development of useful processes involved in teaching and the development of software. These activities (1) contribute to the professional development of the faculty, staff or students involved, (2) enhance the reputation of the institutions concerned, (3) provide additional educational opportunities for participating students, and (4) promote the general welfare of the public at large.

Patentable inventions and materials often come about because of activities of Dalton State College faculty, staff or students who have been aided wholly or in part through the use of resources of the University System. It becomes significant, therefore, to insure the utilization of such inventions for the public good and to expedite their development and marketing. The rights and privileges, as well as the incentive, of the inventor or creator must be preserved so that his or her abilities and those of other faculty, staff or students of colleges and universities of the University System may be further encouraged and stimulated.

The University System of Georgia and Dalton State College recognize and encourage the publication of scholarly works as an integral part of the processes of teaching, research and service. The Board of Regents acknowledges that faculty, staff or students regularly prepare for publication, usually through individual effort and initiative, articles, pamphlets, books and other scholarly works which may be subject to copyright and which may generate royalty income for the author. Publication may also result from work supported either partially or completely by the institution. With the advent of innovative techniques and procedures, the variety and number of materials which might be created in a university community have increased significantly, causing the ownership of such copyrightable materials to become increasingly complex.

The University System of Georgia and Dalton State College recognize the need for enhanced development and dissemination of software technology as a means of expressing both old and new knowledge. Inasmuch as the Board is aware of the dynamic nature of software and that the value of intellectual property comes from the ability of its owner to control its use and that such value is directly related to the degree of protection it enjoys under the law, the Board encourages institutions of the University System to protect such expressions of knowledge by the utilization of appropriate intellectual property laws and the creation of comprehensive software technology transfer policies and procedures.

In some cases, Intellectual Property will become, in whole or in part, the property of the Board of Regents. Unless ownership has been transferred by the Board to an affiliated nonprofit organization, authority to further allocate or to dispose of rights of such intellectual property has

been delegated by the Board of Regents to the President of Dalton State College ([Policies of the Board of Regents, Section 6.3.1](#)).

The foregoing considered, Dalton State College establishes the following policy with respect to the development, protection, and transfer of rights to Intellectual Property resulting from the work of its faculty, staff or students.

## DEFINITIONS

"Intellectual Property" shall be deemed to refer to patentable materials, copyrighted materials, trademarks, software, and trade secrets, whether or not formal protection is sought.

"Patentable Materials" shall be deemed to refer to items other than software which reasonably appear to qualify for protection under the patent laws of the United States or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not patentable thereunder.

"Copyrighted Materials" shall include the following: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) films, filmstrips, charts, transparencies, and other visual aids; (4) video and audio tapes or cassettes; (5) live video and audio broadcasts; (6) programmed instructional materials; (7) mask works; and (8) other materials or works other than software which qualify for protection under the copyright laws of the United States (see [17 U.S.C. § 102](#) et seq.) or other protective statutes whether or not registered thereunder.

"Software" shall include one or more computer programs existing in any form, or any associated operational procedures, manuals or other documentation, whether or not protectable or protected by patent or copyright. The term "computer program" shall mean a set of instructions, statements or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

"Trademarks" shall include all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with the University System or any of its institutions. (See [15 U.S.C. § 1127](#).)

"Trade Secrets" means information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (See [O.C.G.A. § 10-1-761](#).)

"Patentable Plant" means an asexually reproduced distinct and new variety of plant. (See [35 U.S.C. § 161](#).)

"Mask Work" means a series of related images, however fixed or encoded: (i) having or representing the predetermined, three dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and (ii) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product. (See [17 U.S.C. § 901.](#))

"Novel Plant Variety" means a novel variety of sexually reproduced plant. (See [7 U.S.C. § 2321](#) et seq.)

## DETERMINATION OF RIGHTS AND EQUITIES IN INTELLECTUAL PROPERTY

### A. Sponsor-Supported Efforts

The grant or contract between the sponsor and the institution, under which Intellectual Property is produced, may contain specific provisions with respect to disposition of rights to these materials. The sponsor (1) may specify that the materials be placed in the public domain, (2) may claim reproduction, license-free use, or other rights, or (3) may assign all rights to the institution. In those cases where royalty income is realized by the institution, the inventor or creator may appropriately share in the royalty income. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to sponsor and institution regulations.

### B. Institution-Assigned Efforts

Ownership of Intellectual Property developed as a result of assigned institutional effort shall reside with the institution; however, sharing of royalty income with the inventor or creator is authorized as an incentive to encourage further development of Intellectual Property. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to institution regulations.

### C. Institution-Assisted Individual Effort

Ownership of Intellectual Property developed by faculty, staff or students of the institution where the institution provides support of their efforts or use of institution resources in more than a purely incidental way (unless such resources are available without charge to the public) shall be shared by the inventor or creator and the institution. The nature and extent of inventor or creator participation in royalty income, however, shall be subject to institution regulations.

### D. Individual Effort

Ownership rights to Intellectual Property developed by faculty, staff or students of the institution shall reside with the inventor or creator of such Intellectual Property provided that: (1) there is no use, except in a purely incidental way, of institution resources in the creation of such Intellectual Property (unless such resources are available without charge to the public); (2) the Intellectual Property is not prepared in accordance with the terms of an institution contract or grant; (3) the Intellectual Property is not developed by faculty, staff or students as a specific institution

assignment. The general obligation to produce scholarly and creative works does not constitute a specific assignment for this purpose. Dalton State College has a unique Dalton State College Foundation Faculty Enrichment Award, designed to allow a faculty member to pursue professional development activities by providing release time from teaching responsibilities. For the purposes of this Intellectual Property statement, materials and publications developed while under the sponsorship of the Faculty Enrichment Award are considered as individual effort. Further, the reasonable use of secretarial services for the development of scholarly works is deemed to be “incidental Use” of institutional resources.

#### E. Other Efforts

Ownership rights to Intellectual Property developed under any circumstances other than those listed in sections A-D of this policy shall be determined on an individual basis and approved by the President of Dalton State College upon the recommendation from the Intellectual Properties Committee. The nature and extent of inventor or creator participation in royalty income from such Intellectual Property will be subject to the same recommendation and decision process.

### INSTITUTIONAL PROCEDURES

A. The President of Dalton State College shall appoint an Intellectual Property Committee as needed, consisting of five members, one of whom will be designated by the President to serve as chair. The committee will include the chief business officer of Dalton State College as an *ex officio* member. The committee shall meet as necessary, and shall act in an advisory capacity to the President. Faculty, staff and students shall promptly report to the committee in writing, through the President’s Office, all Intellectual Property invented or created by them, other than that created by individual effort, that is reasonably likely to have commercial value.

B. The Intellectual Property Committee of Dalton State College shall recommend to the President the rights and equities in intellectual property, other than that created by individual effort, developed by faculty, staff or students of Dalton State College.

C. If the faculty, staff or student does not agree with the President’s determination regarding the ownership and use of intellectual property, the decision may be appealed as follows: within thirty (30) working days of the President’s decision, notification must be made in writing to the President and to the Chairperson of the Grievance Committee. The Chairperson of the Grievance Committee shall follow the grievance procedures as detailed in the [Dalton State College Statutes \(Article VII., B., 8.\)](#). The Grievance Committee shall independently consider the facts and make a recommendation to the President as to the ownership and use of the materials in question. The President shall then make a final determination regarding the ownership and use of the materials. Further appeals may be made directly to the Board of Regents. Appeals to the Board of Regents shall be made in accordance with [Article VIII of the Bylaws of the Board](#), which requires that all appeals be made in writing within twenty (20) days of the final

decision of the President of the College.

D. In the implementation of its policies and procedures Dalton State College may elect, through its Intellectual Property Committee and with the approval of the President, any of the following courses:

1. To develop and manage its licensing program through an independent assistance organization so as to secure competent evaluation of Intellectual Property, expeditious filing of applications for patents or other protection and aggressive licensing and administration of Intellectual Property; or
2. To develop and manage its licensing program through an affiliated nonprofit corporation such as the Dalton State College Foundation, Inc., the Georgia State University Research Foundation, Inc., the Georgia Tech Research Corporation or other nonprofit organizations established for this purpose; or
3. To develop and manage independently its own licensing program; or
4. To release Intellectual Property to which the institution has title or an interest to the inventor or creator for management and development as a private venture after the execution of an agreement providing for a suitable division of royalty income.

E. The foregoing notwithstanding, Dalton State College may establish individual committees to address patents, copyrights, or software or any of them. Each such committee shall be appointed by the President and consist of no fewer than three nor more than nine members, one of whom shall be a representative of the Office of Fiscal Affairs of that Institution. They shall carry out the same functions as the Intellectual Property Committee with respect to each type of intellectual property.

## TRADEMARKS

All trademarks arising out of research by Dalton State College constitute property of the Board of Regents of the University System of Georgia, and applications for registration, use of and licensing of such trademarks shall be governed by the policies of the Board.

Trademarks arising out of research done by Dalton State College pursuant to an agreement with a cooperative organization shall be the property of such cooperative organization and such organization may file all appropriate applications and other documents necessary to protect such trademarks and may exercise all other rights consistent with ownership of the trademarks.

## CHANGES TO THE INTELLECTUAL PROPERTIES POLICY

Changes to the principles and policies set forth in the Dalton State College Intellectual Properties Policy shall be made upon the recommendation of the Intellectual Property Committee or the

Academic Council, approval by the faculty of Dalton State College and the recommendation of such changes by the President to the Board of Regents.