NORFOLK STATE UNIVERSITY
INTELLECTUAL PROPERTY POLICY
Approved by the Board of Visitors on May 15, 1999.

PREAMBLE

The Board of Visitors of Norfolk State University, in order to be in compliance with the Virginia Code, Section 23-4.3, adopts the following Intellectual Property Policy for Norfolk State University (“University”). The policy of the University is to consider and, where appropriate, assist in the protection and commercial development of intellectual property which is the product of University Research. The purpose of this Intellectual Property Policy is to:

1. Provide an incentive for creative intellectual effort and the advancement of knowledge for the welfare of humanity;

2. Insure that the respective interests of the researcher, the University, any supporting sponsor, and society are considered and protected through the development of fair contracts and procedures;

3. Assist the researcher and the University to realize tangible benefits from intellectual property; and

4. Advance and encourage further research within the University, with whatever funds accruing to the University from intellectual property resulting from University Research.

A. DEFINITIONS

For the purpose of this Intellectual Property Policy and any documents developed for its implementation, the following definitions apply:

1. Copyright is a form of protection provided by the laws of the United States to “original works of authorship” including literary, dramatic, musical, artistic, and certain other intellectual works, whereby copyright owners may claim, for a limited time, certain exclusive rights to specified works: This protection is available to both published and unpublished works and give the copyright owner the exclusive right to reproduce, distribute, sell, perform, display, or prepare derivatives of the work, and to protect a copyright against infringement. Copyright protection does not extend to an idea, procedure, process, slogan, principle, or discovery.

2. Intellectual Property is anything developed by anyone engages in University Research that fits one or more of the following categories: (1) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of these; (2) an issued patent; (3) a legal right that inheres in a patent; (4) anything that is copyrightable; (5) any trademark; or (6) any trade secret.
3. Researcher is any person, including, but not limited to, faculty members, former faculty members, graduate students, undergraduate students, administrators, and other employees (including student employees) who may be engaged in University Research.

4. Significant Use of University Resources means the substantial and dedicated use of University equipment, facilities, or personnel. The use of 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. Funds and facilities provided by governmental, commercial, industrial, or other private organizations which are administrated and controlled by the University shall be considered University resources for purposes of this policy. All research which fits this definition is considered University Research.

5. Significant Use of General Funds and “developed wholly or significantly through the use of general funds,” means that general funds provided $10,000 or more of the identifiable resources for which a cost figure is not readily available, such as salary, support staff, and other equipment and resources dedicated to the creator’s efforts. All research which fits this definition is considered University Research.

6. University Research is defined as research and related activities by any person, which are related in any way to duties or responsibilities for which he/she has been compensated either by or through the University; or for which facilities owned, operated, or controlled by the University are used in a significant manner. University Research includes, but is not limited to, research which involved a significant use of general funds or which involved a significant use of University facilities.

B. APPLICABILITY

1. Pursuant to Virginia Code, Section 23-4.3.B, all employees (including student employees) of the University are bound by this policy. This is a condition of employment at the University.

2. All non-employees who conduct University Research shall be required to enter into a written contract with the University. Under the terms of this written contract, all non-employees shall be bound by the terms of this Intellectual Property Policy.

C. OWNERSHIP

1. By operation of law, the University owns all rights, title and interest in all copyrightable material created by University employees (including student employees) while acting within the scope of their employment.

2. The University asserts an ownership right in all intellectual property that was developed with University resources and/or was developed wholly or partially with general funds.
3. To the extent that any other person may have an ownership right in intellectual property which was developed with significant University resources and/or was developed wholly or significantly with general funds, that person shall be required to transfer any such ownership interest to the University.

4. To the extent permitted by the Virginia Code, all applicable regulations, and State Council on Higher Education for Virginia Guidelines, the University may enter into contracts with sponsors of research in which the sponsor asserts an ownership interest. If the University enters into such a contract, the terms of that contract shall take precedence over this policy. If the sponsor does not assert an ownership interest, the ownership vests with the University as provided in this policy.

5. Pursuant to Virginia Code Section 23-4.4, the University may, at the discretion of the Board of Visitors, transfer its interests in intellectual property to other persons or entities. Such transfers will meet all applicable legal requirements, including the prior written approval of the Governor, where necessary.

6. The University cedes copyright ownership to the author(s) of scholarly and academic works (such as journal articles, books, and papers) created by academic and research faculty who uses generally available University resources. However, the University asserts its right of ownership if significant University resources (including sponsor-provided funds) are used in the creation of such works; and: (a) the work generates royalty payments; or (b) the work is of commercial value that can be realized by University marketing efforts.

7. Even in cases where the University retains ownership of intellectual property under this policy, it may cede such ownership to the responsible researcher(s) by written agreement approved by the Board of Visitors.

8. The University normally will relinquish any claim to intellectual property that is judged by the Vice-President not to be the product of University Research. However, in such cases the researcher may request that the intellectual property be appraised by and, if appropriate, assigned to the University. In such cases, the researcher and the University will determine the terms of the agreement.

9. The University retains a non-exclusive, royalty-free right to use, for non-commercial purposes, works produced by its employees while acting within the scope of employment.

10. Use of the University’s name in connection with the commercialization of a faculty or student work must be approved in advance by the University.

D. ADMINISTRATIVE RESPONSIBILITIES

Responsibility for the administration of the Norfolk State University Intellectual Property Policy is assigned to the Vice-President for Finance and Business (“Vice-President”). The Vice-President shall perform the following duties:
1. Develop standards and procedures appropriate for the implementation of this policy;

2. Obtain, maintain, approve, and insure compliance with all signed agreements between the University and each researcher, between the University and a sponsoring agency, and between the researcher and the sponsoring agency;

3. Judge whether intellectual property is the product of University Research and, if so, whether significant general funds or significant University resources were used;

4. Advise the responsible researcher whether intellectual property that is the product of University Research is patentable or copyrightable;

5. Take appropriate steps on behalf of the University for securing patent rights and copyrights in intellectual property in which the University has an ownership interest;

6. Administer the royalties accruing to the University as a result of the implementation of this policy;

7. Establish guidelines for use of royalties accruing to the University as a result of the implementations of this policy;

8. Inform the principal investigator of all requirements regarding patents in any grant or contract agreement accepted by the University;

9. With the aid of the principal investigator, provide all invention reports and other pertinent information regarding patents required by the terms of a grant, contract, or agreement to which the University is a party.

10. Render decisions regarding the University’s rights to intellectual property. These decisions shall be made within a responsible period of time.

E. RIGHT TO APPEAL

The researcher responsible for the development of intellectual property covered by this policy shall have the right to appeal application of the policy regarding ownership, equity, classification, sharing of royalties, disposition, management, or exploitation of a patent or copyright, or any procedure relating thereto, to the President of the University. If, in the judgment of the President, the resolution of the appeal requires technical expertise, the President shall appoint a committee of faculty members and administrators to make a recommendation to the President regarding the resolution of the appeal. The President has discretion to accept or reject the committee’s recommendation.

F. CONFLICT WITH STATUTES OR REGULATIONS

Nothing in this policy shall be interpreted in a manner which conflicts with any applicable federal or state law, any applicable implementing regulations, or State Council on
Higher Education for Virgin Guidelines. To the extent that there is a clear conflict, the applicable law, regulations, or guidelines controls.