

TO: The Honorable Dereck E. Davis, Chair
House Economic Matters Committee

FROM: Mary Clapsaddle
Director, State Affairs

DATE: March 10, 2020

Johns Hopkins University respectfully submits this Letter of Information to assist in your consideration of **HB 1466 – Labor and Employment – Employment Contracts – Intellectual Property**. We have concerns as to the implementation of these provisions in the context of higher education where faculty are salaried, where federal grants are often involved, and where distinctions on when one is acting “outside the scope of employment” can be murky at best. Some instances may be clear – if, say, a biology faculty member invents the next Candy Crush – but situations can quickly and easily fall into gray areas.

Johns Hopkins University has a robust intellectual property policy, which asserts:

The Johns Hopkins University strives to support its faculty and employees in securing commercial development of intellectual and other property resulting from their research so that the benefits of that research may reach society at the earliest opportunity. This is consistent with the University’s mission of developing new knowledge and facilitating the practical application of such knowledge to the benefit of the public. The University has developed policies and guidelines that provide incentives for its researchers while protecting the integrity of research emanating from this institution. Moreover, the University provides an array of administrative services to its Inventors to assist them in protecting rights to University Intellectual Property and fostering commercial development.

The support we offer to faculty and staff members who have created intellectual property includes the development of patents and licenses and the prosecution of any infringement on those protections. These activities protect both the university and the inventor; under our cost-sharing arrangements, all parties benefit from financial success.

Further, the federal Bayh-Dole Act of 1980 authorizes the Department of Commerce to create standard patent rights clauses to be included in federal funding agreements with nonprofits, including universities, and small businesses. The clause is incorporated into federal funding agreements through a number of contracting instruments, including grants made to universities and contracts made with for-profit companies.

Thank you for the opportunity to provide information, and we hope to be involved in any continued discussions on this matter. **We urge the committee to proceed with caution, if at all.**

cc: Members, House Economic Matters Committee
Delegate Joseph C. Boteler, III