

PREAMBLE

This document establishes policies for Virginia State University concerning intellectual property that may be created by members of the University community. As used herein, the term "intellectual property" includes inventions, processes, unique materials, copyrightable works, original data, and creative or artistic works. Intellectual property is anything developed by anyone covered by this policy that fits one or more of the following categories: (1) any patentable machine, article of manufacture, composition of matter, process or improvement of any of these that can be the subject of a patent under federal and international patent laws; (2) a legal right that inheres in a patent; (3) anything that is copyrightable, including original works of authorship, fixed in a tangible means of expression that can be the subject of a copyright under federal copyright laws; and (4) a legal right that inheres in a copyright. This policy is subject to modification at any time by the Board of Visitors.

Copyright Policy

I. Introduction

Va. Code § 23-4.3 provides that all employees of Virginia State University, as a condition of employment, shall be bound by the provisions of this policy of the Board of Visitors. This policy generally defines and establishes the respective rights and obligations of University faculty,¹ students, and staff regarding copyrightable works made by them.

II. Ownership of Works

A. Authored by University Staff

In accordance with the Federal Copyright Act of 1976, works² developed by all University administrators and staff (including part-time employees), within the scope of their employment, are the property of the University.

¹ Faculty has the same meaning as in the current Virginia State University Faculty Handbook. For the purpose of this policy, administrative faculty are considered "staff" when they are fulfilling their administrative roles and "faculty" when they are carrying out their duties as regular faculty members.

² Work or works are those products for which copyright protection is provided by the Federal Copyright Act of 1976. This statute covers "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated." Works may be literary, dramatic, musical, choreographic, artistic, scientific, and so forth. They may be fixed in the form of writing, drawing, maps, photographs, paintings, sculptures, motion pictures, sound recordings, and so forth.

B. Authored by University Faculty

All copyrightable works developed by all faculty members (including part-time and adjunct faculty) on their own initiative and on their own time shall be the property of such faculty members, except as follows:

1. Works Developed in the Course of Assigned Duties or Conducted Significantly Through the Use of University Funds

The University owns works developed in the course of assigned duties or developed wholly or significantly through the use of University funds and grants held by the University, regardless of the source of such funds.

2. Specific Assignments

The University owns the copyright and works produced pursuant to specific assignments or specific duties that are not connected with normal teaching, scholarship, research or artistic endeavors. The authoring of catalogue or promotional materials is an example of such an assignment.

3. Special Projects

The University owns the copyright for works created as special projects.³

³ Special Projects are activities to which the University makes a substantial contribution of funds, personnel, facilities, services, or reduction of workload to the author. What constitutes a "substantial contribution" for purposes of this definition must be decided on a case by case basis by the President, in consultation with the Faculty Senate and University Counsel. Special projects include projects supported by outside sponsors, who from time to time include in their grants or contracts, terms that claim ownership of the copyright by the sponsor or require publication without copyright. The University will retain an interest in any copyrightable work produced by a Faculty member, staff member or student under contract with a third party if the University makes a substantial contribution notwithstanding any contract terms to the contrary. Funds and facilities provided by outside sponsors which are administered and controlled by the University shall be considered to be "funds" and "facilities" contributed by the University for the purposes of this definition. Special projects will be frequently, but not always, characterized by released time to the author or authors, by the substantial use of University facilities, and/or by the contribution of University employees other than clerk and secretarial employees. Examples of such substantial University contributions are the use of one or several University employees in the preparation or validation of teaching or testing materials, the participation of University employees as researchers on a project, and a University-sponsored conference which is funded by the University with the participants being paid for or contributing their papers or presentations and a faculty member compiling and editing the proceedings.

C. Certification by Faculty

The faculty author of a work, the ownership of which is retained by the University, shall certify and affirm to the University that the work is original and that to the best of his or her knowledge, the work does not infringe on any copyrights of others, does not contain libelous matter, and does not contain any material improperly invading the privacy of others.

D. Authored by Students

Copyrightable works, including dissertations, developed in connection with course work by students who are not University employees are deemed to belong to the student. However, the University may claim copyright ownership of a work when extraordinary use of University facilities, personnel, or resources is made in the development of the materials, especially when unrelated to coursework.

III. Royalty Allocation

When the University retains ownership of a work authored by a faculty member, the University may execute an agreement with the faculty member providing for a sharing of net proceeds from the commercialization of the work.

In the usual case where a copyright is owned by the University and net proceeds from royalties are to be shared with the author(s), an appropriate sharing of these proceeds shall be as follows:

1. The first \$1,000 of proceeds to the author;
2. Half of the proceeds above \$1,000 to the author and the other half to the University.

If more than one faculty member is an author of a work or a part thereof, the share of proceeds which this paragraph allocates to the author will be shared among such co-authors as they shall determine.

In cases where the University incurs litigation costs in defending the copyright against infringement, such costs shall be deducted from income before any royalties are distributed.

IV. Administrative Procedures

As a condition of employment, all employees shall disclose potential or actual intellectual property on an Intellectual Property Disclosure Form that substantially conforms to the attached disclosure form (Attachment A). The President, in consultation with the Faculty Senate and the University's Counsel, shall develop administrative procedures to implement this policy.

Patent Policy

I. Introduction

Va. Code § 23-4.3 provides that all employees of Virginia State University, as a condition of employment, shall be bound by the provisions of this policy of the Board of Visitors. This policy generally defines and establishes the respective rights and obligations of University faculty⁴ and staff regarding patents and inventions developed by them.

II. Ownership of Patents

A. Patents Developed by University Staff

Patents⁵ and inventions developed by University staff within the scope of their employment are the property of the University.

B. Patents Created by University Faculty

Patents and inventions developed by faculty members on their own initiative and on their own time shall be the property of such faculty members, except as follows:

1. Sponsored Research

Patents and inventions arising in the course of sponsored research shall belong to the University.

2. Research Financed Wholly or in Part by Federal Government Funds

Patents and inventions which result from research financed wholly or in part by Federal Government funds will be treated in accordance with the provisions of Public Law 96-517, "The Patent and Trademark Amendments of 1980," and will be owned by the University.

3. Research Financed Wholly or in Part by Industrial, Philanthropic or Other Organizations, Including Non-Federal Government Agencies or by Individuals, Under Contracts or Written Agreements with the University

Rights with respect to patents and inventions in this category will be governed by the agreement between the University and funding source.

⁴ Faculty has the same meaning as in the current Virginia State University Faculty Handbook. For the purpose of this policy, administrative faculty are considered "staff" when they are fulfilling their administrative roles and "faculty" when they are carrying out their duties as regular faculty members.

⁵ Patents are those works for which protection is provided by the Federal Patent Act. This law covers "any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement there."

4. Research in the Course of Assigned Duties or Conducted Significantly Through the Use of University Funds

Patents and inventions developed in the course of assigned duties or developed wholly or significantly through the use of University funds shall belong to the University.

5. Foreign Patents

All rights to foreign patents and inventions shall be retained by the inventor, unless these rights are specifically claimed by the University.

6. Special Projects

The University owns the rights to patents and inventions for works created as special projects.⁶ Special projects are activities to which the University makes a substantial contribution of funds, personnel, facilities, services, or reduction of workload. What constitutes a "substantial contribution" for purposes of this definition must be decided on a case by case basis by the President. Special projects will frequently, but not always, be characterized by release time to the inventor or inventors, by the substantial use of University facilities, and/or by the contribution of University employees other than clerical and secretarial employees.

C. Research Financed Under Terms of Consulting Contracts

Patents and inventions developed under terms of consulting contracts are governed by Section III of this policy. University personnel may not use University facilities for work related to consulting agreements without prior written approval of the President. It is the responsibility of University personnel to advise potential consulting clients of their University obligations prior to entering into consulting agreements.

D. Certification by Faculty

The faculty inventor or creator of a work, the ownership of which is retained by the University, shall certify and affirm to the University that the work is original and that to the best of his or her knowledge, the work does not infringe on any patent or patentable rights of others.

⁶ Special Projects are activities to which the University makes a substantial contribution of funds, personnel, facilities, services, or reduction of workload to the author. What constitutes a "substantial contribution" for purposes of this definition must be decided on a case by case basis by the President, in consultation with the Faculty Senate and University Counsel. Special projects include projects supported by outside sponsors, who from time to time include in their grants or contracts, terms that claim ownership of patentable inventions by the sponsor. The University will retain an interest in any patentable work produced by a Faculty member or staff member under contract with a third party if the University makes a substantial contribution notwithstanding any contract terms to the contrary. Funds and facilities provided by outside sponsors which are administered and controlled by the University shall be considered to be "funds" and "facilities" contributed by the University for the purposes of this definition. Special projects will be frequently, but not always, characterized by released time to the author or authors, by the substantial use of University facilities, and/or by the contribution of University employees other than clerk and secretarial employees.

E. Student Developed Patents and Inventions

Patentable works developed in connection with coursework by students who are not University employees are deemed to belong to the student. However, the University may claim ownership of a work when extraordinary use of University facilities, personnel, or resources is made in the development of the invention, especially when unrelated to course work.

III. Royalty Allocation

When the University retains ownership of a work invented or created by a faculty member, the University may execute an agreement with the faculty member providing for a sharing of net proceeds from the commercialization of the work.

In the usual case where a patentable work is owned by the University and net proceeds from royalties are to be shared with the inventor or creator, an appropriate sharing of these proceeds shall be as follows:

1. The first \$1,000 of proceeds to the inventor or creator;
2. Half of the proceeds above \$1,000 to the inventor or creator and the other half to the University.

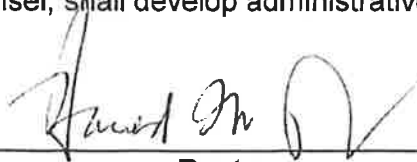
If more than one faculty member is an inventor or creator of a work or a part thereof, the share of proceeds which this paragraph allocates to the inventor or creator will be shared among such inventors or creators as they shall determine.

In cases where the University incurs litigation costs in defending the patent against infringement, such costs shall be deducted from income before any royalties are distributed.

IV. Administrative Procedures

As a condition of employment, all employees shall disclose potential or actual intellectual property on an Intellectual Property Disclosure Form that substantially conforms to the attached disclosure form (Attachment A). The President, in consultation with the Faculty Senate and the University's Counsel, shall develop administrative procedures to implement this policy.

Approval By: _____



Rector

Date: _____

11/9/07

VIRGINIA STATE UNIVERSITY
Office of the President
1 Hayden Drive – Box 9001
Virginia State University, Virginia 23806
Phone: (804) 524-5070
Fax: (804) 524-6506

DATE RECEIVED: _____

Intellectual Property Disclosure Form

- Virginia State University Intellectual Property disclosures are treated as confidential information. Except for individuals engaged in the evaluation and approval process, the information provided shall not be divulged to others without the permission of the inventor(s), except as required by law.
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SECTION I: General Disclosure Information

1. Descriptive Title:

2. Name of individual completing this form:

3. Type of Intellectual Property: *(Check more than one if applicable)*

- | | |
|------------------------------------|--|
| <input type="checkbox"/> Invention | <input type="checkbox"/> Video |
| <input type="checkbox"/> Software | <input type="checkbox"/> Audio |
| <input type="checkbox"/> Book | <input type="checkbox"/> Database |
| <input type="checkbox"/> Article | <input type="checkbox"/> Other, please describe: |

4. Summary of the Intellectual Property *(please attach any papers, drawings, and or support materials)*:

5. List any Grants, Gifts or Contracts which supported the work leading to this Intellectual Property *(include the name of the Principal Investigator (PI), Agency, Grant Number, and/or OSP Index/Account Org Number)*:

6. Has this work been disclosed to anyone outside the University community or is a disclosure planned?

- YES NO

If yes, please provide details including to whom, dates and whether there is a confidentiality agreement.

Virginia State University – Intellectual Property Disclosure Form

SECTION II: Marketing Questionnaire

1. What are the possible uses for this discovery? (*hypothetical products and services*)

2. Does this discovery 1) solve a problem; 2) add a new feature/functionality to an existing product/service; 3) improve on a process; 4) create a new product/service (*elaborate on all areas that apply*)?

3. List competing products/services you can think of which essentially meet the same goals as your discovery. Please provide company names, brochures, or descriptions.

4. Has there been any commercial interest in this Intellectual Property?
 YES NO

If yes, please provide details including dates.

5. Is there a working demonstration or prototype of this work? If not, please estimate the time and cost to develop a prototype or simulation.

6. List the names of companies that you think might be interested in your discovery. Please provide contact names and telephone numbers if you have them. (*We will speak with you first before calling your contacts.*)

Virginia State University – Intellectual Property Disclosure Form

SECTION III: Rights and Royalties

1. Based on your understanding of the VSU Intellectual Property Policy, appearing on the VSU website at _____, indicate whom you consider to have ownership rights to this Intellectual Property:

- Inventor/Creator**
- VSU (with royalty sharing as per Intellectual Property Policy)
- VSU Equivalent (Inventor/Creators own, but wish to have the Intellectual Property handled as if owned by VSU)

2. If the Intellectual Property is commercialized by the University, the inventor(s)' share of the revenues received from that commercialization shall be distributed as follows among the inventors/creators. (Note: The inventor(s) may choose to leave this question blank initially and draft a distribution agreement ("Distribution Agreement"). If there is no Distribution Agreement in place by the date of each license agreement that is signed for this Intellectual Property then all inventor/creators will share equally.)

_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
_____	_____ percent
Distribution of inventors/creators share (total)	100 percent

Virginia State University – Intellectual Property Disclosure Form

SECTION IV: Certifications and Signatures of Inventors/Creators: *(please add lines as needed)*

I/We acknowledge that all statements in this disclosure document are true. We agree that we will execute all necessary assignments as requested by Virginia State University ("the University"), its successors and assigns to facilitate the filing of patent applications or copyright registrations. We agree to render any assistance which is requested to aid in the preparation of such applications. We understand that patent applications will be prosecuted by licensed patent practitioners who represent the interests of the University, its successors and assigns.

All royalties, rents, payments, or any cash receipts from the sale, assignment, transfer, licensing or use of the Intellectual Property shall be distributed according to the provisions of the Intellectual Property Policies current at the time of signature of this Intellectual Property Disclosure Form.

I/We hereby warrant that prior to the execution of this Intellectual Property Disclosure Form, I/we have neither granted the right or license to make, use, or sell the Intellectual Property to anyone except the University, nor otherwise encumbered my/our rights, title, and interest in the Intellectual Property. I/We agree I/we shall not execute any instrument in conflict with this Intellectual Property Disclosure Form.

<hr/> Print Name	<hr/> Signature	<hr/> Date
<hr/> Print Name	<hr/> Signature	<hr/> Date
<hr/> Print Name	<hr/> Signature	<hr/> Date
<hr/> Print Name	<hr/> Signature	<hr/> Date

Provide name and signature of Principal Investigator (if sponsored project funding was involved in development of work). Please type or print name and title.

To the best of my knowledge, the information disclosed in this document is true.

<hr/> Print Name	<hr/> Title
<hr/> Signature	<hr/> Date

Name of Department Head or School Dean of the inventors or creators.

<hr/> Print Name	<hr/> Title
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