



**UNIVERSITY OF HEALTH AND ALLIED SCIENCES**



**INTELLECTUAL PROPERTY  
POLICY**



UNIVERSITY OF HEALTH  
AND ALLIED SCIENCES  
— *Health for development* —

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# **INTELLECTUAL PROPERTY POLICY**

**OCT, 2017**

## **1. Introduction**

The University of Health and Allied Sciences as a health research-oriented institution, endeavours to provide support for its employees, faculty and students in obtaining commercial development of intellectual and other property resulting from their research so that the benefits of that research may reach society at the earliest opportunity. This is in tandem with the University's mission of "...advancing knowledge through scholarship and research and providing patient care and services that improve health and quality of life". This policy is developed to provide incentives for researchers while protecting the integrity of research emanating from the University. The policy shall be interpreted in a manner consistent with applicable University statutes and implementing regulations. It shall apply to all students, faculty, and staff of the University. Acceptance of this policy shall be a condition of employment with or enrolment in the University.

## **2. Purpose**

The University of Health and Allied Sciences' Intellectual Property policy is intended to sensitise Employees, Faculty and Students of the University on Intellectual Property matters and provide the needed security and incentives to inspire the discovery of new knowledge.

In line with this, the University's Intellectual Property policy seeks to achieve the following;

- a.** Create an enabling environment for the generation of new knowledge;
- b.** Safeguard the rights of researchers to their scholarly works;
- c.** Promote innovation to enhance Intellectual Property generating activities for the University;
- d.** Provide researchers with opportunities for funding for research;
- e.** Promote the dissemination of research findings and innovations through a timely and efficient means of technology transfer;
- f.** Facilitate the effective use of inventions/innovations such that the public derives maximum benefit;
- g.** Support the effective management of the University's intellectual assets.

This policy subscribes to the University’s mission to be a pre-eminent research and practically oriented health educational institution dedicated to community service.

The objectives of the policy are as follows:

- a. To ensure that research, inventive or innovative technologies created by the University are transferred to industry for the development of beneficial and ethically acceptable processes, products and services.
- b. To offer equitable returns to the inventor(s) and the University.
- c. To contribute to the social and economic development of Ghana.

### 3. Definitions

*The following definitions shall apply for the purposes of this policy.*

<b>Word/Term</b>	<b>Definition / Meaning</b>
Assignment Agreement	An agreement between two parties in which one party agrees to assign and transfer rights, title and interest in an Intellectual Property to another party.
Background Intellectual Property	Any Intellectual Property owned by an Employee or Student independently or prior to the commencement of research and which is used in the course of performing the research.
Commissioned Work	Work created by a person specifically employed or commissioned by the University for that purpose.
Confidential Disclosure Agreement (CDA)	It is also known as a Confidentiality Agreement, Non-Disclosure Agreement or a Proprietary Information Agreement. The CDA is a legal contract governing the exchange of confidential or Proprietary Information between two or more parties for limited purposes, whilst restricting access to such information by third parties. It is used when there is a need to avoid the loss of Patent right due to premature Public Disclosure.

Confidential Information	Information (includes research findings, Proprietary Information) received from a third party by an Employee or Student (or vice versa) under an expressed or implied commitment of confidence.
Conflict of commitment	An external activity that has the potential to reduce the attention, time and efforts devoted by an Employee to his/ her responsibilities at the University, and may impact negatively on the performance of his/ her assigned duties.
Conflict of Interest	An overlap between an individual's professional obligations and his or her private interests. Such conflicts may not be unethical and do not constitute or imply any wrong-doing, but they may lead to actual misconduct when considerations of personal gain, influence or compromise of an individual's judgment and actions in the performance of his or her primary responsibilities.
Consultancy	Professional advice offered by an expert in a particular discipline.
Copyright	(Copyrightable Works) Under Ghana's copyright law, copyright subsists in "original works of authorship" which have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include: a) Literary works <i>such as books, journal articles, chapter(s) of a book, poems, manuals, memoranda, tests, computer programmes, instructional material, databases, bibliographies</i> ; b) Musical works including any accompanying words; c) Dramatic works, including any accompanying music; d) Pantomimes and choreographic works (if fixed, as in notation or videotape); e) Pictorial, graphic and sculptural works, including photographs, diagrams, sketches and integrated circuit masks; f) Motion pictures and other audio-visual works such as videotapes; g) Sound recordings and other works listed as protected by law.
Creator	A person, who discovers, invents, develops, designs, breeds, creates,

Disclosure	Any non-confidential information about an invention or an idea made available to the public. It includes abstracts, journal articles, conference papers, printed and online publications, publicly available abstracts of funded grant proposals, open thesis defences, presentations, poster sessions, etc.
Employee	A person who has a contract or an employment relationship with the University. It includes professional, academic, administrative, assistantships, full time, part time, paid, unpaid and support staff, etc.
Exempted Scholarly Work	Copyrightable works which are artistic, academic, scholarly or instructional in nature. Such work reflects the author's creativity, research or scholarly ideas. Examples include theses and dissertations, journal articles, research proposals, textbooks, etc.
Industrial property	Includes Patents granted for inventions, trade secrets, geographic indications, industrial designs, etc.
Intellectual Property (IP)	The legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. They include Inventions, trade secrets, copyrights, scientific works, industrial designs, trademarks, commercial names and designations, know how, Confidential Information, Tangible Research Property as well as other materials protected by law or specified by the University from time to time.
Intellectual Property Committee (IPC)	A Committee charged to perform specific functions with respect to Intellectual Property.
Intellectual Property Right(s)	An exclusive right granted to a person over the use of his/ her creation for a specified period.

Invention	Refers to any new and useful process, machine, manufacture, or composition of matter (e.g. life forms), or any new and useful improvement thereof, relating to creative works, research material and trade secrets. An invention can be made solely or jointly with others as co-inventors. To be recognised legally, a co-inventor must have conceived of an essential element of an invention or contributed substantially to the general concept, i.e. participated in the “inventive step”.
Inventor	The Creator of Inventions / technological advancement.
Material Transfer Agreement (MTA)	A contract regulating the transfer of Tangible Research Materials between two or more organisations, when the recipient intends to use it for his or her own research purposes. The MTA describes the rights of the provider and the receiver pertaining to the materials and any derivatives.
Net Royalty/Net Income	All consideration, including but not limited to cash, royalties, equity and options received by the University from the sale, licensing, or other commercial transactions of an IP less all costs associated with the protection, licensing, distribution or commercial development of the particular Intellectual Property.
Non-equity royalties/incomes	Monetary income or revenue from commercialisation.
Patent	A Patent grants an inventor the right to exclude all others from making, using, or selling the invention within a territory for a specified period of time. In Ghana, the period of protection is first for 5 years, subsequently 10 years and finally, for 20 years. When a Patent application is filed, it is reviewed to ascertain if the invention is new, useful and non-obvious.

Public Disclosure	Any non-confidential information about an invention or an idea made available to the public. It includes abstracts, journal articles, conference papers, printed and online publications, publicly available abstracts of funded grant proposals, open thesis defences, presentations, poster sessions, etc.
Proprietary Information	Sensitive non-public information which offers certain competitive advantage to an organisation. It includes formulas, trade secrets, software programmes, etc.
Student	A part-time or full-time Student enrolled in an undergraduate or post graduate programme at the University.
Spin off	An independent division of a company or organisation established purposefully to commercialise a new technology.
Tangible Research Property	Tangible results from research activities including but not limited to software, data, biological materials, microorganisms, drawings, diagrams, prototypes.
University	Refers to the University of Health and Allied Sciences, Ho.
University Designated Signatory	A person authorised by the University to execute a binding document on its behalf.
Visitor	A person who is neither a Student nor an Employee of the University who engages in work at the University. This includes researchers, visiting professors, adjunct professors, volunteers, etc.
WIPO	World Intellectual Property Organisation

This policy pertains to two main categories of intellectual property:

- i. Industrial property
- ii. Copyright and related rights

#### **4. Policy Principles**

The following are the principles of the University's Intellectual Property Policy:

- i. Ownership;



- ii. Intellectual Property Disclosure;
- iii. Evaluation;
- iv. Intellectual Property Protection;
- v. Commercialisation and Licensing;
- vi. Assignment of Intellectual Property Right;
- vii. Royalty Distribution;
- viii. Confidentiality;
- ix. Consultancy;
- x. Conflict of Interest and Commitment;
- xi. Ownership of Data;
- xii. Intellectual Property Committee
- xiii. Dispute Resolution;
- xiv. Policy Implementation, Administration and Management
- xv. Monitoring and Evaluation

## **4.1**

### **Ownership**

#### **a. Creator Owned Intellectual Property**

An Employee shall retain ownership rights to any IP created when:

- i. The IP is created without a significant use of the University's resources;
- ii. IP is not subject to a sponsored research or any other agreement that requires ownership to reside in a third party.

Employees may use Creator-owned IP in their research at the University. They are, however, required to provide evidence of ownership of such works and formally notify the University before use.

## **b. University Owned Intellectual Property**

The University, in accordance with general law principles, is the owner of IP created by its Employees in the course of their employment.

- i.** The University shall own any IP made, discovered or created with significant use of the University's resources. A significant use of University resources is said to occur where the Intellectual Property is created with the use of University-administered funds, University facilities, equipment, resources, time, office space, personnel, administrative support, etc.
- ii.** An employee is required to disclose any IP which bears resemblance to a specific research project to the University, together with an explanation that the IP did not arise through the significant use of University resources.
- iii.** The University shall own any IP (including Exempted Scholarly Work) resulting from a University Commissioned Work.

## **c. Sponsored Research**

- i.** Ownership of IP (including Exempted Scholarly Work) from research funded by a sponsor pursuant to a research or grant agreement, or which is subject to Confidentiality Disclosure Agreement (CDA), Material Transfer Agreement (MTA), or other legal obligation affecting ownership will be governed by the terms of the grant or agreement as approved by the University; or **ii.**
- ii.** Discussed in good faith by the University and sponsor and determined on a case by case basis; or **iii.** The IP would be owned by the University. The University may grant the sponsor a non-exclusive royalty-bearing license to the IP based on reasonable terms and conditions.
- iii.** Where the Government provides funding for research purposes, ownership of any IP created would vest with the University. The University would grant the Government a non-exclusive royalty bearing license to the IP and may take steps to commercialise the IP where it is found to be of commercial value.

## **d. Collaborative Research**

Ownership of IP emanating from collaboration between the University and another research institution or collaboration between an employee or student of the University and another institution; staff, student or employee of another institution would be:

- i. Determined based on specific terms in the collaborative research agreement; or
- ii. The IP would be owned by the University. The University will grant the collaborator a non-exclusive royalty bearing license to the IP.

#### **e. Copyrights**

The University would be granted an automatic non-exclusive, royalty-free, non-transferable and irrevocable license on all copyrightable works created for its own academic purposes. The University waives its claim to copyright in teaching materials, text books and research publications by an Employee. Individuals may publish these works for their own benefit.

#### **f. Student Work**

A Student will own copyright in thesis and dissertations and works derived from such works, subject to a royalty-free license to the University to reproduce and publish the work. A Student shall own IP created in the course of their research or study at the University except in cases where:

- i. The Student employed a significant use of the University's resources in relation to the research;
- ii. The Student received financial support from the University in the form of grants, etc. for the research;
- iii. The Student was commissioned to do the work;
- iv. The research is subject to contractual obligations of sponsors under a sponsored research agreement. As such sponsored Students are advised to check the terms of their sponsorship agreement.
- v. The Student conducts the research in collaboration with others in a way that leads to joint ownership.

Notwithstanding i.-v. of 4.1.f., the University may require a Student to assign ownership of the IP to the University where in its opinion, the IP has potential commercial value. The University will bear all costs associated with the protection and/or commercialisation of the said IP. The distribution of any royalty from commercialisation shall be subject to the provisions of section 4.7 of this policy.

**g. Visitors**

- i. A Visitor is required to disclose his/ her background IP that relates to work to be undertaken whilst at the University.
- ii. A Visitor must declare any IP created at the University during his visit to the University.

**4.2 Intellectual Property Disclosure**

Disclosing Intellectual Property serves as an initial formal step to acquiring appropriate protection for one's Intellectual Property. Employees and Students are required to submit a disclosure of any innovative scientific discovery of potential economic value to the University as soon as possible and prior to Public Disclosure.

Employees and Students must ensure that research findings and creations with market potential are not subjected to premature disclosure as this may jeopardize their protection and commercialisation. Thus, Employees and Students must avoid a Public Disclosure of the Intellectual Property until the end of the evaluation period and filing of protection. An IP may however be safely disclosed beyond the University under the terms of a Confidential Disclosure Agreement.

Employees and Students are required to disclose any background Intellectual Property which would form part or be used in the creation of an Intellectual Property to the University.

**4.3 Evaluation**

The University will conduct a pre-evaluation of invention disclosures and other IPs disclosed to it in order to determine whether or not the technology will be accepted for the purposes of protection, commercialisation and/or licensing based on its potential benefits, commercial potential and industrial relevance. Following this, the Intellectual Property Committee (IPC) will conduct an extensive evaluation of the IP and make a recommendation. The IPC may consult with other experts in the performance of this function.

#### **4.4 Intellectual Property Protection**

The University will apply for protection of the IP where in its judgment, the IP is found to be of significant commercial potential. The costs associated with such protection will be borne by the University unless otherwise provided. The University would not pursue the protection of an IP where its successful commercial development is uncertain.

#### **4.5 Commercialisation and Licensing**

The University will endeavour to promote the use of research findings and the development of Inventions and innovations by industry for public use. In some cases, the University may put the IP in the public domain and not for the purpose of licensing and profit making.

The University in collaboration with the Creator will develop a mutually acceptable plan for commercialisation of the technology, invention or innovation. The plan would address issues such as potential funding sources, options for developing the IP, marketing, targeted customer base, companies with resources and capabilities to put the technology onto the market, etc. Any losses incurred with the commercial development of an IP would be absorbed by the University.

The University will have responsibility for the commercial development of University owned IP. Commercial development will emerge either through a licensing of the IP, an assignment of the IP or the establishment of a spin-off.

## **4.6 Assignment of Intellectual Property Rights**

The University may assign its exclusive rights to an IP to another person or organisation for commercial returns. Where rights are assigned, an IP Assignment Agreement would be put in place in order to formalise the agreement between the two parties for the sale and purchase of the IP.

## **4.7 Royalty Distribution**

### **4.7.1 Distribution of non-equity royalty/ net income**

Non-equity royalties or income from the commercialisation of an IP or technology shall be maintained by the University until all direct and indirect costs related to the protection and / or commercialisation of the Invention is reimbursed. Subsequently, the Net royalty / Net income would be distributed as follow

- I. The inventor will receive forty percent (40%) of Net Royalties. Net Royalty / Net Income will be distributed equitably among inventors where there is more than one inventor.
  - i. The remaining sixty percent (60%) would be allocated as follows:
    - Twenty-five percent (25%) to the University;
    - Fifteen percent (15%) for the support of research grants or fellowships;
    - Ten percent (10%) to the Inventor's School and its constituents;
    - Ten percent (10%) to an IP Fund in support of IP protection, marketing and commercialisation activities, etc.

Inventors/ Creators are personally responsible for complying with any tax and other obligations associated with the receipt of their share of Net Royalties or Net Income.

#### **4.7.2 Distribution of Equity**

The University may accept equity interests *in lieu* of monetary payments from a company following the utilisation of IP owned by the University by the company. Upon receipt of equity, the University would allocate a share of the equity interest equal in value to the direct and indirect expenses borne by it in securing protection and in commercialising the IP in question. The University will allocate the equity interest, dividend income or proceeds from the sale of the equity in the same manner as stipulated in the allocation of non-equity revenue in section 4.7.1.

#### **4.8 Confidentiality**

All IP disclosures shall be considered confidential by the University. Researchers and the University are responsible for informing all third parties of the confidential nature of information contained in a disclosure and any other documents that may be shared.

##### **4.8.1 Managing Confidential Information from External Researchers**

Where an Employee or Student receives Confidential Information from a different institution or researcher with regards to research being undertaken by the same at the University, there exists the possibility of the other institution imposing non-use and non-disclosure obligations on this information. The other institution may claim an ownership interest in inventions or any material arising from research conducted with this confidential information. For this reason, only representatives of the University would be authorised to endorse and sign Confidential Disclosure Agreement (CDAs) from other institutions on behalf of the University.

In the case of sponsored research, any Confidential Information received by an Employee or Student will be governed by the terms of the applicable sponsored research agreement where such terms differ from the provisions of this policy.

#### **4.9 Consultancy**

Prior to the commencement of Consultancy works, written agreements would be reached between the University's Designated Signatory and the external party on the ownership of IP. IP may be owned by the University or determined on a case by case basis.

#### **4.10 Conflict of Interest and Commitment**

Commercialisation activities that involve Employees or Students under this policy would be subjected to review of potential Conflict of Interest and commitment issues. An Employee undertaking consulting work with third parties must ensure that their consultancy agreements are not in conflict with the provisions of this policy.

#### **4.11 Ownership of Data**

Research data shall be jointly owned by the University and researcher(s) or determined on a case by case basis. Either party shall have a right to use the data for its research purposes. Sponsors of research may own the data collected for the purposes of the research. This notwithstanding, the researcher and the University shall have unrestricted access to the data, even when a project has ended. Collaborators would also have unrestricted access to all data obtained or collected through collaborative research activities. In spite of these provisions, entitlement to the ownership of primary data, software, and other products of research may vary, depending on the circumstances under which the research is conducted. As such, ownership of data would be specified in the contract agreement to be signed by the two parties.

#### **4.12 Intellectual Property Committee**

The Vice-Chancellor shall appoint an Intellectual Property Committee headed by the Pro-Vice-Chancellor with representatives from all Schools/institute, a legal, administrative and student representatives. The IPC may consult with others as it deems fit in the performance of its mandate. The IPC shall evaluate IP disclosures, recommend mechanisms for protecting Intellectual Property and perform other functions to promote the development and commercialisation of the University's Intellectual Property. The Committee would also facilitate the mediation of disputes concerning Intellectual Property.



#### **4.13 Dispute Resolution**

Any dispute or difference between the parties in connection with this policy shall be referred to mediation in the first instance and subsequently to arbitration under the Alternative Dispute Resolution Act 2010, Act 798. Any challenge to an arbitration award shall first be to the University of Health and Allied Sciences, Ho, Appeals Board and then to the High Court if necessary. This would be stipulated in the contract agreement to be signed between the two parties.

#### **4.14 Policy Implementation, Administration and Management**

This policy as presently set forth, and as it may be amended from time to time, is binding on any Employee or Student who develops an IP during the course of employment or study at the University. The policy remains binding whether or not they cease to be an Employee or Student of the University.

- i.** The Office of the Pro-Vice-Chancellor is responsible for the enforcement, implementation, administration and management of the University's IP Policy.
- ii.** Deans and Directors/Heads of Departments are responsible for ensuring that Employees and Students within their units comply with provisions in this policy.
- iii.** The University will develop guidelines and other relevant documents to facilitate the execution of this policy. The absence of these other documents shall not in any way nullify the applicability or enforceability of this policy in its current state or as may be amended from time to time.
- iv.** This policy shall take effect immediately upon adoption by the University of Health and Allied Sciences, Ho, Council. Any amendment shall be effected in a similar manner.

- v. A breach of the Intellectual Property Policy shall be considered as a violation of University policy which may lead to an imposition of sanctions or disciplinary actions.

#### **4.15 Disclosure and Assessment of Inventions**

- All University employees are expected to apply reasonable judgment as to whether an Invention or IP is potentially exploitable, and should, therefore, be disclosed to the University (through the Unit, Department or Schools).
- Disclosure of inventions to the University should be as early as possible, but normally at least four weeks prior to any planned or proposed disclosure to any third party, including at meetings, conferences, etc., to enable suitable steps to be taken to assess and protect such Inventions or IP prior to disclosure since it is not possible to apply for a patent after disclosure.
- The IP office will assess such disclosure normally within three months as to their patentability and provide an initial assessment of the most suitable exploitation route to be discussed with the Inventor. This assessment will include consideration of any requirements of the sponsors of research.

#### **4.16 Outcomes**

- If a view is reached that the Invention or IP is not potentially exploitable or a decision is taken not to proceed with patenting or other commercial exploitation and the Inventor wishes to pursue the matter personally, the University, will normally, assign ownership of the Invention or IP to the Inventor subject to any reasonable terms and conditions necessary to protect the University e.g. in relation to the requirements of the sponsor of the research which gave rise to the Invention or IP. If a decision is taken to proceed:
- Decisions regarding the exploitation route and negotiations regarding exploitation will be conducted by the University, as owner of the IP, under the auspices of the Pro-Vice

Chancellor or an appropriately designated authority. The Head of Department and Dean of School will be consulted at this stage, where appropriate. Individual Inventors will be fully consulted, but because of the potential for conflict of interest, the final decision will rest with the University.

- The University will be responsible for decisions regarding patent protection, filing of patent applications and related IP protection methods at its own cost unless otherwise agreed in specific cases.
- Inventors are expected to co-operate fully with actions required by the exploitation process and will be given due recognition for this.

#### **4.17 Monitoring and Evaluation**

A monitoring and evaluation framework will be developed and applied in the implementation of this policy. Monitoring would be done in order to assess the achievement of intended objectives, make decisions aimed at improving performance, and to measure accountability to all parties. The policy will be reviewed and evaluated during and after the time of its implementation to ensure that the intended results are achieved.

#### **5. Version Control and Change History**

<b>Version Control</b>	<b>Effective Date</b>	<b>Approved By</b>	<b>Amendment</b>

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