

Patenting of Discoveries or Inventions at the University (Patent Policy)

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Status Final

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Policy Type [University](#)

Contact Office [Vice President for Research \(Office of the\)](#)

Oversight Executive

Executive Vice President and Provost

Applies To Academic Division, Medical Center, and the College at Wise.

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Reason for Policy

The University is committed to considering and, where appropriate, assisting in the patenting and commercial development of discoveries or inventions which are the product of University research. This policy is intended to:

- Provide an incentive to creative intellectual effort and the advancement of knowledge for the welfare of mankind.
- Ensure that the respective interests of the researcher (as faculty or staff member or student), the University, any supporting sponsor, and society are considered and protected through the development of fair contracts and procedures.
- Assist the researcher and the University to realize tangible benefits from inventions or discoveries.
- Advance and encourage further research within the University with whatever funds accrue to the University from inventions resulting from University research.

Definition of Terms

[Researcher](#)

Description Any person who may be engaged in University research.

University Research

Description

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. Products of research eligible for copyright protection are excluded from this definition. Modification of this definition of University research may be effected by the terms of a contract between the University and another public or private agency or, in exceptional circumstances, in the patent agreement with an individual University researcher.

Policy Statement

Any person who may be engaged in University research shall be required to execute a patent agreement with the University in which the rights and obligations of both parties are defined.

1. Responsibilities:

The *Vice President for Research* is responsible for the administration of the University's Patent Policy. As such, he/she shall:

- Develop standards and procedures appropriate for the implementation of this policy.
- Obtain, maintain, and ensure compliance with signed patent agreements between the University and each researcher, and between the researcher and a sponsor agency as required by the terms of a grant or contract.
- Judge whether an invention or discovery is the product of University research.
- Advise the inventor whether an invention or discovery which is the product of University research is patentable.
- Determine whether the University should claim equity in the patenting of an invention or discovery which is the product of University research, or whether all rights should be waived in favor of the inventor. (In the latter case, the inventor should be informed in writing by the Vice President for Research that the University relinquishes all claims to the invention or discovery.
- Take appropriate steps on behalf of the University for patenting and/or marketing of an invention or discovery in which the University has an equity.
- Administer the royalties accruing to the University as a result of the implementation of this policy.
- Establish guidelines for use of royalties accruing to the University as a result of the implementation of this policy. Decisions regarding the University's rights to an invention shall be made within a reasonable time so that an inventor's options are not compromised unnecessarily.

The *Office of Sponsored Programs* in implementing this policy shall:

- Inform the Office of the Vice President for Research and principal investigator of all requirements regarding patents in any grant or contract accepted by the University of Virginia.
- With the aid of the principal investigator and in conjunction with the Office of the Vice President for Research, provide all invention reports and other pertinent information regarding patents as required by the terms of a grant, contract, or agreement to which the University is a party.

The *Executive Vice President and Provost* shall:

- Approve the standards and procedures and any amendment thereto developed by the Vice President for Research for the implementation of the Patent Policy.
- Review the actions of the Vice President for Research which are appealed by researchers and recommend appropriate action.
- Conduct an annual review of the patent program with the Vice President for Research.

2. **Invention Revenue Distribution Formula:**

See [Distribution Invention Revenue Distribution Formula](#).

3. **Invention and Discoveries Which are not the Result of University Research:**

The University normally will relinquish any claim to an invention or discovery which is judged by the Vice President for Research not to be the product of University research. However, in such cases the researcher may request that the invention or discovery be appraised by and, if appropriate, assigned to the University. In such cases, the terms of the agreement will be determined by the inventor and the University.

4. **Implementation Guidelines:**

These Guidelines are intended to contribute to the effective implementation of the "Patent Policy for the University of Virginia," as approved by the Board of Visitors on April 6, 1973, and subsequently amended by defining relevant rights and obligations of the inventor and the University, as represented primarily by the Vice President for Research.

a. **Responsibilities of the Inventor at the University:**

Responsibility for timely and responsible disclosure of potentially patentable inventions and discoveries rests with the inventor. Disclosure forms are available in the Office of the Vice President for Research. Guidance is available from the Vice President for Research on responsible steps which should be taken to protect the interests of the inventor and the University.

The Vice President for Research will provide the inventor a timely response to the following:

- Is the invention or discovery the product of University research as defined in the "Patent Policy for the University of Virginia"? If the determination is negative, formal notification will be given to the inventor of the absence of any vested interest of the University in the invention or discovery. The notification will be initiated, prepared and signed by the Vice President for Research.
- Will the University refer the invention to an outside organization to determine the patentability and marketability of the invention?
- To which outside organization is the invention to be referred?

An answer to these questions will normally be expected within sixty (60) days after the submittal of a fully executed disclosure to the Vice Provost for Research by the inventor.

The inventor will cooperate in the patenting and licensing of the invention or discovery, whether requested by the University, the licensee(s), or an agent or assignee of the University, e.g., the University of Virginia Patent Foundation or Research Corporation.

If, after the initial steps have been taken, no further current action is judged desirable by the Vice President for Research, the inventor may formally request the right to pursue on his own the patenting of his invention or discovery.

b. Appeal of Actions by the Vice President for Research:

Provision is made for appeal to the Provost or his designee by the inventor of actions by the Vice Provost for Research. Grounds for appeal are alleged failure of the Vice President for Research to fulfill the patent policy for the University of Virginia, follow these implementing guidelines, or demonstrate due diligence to avoid compromise of the inventor's equity in his invention or discovery. On the grounds that they are without support in fact and are unreasonable, the inventor may also appeal the decisions of the Vice President for Research in response to the questions about the product of University research.

The inventor shall submit his appeal to the Provost or his designee, who shall satisfy himself that the inventor has made a reasonable effort to resolve his complaint with the Vice President for Research and the substance of appeal is arguably proper. Proceedings shall be informal but all parties shall have adequate notice and opportunity to be heard. After hearing all relevant testimony, the Provost or his designee shall decide the merit of the inventor's grievance and advise the Vice President for Research on appropriate subsequent action.

5. Compliance with Policy:

Failure to comply with the requirements of this policy may result in disciplinary action up to and including termination or expulsion in accordance with relevant University policies.

Questions about this policy should be directed to the [Office of the Vice President for Research](#).

Procedures

Visit the [Our Process](#) page and Complete the [Engagement Request Form](#).

Major Category [Research Administration](#)

Next Scheduled Review Saturday, September 29, 2018

Revision History

Added Compliance section 7/21/21.

Supercedes Policy Text

XV.E.2, Patent Policy.

Approved By Executive Vice President & Provost

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