



St. John Fisher University

Policy on Intellectual Property

TABLE OF CONTENTS

Page

I. INTRODUCTION AND GENERAL PROVISIONS.....1

II. EFFECTIVE DATE1

III. DEFINED TERMS.....1

IV. THIRD PARTY INTELLECTUAL PROPERTY RIGHTS3

V. OWNERSHIP AND USE OF INTELLECTUAL PROPERTY4

 (A) COPYRIGHT.....4

 (1) FACULTY WORKS4

 (a) COURSE MATERIALS, SCHOLARSHIP MATERIALS, AND
 ADMINISTRATIVE MATERIALS4

 (b) COURSE MATERIALS FOR ONLINE LEARNING5

 (2) STAFF & STUDENT WORKS5

 (B) PATENTABLE INVENTIONS.....5

VI. REGISTRATION AND MANAGEMENT OF INTELLECTUAL PROPERTY6

VII. INVENTION DISCLOSURE.....6

VIII. ADMINISTRATION, PROCEDURE & DISPUTE RESOLUTION7

APPENDIX A: INVENTION DISCLOSURE NOTICE 11

I. INTRODUCTION AND GENERAL PROVISIONS

The purpose of the St. John Fisher University Policy on Intellectual Property (the “Policy”) is to set forth the terms and conditions for rights in Intellectual Property created and used by the University, Faculty, Staff, and Students.

Nothing in this Policy prevents Faculty, Staff, Students, and/or the University from negotiating and entering into a separate agreement with the University regarding creation and ownership of Intellectual Property. From time to time, the University may enter into written agreements with Faculty, Staff, and/or Students regarding the creation and ownership of Intellectual Property, and such agreements may or may not involve third parties.

Ownership of Intellectual Property created pursuant to a specific written agreement shall be determined in accordance with such agreement. No agreement to which the University is a party regarding the creation and/or ownership of Intellectual Property shall be effective without written approval by the University’s Vice President for Finance and Chief Financial Officer, or Provost.

In the event that a person acts in different capacities in relation to the University (Faculty, Staff, and/or Student), the Policy terms governing Intellectual Property created by such person shall be the terms that apply to the specific capacity in which the person was acting when the Intellectual Property was created.

II. EFFECTIVE DATE

This Policy becomes effective on March 1, 2018 (the “Effective Date”). The Policy applies to all Intellectual Property created, developed, and/or disclosed on or after the Effective Date. This Policy applies to all persons employed by and Students of the University. All persons subject to this Policy shall execute appropriate documentation, including written assignment and license agreements, as necessary and advisable and as required by the University to fulfill the terms of this Policy.

III. DEFINED TERMS

“Administrative Materials” means Works created by Faculty, Staff, and Students in connection with their obligations relating to the daily and long-term operation, administration, and management of the University. Administrative Materials includes, but is not limited to, internet and intranet websites, department and committee reports, evaluation and assessment materials, survey responses, standards and criteria documents, faculty handbook and bylaws materials, institutional policies, institutional grant proposals, promotional, marketing, and recruiting materials, computer code written to serve institutional needs, and other materials created for the operations of the University other than for purposes of teaching, scholarship, or research. Administrative Materials expressly excludes Course Materials and Scholarship Materials.

“University” means St. John Fisher University.

“University Community” means all members of the University community, including, but not limited to Faculty, Staff, and Students.

“University’s Designee” has the meaning set forth below in Section VII.

“Copyright” means the protection provided by the laws of the United States for original works of authorship, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations fixed in a tangible medium of expression.

“Course Materials” means Works created by a Faculty person in connection with a course taught at the University. Course Materials include, but are not limited to, tests, quizzes, exams, answer keys, lecture notes, lecture materials, syllabi, course outlines, lesson plans, and recorded lectures. It is understood that Faculty are required to provide syllabi for individual courses to their departments. This policy does not require Faculty to create any of the other enumerated items for a course, but to the extent that such items are created in connection with a course, such items are considered Course Materials. Course Materials expressly exclude Administrative Materials and Scholarship Materials.

“Effective Date” has the meaning set forth above in Section II.

“Faculty” has the meaning ascribed to it in the University’s Faculty Statutes.

“ID Notice” has the meaning set forth below in Section VII.

“Intellectual Property” means Patentable Inventions and any physical or tangible embodiments thereof, Patents, Trademarks, Works, and Copyrights.

“Invented” has the meaning set forth below in Section V(B).

“Inventor” has the meaning set forth below in Section VII.

“Online Learning” includes any course where teaching occurs primarily through the campus course management system with the incorporation of other educational technologies where appropriate.

“Patent” means the exclusive rights granted by the United States government to an inventor to manufacture, use, or sell an invention for a certain number of years.

“Patentable Invention” means a new, non-obvious, and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof, ornamental designs, and new varieties of asexually produced plants for which a patent could be secured.

“Resources” means any support administered by or through the University, including funds, facilities, personnel, equipment, etc.

“Scholarship Materials” means Works created by Faculty that are the result of scholarship or research conducted in connection with their employment by the University. Scholarship Materials include, but are not limited to, research articles, scholarly publications, journal articles, grant proposals and reports to external funders, creative books, textbooks, theses, dissertations, blog posts, plays, stories, poems, musical works, choreography works, films, paintings, sculptures, and other works of art. Scholarship Materials expressly excludes Course Materials and Administrative Materials.

“Significant Support” means Resources that are not nominal or incidental and are material to the development of the applicable Intellectual Property. Examples of Significant Support include, but are not limited to, extraordinary release time to conduct research, additional or expanded access to Resources, and/or financial investment or support. Whether someone has made a significant use of Resources will be resolved by the Provost.

“Staff” means any individual employed by the University who is not Faculty.

“Student” means any individual enrolled in a class or classes at the University.

“Trademark” means a word, phrase, symbol, or design or a combination thereof that identifies and distinguishes the source of goods or services of one party from those of others, whether or not registered with the United States Patent & Trademark Office.

“Two-Week Notice” has the meaning set forth below in Section VII.

“Works” means original works of authorship, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations fixed in a tangible medium of expression, subject to copyright laws.

IV. THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

The University and its Faculty, Staff, and Students must respect the Intellectual Property rights of others. Before making any use of existing Intellectual Property owned or created by another, all persons reproducing, distributing, performing, displaying, creating, preparing, inventing, developing, preparing derivative works of, and/or otherwise using Intellectual Property at, for, or with the University shall obtain all necessary and appropriate rights to do so by permission, assignment, or license, unless some recognized exception applies, such as, for example, the Fair Use doctrine (17 U.S.C. §107) the library exemption (17 U.S.C. §108), the classroom exemption (17 U.S.C. § 110(1)), or the TEACH Act (17 U.S.C. §110(2)). For more information, see the Copyright Subject Guide on the Lavery Library website: <http://libguides.sjf.edu/copyright>.

With regard to open source material, should a Faculty member, Staff, or Student wish to use, display, copy, distribute, and/or create derivatives of Works obtained under an open source or Creative Commons license in the creation of Course Materials, Scholarship Materials, or Administrative Materials, the person engaging in such activity is responsible for determining whether his/her activity complies with the license and/or terms governing those Works and ensuring compliance with future obligations required by the use of such open source or Creative

Commons programs. The rights created by such activity shall be governed initially by the license and terms regarding use of the Works, and secondarily by terms of this Policy.

Any member of the University Community who illegally copies or otherwise exploits a copyrighted work may be subject to disciplinary, criminal, and/or civil action under state and federal law in addition to sanctions under other relevant University policies.

If you have questions regarding whether you can use certain Intellectual Property, please consult with the Lavery Library Director, who will work with the Vice President for Finance and Chief Financial Officer and the Provost as needed.

V. OWNERSHIP AND USE OF INTELLECTUAL PROPERTY

(A) COPYRIGHT

(1) FACULTY WORKS

(a) COURSE MATERIALS, SCHOLARSHIP MATERIALS, AND ADMINISTRATIVE MATERIALS

Except as provided in Section V(1)(b), the Faculty member who creates Course Materials and Scholarship Materials, if created solely by the Faculty member, owns the Copyright in such Works. In the case of Scholarship Materials jointly created by the Faculty Member and Staff and/or Students, ownership of such Works shall be determined under the United States federal copyright law. Notwithstanding the foregoing, the University owns the Copyright in all Administrative Materials.

Each Faculty member hereby grants the University a non-exclusive, irrevocable, perpetual, royalty-free license to use, copy, distribute, display, and create derivatives of Course Materials to complete an in-process course if the Faculty member becomes unable or unwilling for any reason, including, but not limited to death, illness, incapacity, in the event of termination of employment by the University, or for courses offered by the University after the Faculty member's termination of employment.

Each Faculty member is expected to make Course Materials available on the University's course management system or in an accessible location in the department, which will allow the University or its designee to access such materials.

Each Faculty member hereby grants to the University a non-exclusive, perpetual, irrevocable, royalty-free license to use, copy, distribute, display, and create derivatives of Course Materials and Scholarship Materials for the purposes of assessment of student learning, assessment of Faculty performance, and advertising, promotion, and/or marketing of the University.

(b) COURSE MATERIALS FOR ONLINE LEARNING

With regard to Course Materials for Online Learning created by Faculty, the Faculty member owns the Copyright in such Course Materials. However, the Faculty member hereby grants the University a non-exclusive, royalty-free license to use, copy, distribute, display, and create derivatives of such Course Materials.

(2) STAFF & STUDENT WORKS

The ownership of the Copyright in Works created by Staff and Students shall be determined under the United States federal copyright law. As a general example, the University owns all Works created by Staff in connection with their employment and does not own Works created by Students, unless created by the Student in connection with the Student's employment by the University. However, if a Staff member is in the role of a Faculty Member, the Course Materials s/he creates fall under the guidelines for Faculty Works.

Each Student hereby grants to the University a non-exclusive, perpetual, irrevocable, royalty-free license to use, copy, distribute, display, and create derivatives of Works created in connection with the Student's enrollment or education for the limited purposes of assessment of student learning, of assessment of Faculty performance, and of advertising, promotion, and/or marketing of the University.

If any Faculty member requires the use of plagiarism software in connection with any University course or assignment, each Student shall comply with such requirement. The Student understands that use of plagiarism software may require that the Student agree that his/her Work will become part of the software's library and used to compare against Work submitted in the future. Accordingly, each Student shall grant any licenses necessary to use plagiarism software required for any course or assignment.

(B) PATENTABLE INVENTIONS

Patentable Inventions shall be owned by the Faculty member, Staff, or Student who conceived, developed, created, or reduced to practice ("Invented") the Patentable Invention. Notwithstanding the foregoing, the University shall own the rights to Patentable Inventions Invented by a Faculty member, Staff, or Student if such Patentable Inventions were (1) Invented while performing employment or educational activities at the University, and (2) resulted from Significant Support from the University.

Ownership of a Patentable Invention developed in part or entirely through research supported by a third party shall be determined in accordance with the terms of the contract governing the research.

All Patentable Inventions shall be disclosed to the University in accordance with the disclosure obligations as set forth in Section VII.

The University, at its sole discretion and at its cost, may apply to patent Patentable Inventions that it owns. If the University monetizes a Patentable Invention and no other written

agreement is in effect, distribution of funds collected through such monetization will occur in the following order: (1) to the University as reimbursement for administrative and legal expenses incurred in connection with the Patentable Invention; and (2) of the remaining funds, 50% will be distributed to the inventor or inventors and 50% will be distributed to the University.

VI. REGISTRATION AND MANAGEMENT OF INTELLECTUAL PROPERTY

Registration, maintenance, and enforcement obligations for Intellectual Property shall be the responsibility of the owner of the Intellectual Property; the owner will determine, solely, whether to register the Intellectual Property or to enforce the Intellectual Property rights against others, and, solely, will bear the cost of such actions. For example, the Faculty member, Staff, or Student who owns a Copyrights in a Work shall determine, solely, whether to register such Work with the United States Copyright Office and shall, solely, bear the cost of such actions.

VII. INVENTION DISCLOSURE

The University expects that it will enter into a separate agreement with the Faculty member, Staff, or Student who is receiving Significant Support from the University in connection with the creation or development of a potentially Patentable Invention. However, in the event that the parties have not entered into a separate agreement, the following terms shall apply:

- Disclosure of potentially Patentable Inventions shall be accomplished by completing the Invention Disclosure Notice (the “ID Notice”), in the form attached as Appendix A hereto and sending it via email and separate paper copy to the Provost, or his/her designee (the “University’s Designee”). Failure to disclose potentially Patentable Inventions may result in judicial sanctions.
- Each Faculty member, Staff, or Student who Invented or is working on a potentially Patentable Invention with Significant Support from the University (an “Inventor”) must disclose the Patentable Invention as soon as possible, but not later than thirty (30) days after the idea was conceived or some action was taken to develop, create, reduce to practice, document, or create a prototype of the invention. Premature or inappropriate public disclosure of Patentable Inventions (including submitting scholarship for publications) can have serious consequences and may undermine the rights in the Patentable Inventions; therefore, Inventors creating potentially Patentable Inventions shall submit the ID Notice at least thirty (30) days prior to any public disclosure of the invention and not publicly disclose the invention without the prior written consent of the University.
- The University will respond to the ID Notice within sixty (60) days of receipt regarding whether it will exercise its ownership rights to the invention. If the University does not respond within sixty (60) days, the Inventor shall send a notice (“Two-Week Notice”) to the University’s Designee stating that the Inventor has not yet received a response to the ID Notice, more than sixty (60) days have passed since the ID Notice was sent, and that the University has fourteen (14) days from receipt of the Two-Week Notice to respond to

the ID Notice. If the University does not respond to the ID Notice within fourteen (14) days of receipt of the Two-Week Notice, the University will have waived its ownership rights to the Patentable Invention, the Inventor is free to seek Patent protection, and the Inventor will grant the University a non-exclusive, perpetual, irrevocable, royalty-free license to use the Patentable Invention.

VIII. ADMINISTRATION, PROCEDURE & DISPUTE RESOLUTION

The Provost, or his or her designee, will administer, implement, apply, and interpret this Policy. These duties include, but are not limited to, hearing and advising as to questions, concerns, and issues regarding the Policy, application of the Policy, ownership of Intellectual Property rights under the Policy (including whether the University will exercise ownership of a Patent), and Intellectual Property ownership not specifically addressed in the Policy.

The Vice President for Finance and Chief Financial Officer will account for and distribute revenue under the Patent rules.

The Provost, or his or her designee, will maintain records regarding Intellectual Property rights.

In the event of a question, concern, issue, or dispute regarding the Policy or application of any Policy provision, the Faculty member, Staff, or Student will first request interpretation and guidance from the Provost. If the Faculty person, Staff, or Student is not satisfied with the interpretation or guidance provided, the Faculty person, Staff, or Student may appeal the Provost's decision to the President within ten (10) days of receipt of such decision. The decision of the President shall be final.

APPENDIX A
INVENTION DISCLOSURE NOTICE
CONFIDENTIAL

Use this form to disclose potentially Patentable Inventions pursuant to Section VII of the Intellectual Property Policy. This form should be fully completed, with attachments, and sent to The Provost of the University via email at _____ and hard copy to Provost Office, Kearney Hall, St. John Fisher University.

1. Inventors - For each inventor¹, provide the contact information and describe each person's contribution (attach additional sheets if necessary):

Name:	
Position/Title:	
Department:	
Phone (Home):	
Phone (Work):	
Address (Home):	
Address (Work):	
Email Address:	
Contribution to the Invention:	

Name:	
Position/Title:	
Department:	
Phone (Home):	
Phone (Work):	
Address (Home):	
Address (Work):	
Email Address:	
Contribution to the Invention:	

¹ Any individual who contributed intellectually to the conception of the invention is an "inventor."
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Name:	
Position/Title:	
Department:	
Phone (Home):	
Phone (Work):	
Address (Home):	
Address (Work):	
Email Address:	
Contribution to the Invention:	

2. Title of Invention:
3. Description of Invention - Provide a technical explanation of the invention, the principles involved, and the method of operation. Attach any necessary drawings or images:
4. Explanation of the Commercial Application or Competitive Advantage of the Invention - Include potential commercial companies and industries that could benefit from the invention:
5. Novelty/Usefulness - Describe the existing and related technology, each way in which this invention is different from and an improvement to existing technology, and why this solution would not be obvious to others in the field:
6. Date of Conception, Descriptions, and Prototype/Reduced to Practice:

Date on which Invention was conceived ² :	
Describe how the Invention was conceived:	
Describe and attach all written materials regarding the Invention:	
Date reduced to practice by a writing or prototype:	
Date Invention was sold:	
Describe any sale:	

² Conception means formulation of the idea of the invention in the inventor's mind.

7. Disclosure - Identify and describe all disclosures of the Invention and planned future disclosures, including planned sales of the Invention. If past disclosures were in writing, attach the writings. Also attach governing Non-Disclosure Agreements.

Date of Disclosure:	Method of Disclosure:	To whom Disclosure made:	Non-Disclosure Agreement?

8. Further Research - Describe further planned research:

9. Third-Party Sponsorships - Identify third-party sponsors of the project and attach existing governing agreements:

Name/Entity:	Contribution:	Does an Agreement exist?

10. Inventor Signatures:

Signature:		Signature:	
Name:		Name:	
Position:		Position:	
Date:		Date:	

Signature:	
Name:	
Position:	
Date:	