

**Alice Lloyd College  
Pippa Passes, Kentucky**

**INTELLECTUAL PROPERTY POLICY**

Alice Lloyd College encourages learning, teaching, and the creative activities of its faculty, professional staff, employees and students and the uninhibited dissemination of new knowledge. These activities serve an important function in the furtherance of academic freedom and excellence and innovation in education.

Within this context, this Intellectual Property Policy (the “Policy”) is intended to achieve the following objectives and purposes:

- to serve the public interest by ensuring that the highest quality and most promising new discoveries, ideas, art papers, books, computer software and other works are made available for public use.
- to protect the use of its resources and recoup costs associated with creative activities sponsored by the College.
- to assist its faculty, professional staff, employees and students in complying with applicable laws and formal agreements and in gaining protection under the United States laws governing patents, copyrights, trademarks, and trade secrets.

This Policy covers all types of intellectual property, including, in particular, works protected by copyright, patent, and trade secret laws. Although the following list is not exhaustive, it provides typical examples of the kinds of work the Policy addresses: inventions; creative visual works; creative writings; technology/innovation; multimedia materials; copyrightable materials; source and object code; know-how; and audiovisual materials.

**Definitions**

For the purposes of this Policy, the following definitions shall apply:

- A. “College” shall mean Alice Lloyd College.
- B. A “Work” or “Works” shall include any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, and pictorial or graphic works.
- C. An “Invention” or “Inventions” shall include any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development,

biological material, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items.

- D. “Intellectual property” includes all Works and Inventions.
- E. A “Creator” shall mean a member of College personnel who creates a Work.
- F. An “Inventor” shall mean a member of College personnel who creates an Invention.
- G. “Scholarly Work” means traditional scholarly work such as faculty-authored books, articles, manuscripts, plays, writings, musical scores, and works of art.

### **Policy**

The College owns the rights to all Intellectual Property created by employees within the scope of their employment or whose creation involves the substantial use of College equipment, services, or resources. However, this Policy will not be applied to Scholarly Works. This Policy applies to all individuals having a work affiliation with the College, including full-time, part-time, paid, or unpaid College faculty, administrators, office and technical staff, contractors, and consultants. This Policy also applies to students enrolled in the College. All of the above-listed personnel are subject to this Policy. Accordingly, it is the intent of this Policy to cover all personnel involved in the creation of Intellectual Property for the College or as a result of using College resources.

The “work made for hire” rule under the U.S. Copyright Act of 1976 (17 U.S.C. § 101 *et seq.*) grants the College ownership of the copyright to all Works produced by its employees within the scope of their employment. (Please see Heading I below concerning the ownership of Intellectual Property and Heading II concerning an employee’s scope of employment.) Nevertheless, the College cedes copyright ownership of Scholarly Work to their Creator(s).

The use of College equipment, services or resources is “substantial” when it entails a kind or level of use not ordinarily available to all, or virtually all, faculty, and/or staff. (Please see Heading III below for the definition of “Substantial Use.”) Where a question arises as to whether certain Intellectual Property involves “substantial use” or falls within the “scope of employment,” the matter shall be referred to the Office of the Vice President for Academic Affairs. Any determinations by the Office of the Vice President for Academic Affairs shall be consistent with this Policy and shall not violate any laws of the United States or the Commonwealth of Kentucky. When an inquiry is presented, the Office of the Vice President for Academic Affairs shall make a determination of rights in the areas of ownership and right to use. As described below, the Office of the Vice President for Academic Affairs may also make determinations of rights regarding whether the College should waive or release any of its rights to specified Intellectual Property.

A compilation is a Work formed by the collection and assembly of College-owned and employee-owned Work in such a way that the resulting Work as a whole constitutes an original

authorship. If Work is a compilation, each contributing employee shall retain all ownership interests in the employee's Work; but by allowing the Work to become part of the compilation, the employee thereby grants a non-exclusive, royalty-free license to the College for use of the employee's contribution. While the College shall own rights to the compilation, it shall own no rights to the employee-owned Work incorporated therein beyond said license.

The college shall claim no rights nor take any responsibility for non-sponsored research or research sponsored by a third party that does not make substantial use of College equipment, services or, resources, and the Inventor and/or the third party sponsor may, at their option, undertake patent application procedures independently of the College.

### **Reporting and Procedure**

Any person covered under this Policy who participates in research sponsored by the College or a third party shall report potential Inventions made anywhere in the College to the Office of the Vice President for Academic Affairs as early as possible and before public disclosure of such Inventions. Preliminary reports may be made in any manner, but an "Invention Disclosure" form should be prepared by the Inventor(s) and forwarded to the Vice President for Academic Affairs as soon as is reasonably practical. Prompt reporting of Inventions can be critical in obtaining patent protection and avoiding statutory bars which can preclude obtaining a patent. A formal Invention Disclosure should be submitted when, in the judgment of the Inventor(s), the Invention has been sufficiently developed to give reasonable assurance that it can be put into practice. The completed Invention Disclosure form should provide specific information about the Invention, including the circumstances leading to the Invention and subsequent events, and an assessment of the commercial potential of the Invention.

The timely submission of an Invention Disclosure will enable the College to determine whether the College should engage private and/or public agencies to determine their respective interests in the Intellectual Property arising out of research supported by their funds and also exercise their public service responsibilities. Equally as important, the College will be in a position to advise and assist the Inventor(s) regarding the Inventor(s) rights and possible courses of action with respect to their Inventions.

The Vice President for Academic Affairs is responsible for the review and evaluation of each Invention Disclosure. This evaluation process may involve the President or other officials of the College and may require follow up communications with the faculty, staff, or students who submitted the Invention Disclosure.

### **Ownership and Revenue**

Upon review of the Invention Disclosure, the Vice President for Academic Affairs and other officials of the College must first determine if the Invention Disclosure involves college-owned or employee-owned Intellectual Property.

College-Owned Intellectual Property

For college-owned Intellectual Property, including Intellectual Property included in an Invention Disclosure, the Vice President for Academic Affairs shall perform an initial review to determine if the College will elect to exercise its ownership rights.

If ownership rests with the College, and the College elects not to exercise its ownership rights, then ownership rights and responsibilities related to protecting the Intellectual Property shall rest with the Inventor(s) or the Creator(s). In such a case, the College retains a nonexclusive, irrevocable, royalty-free right to use the Intellectual Property for non-commercial purposes, unless the Inventor(s) or the Creator(s) would be prohibited from doing so under an agreement with a third party, in which event the Inventor(s) or the Creator(s) may charge the College a reasonable fee.

If ownership rests with the College, and the College elects to exercise its ownership rights, the ownership and revenue for the Intellectual property shall be governed as follows:

*Inventions and/or Invention Licensing Development*

For Inventions and/or Invention license development for which ownership rests with the College and the College elects to exercise its ownership rights, the Inventor(s) must execute an assignment agreement whereby the Inventor’s rights are assigned to the College. The College may elect to participate in seeking patent protection and/or license development for the Invention.

In most circumstances, the involvement of the College and the Inventor(s) in the development and marketing of the Invention will be governed by a licensing agreement. All licensing agreements must be approved by the Vice President for Academic Affairs.

Unless otherwise mutually agreed to in writing by the Inventor(s) and the College, royalties and other income resulting from patent/license development will be distributed as follows:

- i. 100% to the College until all of its costs associated with patent/license development, including fees for filing patents and preparing licensing agreements, have been recovered
- ii. Thereafter, income is distributed as follows:

Inventor(s) (or their heirs).....	40%
Inventor’s Administrative Unit.....	20%
College (for Support of Research/Technology Transfer)..	40%

- iii. An annual accounting of such royalties or other income will be provided by the College to all individuals and Administrative Units set forth in subsection ii. above.

### *Copyrights*

For Work in which the College retains its ownership rights, any royalties or revenue stream derived from the licensing or exploitation of the Work shall be allocated and distributed in the sole discretion of the College.

### Employee-Owned Intellectual Property

#### *Inventions*

In the case of employee-owned Inventions, the Inventor may undertake patent application procedures independent of the College (usually through a qualified attorney). The Inventor may also petition the College to accept assignment of ownership rights and the attendant control of and responsibility for development. The College, however, is under no obligation to accept this assignment and would do so only when independent evaluation indicates that accepting the assignment would further the mission of the College.

#### *Copyrights*

In the case of employee-owned Works, the Creator may make public and seek copyright protection for their own original works of authorship that are fixed in any tangible medium of expression. For Work owned by the Creator, any royalties or revenue stream derived from the licensing or exploitation of the Work shall be allocated and distributed in the sole discretion of the Creator; provided however, that the Creator shall assign to the College a non-exclusive, irrevocable, royalty-free, and fully paid up license to reproduce, publish, use and distribute to others the Work for academic purposes, unless the Creator would be prohibited from doing so under an agreement with a third party, in which event the Creator may charge the College a reasonable fee.

### **Name of the College, Trademarks and Logos**

The College encourages its faculty, professional staff, employees and students to use the name of the College to identify themselves and to show institutional affiliation in connection with College-related Intellectual Property made public. However, any commercial use of the College's name and marks requires the written approval of the Vice President for Academic Affairs in advance of such use. Further, the name of the College may not be used in any manner that implies College support or responsibility for any particular activity, product, or publication for promotional purposes of a commercial nature without the prior written approval of the Vice President for Academic Affairs.

### **General Statements**

It is the policy of the College to honor the rights of Creators and Inventors and the funding entities supporting their Works and Inventions. In recognition of potentially overlapping rights in the complex structure of the activities of the College, if a conflict exists between this Policy and an

inter-institutional agreement, an agreement between the College and Creator(s) or Inventor(s), an agreement between the College and the Federal Government, an agreement between the College and a third party company (or policies and agreements with respect to Inventions in the same area), a license or research agreement between investigators and a third party company that relate to the area of research for which patents have been filed, or the like, such agreements being in place prior to the date of issue of this Policy, then this Policy shall give way to such agreement.

## **I. Who owns Intellectual Property?**

### ***When does the College own employee-created Intellectual Property?***

Any one of these circumstances will result in College ownership:

1. If Intellectual Property is created by an employee within the scope of employment; or
2. If Intellectual Property is created on College time with substantial use of College equipment, services or resources; or
3. If Intellectual Property is commissioned by the College from College personnel, including faculty and students, commissioned Intellectual Property falling under the “work made for hire” definition of the U.S. Copyright Act (17 U.S.C. § 101 *et seq.*) shall constitute a work-for-hire and be owned by the University. If the commissioned Intellectual Property does not qualify as a “work made for hire,” the College personnel shall assign ownership rights to the College; or
4. If Intellectual Property results from research supported by federal funds or third party sponsorship, there is no written agreement involving the College, and the creation of the Intellectual property did not involve the substantial use of College equipment, services, or resources, the ownership of the Intellectual Property will be governed by the agreement between the Creator or the Inventor, and the sponsor.

### ***When does an employee own Intellectual Property?***

1. If it is unrelated to the employee’s job or class responsibilities and the employee has not made substantial use of College equipment, services, or resources; or
2. If it is Intellectual Property that has been released to the employee in accordance with this Policy; or
3. If the Works are embodied in traditional Scholarly Works even though such Work may be within the scope of employment and even if significant College resources were used unless the Work is:
  - a. created by someone who was specifically hired or required to create it or

- b. commissioned by the College.

In either of these cases, the College, not the Creator, will own the Work.

## **II. What is meant by “within the scope of employment”?**

Intellectual Property related to an employee’s job responsibilities, even if the employee is not specifically requested to create them, will belong to the College. A Work is related to your job responsibilities if it is the kind of work you are employed to do and you do it, at least in part, for your use at your job, or for use by fellow employees, your employer or your employer’s clients. Your use of personal time or other facilities to create the Work will not change its basic nature if it is related to your job as described above. Works that have nothing to do with job duties will remain the property of the employee, so long as he/she makes no more than incidental use of College facilities.

For example, if your job is “Safety Engineer,” a software program that you create on your own initiative to run on each employee’s computer to show a graphic of their nearest fire exits is related to your job duties and will belong to the College, even if no one asked you to create it and you did some of the programming at home on your own computer. A program that you create that does not relate to your job, that neither you nor others use on the job, and that you create on your own time would belong to you.

## **III. What is meant by “Substantial Use”?**

The Policy uses the phrase “substantial use of College equipment, services, or resources” in determining when the College claims ownership of employee-created Intellectual Property, not including traditional Scholarly Works. The purpose of this section is to amplify the intended meaning of “substantial use.”

For purpose of this Policy, “substantial use” is the use of resources other than those “ordinarily available” to most or all faculty and/or staff. At this date, such ordinarily available resources include office space and personal office equipment, office computer stations, library and other general use information resources, and the means of network access to such resources. Involvement of students receiving funding through the external grants or federal programs is also excluded from the definition of “substantial use.” By contrast, utilization of College laboratories or special instrumentation, dedicated assistance by College employees, special financial assistance, or extensive use of shared facilities would constitute substantial use.

The understanding of “substantial use” may be revised from time to time by the Office of the Vice President for Academic Affairs to reflect changes in technological paradigms.