VIRGINIA MILITARY INSTITUTE
Lexington, Virginia

GENERAL ORDER)
NUMBER 14) 16 October 2026

INTELLECTUAL PROPERTY POLICY

PREAMBLE

Virginia Military Institute supports the research efforts of its faculty and cadets, and it seeks to create an intellectual environment that fosters new discoveries and creations. As a state-supported institution of higher education, Virginia Military Institute has the responsibility to adopt a policy regarding the ownership, protection, assignment, and use of intellectual property. In doing so, the Institute states its commitment to the principles of academic freedom and the tradition of free and open research and scholarly investigation.

I. DEFINITIONS

A. Assigned duty: Assigned duty is a task or undertaking resulting from a specific request or direction or is within the course and scope of employment to produce a particular thing or result. A general obligation for faculty to engage in research, scholarship, and teaching is not an assigned duty even if it results in a specific end product such as a vaccine, a published article, or a computer program. Intellectual property created from an assigned duty is considered "work-for-hire."

B. Author: A person who creates an original work of authorship qualifying for protection under U.S. Copyright law.

C. Board of Visitors: The governing body of Virginia Military Institute appointed by the Governor of Virginia.

D. Copyrightable work: An original work of authorship (e.g., writing, work of art, work of music, computer program), which qualifies for registration under federal copyright law.

E. Creator: One or more inventor(s) in the context of patentable inventions, or author(s) in the context of copyrightable works.

F. Institute Member: All Virginia Military Institute full- and part-time faculty, classified employees, administrative staff, paid cadet assistants, cadets (under certain conditions as described in this policy), volunteers, fellows, and trainees. Visiting faculty and researchers are considered Institute Members for purposes of this Policy and are subject to its terms.

G. Intellectual property: Anything developed by anyone covered by this policy that fits, but is not limited to, one or more of the following categories:

1. an invention
2. a patent
3. a copyrighted or copyrightable work
4. know-how or trade secrets; or
5. tangible research property, including, but not limited to, materials, illustrations and drawings, prototypes, devices, and equipment.

H. Invention: A method of solving, but not merely recognizing a problem (conception), or carrying out a result which when revealed to others would enable those "skilled in the art" to make the invention. Inventions may take the form of a machine, article of manufacture, composition of matter, process, or use for and/or improvement in any of these for which property rights may be protected under patent law and/or contract. Generally, in order for an invention to be patentable it must be novel, non-obvious, and useful.

I. Invention Disclosure: The document by which one party reports an invention to another; for example, Institute Members report an invention to Virginia Military Institute or to a Sponsor.

J. Inventor: One or more Institute Member(s) who create an invention.

K. Royalties: Anything of value, including cash payments as well as the market value of any property or services received, in consideration for a transfer of rights and/or title to intellectual property. Monies received by the Institute to support research that results in the development of intellectual property are not royalties.

L. Net Royalty Income: Royalties received from the licensing and developing of an intellectual property less documented Institute-borne expenses identified with protecting, prototyping, marketing, or licensing the intellectual property.

M. Patentable Computer Software: Computer software is considered patentable if the program, when running on a computer or loaded into a computer, brings about or is capable of bringing about a technical effect which goes beyond the normal interactions between the program (software) and the computer (hardware on which it is run).

N. Significant Use of Institute Resources: Significant use is substantial and dedicated support of the Institute. Whether significant use is made of Institute resources will be determined based on the facts and circumstances of each case. Customary and usual use of Institute resources such as telecommunications and information technology, library resources, secretarial assistance, and other support services do not constitute significant use. In contrast, use of Institute laboratories or special instrumentation/facilities, dedicated assistance by Institute employees, or special financial assistance by the Institute would constitute significant use.

O. Sponsor: Any agency outside the Institute, which supplies funds or facilities for research to be conducted by Institute Members pursuant to a written agreement with the Institute.

P. Sponsored Research Agreement: An agreement by the Institute with a third party related to a grant of funds to support research projects or programs.

II. APPLICABILITY OF THE POLICY

This policy shall apply to all Institute Members.

III. ADMINISTRATION OF THE POLICY

The Associate Dean for Academic Administration and Planning (ADAAP) and the Director of the Office of Communications and Marketing (DCM) are assigned as the Board of Visitors' designees responsible for the administration of this policy.

IV. OWNERSHIP OF INTELLECTUAL PROPERTY

A. Intellectual property developed by cadets: The Institute generally will not claim ownership of intellectual property created by cadets. If the intellectual property was generated through an Institute course or program, however, the cadet shall have ownership only if there are no pre-existing obligations for the Institute in connection with such course-generated intellectual property. If a cadet develops intellectual property when also working as an Institute employee, the rules outlined below shall apply.

B. Copyrights: Copyrights in traditional works of academic scholarship created by teaching and research faculty, e.g., textbooks, literary works, artistic creations, computer software, and artifacts, will be owned by the creator(s), provided the work is prepared on the individual's own initiative and not a result of an assigned duty.

When a copyrightable work is created as an assigned duty or when making Significant Use of Institute Resources, the work is considered work-for-hire and the Institute shall own the entire right, title, and interest in all materials subject to copyright. The Institute will work collaboratively with the creator(s) to ensure that fair and equitable treatment of rights to attribution and reuse are reasonably addressed. If such copyrightable work is to be owned by the creator(s), such projects must be commemorated in a written exchange or formal agreement between the creator(s) and the Institute prior to the creation of the work.

Copyright in creative products developed by a contractor pursuant to agreement with the Institute for the development of such products shall be owned by the Institute. All contracts for the development of creative products shall explicitly state that all products commissioned under the agreement shall be considered work-for-hire under the Copyright Act, Title 17 of the U.S. Code.

C. Trademarks: This policy does not apply to trademark ownership, use, and assignment, which are governed by General Order 42, Institute Identity Standards and Trademark Policy.

D. Other Intellectual Property: The Institute owns all other intellectual property, including but not limited to patentable inventions and, more specifically, patentable computer software, created by Institute Members using facilities owned or operated by, or any resources administered by, the Institute, unless ownership of said intellectual property is otherwise directed by the terms and conditions of the funding grant or sponsored research agreement.

   If intellectual property is developed for use in Institute courses or curriculum, but without the requisite elements that cause the Institute to own the property, the Institute shall have a non-exclusive, royalty-free, perpetual license for the Institute's continued use of such material for educational purposes.

   The creator of any intellectual property owned by the Institute pursuant to this paragraph shall, upon recognizing the potential patentability of his or her work, immediately make a confidential disclosure of the intellectual property to the ADAAP.

E. Grants, Contracts, and Other Funding Arrangements: Administration of sponsored research agreements shall be in accordance with General Order 12. All such external funding shall be the subject of a written agreement, which shall provide for the parties' respective legal rights in any intellectual property that might result. All agreements entered into by anyone subject to this policy must be reviewed and approved by the ADAAP prior to execution of the agreement.

F. Federally Sponsored Research: Ownership of intellectual property resulting from research sponsored in whole or in part by a federal agency is governed by federal law. All Institute Members participating in federally sponsored research are required to comply with applicable federal requirements contained in the grant itself and in federal law. The Sponsored Programs Administrator is responsible for overseeing compliance. Intellectual property rights in research sponsored by the federal government typically are limited to a non-exclusive, non-transferrable, royalty-free license to any patent generated by the research, provided the inventor advises the federal agency in a timely manner of the intent to retain rights and to provide for legal protection (i.e., patenting). It is the responsibility of the Institute Member to advise the federal agency of the creation of the intellectual property and protection steps being undertaken.

G. Non-Federally Funded Research: Ownership of intellectual property resulting from research that is funded wholly or in part by an industrial partner; philanthropic or other organization, including non-federal government agencies; or by an individual shall be provided for in a written agreement, which shall provide for the parties' respective legal rights in any intellectual property that might result. If it is not, and the conditions of paragraph IV(D) of this policy are met, such property shall be owned by the Institute.

H. Other External Funding: Ownership of intellectual property resulting from research that is funded wholly or in part by an entity not dealt with elsewhere in this policy will be determined in a written agreement with that entity which shall provide for the parties' respective legal rights in any intellectual property that might result. If it is not, and the

conditions of paragraph IV(D) of this policy are met, such property shall be owned by the Institute.

I. Consulting: The terms of this policy do not apply to intellectual property developed by Institute Members in the course of performing consulting work for outside organizations or individuals and who do not use the Institute's facilities, other than incidental use of office equipment (i.e., personal computers, telephones, copiers, etc.) to do so. Outside employment must be approved in advance by the Institute. The Institute shall not engage in any dispute involving intellectual property rights of an outside organization with regard to intellectual property developed by Institute Members in the course of performing consulting work for outside organizations or individuals.

V. ADMINISTRATION

A. Associate Dean for Academic Administration and Planning. The ADAAP shall have the following responsibilities with regard to intellectual property other than copyrighted or copyrightable works:

1. Review, negotiate, and approve all written agreements for sponsored/grant-funded research and programs.
2. Ensure compliance with the Institute's Intellectual Property Policy, as well as the intellectual property provisions of sponsored research grants and contracts;
3. Establish and distribute procedures for the disclosure of intellectual properties in which the Institute has a proprietary interest;
4. Perform initial reviews of invention disclosures submitted to the Institute to determine the rights thereto;
5. Function as the liaison between outside patent counsel or designated intellectual property management agents and the Institute;
6. Ensure that required agreements regarding the administration of intellectual property in which the Institute has an interest, and consequent rights of all parties concerned, are properly executed;
7. Assist in increasing patent awareness among faculty and staff; and
8. Perform such other responsibilities as required to comply with state and federal laws with regard to Institute intellectual properties and this policy.

B. Director of Communications and Marketing. The DCM shall have the following responsibilities with regard to copyrighted or copyrightable intellectual property:

1. Ensure compliance with the Institute's Intellectual Property Policy;
2. Establish procedures for the management and administration of Institute-owned copyrights;
3. Function as the liaison between external agencies and the Institute in all matters related to Institute-owned copyrights;
4. Assign copyrights as described in Section X below;
5. Perform such other responsibilities as required to comply with state and federal laws with regard to Institute intellectual properties and this policy.

C. Intellectual Property Committee. The Dean of the Faculty shall appoint the Institute's Intellectual Property Committee on an ad hoc basis as needed. The Committee shall be comprised of full-time Institute Members who represent a broad sampling of the Institute's departments. A representative of the VMI Foundation shall also be appointed as an ex-officio member of the Committee.

The Intellectual Property Committee shall have the following responsibilities:

1. Review disputes concerning ownership of intellectual property and make recommendations for resolution to the Dean of the Faculty;
2. Provide advice and assistance to the ADAAP and DCM in matters involving Institute-owned intellectual property.
3. Perform such other responsibilities as the Dean of the Faculty may assign.

VI. PROCEDURES FOR NOTIFICATION

Institute Members are required to disclose to the ADAAP all intellectual property in which the Institute might claim an interest, including explicitly all inventions and copyrighted works, which are owned by the Institute pursuant to Section IV above. In order to protect the rights of the inventors and the Institute, this report must be made in a confidential writing prior to public disclosure, using the appropriate invention disclosure form provided by the ADAAP. Institute Members should address all questions regarding issues of intellectual property and public disclosure to the ADAAP.

Public disclosure of details of inventions prior to initiation of protection procedures may result in the immediate loss of legal protection and commercial value. It is, therefore, important that inventors consult with the ADAAP prior to revealing novel and, therefore, perhaps patentable discoveries in scholarly publications, abstracts for presentation at conferences, or seminars.

All details in the intellectual property disclosure must be maintained in confidence. Disclosure to outside parties must not occur without an executed confidentiality and nondisclosure agreement.

Because public disclosure may compromise or limit the patentability of an invention, the confidentiality of all proprietary information in the intellectual property disclosure and in all correspondence between the creator/inventor(s), the ADAAP and any Institute or VMI Foundation official with need/duty to know, and the Institute pertaining to the intellectual property shall not be compromised. The confidential invention disclosure shall:

1. identify the creator(s),
2. include essential data describing the intellectual property,
3. identify the source(s) of funding that supported creation and identify other resources used to develop the intellectual property that is the subject of the disclosure, and
4. contain any other relevant information deemed necessary to determine ownership and appropriate disposition of the disclosed property.

When more than one individual has participated in the creation of the intellectual property, it will be assumed that each of the creators has made an equal contribution to its creation and share any interest in the property equally, unless the creators specify a different allocation in its creation in the intellectual property disclosure report.

The ADAAP will review the intellectual property disclosure, and upon completion of this review will notify the creator(s) in writing as to whether or not the Institute asserts ownership of the intellectual property.

If the Institute does not claim ownership, the Institute will no longer have any responsibilities, rights, or obligations pertaining to that intellectual property except the obligation of maintaining the confidentiality of proprietary information.

If the Institute, at any time, no longer wishes to pursue further development of an intellectual property, the ADAAP may notify the creator(s) and assign all rights and interest in that property to the creator(s).

When the creator(s) of the intellectual property own all rights and interest in and to the property, as outlined in Section IV, above, the creator(s), may pursue legal protection, marketing, and licensing activities without involving the Institute, and will be entitled to all resulting revenues.

VII. PROTECTION AND COMMERCIALIZATION

To provide maximum benefit to the Institute, the public, and the creators of intellectual property, the Institute will evaluate each intellectual property for potential commercial value, and, where it is deemed appropriate, transfer the property to the VMI Foundation for legal protection and commercialization.

The VMI Foundation will accept the transfer of Institute-owned intellectual property for the purpose of seeking legal protection and utilizing intellectual property for the benefit of the Institute.

The ADAAP will determine promptly if a disclosed intellectual property should be protected and if so, will work with the VMI Foundation to initiate the appropriate action to secure protection in a timely manner. Reasonable commercial judgment will be used in determining the appropriateness and the methods of protection and commercialization. The ADAAP will assist the VMI Foundation in its efforts to commercialize Institute-developed intellectual property.

VIII. ROYALTY PROVISIONS

Any income received by the Institute from the licensing of an invention will first be applied to recoup any expenses incurred by the Institute in patenting/licensing the invention and then applied to payment of any cross-license share due. The resulting Net Royalty Income will be distributed as follows:

A. Fifty percent (50%) to the inventor(s)

B. Fifty percent (50%) to the Institute

Inventor’s Share

The inventor’s share of the Net Royalty Income will be shared once annually with the inventor(s) identified on the original intellectual property disclosure form covering the invention.

The Institute will distribute the inventors' share of Net Royalty Income within sixty (60) days of the end of each fiscal year.

Joint inventors shall receive equal portions of the percentage of cumulative Net Royalty Income set aside as the inventors' share, unless a differing percentage share is specified in the original invention disclosure report.

Distribution of an inventor's share of cumulative Net Royalty Income will continue to be made regardless of changes in, or terminations of, the inventor's employment status with the Institute. In the event of an inventor's death, that inventor's share of cumulative Net Royalty Income will be paid to the inventor's estate.

If an inventor is not an Institute employee but has assigned to the Institute his/her rights and interest in an invention owned by the Institute and licensed by the Institute, such inventor will participate in the distribution of cumulative Net Royalty Income as if he/she were an Institute employee.

Institute’s Share

The Institute’s share of Net Royalty Income shall be distributed by the Institute as follows:

A. Fifty percent (50%) to be shared among the Institute’s academic departments that contributed to the creation of the property generating the revenue in equal parts.

B. Fifty percent (50%) to a fund to be administered by the VMI Foundation that will support Institute academic programs.

IX. DISPUTE RESOLUTION AND RIGHT TO APPEAL

Institute Members shall have the right to appeal the application of this policy to the Dean of the Faculty who will appoint the ad hoc Intellectual Property Committee. A written request for appeal must be made to the Dean of the Faculty and a copy of the appeal forwarded to the ADAAP. The request must contain a statement of the specific nature of the appeal, the grounds upon which the appeal is based, a summary of the facts supporting the applicant’s position, a statement of the remedy sought, and any material the applicant believes is relevant. The request will be reviewed by the Committee, which will forward its recommendation to the Dean of the Faculty, who will make a decision on the course of action to be taken to resolve the issue. Any further appeals following the decision by the Dean of the Faculty will be forwarded to the Superintendent, who will make the final decision on behalf of the Institute.

X. TRANSFERS AND ASSIGNMENT OF INTELLECTUAL PROPERTY

A. Transfer of Intellectual Property Rights: Except when the Governor's prior written approval is required in accordance with Virginia Code § 23.1-1301(B)(9), the Board of Visitors may transfer ownership of any intellectual property in which it claims an interest.

The Governor's prior written approval is required for transfers of intellectual property ownership where the property was:

1. Developed wholly or predominantly through the use of state general funds, exclusive of capital assets, by an Institute Member acting within the scope of his or her assigned duties; or

2. Developed wholly or predominantly through the use of state general funds, exclusive of capital assets, and is to be transferred to an entity other than the following:
   a. The Innovation and Entrepreneurship Investment Authority; or
   b. An entity whose purpose is to manage intellectual properties on behalf of nonprofit institutions, colleges, and universities; or
   c. An entity whose purpose is to benefit the Institute.

B. Assignment of Copyrights: The DCM may assign non-exclusive rights to use of copyrighted work owned by the Institute. Non-exclusive right of use of text, photos, and other media is implied for recipients of materials developed in furtherance of media relations efforts. Any proposal to assign exclusive rights to any copyright owned by the Institute shall require advice from VMI legal counsel with the Office of the Attorney General on the applicability of the process detailed in paragraph A, above. A fee may be charged for the use of copyrighted material for commercial purposes.

C. Six-year plan reporting: In accordance with Virginia Code § 23.1-102, the Institute shall include in its six-year plan adopted pursuant to Virginia Code § 23.1-306 the following for the most recently ended fiscal year: (i) the assignment during the year of any intellectual property interests to a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; (ii) the value of externally sponsored research funds received during the year from a person or nongovernmental entity by the institution, any foundation supporting the intellectual property research performed by the institution, or any entity affiliated with the institution; and (iii) the number and types of patents awarded during the year to the institution, any foundation supporting the intellectual property research funded by the institution, or any entity affiliated with the institution that were developed in whole or part from externally sponsored research provided by a person or nongovernmental entity. The plan shall report separate aggregate data on (a) those persons or nongovernmental entities that have a principal place of business in Virginia as reflected in the assignment agreement or awarding documents and (b) those persons or nongovernmental entities that do not have a

principal place of business in Virginia as reflected in the assignment agreement or awarding documents.

FOR THE SUPERINTENDENT:

Travis Homiak
Colonel, USMC (Ret.)
Chief of Staff

DIST: E, Cadets

OPR: Dean