



# Southern Virginia Higher Education Center Policy

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**Policy # 1110**

**Policy Title: INTELLECTUAL PROPERTY**

**Responsible Oversight Director: Chief Finance & Operations Officer**

**Date of Creation: July 14, 2017.**

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## **A. PURPOSE**

The purpose of this document is to establish policies for ownership and protection of Intellectual Property invented or created by the Southern Virginia Higher Education Center (SVHEC) employees or by third parties in cooperation with SVHEC employees, in accordance with Virginia Code § 2.2-2822 and the Commonwealth of Virginia Intellectual Property Policy dated September 29, 2016. This policy further describes the distribution of any royalties resulting from the commercialization of these Inventions and Creations.

## **B. AUTHORITY**

Virginia Code § 23.1-3126 provides that the Center shall be governed by a board of trustees. Section VIII (E) of the [Board of Trustees Bylaws](#) grants authority to the Executive Director to implement the policies and procedures of the Board relating to the SVHEC operations.

The policies of the SVHEC fall within the following framework and hierarchy and, therefore, are subject to compliance with laws and regulations instituted by higher levels of authority:

1. Federal laws and regulations
2. State laws and regulations
3. Board of Trustees policies
4. **SVHEC policies**
5. Departmental policies and procedures

In the event of a conflict between different levels in 1 through 5 above, the lower numerical heading shall take precedence over higher numerical heading.

## C. DEFINITIONS

**Intellectual Property:** All potentially patentable subject matter (referred to as “Inventions”) and copyrightable subject matter (referred to as “Creations”) and their resulting patents and copyrights.

**Creator:** Person or persons who have authored original works fixed in any tangible medium of expression.

**Inventor:** Person or persons who, under applicable law, develops potentially patentable subject matter.

**Net Royalties:** Any revenues derived by SVHEC less legal, marketing and administration costs.

## D. SCOPE

This policy applies to all SVHEC employees, visiting scholars, volunteers, and other third parties, including but not limited to students, interns, and trainees.

## E. POLICY STATEMENT

1. The protection and release of intellectual property created or developed by a SVHEC employee shall be governed by the Commonwealth of Virginia Intellectual Property Policy (Attachment A) and Virginia Code § 2.2-2822, which shall be deemed part of the terms and conditions by which SVHEC employees are hired; offered advancement, transfer, or compensation enhancements; or continue to receive the benefits of the employment relationship.

2. Intellectual Property created or developed by visiting scholars, volunteers, and other third parties, including but not limited to students, interns, and trainees, is the property of the Commonwealth of Virginia when:

- a. the work was created or developed during a research project funded by SVHEC or an entity outside of SVHEC sponsoring the research through SVHEC; or,
- b. the individual was receiving payment from SVHEC related to a project from which the Intellectual Property was created; or,
- c. SVHEC resources not available to the public were used in the creation of the Intellectual Property.

Visiting scholars, volunteers, and other third parties shall promptly report any invention or creation falling under one of the above categories to the Executive Director.

3. Net Royalties received by SVHEC from the commercialization of Inventions and Creations will be distributed as follows:

- a. 30% will be distributed to the Inventor(s) or Creator(s). In the case of multiple SVHEC Inventors or Creators, the Inventors'/Creators' distribution will be split in accordance with the Inventors'/Creators' contribution listed on the disclosure report of inventions or creations provided to the SVHEC Executive Director unless all Inventors/Creators agree on a different percentage split.
- b. The remaining royalties' usage will be approved by the Board of Trustees through the annual budget approval process.
- c. Distributions of the SVHEC Inventors'/Creators' share will be made at least annually for each year in which there are net royalties to distribute. When calculating distributions, SVHEC may reserve funds to pay for expected future patenting and licensing costs.
- d. Royalty-sharing with an Inventor or Creator under this policy continues if the Inventor or Creator is no longer employed at SVHEC.

4. SVHEC employees and individuals subject to the provisions of this policy are required to provide to SVHEC all cooperation that SVHEC deems necessary or desirable to secure and enforce rights in Inventions and Creations as well as provide assistance as necessary in the commercialization of Inventions and Creations. This may include, without limitation, providing assistance to counsel in filing patent applications or other legal documents, providing testimony or otherwise participating in legal proceedings, reviewing and signing legal documents, and communicating with potential licensees during and after employment with SVHEC. *Such cooperation is a condition to receiving any royalties.*

5. This policy may be changed at any time by SVHEC in accordance with SVHEC Policy #1101: Developing and Maintaining Policy. Such changes shall not affect rights accrued prior to the date of the change. Rights with respect to Intellectual Property shall begin to accrue when the Invention is first conceived or the Creation is fixed in a tangible medium of expression.

**POLICY HISTORY**

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**Director Policy Review Committee & Policy Responsible Oversight Director - Approval to Proceed:**

*Patricia M. Nelson*

Responsible Oversight Director Signature

7/14/17  
Date

**Executive Director – Provisional Approval of Policy:**

*Betty A. Adams*

Executive Director’s Signature

7/14/17  
Date

**Date of Presentation to Board of Trustees:** December 6, 2017

**Date of Approval by Board of Trustees:**

**Default Approval Date (if necessary):**

**Board of Trustee – Approval of Policy:**

\_\_\_\_\_  
Chairman’s or Designee’s Signature

\_\_\_\_\_  
Date

**Policy Creation Date:** July 14, 2017

**Policy Revision Date:**

**Scheduled Review Date:** July 14, 2022