

Western Michigan University Faculty Senate Memorandum of Action
MOA – 19/10
Revision of the Intellectual Property Policy

Name of Council(s)/Committee(s):

Research Policies Council

Approval Date:

March 17, 2022

Implementation Date:

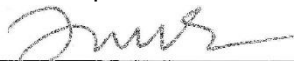
Upon Administrative Approval

Responsible Office(s) and Responsible Enforcement Official(s):

Office of Research and Innovation (ORI) is responsible for monitoring, enforcing, and revising the policy. The Director for Technology and Commercialization (TC) Office will perform those functions.

RECOMMENDATION:

This policy is being revised to move to the new template, update definitions, and separate royalty distribution procedure from the policy.

 Onur Arugaslan, Chair, Research Policies Council	March 17, 2022 Date
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Approve Disapprove Other Action
 Comments:

Marilyn S. Kritzman, WMU Faculty Senate President	Date
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Approve Disapprove Other Action
 Comments:

Steven Carr, Interim Vice President for Research and Innovation	Date
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Approve Disapprove Other Action
 Comments:

Christopher Cheatham, Acting Provost	Date
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Approve Disapprove Other Action
 Comments:

Edward B. Montgomery, WMU President	Date
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**Western Michigan University
Faculty Senate
Memorandum of Action**

MOA – 19/10

Revision of the Intellectual Property Policy

RECOMMENDATION

This policy is being revised to move to the new template, update definitions, and separate royalty distribution procedure from the policy.

RATIONALE/PURPOSE

This policy provides the criteria on the ownership and commercial development of Western Michigan University discoveries and IP, the distribution of royalties therefrom, and on the retention of and access to data.

This Policy establishes the basic rights and obligations relating to Intellectual Property (IP) created by employees, students, and others connected to the University. It provides additional detail and implementation regarding IP creation, ownership, disposition, and transfer at the University. ~~This Policy defines not only the ownership, distribution, and commercialization rights associated with the IP, but also sets out the use and distribution of the IP in its tangible form.~~

This Policy covers: ownership, commercialization, and distribution of royalties; license agreements; equity interests; sale of IP; and similar income generating IP agreements arising from IP developed by WMU faculty, staff, and students and others participating in WMU programs, along with the use and distribution of the IP in its tangible form. This Policy applies equally to the main campus and to WMU programs at other locations. IP may be aided by or dependent upon access to the physical or tangible embodiment of the IP, as in the case of biological organisms, plant varieties, or computer software.

The following overview of IP rights is limited in scope. The WMU Vice President for Research and Innovation (VPRI) or the Director, Technology and Innovation Advancement (TC) in the Office of Research and Innovation (ORI) should be contacted for further information regarding any of these rights.

STAKEHOLDERS

~~This policy applies to all personnel (employees, faculty, students, research staff, contractors and collaborators) engaged in research, projects, activities conducted under the auspices of Western Michigan University whether the activities are conducted on or off campus.~~

The provisions of this policy generally apply to all WMU faculty, students, staff, contractors, and others participating in WMU programs or activities, including visitors, whose activities lead to the development of IP. With respect to WMU employees who are members of a collective bargaining unit at WMU, this policy applies unless it is explicitly contradicted by the applicable collective bargaining agreement provisions. In case of conflict, the provisions of the applicable collective bargaining agreement shall control.

HISTORY:

- a) Effective date of current version: December 1, 2021
- b) Date first adopted: March 1, 2007
- c) Revision history: Not Applicable
- d) Proposed date of next review: December 1, 2025

CURRENT POLICY MODIFICATION (additions in bold and deletions with strikethrough):
KEY DEFINITIONS/GLOSSARY

- 4.1 **Intellectual Property (IP) is broadly defined in this document to include technical innovations, inventions, creations, discoveries, Tangible Research Property (TRP), and integrated circuit (IC) mask works, as well as computer software code. For purposes of this Policy, IP does not include Scholarly Works as defined in this policy.**
- 4.2 **Scholarly Works are defined as traditional items of scholarly activity such as textbooks, scholarly books, or other written documents, except for those Scholarly Works that are prepared at the request of WMU and for which WMU is providing direct remuneration, which shall be treated as IP for the purposes of this policy. Scholarly Works may also be subject to the WMU-AAUP Collective Bargaining Agreement.**
- 4.3 **Patents are a grant issued by a national or a regional patent office giving an inventor the right to exclude all others from making, using, or selling the invention within the territory covered by the patent office's jurisdiction, for a set period of time.**
- 4.4 **Copyrights protect a particular literary work, musical work, computer program, video or motion picture or sound recording, photograph, sculpture, etc., in which the "expression" is embodied, illustrated, or explained. Copyrights provide the exclusive right to reproduce a work, prepare derivative works, distribute by sale or otherwise, and display or perform the work publicly.**
- 4.5 **Trade and Service Mark is a word, name, symbol, or device (or any combination) adopted by an organization to identify its goods or services and to distinguish them from the goods and services of others.**
- 4.6 **Mask Works are a series of related images representing a predetermined, three-dimensional pattern of metallic, insulating, or semiconducting layers of a semiconductor chip product. In the US, Mask Work protection extends for 10 years and gives the owner of the qualifying Mask Work exclusive rights to its exploitation.**
- 4.7 **Tangible Research Property (TRP) are those research results that are in a tangible form as distinct from intangible (or intellectual) property. Examples of TRP include integrated circuit chips, computer software, biological organisms, engineering prototypes, engineering drawings, and other property that can be physically distributed.**
- 4.8 **Trade Secrets is a secret that is used in business and that gives the owner of the secret a competitive edge over others. This is also referred to as proprietary information. Protection for trade secret IP remains legally valid only as long as a trade secret is maintained as a secret as defined by federal law.**
- 4.9 **Data are factual information derived from sponsored research projects or experimentation used as a basis for reasoning, calculation, or discussion.**
- 4.10 **Research Record is data or results associated with IP that embody the facts resulting from scientific inquiry, and includes the data leading to the production of such materials as laboratory records, both physical and electronic, research proposals, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.**
- 4.11 **Inventor(s) is/are any individual(s) who has made a material contribution to an invention as defined under US patent laws, meaning they must have contributed to the conception of the ideas claimed in the patent.
For TRP, an inventor has taken part in the conception of the IP, or has participated significantly in making the material (but only where making the material was not a routine or known practice); and who has fully disclosed the IP to and has assigned any right(s) of ownership in the IP to WMU.**
- 4.12 **Creator(s) is/are any individual(s) who has contributed materially to the conception, operation or design thereof, or has contributed extensively in translating the idea into a fixed medium for software, other copyrightable subject matter and trade/service marks.**

- 4.13 **Net Revenue is the gross revenues received from a revenue generating IP agreement minus direct expenses for patenting and/or marketing costs for the IP. Patenting and marketing costs will only include direct costs for filing and maintaining IP applications or registrations and for direct marketing costs attributed to specific IP.**
- 4.14 **Applicable Collective Bargaining Agreement is the collective bargaining agreement that was in effect at the time of disclosure of the invention or at the time of the effective date for agreements involving IP, whichever date is later.**
- 4.15 **Principal Investigator (PI) is the WMU employee directing the activity that leads to the creation of research records. For research activities performed in partial fulfillment of a thesis or dissertation, the thesis committee chair will be considered the PI or, if the chair is not a WMU faculty member, a WMU thesis committee member will be appointed to this role by the committee.**
- 4.16 **Work for Hire is a work prepared by an employee within the scope of their employment, or a work specially ordered or commissioned by the University.**

WMU Intellectual Property Policy Statements

~~General Policy Statement~~

The prompt and open dissemination of the results of WMU research and the free exchange of information among scholars are essential to the fulfillment of WMU's obligations as an institution committed to excellence in education and research. Further, it has long been acknowledged that the primary functions of WMU are education, research, and public service. It is in the context of public service that WMU supports efforts directed toward bringing the fruits of WMU research to the public use and benefit. In many cases, publication of research results will be sufficient to transfer WMU research to the research community and the public. ~~In other cases, it is necessary to encourage industry, by the granting of license or other rights to Intellectual Property.~~ **To promote, economic development and provide an additional source of unrestricted income to support research and education at WMU, TC will grant a license or other rights to WMU IP, and will invest its resources to help develop products and processes technologies for use by the public.** These commercialization activities are intended to co-exist with the open dissemination of research results and information exchange among scholars. **The TC Office was created to manage and commercialize the IP of WMU.**

~~The provisions of this policy generally applies to all WMU faculty, students, staff, contractors, and others participating in WMU programs or activities, including visitors, whose activities lead to Intellectual Property. However, with respect to WMU employees who are members of a collective bargaining unit at WMU, this policy applies only to the extent allowed by the applicable collective bargaining agreement provisions. In case of conflict, the provisions of the applicable collective bargaining agreement shall control to the extent required to resolve the conflict. The term "applicable collective bargaining agreement" shall mean the collective bargaining agreement that was in effect at the time of disclosure of the invention, or at the time of the effective date for agreements involving Intellectual Property, whichever date is later.~~

5.1.1 Statement on The Ownership of Intellectual Property

For WMU employees who are members of the WMU chapter of the AAUP, ~~Article 43 of the currently applicable AAUP collective bargaining agreement~~ **sections regarding IP** shall provide control regarding ownership and royalty sharing ~~for Intellectual Property.~~

- 5.1.1.1 For non-bargaining unit WMU faculty, students, staff, and others participating in WMU programs, including visitors, whose activities lead to IP (the "Inventor(s)"), all right, title, and interest in said IP shall belong to the Board of Trustees of Western Michigan University (the "Board") when the activities:
- 5.1.1.2 are part of the work for which WMU is paying the individual(s) from any source; or
- 5.1.1.3 involve the use of WMU resources.

5.1.1.2 The ~~VPR~~ **VPRI** may choose to waive ownership rights for IP that is derived primarily from classroom activities. ~~Ownership of Intellectual Property in which~~

- ~~the Board has an interest may be assigned to the Western Michigan University Research Foundation (“WMURF”), which was created to, among other activities, manage and commercialize the Intellectual Property of WMU. For information on royalty distribution, see Article 2.5. **The decision to waive WMU ownership rights will require that less than \$2,000 of other University resources were expended on the activity.**~~
- 5.1.1.3 In the event that WMU decides not to file for patent or other IP protection or registration, or decides to cease commercialization activity for ~~a specific case~~ **specific IP**, WMU shall agree to re-assign said IP to the Inventor(s) subject to a negotiated IP re-assignment agreement between the parties.
- 5.1.1.4 All ~~Intellectual Property IP~~ rights acquired by WMU in the course of the research and/or by WMU Faculty or staff prior to any move of the project from WMU, remain with WMU, ~~remain with WMU and, cooperation of the~~ **WMU expects and requires that the PI, even after the move, with WMU's efforts will cooperate with WMU's efforts to protect, perfect interest in, and utilize the intellectual property IP, is expected and required under former agreements even after moving the project.**
- 5.1.1.5 **In cases where inventorship is in dispute, the VPRI, in consultation with the Director of TC and after consulting relevant United States Patent and Trademark Office definitions and guidelines, shall make a final determination of the identity of the Inventor(s).**
- 5.1.2 Statement on Ownership and External Sponsor Agreements
The above provisions on the ownership of ~~Intellectual Property IP~~ shall apply in all cases unless they are inconsistent with the terms of any applicable agreement with an external sponsor or other provider of funds, in which case WMU's agreement with such party shall provide control as long as both ~~so long as an authorized WMU signatory~~ and the principal investigator have signed the agreement.
- 5.1.3 Statement on the Use of the WMU Name and Logo
The WMU name, logo, or other identification shall not be used in connection with any ~~Intellectual Property IP~~ in which the WMU Board of Trustees has an interest without prior written permission from ~~the treasurer or assistant treasurer of the Board~~ **Vice President for Marketing and Strategic Communication.**
- 5.1.4 Statement on Trade and Service Marks
Trade and service marks relating to goods and services developed at WMU will be owned by the WMU Board of Trustees. **They may be used only with the prior written permission of the Vice President for Marketing and Strategic Communication.**
- 5.1.5 ~~Policy~~ Statement on Distribution of Income from Royalties, License Agreements, Equity Interests, Sale of Intellectual Property and Similar Revenue Generating Intellectual Property Agreements Associated with Intellectual Property Owned by Western Michigan University
The distribution of royalty and equity revenue from licenses and related ~~Intellectual Property IP~~ transactions is intended to incentivize faculty, staff, departmental, and college-level participation in the commercialization of WMU IP, and also to ensure the continued success of ~~intellectual property IP~~ operations, including ~~OVPR ORI and TC~~ activities.
- 5.1.5.1 Revenues will be used to support further research and educational activities within WMU.
- 5.1.5.2 ~~This policy shall apply to all income from royalties, licenses, equity interests, sale of intellectual property and similar Revenues generating Intellectual Property from~~ agreements signed after the effective date of this policy statement ~~except as provided for otherwise in this policy~~ **are covered by this Policy unless specifically stated otherwise.**
- 5.1.5.3 **ORI will track and distribute net revenues on a yearly basis.**
- 5.1.5.4 **“Net Revenue” from royalties, license agreements, equity interests, sale of intellectual property and similar revenue generating intellectual property agreements shall be distributed according to the applicable collective**

bargaining agreement for bargaining unit employees and as negotiated for non-bargaining unit employees.

“Net Revenue” from royalties, license agreements, equity interests, sale of intellectual property and similar revenue-generating intellectual property agreements shall be distributed as follows:

50 % to Inventors (this portion is the amount provided for in the AAUP contract).
35 % to WMU

7.5 % to the Inventor's Department, or divided between the Departments of all coinventors in proportion to the number of inventors from each Department, if there is more than one inventor from different Departments (e.g., if there were two co-inventors from the Chemistry Department and one co-inventor from the Biological Sciences Department, net revenue would be distributed such that the Chemistry Department received 2/3's of the 7.5% Departmental portion and Biological Sciences Department received 1/3 of the 7.5% Departmental portion).

7.5 % to the Inventor's College, or divided equally between the Colleges of all coinventors in proportion to the number of inventors from each College, if there is more than one inventor from different Colleges as described for the Departmental portion. For inventors from Departments, Centers or Institutes that are not part of an academic college, the 7.5% College portion of net revenues as outlined above will go to that Inventor's Department, Center or Institute as appropriate. If there is more than one Inventor, the 7.5% College portion will be divided between the Department(s), Center(s), Institute(s) and/or College(s) of the co-inventors in proportion to the number of inventors from each as described for the Departmental portion of net revenue.

Net Revenue shall be defined as the gross revenues received from a revenue-generating Intellectual Property agreement less direct expenses for patenting and/or marketing costs for the Intellectual Property. Patenting and marketing costs will only include direct costs for filing and maintaining IP applications or registrations and for direct marketing costs attributed to specific IP. Net revenues shall accrue and be distributed on a yearly basis.

In those instances when several patents are out-licensed as a package, or income results from a combination of more than one patent, the inventor's portion of the net revenue will be divided among all inventors in proportion to their relative contributions (e.g., if inventor A and inventor B are co-inventors on two patents and inventor B is also the sole inventor on a third patent, and all three patents are out-licensed as a package, then inventor A receives 1/3 of the 50 % inventors portion of net revenue and inventor B receives 2/3 of the 50 % inventors portion of net revenue. This scenario assumes that inventors A and B have contributed equally to the patents and that each patent contributes equally to the income received. The assumption that each patent contributes equally to the income received is the standard assumption). Relative contributions of inventors are to be recorded at the time of initial disclosure on the Intellectual Property disclosure form.

In some cases, distribution of royalties to individuals will be impractical or inappropriate; for example, where the material was developed as a laboratory project or where the authors/inventors are not easily identifiable. The Vice President for Research, in consultation with the principal investigator (or laboratory director/department chair if not under a sponsored agreement) will review the circumstances of development when such situations have been

identified. Generally, in such cases, royalties will be split equally between the department, Center, Institute, or laboratory, and the College or Unit. In any situation when royalty distribution to individuals is not recommended, distribution of Net Revenue is subject to the approval of the Vice President for Research. Inventors entitled to receive royalties shall receive such royalty distribution even if they have left WMU, and royalties will be distributed to their estate, or an estate, individual, or organization of their choosing, in the event of death.

In exceptional cases, in order to benefit WMU, the VPR may make modifications to the royalty distribution plan and shall record a description of the exceptional circumstances.

- 5.1.6 ~~Policy Statement on Commitment of Future Intellectual Property~~
~~It is the policy of WMU~~ **will not to commit future Intellectual Property IP** to licensees even where improvements to ~~Intellectual Property IP~~ are anticipated. Some very narrowly drawn exceptions may occasionally be appropriate to handle subordinate patents and well-defined derivative works for licensed software. These exceptions are to be determined on a case-by-case basis by the ~~VPR~~ **VPRI**.

- 5.1.7 ~~Policy Statement on Conflict of Interest (COI) or Commitment~~
~~Any of following~~ **Many** factors may signify a conflict of interest, which will be taken into account prior to waiving or licensing WMU's rights to inventors or ~~inventor-owned companies under this section or to authors,~~ **creators or inventor/creator owned companies.**

5.1.7.1 ~~An adverse impact on WMU's educational responsibility to its students~~ **If the inventor/creator holds or will shortly acquire an equity or founder's stock and/or option position in a company, WMU may accept equity as consideration for licensing in lieu of Net Revenue only with the prior approval of the VPRI. The inventor/creator will be required to sign a [Conflict Avoidance Statement](#) if a license is granted to the company in which the inventor/creator has an equity position. This form can be obtained from the ORI.**

5.1.7.2 ~~An undue influence on the employee commitment of the inventor/author to WMU in terms of time or direction of effort~~ **Researchers being paid by WMU as an employee or contractor and subject to this IP Policy will also be subject to WMU's COI Policy for Employees and the Research Financial COI Policy.**

5.1.7.3 ~~A detrimental effect on WMU's obligations to serve the needs of the general public~~ **All determinations relating to COI or Conflict of Commitment will be made in accordance with then-applicable University conflict of interest/commitment policies.**

~~(4) potential conflict of interest as defined in WMU's policies and procedures;~~

~~(5) federal and state laws, regulations, or guidelines. If the inventor/author holds or will shortly acquire an equity or founder's stock and/or option position in a company, WMU may accept equity as consideration for licensing in lieu of royalty only with the prior approval of the Vice President for Research. The inventor/author will be required to sign a Conflict Avoidance Statement if a license is granted to the company in which the inventor/author has an equity position. This form can be obtained from the OVPR.~~

5.2 WMU Data Rights Statement

WMU is committed to excellence in research. Accurate and appropriate records are essential to that commitment. Both WMU and the ~~Principal Investigator~~ **PI** have responsibilities and rights concerning access to, use of, and maintenance of original research records. This policy shall apply to all WMU faculty, students, and others participating in WMU programs, including visitors, for activities conducted at WMU, under its auspices, or utilizing WMU resources, and which become incorporated into a final work, database, Intellectual Property, Scholarly Work,

~~or other product. Principal Investigator (PI) as used herein means the WMU employee directing the activity, which leads to the creation of research records. For research activities performed in partial fulfillment of a thesis or dissertation, the committee chair will be considered the P.I. or if the chair is not a WMU faculty member a WMU committee member will be appointed to this role by the committee govern those rights and responsibilities.~~

5.2.1 Ownership, Retention of, and Access to Data

Whenever WMU faculty, students, and others (including visitors) are acting as agents of the institution or have generated research under Work for Hire, the **Board of Trustees of WMU** will own the research records. WMU's rights regarding research records for projects conducted at or under its auspices or with its resources is based on both regulations and sound management principles. WMU's responsibilities include, but are not limited to:

- 5.2.1.1 complying with the terms of **approved** sponsored project agreements;
- 5.2.1.2 ensuring the appropriate use of animals, human subjects, recombinant DNA, etiological agents, radioactive materials, etc.;
- 5.2.1.3 protecting the rights of students, scholars and staff, including, but not limited to, their rights to access data from research in which they participated;
- 5.2.1.4 securing ~~intellectual property~~ **IP** rights;
- 5.2.1.5 facilitating the investigation of charges, such as scientific misconduct or conflict of interest.

5.2.2 Collection and Retention of Data

The PI is responsible for collecting, managing, and retaining scientific data and other research records **consistent with legal and university data/document retention requirements**. The mechanisms for research record maintenance and retention may be determined by the PI, unless subject to other WMU policies ~~but~~. **Such mechanisms** must be communicated to his/her ~~the PI's~~ department chair or laboratory director. ~~Whenever possible,~~ Procedures should be in place for the protection of research records in the event of a natural disaster or other emergency. ~~Research records must be retained and access available for a minimum of four years after completion of the activity, with original data retained whenever possible. Any of the following circumstances may require longer periods of retention:~~

- 5.2.2.1 **Records may require periods of retention longer than those specified in WMU's record retention guidelines or external sponsor requirements if:**
 - 5.2.2.1.1 ~~data must be kept for as long as it is~~ necessary to protect intellectual property **IP** resulting from the activity;
 - 5.2.2.1.2 any charges regarding the research arise, such as allegations of scientific misconduct or conflict of interest. Such research records must be retained until such charges are fully resolved;
 - 5.2.2.1.3 a student is involved in research for a PI, then research records **created by the student** must be retained at least until the **student's** degree is awarded or it is clear that the student has abandoned the work;
 - 5.2.2.1.4 rules, regulations, laws, sponsor conditions or publishers require a longer retention period.

~~At the conclusion of the retention period specified here, destruction of research records is at the discretion of the PI and his/her department chair. Research records will normally be retained in the unit where they are produced. Unless specific written permission is given by the Vice President for Research, research records must be retained on the WMU campus or in facilities under WMU auspices. The policies in 3.1.1 apply, unless required otherwise by another WMU policy, such as HSIRB policies for data retention and research conduct.~~

5.2.3 Access to Data

When necessary to assure needed and appropriate access, WMU ~~has the option to~~ **may** take custody of the scientific data and/or research records in a manner specified by the ~~VPR~~ **VPRI in consultation with the WMU Office of General Counsel.**

- 5.2.4 Transfer of Data in the Event a Researcher Leaves WMU
- 5.2.4.1 When an individual involved in a research project leaves WMU, they may take copies of the research records that they generated. WMU will have access to, or retain copies of such research records for projects continuing at WMU after the researcher leaves.
- 5.2.4.2 If a PI leaves WMU, and the grant agency rules that a project is to be moved to another institution, ownership of the research records may be transferred to the new institution only after the written notification to the ~~VPR~~ **VPRI** and with a written agreement that guarantees: (1) **the other institution's** acceptance of custodial responsibilities for the research records; and (2) WMU's access to the records should that become necessary.
- 5.2.4.3 If a PI leaves WMU, retires, or dies, original research records for completed projects or projects not being moved to a new institution shall be maintained in a manner specified by the ~~VPR~~ **VPRI**. Responsibility for and custody of the research records shall first be transferred to an additionally named WMU PI.
- 5.3 Intellectual Property Disclosure and Commercialization
- ~~WMU has two principal goals in commercializing Intellectual Property. The first is to facilitate the transfer of discoveries developed at WMU to the public use and benefit. The second, where consistent with the first, is to provide an additional source of unrestricted income to support research and education at WMU. The WMURF was established, at least in part, to work with WMU's developers of Intellectual Property and with industry. However, it will do so in a manner which does not interfere with the normal flow of technical and academic information through publications, conferences, and other means of scholarly communication.~~
- In order to promote commercialization of WMU IP, WMU requires new inventions and creations by faculty and staff to be disclosed to the TC office in ORI. TC will then review the applicability of the invention/creation for protection through IP law, and if applicable, will assist the WMU employees in developing the inventions and/or creations for commercial applications.**
- 5.3.1 Responsibility and Process
- All WMU faculty, staff, students, visitors, and others participating in WMU programs developing Intellectual Property ~~IP as defined~~, shall have an obligation to **must** disclose **IP** promptly and completely to the University, **using the forms and process set forth by ORI**. ~~The disclosure process is initiated by submitting an Intellectual Property disclosure form to the OVPR. When submitted, this form will initiate action by the Director of Technology Transfer and Licensing/Commercialization to investigate the patentability (or use of other methods of legal protection, such as copyright or trademark), marketing, and commercialization of the Intellectual Property, unless accompanied by a letter requesting other action by WMU, such as a Waiver of WMU's Ownership Rights in the Intellectual Property, which may also be obtained from the OVPR~~
- 5.3.1.1. ~~The OVPR~~ **ORI, through TC**, will be responsible for facilitating commercialization of WMU Intellectual Property **IP** for public use and benefit. ~~To accomplish this task, the OBPR will receive Intellectual Property disclosures from WMU faculty, staff, and students~~ **will provide TC with IP disclosures. and TC** will evaluate the disclosures and decide whether to obtain proprietary protection. ~~Further, the OVPR~~ **TC** will also be responsible for commercial development and dissemination by identifying potential markets and negotiating licenses or other necessary commercial agreements.
- 5.3.2 Intellectual Property from Sponsored Programs
- The terms of sponsored research and other agreements normally create obligations with respect to reporting of Intellectual Property **IP**, technical data, and copyrightable works such as software. In particular, there is an obligation by Inventors to **must** report all Intellectual Property **IP** developed under sponsored research to WMU by submitting an Intellectual Property **IP** Disclosure Form. ~~OVPR is responsible for~~ **Only**

ORI may discharge WMU's obligations to research sponsors. PI's may not agree to give ownership of IP to project sponsorship unless the VPRI or their designee has approved such transfer in writing.

5.3.3 Intellectual Property from Other Programs

IP developed under WMU-administered programs, either as work-for-hire or with use of WMU funds or facilities, should also be submitted using the ~~Intellectual Property IP~~ Disclosure Form. Independently owned or developed (**i.e., created without using WMU resources, including facilities**) ~~Intellectual Property IP~~ need not be disclosed unless the inventor(s) desires for the University to commercialize the technology in exchange for ~~giving up~~ **assigning** ownership rights in the ~~Intellectual Property IP to WMU~~. In such cases, the ~~Intellectual Property IP~~ should be disclosed as described above.

5.3.4 Tangible Research Property

5.3.4.1 ~~Tangible Research Property such as biological materials, chemical samples, and computer software can~~ **TRP may** be patented or copyrighted as appropriate and then licensed for commercial purposes, and/or distributed for research purposes.

5.3.4.2 ~~Since~~ **Because** the traditional modes of dissemination through scholarly exchange and publication may not be fully effective for most TRP, ~~it is WMU policy that~~ those research results which have tangible form should ~~also~~ be promptly and openly made available to other scientists for their scientific research, unless such distribution is inappropriate due to factors such as safety, the need to more fully characterize or develop the TRP prior to distribution, confidentiality, or ~~unless~~ such distribution is incompatible with other obligations.

5.3.4.3 TRP may have potential commercial value ~~as well as scientific value and~~. WMU faculty, staff, and students should make TRP available for scientific use in a manner that will not diminish its value or inhibit its commercial development and should seek guidance from ~~OVPR~~ **ORI** when distributing TRP. ~~There are also~~ Other issues, such as contractual obligations to sponsors, disclaimers of liability, and indemnity **may surround TRP use**. Therefore, a Material Transfer Agreement, or similar contract, is typically needed when distributing TRP.

5.3.4.4 TRP should ~~also~~ be given an unambiguous identification code prior to distribution. As with other forms of ~~Intellectual Property IP~~, WMU faculty, staff, and students have an obligation to disclose TRP.

5.4 ~~Personnel Invention and Proprietary Information Agreement Policy~~ **Intellectual Property Disclosure Form**

~~It is the policy of WMU that individuals, through their employment by WMU or by participating in a sponsored research project, or using WMU-administered funds or facilities, hereby accept the principles of ownership of Intellectual Property as stated under this policy and that these individuals agree to promptly disclose such Intellectual Property to WMU. In furthering such undertaking, all participants shall be required to sign the Invention and Proprietary Information Agreement in accordance with this policy.~~

The following individuals must promptly disclose Intellectual Property using the IP Disclosure Form so as to acknowledge in writing that WMU owns the property and WMU will lead the protection of the IP.

5.4.1.

Individuals at WMU who:

4.3.1.1 **Are employed by WMU;**

4.3.1.2 Receive support from sponsored research or WMU-funded projects;

4.3.1.3 or **who** otherwise may be in a position to make, conceive or reduce to practice ~~Intellectual Property IP~~ or otherwise develop technology under sponsored research or WMU-funded projects, whether or not salary or other support is received from such projects, or through the use of significant WMU-administered funds or facilities. ~~are required to sign the WMU Invention Proprietary Information~~

~~Agreement prior to participation in these projects.~~

~~5.4.2 Administration of Invention and Proprietary Information Agreements~~

~~This form may be obtained from the ~~OVPR~~ **ORI**. Note that this requirement specifically extends not only to WMU personnel but also to students, visiting scientists, fellows or others. Each WMU laboratory and department through its director/chair is responsible for ensuring that all faculty, students, staff, and visitors, who may be or are involved with sponsored projects or who may have opportunities to use significant WMU funds or facilities administered by that laboratory or department have signed the Invention and Proprietary Information Agreement.~~

ACCOUNTABILITY – Administration of Intellectual Property

6.1 Vice President for Research and Innovation (VPRI)

The **VPRI** is the arbiter of any disputes ~~issues~~ related to ~~Intellectual Property IP~~, or the interpretation of this policy. In unusual circumstances, the ~~VPR~~ **VPRI** may also authorize exceptions to this ~~normal procedure policy~~.

6.1.1 The ~~OVPR~~ **ORI** is responsible for the negotiation, execution, and administration of all WMU agreements with external sponsors of research grants and contracts and for ensuring that the rights of the sponsors in ~~Intellectual Property IP~~ developed under external grants and contracts are protected. **Only individuals who have been delegated signature authority by the Vice President of Business and Finance may sign research grants, contracts, and other research-related agreements.** The ~~OVPR~~ **ORI** is available to assist all principal investigators and sponsored program administrators in negotiating and interpreting ~~intellectual property~~ terms of grants and contracts.

6.1.2 Research priorities have precedence over ~~Intellectual Property IP~~ priorities. Thus, **unless explicitly approved in writing by the VPRI, ORI will not accept** any grant or contract terms ~~are to be accepted~~ that inhibit the utilization by the public's **use of the research** results. ~~although occasional exceptions may be considered by the VPR for certain corporate sponsored research projects. In unclear situations or where there appears to be a conflict between the priorities, the Vice President for Research will be the final arbiter.~~

6.1.3 **In the event of disputes between the Inventor(s) and the ORI and/or VPRI regarding the administration of the IP, the Provost or Provost's designee will adjudicate.**

6.1.4 **Additional consequences for non-compliance include possible individual disciplinary procedures for failure to follow applicable University policies and requirements, consistent with applicable collective bargaining agreements.**

6.2 Research Misconduct

Failure to comply with the terms of this Policy and/or the Invention and Proprietary Information Agreement may be deemed research misconduct, as defined in the [Research Misconduct Policy](#), or misconduct under other WMU rules or policies and shall be dealt with according to the applicable disciplinary procedures.

RELATED PROCEDURES AND GUIDELINES

- 7.1** [Inventions, Proprietary Information and Other Intellectual Property Agreement Form](#) at this page under the heading; "Other";
- 7.2** [Procedure for Distribution of Income Derived From Intellectual Property](#)
- 7.3** [Record Retention Guide](#)

REFERENCES

[Inventions, Proprietary Information and Other Intellectual Property Agreement Form](#) at this page under the heading; "Other";

[Procedure for Distribution of Income Derived From Intellectual Property](#)
[Record Retention Guide](#)

RELATED POLICIES

[Research Misconduct Policy](#)

Research Conflict of Interest Policy

Conflict of Interest Policy

AAUP Collective Bargaining Agreement

FAQs –

Q. Who should I contact regarding this policy?

A. The Director of TC within ORI.