

## A. Background

Elon University is committed to providing an environment that supports the creation of intellectual property by faculty, staff, and students in the course of their research, teaching, and learning activities. As a matter of principle and practice, the University encourages all members of the Elon community to publish without restriction the outcome of these activities in order to share openly and fully their findings and knowledge with colleagues and the public.

## B. Policy

The general policy of Elon University follows the long-standing academic tradition that intellectual property is owned by the author or creator of the work. Exceptions to this rule may result from contractual obligations, from employment obligations, from certain uses of University facilities, or by agreement governing access to certain University resources. Variances from this Policy must be negotiated by the author or creator with the dean of the respective college or school and the Provost.

## C. Rules

1. The Provost and the college/school dean, in consultation with the President when appropriate, shall administer and interpret the policy on Intellectual Property to include any necessary negotiations for Intellectual Property rights with faculty, staff, and students.
2. The term “intellectual property” refers to tangible results of scholarship, research, teaching and advising, including but not limited to inventions, creations, new processes, innovations, works of art, audio recordings, films, lecture notes, musical scores, dramatic works and accompanying music, choreographic works, graphic and sculptural works, poetry, literature, textbooks and other books, distance learning materials, speeches, podcasts, documentaries, slideshows, educational courseware, and tangible research materials; that is, all copyrightable or patentable works, and the patents and copyrights that reserve rights to them. The term “creator” signifies the individual(s) who invents, creates, authors or innovates with respect to the respective intellectual property.
3. This Intellectual Property Policy applies to works created by all classifications of faculty, staff and students of the University on behalf of the University unless a written agreement exists to the contrary, as well as to work completed by independent contractors and consultants, including the following:
  - a. The creation of the intellectual property was funded in whole or in part by an externally sponsored research program that allocates rights to the University, or as part of any agreement that allocates rights to the University. Ownership of intellectual property created pursuant to an agreement with any sponsor will be

governed by the provisions of that agreement. Federally funded research has special provisions on rights to inventions. The Bayh-Dole Act gives the University title to discoveries and inventions arising from federally funded research. However, the University must grant non-exclusive use rights to the federal government. Also, if the University decides not to file a patent application on a discovery or invention and will not otherwise commercialize it, the University is required to return patent rights to the federal government.

- b. The creation of the intellectual property required use of University resources (e.g. facilities, equipment other than assigned computer, funding) and/or University personnel beyond that required for the creator's professional duties for the University. In these cases, the creator and the University will negotiate the intellectual property rights and the intellectual property rights shall be shared by the creator and the University in a proportion deemed appropriate by both parties according to the use of University resources.
  - c. The creator was assigned or directed by the University to develop the intellectual property. In these cases, the University will negotiate a prior understanding or formal contract with the creator concerning ownership of the resulting intellectual property.
  - d. The intellectual property was created by administrators, staff or other non-faculty employees in the course of employment duties and constitutes work made for hire under US law or otherwise automatically vests ownership to the employer.
  - e. The intellectual property was created by a consultant or independent contractor.
4. Intellectual property created by students is additionally subject to the following guidelines:
- a. The University makes no claim to ownership of intellectual property created by students outside the scope of an employment relationship with the University or one of its employees, and the University makes no claim to ownership of intellectual property created by students not making substantial use of University resources (e.g. class projects).
  - b. Students working on a project governed by a written contract/agreement to which the University is a party shall be bound by the terms of that contract or agreement. In the absence of such a written contract/agreement, 4a will apply.
  - c. Students who are directed to perform specific tasks that contribute to the creation of intellectual property (e.g. research students) will ordinarily have no rights to ownership of that work, regardless of the source of funds from which

they are paid unless a written contract/agreement is established at the start of the duties. In cases where there is no written contract/agreement, the party who owns the intellectual property resulting from the rest of the work will ordinarily retain ownership of the portion contributed by the student.

5. In the event of unresolved disputes concerning the interpretation of this policy and/or negotiation of intellectual property rights, the chair of the faculty member in consultation with the creator shall convene a panel of three peers to make recommendations to the dean of the respective college or school and the Provost for consideration.

(08/11)