

Kyushu University Regulations for Handling Intellectual Property

Kyushu University Regulation No. 93 of 2004

Established: April 1, 2004

Last amended: September 30, 2019

(Kyushu University Regulation No. 17 of 2019)

Chapter I General Provisions

(Purpose)

Article 1 These Regulations provide for basic matters relevant to the handling of intellectual property created by employees and students, etc. of Kyushu University (hereinafter referred to as the "University") through their educational and research activities and other activities carried out at the University, thereby giving back the University's education and research results to society to ensure the effective use thereof, and contributing to activation of education and research at the University.

(Definitions)

Article 2 In these Regulations, the meanings of the terms set forth in the following items are as provided respectively in those items:

- (i) intellectual property: property produced by creative activities of human beings, such as inventions and patent rights, devices and utility model rights, designs and design rights, trademarks and trademark rights, semiconductor integrated circuits and layout-design exploitation rights, works (including databases and computer programs) and copyrights, tangible materials and breeder's rights, technical information, know-how, and clinical trial data, which has property value;
- (ii) employee, etc.: a person who has an employment relationship with the University;
- (iii) student, etc.: a student of the University and a research student or any other person accepted based on various systems, etc. of the University;
- (iv) division, etc.: each undergraduate school, each graduate school, each graduate faculty, the Faculty of Arts and Science, each Attached Research Institute, the International Institute for Carbon-Neutral Energy Research, the Hospital, the University Library, the Research Institute for Information Technology, the Platform of Inter/Transdisciplinary Energy Research, the Institute for Asian and Oceanian Studies, each Center for Common Education and Research, each Center for Leading Research, the Academic Research and Industrial Collaboration Management Office of Kyushu University (hereinafter the "AiRIMaQ"), the Education Innovation Initiative, the Administration Bureau, the Administration of each faculty, and each center provided in Article 2 of the Kyushu University Rules for Centers for Specified Large-Scale Education and Research Projects (Kyushu University Rule No. 11 of 2007);
- (v) laboratory, etc.: an organization in which an employee carries out educational and research activities and other activities at their division, etc.;
- (vi) employee invention: an invention made by an employee which, by nature, falls within the scope of the operations of the University and was achieved by an act categorized as a present or past duty of the employee;
- (vii) work for hire: a work which falls under either of the following:
 - (a) a work (except a work of computer programming) that an employee makes in the course of duty at the initiative of the University, and that the University makes public as a work of its own authorship; or
 - (b) a work of computer programming that an employee makes in the course of duty at the initiative

of the University;

(viii) work related to employee's duty: a work created by an employee which, by nature, falls within the scope of the operations of the University and was achieved by an act categorized as a present or past duty of the employee, excluding one which falls under work for hire;

(ix) tangible materials: tangible materials, such as compounds, plants, human samples, animals, algae, microorganisms, genes, proteins, and antibodies (in the case of tangible materials that can be reproduced or propagated, including their reproduction or offspring), made by an employee in the course of research activities at the University or made by a student, etc. as part of research activities based on an employee's guidance, which have scientific value, property value or any other equivalent value;

(x) know-how: generally unknown technical information with property value, which is kept secret and is retained in an identifiable and distinguishable form;

(xi) know-how for hire: know-how created by an employee in the course of duty following specific instructions given by the University in advance;

(xii) know-how related to employee's duty: know-how created by an employee which, by nature, falls within the scope of the operations of the University and was achieved by an act categorized as a present or past duty of the employee, excluding one which falls under know-how for hire;

(xiii) know-how exploitation right: a collective term referring to a right to use know-how, right to disclose know-how to a third party, and right to license know-how; and

(xiv) clinical trial data: records, such as data, obtained in an investigator-initiated clinical trial through administration of a medicinal remedy and the use of trial equipment for a research subject, and all materials and any other outcomes with property value in scientific and industrial terms created based on the investigator-initiated clinical trial, including outcomes which have been obtained by an organization entrusted by the University to conduct investigator-initiated clinical trial (hereinafter referred to as an "entrusted organization") and which are to belong to the University under a contract.

(2) The specific handling and other necessary matters relevant to items (vii) and (viii) of the preceding paragraph are provided by the Kyushu University Detailed Regulations for Implementation of Handling Works (Kyushu University Detailed Regulation No. 2 of 2015).

(Management and Use)

Article 3 (1) In principle, intellectual property which belongs to the University (excluding tangible materials and breeder's rights, and clinical trial data) is managed and used by the AiRIMaQ.

(2) In principle, tangible materials and breeder's rights which belong to the University are managed and used by the Kyushu University Material Management Center (hereinafter referred to as the "MMC"). Tangible materials for which the provision of a library and database is necessary are used by the MMC.

(3) In principle, clinical trial data which belongs to the University is managed and used by the Kyushu University Hospital.

Chapter II Inventions and Patent Rights

(Notification)

Article 4 (1) When an employee has made an invention, the employee must promptly notify the Director of the Academic Research and Industrial Collaboration Management Office of Kyushu University (hereinafter referred to as the "Director of the AiRIMaQ"), using a form provided separately.

(2) It is prohibited for any employee to file a patent application or transfer a right to the grant of a patent (including a similar right in a foreign country and a right of priority under the Paris Convention; the

same applies hereinafter) (hereinafter referred to as "filing of a patent application, etc.") independently, without making the notification referred to in the preceding paragraph.

(Approval of Employee Invention)

Article 5 (1) If the Director of the AiRIMaQ receives the notification referred to in paragraph (1) of the preceding Article, the Director shall consult the Intellectual Property Evaluation Meeting consisting of members such as internal relevant persons and outside experts (hereinafter referred to as the "Evaluation Meeting") as to the approval of an employee invention.

(2) If the Evaluation Meeting is consulted as referred to in the preceding paragraph, it shall promptly deliberate on the approval of an employee invention according to the criteria provided separately by the Evaluation Meeting, and report the result of the deliberation to the Director of the AiRIMaQ.

(3) The Director of the AiRIMaQ shall promptly decide on the approval of an employee invention while paying respect to the report referred to in the preceding paragraph, and give notice of the decision to the person who made the notification of the invention.

(Succession to Right)

Article 6 In principle, the University shall succeed to the right to the grant of a patent for an employee invention made by an employee; provided, however, that this does not apply if it is decided that the University does not succeed to the right pursuant to the provisions of the following Article.

(Decision on Succession to Right)

Article 7 (1) With regard to an invention approved as an employee invention pursuant to Article 5, the Director of the AiRIMaQ shall consult the Evaluation Meeting as to whether or not the University needs to succeed to the right to the grant of a patent for the invention and matters necessary for filing a patent application (hereinafter referred to as the "succession to right, etc.").

(2) If the Evaluation Meeting is consulted as referred to in the preceding paragraph, it shall promptly deliberate on the succession to right, etc. according to the criteria provided separately by the Evaluation Meeting, and report the result of the deliberation to the Director of the AiRIMaQ.

(3) The Director of the AiRIMaQ shall promptly decide on the succession to the right, etc. while paying respect to the report referred to in the preceding paragraph, and give notice of the decision to the person who made the notification of the invention.

(4) Notwithstanding the provisions of paragraphs (1) and (2), if it is necessary to decide on the succession to right, etc. immediately because the publication, etc. of the relevant invention is close at hand or for other reasons, the Director of the AiRIMaQ may make a decision without following the consultation with the Evaluation Meeting.

(Procedure for Transfer to University)

Article 8 If the University succeeds to the right to the grant of a patent pursuant to the preceding Article, an employee must promptly submit to the President an instrument of transfer and other documents that the University will need, using forms provided separately.

(Procedures for Filing Application, etc.)

Article 9 (1) The AiRIMaQ shall conduct procedures for filing a patent application (including an international application), responding to office actions, and maintaining a patent right with regard to an invention for which it is decided that the University succeeds to the right to the grant of a patent pursuant to the provisions of Article 7 (hereinafter referred to as "filing of an application, etc."), and the employee

who made the invention shall cooperate with these procedures as necessary. The expenses required for the procedures for filing of an application, etc. are paid from the University's budget managed by the AiRIMaQ in principle.

(2) If the University files a patent application jointly with a private organization or other related organization (hereinafter referred to as "private organization, etc."), it shall conclude a joint patent application agreement with the private organization, etc. in principle.

(Waiver of Right)

Article 10 With regard to a patent right (including a right to the grant of a patent; hereinafter referred to as a "patent right") retained by the University, if the Director of the AiRIMaQ determines that it is no longer necessary for the University to retain the patent right due to adequate grounds, the University may waive the patent right based on the decision of the Director of the AiRIMaQ, following the consultation with the Evaluation Meeting.

(Compensation for Inventor)

Article 11 Compensation for an inventor is provided by the Kyushu University Detailed Regulations for Implementation of the Regulations for Handling Intellectual Property (Kyushu University Detailed Regulation No. 1 of 2015).

(Handling after Separation from Employment)

Article 12 (1) If an employee, after separation from employment (including transfer to other organizations), conducts the filing of a patent application, etc. based on the results of the research carried out during their term of office at the University, the employee must notify the Director of the AiRIMaQ in advance.

(2) If the Director of the AiRIMaQ receives the notification referred to in the preceding paragraph, the Director shall deliberate with relevant organizations, etc. as to the handling of the filing of a patent application, etc. as necessary.

(3) The University licenses a patent right to the organization to which the employee who has separated from employment belongs, based on the Licensing Policy for Kyushu University Patents (effective as of October 1, 2015).

(Application Mutatis Mutandis)

Article 13 (1) The provisions of Article 4 to the preceding Article apply mutatis mutandis to the handling of devices and utility model rights, designs and design rights, and semiconductor integrated circuits and layout-design exploitation rights.

(2) In the application mutatis mutandis referred to in the preceding paragraph, these Regulations apply to layout-design exploitation rights on the assumption that layout-design exploitation rights originally belong to employees who have created semiconductor integrated circuits with regard to the creation of layout-designs in the course of the duty provided in Article 5 of the Act on the Circuit Layout of Semiconductor Integrated Circuits (Act No. 43 of 1985).

Chapter III Trademarks and Trademark Rights

(Handling)

Article 14 Matters necessary for handling applications for trademark registration and trademark rights are provided by the Kyushu University Rules for Handling Trademarks (Kyushu University Rule No.

42 of 2013).

Chapter IV Works and Copyrights

(Ownership of Rights)

Article 15 (1) In principle, the University shall succeed to copyrights for databases and computer programs (hereinafter referred to as "databases, etc.") which fall within the scope of works related to employee's duty.

(2) Succession becomes effective when an employee or a student, etc. submits an instrument of transfer and other necessary documents to the President pursuant to the provisions of Article 19.

(3) Copyrights for works that fall within the scope of works for hire originally belong to the University.

(4) In principle, copyrights for works that fall under neither paragraph (1) nor the preceding paragraph belong to the authors.

(Management)

Article 16 (1) Matters necessary for the management of works for hire are provided by the Kyushu University Detailed Regulations for Implementation of Handling Works (Kyushu University Detailed Regulation No. 2 of 2015).

(2) A database, etc. is managed by the author of the database, etc.

(Notification)

Article 17 The manager of works for hire and databases, etc. (hereinafter referred to as "works for hire, etc.") must notify the Director of the AiRIMaQ, using a form provided separately, if any of the works for hire, etc. falls under any of the following items:

(i) if the manager seeks to take such action as granting a license for the work for hire, etc. to a party outside the University;

(ii) if the manager is requested by a party outside the University to take such action as granting a license for the work for hire, etc.; or

(iii) if the work for hire, etc. becomes relevant to any intellectual property that belongs to the University.

(Decision on Succession to Copyright for Database, etc.)

Article 18 (1) If the Director of the AiRIMaQ receives the notification referred to in the preceding Article with regard to a database, etc., the Director shall consult the Evaluation Meeting as to whether or not the University needs to succeed to the copyright for the database, etc.

(2) If the Evaluation Meeting is consulted as referred to in the preceding paragraph, it shall promptly deliberate on the succession to the copyright according to the criteria provided separately by the Evaluation Meeting, and report the result of the deliberation to the Director of the AiRIMaQ.

(3) The Director of the AiRIMaQ shall promptly decide on the succession to the copyright while paying respect to the report referred to in the preceding paragraph, and give notice of the decision to the person who made the notification of the database, etc.

(Procedure for Transfer to University)

Article 19 If the University succeeds to the copyright for a database, etc. based on the result of the deliberation referred to in the preceding Article, an employee or a student, etc. must promptly submit to the President an instrument of transfer and other documents that the University will need, using forms

provided separately.

(Waiver of Copyright)

Article 20 With regard to a copyright retained by the University, if the Director of the AiRIMaQ determines that it is no longer necessary for the University to retain the copyright due to adequate grounds, the University may waive the copyright based on the decision of the Director of the AiRIMaQ, following the consultation with the Evaluation Meeting.

(Application Mutatis Mutandis)

Article 21 The provisions of Articles 11 and 12 apply mutatis mutandis to the handling of works and copyrights.

Chapter V Tangible Materials Created as Research and Development Results

(Ownership of Rights)

Article 22 (1) In principle, rights for tangible materials and breeder's rights shall belong to the University; provided, however, that this does not apply to those for which the Director of the MMC determines it to be inappropriate to be vested in the University.

(2) Matters necessary for handling tangible materials are provided by the Kyushu University Rules for Handling Tangible Materials (Kyushu University Rule No. 17 of 2015) and the Kyushu University Detailed Regulations for Implementation of the Rules for Handling Tangible Materials (Kyushu University Detailed Regulation No. 3 of 2017).

(3) Matters necessary for handling breeder's rights are provided by the Kyushu University Rules for Handling Breeder's Rights (Kyushu University Rule No. 32 of 2018) and the Kyushu University Detailed Regulations for Implementation of the Rules for Handling Breeder's Rights (Kyushu University Detailed Rule No. 9 of 2018).

Chapter VI Know-How

(Ownership of Right)

Article 23 (1) In principle, the University shall succeed to know-how exploitation rights for know-how for hire and for know-how related to employee's duty.

(2) Succession becomes effective when an employee or a student, etc. submits to the President an instrument of transfer and other documents that the University will need pursuant to the provisions of Article 27.

(3) In principle, know-how exploitation rights for know-how that does not fall under paragraph (1) shall belong to the persons who created the know-how.

(Management)

Article 24 (1) Know-how for hire is managed by the division, etc. that gave instructions to create the know-how.

(2) Know-how related to employee's duty is managed by the employee who created the know-how.

(Notification)

Article 25 The manager of know-how must notify the Director of the AiRIMaQ, using a form provided separately, if any of the know-how for hire and know-how related to employee's duty falls under any of

the following items:

- (i) if the manager seeks to take such action as granting a license for the know-how to a party outside the University;
- (ii) if the manager is requested by a party outside the University to take such action as granting a license for the know-how; or
- (iii) if the know-how becomes relevant to any intellectual property that belongs to the University.

(Decision on Succession to Know-How Exploitation Rights)

Article 26 (1) If the Director of the AiRIMaQ receives the notification referred to in the preceding Article with regard to know-how, the Director shall consult the Evaluation Meeting as to whether or not the University needs to succeed to the know-how exploitation right for the know-how.

(2) If the Evaluation Meeting is consulted as referred to in the preceding paragraph, it shall promptly deliberate on the succession to the know-how exploitation right according to the criteria provided separately by the Evaluation Meeting, and report the result of the deliberation to the Director of the AiRIMaQ.

(3) The Director of the AiRIMaQ shall promptly decide on the succession to the know-how exploitation right while paying respect to the report referred to in the preceding paragraph, and give notice of the decision to the person who made the notification of the know-how.

(Procedure for Transfer to University)

Article 27 If the University succeeds to the know-how exploitation right pursuant to the preceding Article, an employee, etc. must promptly submit to the President an instrument of transfer and other documents that the University will need, using forms provided separately.

(Waiver of Know-How Exploitation Right)

Article 28 With regard to a know-how exploitation right retained by the University, if the Director of the AiRIMaQ determines that it is no longer necessary for the University to retain the know-how exploitation right due to adequate grounds, the University may waive the know-how exploitation right based on the decision of the Director of the AiRIMaQ, following the consultation with the Evaluation Meeting.

(Application Mutatis Mutandis)

Article 29 The provisions of Articles 11 and 12 apply mutatis mutandis to the handling of know-how and know-how exploitation rights.

Chapter VII Clinical Trial Data

(Handling)

Article 30 Matters necessary for handling clinical trial data are provided by the Kyushu University Rules for Handling Clinical Trial Data (Kyushu University Rule No. 79 of 2018) and the Kyushu University Detailed Regulations for Implementation of the Rules for Handling Clinical Trial Data (Kyushu University Detailed Regulation No. 25 of 2018).

Chapter VIII Others

(Technology Transfer)

Article 31 (1) With regard to intellectual property retained by the University, if the University determines that the intellectual property will be effectively used in society in a proper and legitimate manner through a technology transfer to a private organization, etc., the University conducts the technology transfer after concluding a technology transfer agreement which provides for necessary terms and conditions with the private organization, etc.

(2) The University conducts a technology transfer of intellectual property based on the Licensing Policy for Kyushu University Patents (effective as of October 1, 2015).

(3) The University may entrust a technology transfer organization with the whole or part of the technology transfer work for intellectual property retained by the University.

(4) The acquisition, management, and disposition in the case of acquiring shares, etc. in lieu of cash as consideration for licensing, etc. of intellectual property are provided by the Kyushu University Rules for Handling Shares, etc. Acquired as Consideration for Licensing, etc. (Kyushu University Rule No. 124 of 2014).

(5) The provisions of this Article do not apply to tangible materials, breeder's rights or clinical trial data.

(Special IP Management Target)

Article 32 (1) Notwithstanding the provisions of these Regulations, the University may, upon an application of an employee, recognize a research project or organization that is specially allowed to handle intellectual property (excluding tangible materials and breeder's rights, and clinical trial data) (hereinafter referred to as a "Special IP Management Target").

(2) Necessary matters relevant to a Special IP Management Target are provided separately.

(Handling of Intellectual Property Created by Students, etc.)

Article 33 (1) In principle, intellectual property (excluding tangible materials and breeder's rights, and clinical trial data) created by a student, etc. belongs to the student, etc.

(2) Notwithstanding the provisions of the preceding paragraph, the handling of intellectual property (excluding tangible materials and breeder's rights, and clinical trial data) created by a student, etc. in joint research or any other similar activities is provided by the Kyushu University Regulations for Joint Research (Kyushu University Regulation No. 94 of 2004) and other relevant regulations and rules.

(Filing of an Objection)

Article 34 (1) If an employee has an objection to the handling of intellectual property (excluding tangible materials and breeder's rights, and clinical trial data) created thereby, the employee may file an objection with the Director of the AiRIMaQ, using a form provided separately, within 30 days from the date following the date on which the University issues the notice of the decision on the handling.

(2) If the Director of the AiRIMaQ receives the filing of an objection under the provisions of the preceding paragraph, the Director must promptly decide how to handle the objection, following the discussion at the Academic Research and Industrial Collaboration Management Strategic Committee, and give notice of the decision to the employee filing the objection.

(3) An employee who has filed an objection pursuant to the provisions of paragraph (1) may not file an appeal against the decision.

(4) Any objection regarding tangible materials or breeder's right which falls within the scope of intellectual property must be filed with the Director of the MMC, and the handling thereof is provided by the Kyushu University Rules for Handling Tangible Materials (Kyushu University Rule No. 17 of 2015).

(5) Any objection regarding clinical trial data which falls within the scope of intellectual property must

be filed with the Director of the Hospital, and the handling thereof is provided by the Kyushu University Rules for Handling Clinical Trial Data (Kyushu University Rule No. 79 of 2018).

(Confidentiality)

Article 35 All persons who are involved in the handling of intellectual property created by employees shall have a duty to keep confidential the details of the intellectual property and any other matters relevant to the intellectual property during the period until when the intellectual property becomes publicly known, including the period after they leave their current divisions.

(Miscellaneous Provisions)

Article 36 Beyond what is provided in these Regulations, necessary matters concerning the handling of intellectual property created by employees are provided separately; provided, however, that if it is difficult for intellectual property to be governed by the separate provisions, the Director of the AiRIMaQ and the Director of the MMC or the Director of the Hospital shall discuss and decide on the matters whenever such situation arises.

Supplementary Provisions

These Regulations come into effect as of April 1, 2004.

Supplementary Provisions (Kyushu University Regulation No. 115 of 2006)

These Regulations come into effect as of April 1, 2007.

Supplementary Provisions (Kyushu University Regulation No. 69 of 2010)

These Regulations come into effect as of December 1, 2010.

Supplementary Provisions (Kyushu University Regulation No. 149 of 2010)

These Regulations come into effect as of April 1, 2011.

Supplementary Provisions (Kyushu University Regulation No. 47 of 2011)

These Regulations come into effect as of October 1, 2011.

Supplementary Provisions (Kyushu University Regulation No. 79 of 2011)

These Regulations come into effect as of April 1, 2012.

Supplementary Provisions (Kyushu University Regulation No. 88 of 2012)

These Regulations come into effect as of April 1, 2013.

Supplementary Provisions (Kyushu University Regulation No. 26 of 2013)

These Regulations come into effect as of September 1, 2013; provided, however, that the following amendment provisions come into effect as of October 1, 2013:

- (i) the part of the amendment provisions in Article 15 which pertains to trademarks and trademark rights; and
- (ii) the amendment provisions to amend "Chapter III" as "Chapter IV," the amendment provisions to amend "Chapter IV" as "Chapter V," and the amendment provisions to amend "Chapter V" as "Chapter VI."

Supplementary Provisions (Kyushu University Regulation No. 133 of 2014)
These Regulations come into effect as of April 1, 2015.

Supplementary Provisions (Kyushu University Regulation No. 8 of 2015)
These Regulations come into effect as of October 1, 2015.

Supplementary Provisions (Kyushu University Regulation No. 12 of 2016)
These Regulations come into effect as of July 1, 2016.

Supplementary Provisions (Kyushu University Regulation No. 62 of 2016)
These Regulations come into effect as of October 1, 2016.

Supplementary Provisions (Kyushu University Regulation No. 29 of 2017)
These Regulations come into effect as of November 1, 2017.

Supplementary Provisions (Kyushu University Regulation No. 61 of 2017)
These Regulations come into effect as of February 1, 2018.

Supplementary Provisions (Kyushu University Regulation No. 43 of 2018)
These Regulations come into effect as of September 28, 2018, and apply from April 1, 2018.

Supplementary Provisions (Kyushu University Regulation No. 48 of 2018)
These Regulations come into effect as of December 28, 2018, and apply from December 1, 2018.

Supplementary Provisions (Kyushu University Regulation No. 76 of 2018)
These Regulations come into effect as of April 1, 2019.

Supplementary Provisions (Kyushu University Regulation No. 17 of 2019)
These Regulations come into effect as of October 1, 2019.