

Longwood University Faculty Senate
PROPOSAL/POLICY COVER SHEET

This cover sheet is intended to provide information to members of the Faculty Senate about a new proposal/policy or about revisions to an existing proposal/policy. **If you are proposing a new policy, then attach the text of the policy to this form. If you are proposing a change to an existing policy, then attach the text of the current policy with any deleted language marked by a strikethrough and with new language marked by an underline. If you are deleting a policy, then attach the text of the policy to be deleted.**

COMMITTEE(S) that authored or sponsored this proposal:

Intellectual Property Committee

TOPIC:

Intellectual Property Policy

BACKGROUND (Provide a brief statement describing the origins of this proposal, the nature of the problem it addresses, and the work completed to devise the proposal):

Due to changes in state and federal legal codes governing intellectual property at state institutions, Longwood University's Intellectual Property policy needed significant revision. The existing policy has not been revised since 2005. Institutional and technological changes over the past few decades warranted consideration, and after several attempts at revision, the Intellectual Property Committee determined that a complete redrafting of the policy would be a better approach.

This Intellectual Property Committee, comprised of faculty from each college as well as several ex-officio members, has met consistently over the past 4 years to review the existing policy and determine the appropriate changes. The Committee reviewed 20-30 Intellectual Property policies from universities throughout Virginia and the US to inform our policy redraft, and has taken into consideration information from around Longwood University, including the Dean of the Library, the DEC, the VPAA, the VPAF, the Office of Sponsored Programs, as well as communications with the Attorney General's office and their Intellectual Property consultants.

SUMMARY OF NEW POLICY OR PROPOSED CHANGES OR DELETIONS TO AN

EXISTING POLICY (Provide a brief list or statement describing the content of the policy or the proposed changes or deletions):

The existing policy can be found in the FPPM, Section II.S.; and is found on Longwood University's website.

RATIONALE FOR THE POLICY OR PROPOSED CHANGES (Provide a brief statement as to why the new policy, the changes, or the deletion is needed):

This new version of Longwood University’s Intellectual Property Policy includes updated language to reconcile federal and state legal coding changes and also works to encourage faculty and faculty-led research. The previous policy included discouraging language regarding research developments, whereas this new policy seeks to improve conversations at all levels about research conducted at Longwood University and the potential to facilitate all aspects of research development, including commercialization. This new faculty-friendly policy clearly indicates that faculty retain rights to traditional works of scholarship, clearly indicates that faculty retain rights to projects that are completely outside university time/resources, clearly indicates that faculty retain rights to teaching materials in any format, and clearly indicates that even when the university owns the intellectual property, it shares royalties not only with the faculty but also with the department and college of that faculty member.

Routing information and signature lines:

Date submitted to Senate Executive Committee for Consideration:

Action(s) Taken:

Date first read at Faculty Senate:

Action(s) Taken:

Date final action taken by Faculty Senate:

Action(s) Taken:

Senate Chair: _____

Date submitted to the PVPAA (within 5 working days of Senate approval):

Action(s) Taken:

PVPAA: _____

Date: _____

Date submitted to other administration:

Action(s) Taken:

Administrator: _____

Date (within 15 working days of PVPAA’s signature): _____

Date submitted to the Board of Visitors:

Policy Title: Intellectual Property

Policy Number: 2110

Definitions:

A. *Intellectual Property* means:

1. A potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those;
2. An issued patent;
3. A legal right that inheres in a patent; or
4. Anything that is copyrightable.

B. *Copyrightable work*: An original work of authorship (i.e., writing, work of art, work of music, computer program), which qualifies for protection under federal copyright law.

C. *Work Made for Hire*: A copyrightable work prepared by an employee within the scope of employment.

D. *Additional Assignment*: A task or undertaking resulting from a specific request, direction, or employment obligation to produce a particular thing or result. A general obligation for faculty to engage in research, scholarship, and teaching is not a specific additional assignment even if it results in a specific end product such as a vaccine, a published article, or a computer program. If an employee's written job description specifies duties that result in the creation of intellectual property, the intellectual property is considered University property.

E. *Significant Use of University Resources*: The substantial use of University equipment, facilities, or personnel. What constitutes significant use of University resources is a question that must be answered based on circumstances of each situation. A general statement defining a dollar amount is not appropriate because of differing needs among disciplines. Customary and usual use of Institute resources such as telecommunications and information technology, library resources, secretarial assistance, and other support services do not constitute significant use. The use of a computer in a faculty office, incidental supplies, and occasional use of University personnel or shared facilities would typically not be considered significant use. In contrast, utilization of University laboratories or special instrumentation, dedicated assistance by University employees, special financial assistance, or extensive use of shared facilities would constitute significant use.

Policy Owner: Responsibility for oversight of this policy resides with the Provost. As Contract Officer for the University, the Vice President for Administration and Finance is responsible for enforcement and compliance of all contracts and licenses.

Purpose:

Longwood University encourages the production of intellectual property, including creative and scholarly works, discoveries, and inventions. The purposes of this policy are to support and reward research and scholarship; to balance the interests of researchers and the University; to define the rights and responsibilities of all involved; and to help faculty, students and staff identify, protect and administer intellectual property.

Responsibilities

- *Researcher*: Submit Intellectual Property Report (IPR) before developing or publicly disclosing ideas. Public disclosure of details of inventions prior to initiation of protection procedures may result in loss of legal protection and commercial value. The IPR is reviewed by Department Chair, Dean, and Provost.
- *Provost/Vice President for Academic Affairs*: Based on IPR and discussion with the Researcher, determine whether the University has a proprietary interest in the work. In case of dispute, refers case to Intellectual Property Committee for review and recommendation. The Provost may also engage outside firms to evaluate patentability.
- *Intellectual Property Committee (IPC)*: As a committee of the Faculty Senate, the IPC convenes as needed to review cases involving intellectual property disputes and make recommendations to the Provost.
- *Vice President for Administration & Finance*: Enter into all necessary contracts to secure patents, copyrights, and licensing for intellectual property developed by University personnel.

Policy

Ownership of Intellectual Property

- A. Except as outlined below, the University shall obtain the entire right, title, and interest in all intellectual property created, developed, invented or discovered by university employees. University employees must disclose and assign the title to inventions developed within the scope of their employment or with significant use of university resources.
1. Additional Assignment. When a copyrightable or patentable work is created as a specific additional assignment, often involving additional compensation or release time, the University shall own the entire right, title, and interest in all materials subject to copyright or patent. Examples: Authoring catalog or promotional materials.
 2. Significant Use of University Resources. When a Researcher makes significant use of University resources, the University shall own rights to the intellectual property. The use of a computer in a faculty office, incidental supplies and occasional use of University personnel or shared facilities would typically not be considered significant use. In contrast, utilization of University laboratories or special instrumentation, dedicated assistance by University employees, special financial assistance or extensive use of shared facilities would constitute significant use.
- B. Faculty/Staff Researchers: Researchers retain full ownership of rights to intellectual property when the work is produced completely outside of and using no university resources, facilities or personnel. Example: Inventions or copyrightable works resulting from pursuance of a hobby, not related to the employee's University activities, and conducted off-campus.

Rights for traditional works of academic scholarship will be retained by the Researcher, provided the work is prepared at the individual's own initiative and not a result of an Additional Assignment. Examples: Articles, monographs, textbooks, literary works, artistic creations, computer software.

To encourage pedagogical innovation, rights for works related to teaching will be retained by the Researcher. Examples: Course handouts, worksheets, lesson plans, and lecture materials in any format.

- C. **Student Researchers:** In general, student researchers will retain ownership of rights to intellectual property. The University may claim ownership of a work when the student is employed by the University (work made for hire), or when significant use of University facilities, personnel, or resources is made in the development of the materials, especially when unrelated to coursework.

Procedures:

- A. **Intellectual Property Report (IPR):** Before proceeding with public disclosure or development of a creative idea, and in consultation with the Department Chair and Dean, the researcher must submit the IPR to Provost for review.
- B. **Case Review:** The Provost shall review the Researcher's IPR. If a question arises regarding proprietary interests of the University or the Researcher, the Provost may consult the IPC. The Provost may also engage outside firms to evaluate patentability.
- C. **Dispute Resolution:** Any dispute arising over intellectual property must be presented to the President, who, in resolving the dispute, may consult with the Intellectual Property Committee or outside legal firms.
- D. **Royalties**
 - a. The researcher and the University will share the net revenue derived from inventions owned and licensed by the University as follows:
 - i. Creator: 50%
 - ii. Creator's Department: 10%
 - iii. Creator's College: 10%
 - iv. University: 30%
 - b. Ownership of copyrightable and patentable intellectual property developed pursuant to an agreement with any external sponsor shall be governed by the provisions of that agreement. The Director of the Office of Sponsored Programs & Research (OSPR) shall review rules and regulations of all potential sponsors of research with regard to ownership rights and licensing of inventions, discoveries, or patents either at the time that proposal is submitted or prior to accepting an award from the sponsor. Any change to the royalty percentages becomes effective only when approved by the Board of Visitors.

Transfers

The University has the right to license or transfer any intellectual property it owns.

Intellectual Property Report Form

This Intellectual Property Report (IPR) Form is an important step in protecting IP created by the faculty, staff, and/or students of Longwood University. The LU Intellectual Property Policy can be found in the print and web-based versions of the Faculty Policies and Procedures Manual [link] and on the University Policy webpage [link].

It is not required to submit this form for traditional works of academic scholarship.

The purpose of this IP Report Form is to:

1. Share the information necessary for the Reviewers to reach agreements and determinations consistent with the University IP Policy;
2. Protect the rights of the owners of the IP (faculty, staff, students, and/or the University) with respect to interested third parties;
3. Enable the Provost to determine, on behalf of the University, whether to assist in registering the IP (e.g., filing a patent application or a copyright registration).

Instructions and Procedures

Please complete each section of the IP Report Form that applies to the IP you are reporting. Each of the creators must sign the form prior to submitting it to the University. If you have any questions about completing the IP Report Form, please contact _____

Please submit the completed Intellectual Property Report (IPR) Form and any supporting documentation to the department chair(s) and the Dean(s) of the college(s) in which the technology was developed.

Confidentiality and Publication: The University considers the information provided in this form to be confidential and expects that the person submitting this form and the creators signing this form will treat this information as confidential until the University determines how and when it may be publicly disclosed. In the interests of avoiding undue restrictions on the publication of research results related to the disclosed IP, the University will generally attempt to make such determination within thirty (30) days of submission of the form.

I. Information Regarding the Intellectual Property

- A. Title of Intellectual Property. _____
- B. Description of the Intellectual Property. (Please use additional sheets and attach descriptive materials to expand answers to questions. Sketches, drawing, photos, reports and manuscripts may be helpful.)

C. Which of the following best describes your intellectual property: *select all applicable categories*

1. An invention eligible for patenting. Inventions include new processes, products, apparatus, compositions of matter, living organisms OR improvements to (or new uses for) things that already exist.
2. A copyrightable work. Copyright protects original works of authorship, including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture.
3. A data collection. A data collection includes compilations of data and results obtained by analyzing data. Granting entities may have certain data rights under grants awarded to the University.
4. Research materials. Research materials includes physical materials, equipment, and samples, e.g., biological and chemical samples, such as cell lines, biological extracts, genetic material, chemical samples, etc. Granting entities may have certain rights in research materials resulting from the use of funds under grants awarded to the University.

D. Which of the following best describes your situation?

1. I would like to protect my IP through a patent, registered copyright, or trademark
2. I am interested in exploring the potential for commercializing my IP
3. I am interested in both protection and commercialization
4. I am not currently interested in protection or commercialization

II. Potential Applications for the IP

A. What are the immediate and/or future applications of the IP? _____

B. Why is the IP more advantageous than present technology? What are its novel and unusual features? What problems does it solve? _____

C. Is work on the IP continuing? Are there limitations to be overcome or other tasks to be done prior to practical application? Are there any test data? _____

D. Have products, apparatus, compositions, etc. actually been made and tested?

Yes No

Date of first successful test. _____

E. Have any commercial entities been involved in developing the IP? Are there any commercial entities that would be interested in the IP? Yes No

If YES, please provide details, including the names of companies that you think might be interested in your discovery.

F. Do you know of any discoveries similar to this one? Yes No
If YES, please describe, including information on relevant patents and publications.

G. When was your creation/invention/product developed?
Date invention was first conceived. _____
What is the date of the first written record (sketch, drawing, notebook entry) of this invention? _____

III. Publications and Other Disclosures

A. Has the IP been disclosed in an abstract, paper, talk, news story, thesis, or other public place? Please provide all relevant citations.

B. Is a publication or other disclosure planned in the next six months? Please describe.

C. In the case of an invention, do you believe that there has been a public use or sale of products embodying the invention? If so, please describe, giving dates.

D. In the case of research materials, please describe where the materials originated and, if applicable, the circumstances of any use or delivery of the materials outside the University.

E. To the best of your knowledge, are there any related developments by others? Please provide citations of any relevant patents or publications. Yes No

IV Ownership and Use of University Resources

A. Did you create the IP in the course of performing work under an external grant or contract?
 Yes No

If you answered YES, please list the sponsoring agency, grant number, title of all relevant grants or the contracting party, date of the agreement, and title of the project.

B. Have you entered into any other agreements, i.e., memorandum of understanding, collaboration agreements, consulting agreements, material transfer agreements, etc., which may extend the rights of this invention of any sorts to a company or party outside of Longwood University? Yes No

If YES, please provide details including type of agreement, to whom the agreement is with, dates and whether there is a confidentially agreement.

C. Were University facilities, equipment, materials, funds, information, or the time or services of other University employees used in the production of the Intellectual Property?

Yes No

If YES, please indicate the nature of these contributions.

D. Do you consider that the intellectual property resulted from your normal work activities?

YES NO

V. Information About the Creators of the IP

A. List the names and titles of all contributors of this work, including lead author/artist. Be sure to include all inventors/creators and identify their % contribution. The contribution of all should total 100%. *(Please add additional rows as necessary.)*

1. Preparer of Record/Primary Contact

Name: _____	Campus Address/Dept: _____
Home Address: _____	Title: _____
City/State/Zip: _____	Email: _____
Home Phone: _____	Work Phone: _____
Citizenship: _____	Percent Contribution: _____

2. Contributing Creators

Name: _____	Campus Address/Dept: _____
Home Address: _____	Title: _____
City/State/Zip: _____	Email: _____
Home Phone: _____	Work Phone: _____
Citizenship: _____	Percent Contribution: _____

3. Contributing Creators

Name: _____	Campus Address/Dept: _____
Home Address: _____	Title: _____
City/State/Zip: _____	Email: _____
Home Phone: _____	Work Phone: _____
Citizenship: _____	Percent Contribution: _____

CONFIDENTIAL

To be completed by the Inventor's Department Chair, Dean and/or Director.

1. Were university resources, such as facilities, equipment, materials, funds, information, or the time or services of other university employees used in the production of the work or development of intellectual property?

YES NO

2. Does the work performed in the development of this intellectual property fall within the range of normal activities expected of the inventor/creator by their appointment or employment of the university?

YES NO

3. Did the inventor/creator work on the project during their normal university working hours?

YES NO

4. Does the Intellectual Property appear to pass the following tests for patentability?

Novelty Non-obviousness Usefulness

Signature of Reviewers.

DEPARTMENT CHAIR SIGNATURE

PRINTED NAME/TITLE

DEPARTMENT

DEAN SIGNATURE

PRINTED NAME/TITLE

COLLEGE

CONFIDENTIAL

By signing this IP Report form, I acknowledge and agree that:

I believe I am a creator of the IP described in this form;

I have read and understood the University Intellectual Property (IP) Policy in Section XX of the Faculty Policies and Procedures Manual [link] and on the University Policy webpage [link].

I am submitting this IP Report Form to provide information to the University and the Provost to facilitate the University's consideration of the IP and determination regarding the University's possible ownership interest in the IP.

PREPARER _____
SIGNATURE

DATE

CONTRIBUTOR _____
SIGNATURE

DATE

CONTRIBUTOR _____
SIGNATURE

DATE