

INTELLECTUAL PROPERTY POLICY

The University of Southern Indiana encourages and supports scholarship and research, technical and creative efforts, artistic or literary works, and other academic and service activities and products of its faculty, staff, and students. As part of the mission of the University, employees and students produce new written materials, and many other expressions of research, creativity, and scholarly activity. These works often involve the rights and rewards of ownership, as well as responsibilities and a need for protection during development; these concerns affect the individuals involved as well as the university as a legal entity. Given the many changes on any campus (faculty and students, technology, funding, etc.), ongoing revision is needed to keep this policy current.

The following are the guiding principles of this policy:

- a. The University encourages the discovery and development of original works and dissemination of knowledge as part of its academic mission.
- b. The University recognizes that the development of original works and the rights to, benefits from, and responsibilities for these works may arise from a variety of efforts.
- c. The University recognizes that ownership and benefit from intellectual property may be multi-faceted and strives to ensure appropriate benefits to all contributors.

A. Applicability

This policy applies to all University of Southern Indiana faculty members (including adjunct faculty and visiting scholars), staff (including ancillary staff), students, and non-employees of the University engaged on a contracted basis.

B. Ownership of Intellectual Property

To guide University employees in their understanding of ownership of intellectual property and to assist in establishing rights and interests in ownership, the following four categories have been established: a. original works by faculty or students not involving substantial use of University resources; b. works involving substantial use of University resources; c. externally sponsored works; d. works made for hire.

a. Original works by faculty (including adjunct faculty and visiting scholars) or students not involving substantial use of University resources

In keeping with academic tradition, original works by faculty and students, regardless of the form of expression, shall be the property of the creator(s), unless a specific contractual agreement regarding the work exists.

Faculty members own their original teaching and course materials. The University owns the course descriptions and syllabi for its programs and courses, to be used as needed for course catalogs, accreditation, decisions on student course transfers, and so on. For purposes of instructional continuity, creator(s) shall assign non-transferable, non-exclusive rights for teaching and course materials to the University for three years.

b. Original works by faculty (including adjunct faculty and visiting scholars) or students involving substantial use of University resources.

Original works by faculty members (including adjunct faculty and visiting scholars) or students involving substantial use of University resources (see definition in section F) shall be jointly owned by the creator(s) and the University. The rights to reproduce, distribute, make derivative works, and conduct public performances or displays of the work, are shared by the creator(s) and the University by mutual consent to the benefit of each.

c. Externally sponsored works by faculty members or students

Rights to intellectual property developed as a result of work supported by an external agency under a grant or contract shall be determined in accordance with the terms of the contract or agreement, or, in the absence of such terms, shall, (a) in the case of substantial use of University resources, become the joint property of the creator(s) and the University; or (b) in the absence of substantial use of University resources, become the property of the creator(s).

d. Works made for hire

Intellectual property defined as a work made for hire is owned by the University. (See statutory definition in section F). If the University so chooses, it may release a work made for hire back to the creator. For reasons of academic freedom original works by faculty are not considered works made for hire, unless a written contract exists. Works created by staff on their own time are not works made for hire.

C. Income from Intellectual Property

Income related to original works is the property of the creator(s). The creator(s) shall bear all expenses related to protection, patent and licensing, or sale of the materials. Net income received by the University through the sale, licensing, leasing or use of intellectual property produced through substantial University support will be shared with the creator(s) as described in this section. Net income is to be interpreted as that amount of money cumulatively received after deduction of expenses connected with developing, securing and maintaining the copyright, patent, or license. Expenses include the creator's time and efforts spent developing and securing the copyright, patent, or license.

The University strongly recommends that a specific contractual agreement for distribution of income be negotiated prior to joint commitment seeking copyright, patent, or license. Where intellectual property is conceived jointly by two or more creators, then each of the co-creators and the University shall share in the net income in such proportions as the joint creators and the appropriate University administrator(s) agree. In the absence of a contractual agreement, the University will distribute net income according to the following schedule: 50 percent of net income to the creator(s) and 50 percent of the net income to the University. The University's share shall be divided equally by the academic department or unit of origin and the University College or other appropriate administrative unit.

D. Fair Use of Intellectual Property

All members of the University community, including faculty, staff, and students, must comply with laws protecting U.S. copyright owners. Copyright protection applies to creative works including most text, videos, music, images, motion pictures, and computer software; protection usually applies even if the work lacks a copyright notice and is not registered with the U.S. Copyright Office. Copying, digitizing, uploading, or transmitting copyrighted materials constitutes infringement unless the work is in the public domain, or the user has permission from the copyright owner, or the user is a faculty member acting within fair use guidelines, or the use is identified under one of the specific, statutory exceptions. Guidelines for the fair use of copyrighted works are available on the University of Southern Indiana's Web site.

E. Right of Appeal

In the absence of a specific contractual agreement, in cases where rights and/or equities are in dispute, there is a right of appeal. Individuals shall follow the established procedures for campus appeal as published in the University Handbook. Faculty shall follow "Procedures for Amelioration and Reconciliation of a Grievance." Administrators or staff shall follow "Procedures for Conflict Resolution." Students shall follow "Student

Academic Grievance Procedure.” The Provost and Vice President for Academic Affairs shall provide oversight for this policy.

F. Definitions

Intellectual Property: For the purpose of this policy, intellectual property includes copyrightable materials, patents, trademarks, and servicemarks.

Copyrightable Material: Copyrightable Materials are materials fixed in any tangible medium including electronic and include, but are not limited to, the following examples:

- a. books, Journal articles, reports, texts, glossaries, bibliographies, study-guides, laboratory manuals, syllabi, tests and proposals;
- b. lectures, musical or dramatic compositions, and unpublished scripts;
- c. photographs, films, film strips, charts, transparencies, and other visual aids;
- d. video and audio tapes and cassettes;
- e. live video and audio broadcasts;
- f. sound recordings;
- g. programmed instructional materials, (including Web-based courses or materials);
- h. computer programs (software);
- i. choreographic work and pantomimes;
- j. graphic and sculpture works; works of art;
- k. drawings and plastic works of a scientific or technical character;
- l. architectural plans and structures; and
- m. dress and fabric designs.

Substantial Use of University Resources: Substantial University resources are those not routinely available to employees for the development or production of traditional works. Examples of such resources include the assignment of additional teaching or graduate assistants, use of specialized production facilities and personnel, use of multimedia labs and associated personnel, clerical support that exceeds what is routine, the purchase of additional supplies or equipment, the allocation of specific additional travel or other funds, the assignment of additional space or facilities, etc. Resources not considered substantial, i.e., “standard” resources, include the following: (a) payment of salary; (b) provision of office and/or laboratory space, including general media laboratory space and general administrative support; (c) use of library resources; (d) reassigned time or sabbatical leave of absence; or (e) internal grants or seed money. Substantial use is defined as the use of resources beyond the standard.

Syllabus: A syllabus is the descriptive overview of an official University course. Syllabi usually include, but are not limited to, the following: a course description, course objectives, required text(s), method of evaluation and grading and an outline of course topics, reading assignments including assignment and exam due dates. Faculty may include additional information that is not required, such as Web links, suggested reading, study guides for tests, lecture notes, handouts etc.

Work made for hire: Work made for hire is work prepared by an employee within the scope of his employment or a work specially ordered or commissioned in certain specified circumstances. When a work qualifies as a work made for hire, the employer or commissioning party is considered to be the author. Section 101 of the copyright law defines a “work made for hire” as “a work prepared by an employee within the scope of his employment; or 2) a work specially ordered or commissioned for use as a contribution to a collective work, as part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer materials for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.” See the statutory definition in Section 101 of the 1976 Copyright Act.