

Intellectual Property Rights Policy

Patent Policy

Emory & Henry College retains the rights to procure patents of inventions or discoveries made by College faculty, other employees, or students working for the College or utilizing the College's facilities. The College intends by procuring patents to bring about professional recognition for the inventor or inventors, utilization of inventions and discoveries, and an appropriate financial return to the inventor or inventors and the College.

"Inventions" and "discoveries," in U.S. Patent Office terminology, are defined as processes, machines, compositions of matter and other articles of manufacture, including improvements, new methods, etc.; design; plants, asexually and sexually reproduced, with some exceptions. Inventions involve conception, a mental act, and reduction to practice.

Equity - The equity of the inventor or inventors in a patent is determined largely by the source of funding for the research which led to the invention or discovery, as follows:

College-funded research: the inventor or inventors share in the net proceeds from a patent, as indicated below, with all patent costs paid by the College and recouped from the proceeds. Apportionment details are described in the "Proceeds" section below.

Personal research: if no significant use of College facilities is involved, the inventor or inventors may obtain and retain full rights to a patent, or they may assign the invention or discovery to the College for handling as under College-funded research.

Research funded by government or industry: the inventor or inventors share as specified in the contract or grant and, if applicable, as further specified below.

Extramural consulting funded research: the inventor or inventors share in the rights to a patent as specified by the extramural consulting agreement, unless approval for extramural consulting was not obtained and/or substantial use of College facilities was involved.

Proceeds - In the case of College-funded research, the inventor or inventors will receive 50 percent of the first \$100,000 of net royalty; 40 percent of the second \$100,000; and 30 percent of all net royalty income over \$200,000.

Net royalty income will be determined by the following method: first, all out-of-pocket College expenses for obtaining, defending and marketing the patent will be recovered. Second, a 15 percent administrative charge will be used to provide resources to encourage invention disclosures and to process these in a timely manner, and to facilitate the transfer and commercialization of discoveries and inventions.

The inventor or inventors are required to execute assignments and other documents that the College determines to be necessary to obtain a patent. The College faculty, other employees, and students must report all inventions or discoveries considered patentable to the College's President. Note that, in the United States, a patent on an invention or discovery must be applied for within one year of the first publication disclosing an invention or discovery and that, in certain foreign countries, a patent must be applied for prior to such a publication.

The College is required to consider promptly any disclosure of an invention or discovery and determine within six months what action it plans; otherwise, the inventor or inventors may request the rights to the invention or discovery for subsequent patenting on their own, unless this is prohibited by the provisions of an applicable grant or contract.

The College shall have the right to determine how and for what consideration any patent rights assigned to the College shall be used.

Copyright Policy

Examples of works covered by copyright include, but are not limited to, the following:

- Books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and survey instruments;
- Lectures and unpublished lecture notes;
- Films, slide programs, filmstrips, charts, transparencies, pictorials, graphics and other visual aids; video and audio tapes and cassettes;
- Live video or audio broadcasts;
- Programmed instruction materials;
- Computer programs and documentation;
- Online courses and training modules.
- Copyrighted material may be produced through individual efforts, College-assisted individual efforts, extramural sponsored efforts, or College-assigned efforts.

Individual Efforts - Emory & Henry recognizes the long-standing custom and tacit understanding that faculty members own copyright to their individual scholarly work. A member of the College is entitled to ownership of copyright and royalties or other income derived from individual scholarly works. Individual work for members of the faculty is defined as that scholarly work which is generally expected of faculty and incorporated into the regular recognitions and rewards processes of the College and is not a specific College-assigned effort. Individual work, so defined, is automatically exempt from the formal review procedures of this policy.

College-assisted Individual Efforts - Materials or works produced by employees of the College are subject to copyright by the employee and/or the College as co-authors if the production cost is specifically shared by the employee and the College and the material and works are not prepared in accordance with the terms of a contract or grant in which the College is a party or as a specific College assignment.

In cases of College-assisted individual efforts in which the College assistance is less than 50 percent of the costs of production, the individual employee shall retain the copyright, and the College may share in the division of royalty and other income up to the total of reimbursement costs of College assistance. This applies also to individual scholarly work in which the College provides specific and non-routine support for the work. In cases in which the College assistance is 50 percent or greater, the College shall retain the copyright, and the division of royalty and other income shall be based on percentage of sponsorship.

Routine use of the library, office space, equipment, supplies, facilities, and personnel does not, for the purposes of this policy, constitute College assistance.

Extramural Sponsored Efforts - Rights to materials and works subject to copyright and developed as a result of work supported partially or fully by an outside agency through a contract or grant shall be determined in accordance with the terms of the contract or grant. In those cases where copyrights are vested in the College or shared between the sponsor and the College, the producer may share in the income within the provisions of this policy.

College-Assigned Efforts - Materials or other works produced by employees of the College shall be subject to copyright exclusively by the College if the College assigned the employee to write or produce the specific materials or works. Sharing of royalty or other income with the author or producer may be authorized by the Vice-President for Academic Affairs and the President as an incentive to encourage further development of copyrightable materials. A faculty member's general obligation to produce scholarly and creative works and/or the receipt of a sabbatical leave, unless there is a specific agreement to the contrary, do not constitute College-assigned efforts as defined in this policy.

Remuneration - An employee of the College may receive royalty and other incomes resulting from the net profit earnings from copyrighted material. No limit shall be set on the amount of royalty income an individual may earn. Determination of the relative amounts of royalty and other income earned or projected shall be made at the time of copyright application, or at such prior time as deemed appropriate, and within the provisions set forth in this policy. All remuneration agreements shall be put in writing.

Copyright Appeals – For faculty appeals, the Faculty Advisory Committee shall be convened to review the application of this policy and shall submit its recommendations to the President in the event of disagreement between the faculty member and the Vice-President for Academic Affairs. Either the faculty member or the Vice-President for Academic Affairs may request a review. Staff appeals should be submitted to the Vice President for Business and Finance who will submit his/her recommendation to the President.