

University of Louisiana System

**Title: INTELLECTUAL PROPERTY
AND SHARED ROYALTIES**

Effective Date: October 23, 2012

**Cancellation of
Policy Issued: August 27, 2007**

Chapter: Faculty and Staff

Policy and Procedures Memorandum

I. PURPOSE

The University of Louisiana System recognizes that academic research andt

- A. Encourage research and scholarship as creative academic endeavors while recognizing that commercially valuable Intellectual Properties may result from such endeavors;
- B. Delineate procedures to encourage Creators to report discoveries with broad commercial potential and public benefit and to assist them, while at the same time safeguarding the interests of all concerned parties;
- C. Make Intellectual Property developed in the course of academic research available to the public under conditions that will promote its effective and timely use and development;
- D. Optimize the environment and incentives for research and scholarly activity and for the creation of new knowledge in UL System institutions;
- E. Ensure that the educational mission of the UL System and its institutions is reinforced.

III. DEFINITIONS

- A. Creator/Author: the individual or group of individuals who make, conceive, reduce to practice, author, or otherwise make a substantive intellectual contribution to the creation of Intellectual Pro

developments and other creative or artistic works that have value; regardless of whether subject to protection under patents, copyrights, trademarks, service marks, trade secrets, mask works, and plant variety protection certificates. It also includes the physical embodiments of intellectual effort, for example, models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions of matter, plants, and records of research.

- G. Scope of Employment: activities related to the faculty member's appointment, including teaching and research; or related to the activities which are assigned to non-faculty personnel by his or her supervisor for which compensation is received.
- H. Significant Institution Resources: include resources in addition to those usually and customarily provided which include, but are not limited to, the use of students or employees as support staff to develop the work, substantial use of specialized or unique facilities and equipment or other special subventions provided by the institution unless approved as an exception.
- I. Technical Works: include, but are not limited, to Intellectual Properties that are of a scientific, engineering, or technical nature.
- J. Traditional Academic Copyrightable Works: a subset of copyrightable works created independently and at the Creator's initiative for traditional academic purposes. Examples include syllabi, class notes (in whatever form, e.g., handouts, internet posting); books, theses and dissertations; articles; non-fiction, fiction, and poems; musical works; dramatic works including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works; or other works of artistic imagination that are not created as an institutional initiative.

IV. GENERAL PROVISIONS

A. Applicability

This policy shall apply to all persons employed by System institutions, to anyone using institutional facilities and or resources under the supervision of institutional personnel, to undergraduates, and to graduate students.

B. Scope of Application

This policy shall be a part of the conditions of institution employment. Personnel must notify the institution of any copyright or patent interests for any Intellectual Property which are currently registered or patented or which are in the process of being registered or patented with the U.S. Copyright Office or U.S. Patent and Trademark Office. For materials which may be in development, notice shall be given at the time the application for registration is submitted. The institution shall review such interests and determine

- 2) Institutions may assert their ownership in Intellectual Property related to the Creator's academic or professional field, regardless of the medium of

a)

VI above. The minimum terms of such license shall grant the institution the right to use the Intellectual Property in its internally administered programs of teaching, research, other educational purposes and public service on a perpetual, royalty-free, non-exclusive basis.

- b) The institution may retain more than the minimum license rights, and the assignment or license may be subject to additional terms and conditions, such as revenue sharing with the institution or reimbursement of the costs of statutory protection, when justified by the circumstances of development.

5) Commercialization by Creator

The institution may, at its discretion and consistent with the public interest, license Intellectual Property to the Creator on an exclusive or nonexclusive basis. The Creator must demonstrate technical and business capability to commercialize the Intellectual Property. Agreements with Creators will be subject to review and approval of conflict-of-interest issues in accordance with applicable institution policy.

6) Disputes Policy

Each System institution shall identify and include in its Intellectual Property policy a dispute resolution procedure.

VIII. PROCEEDS DISTRIBUTION

In the event that revenues are generated by Intellectual Property rights assigned or licensed to the institution, an appropriate share of such revenues shall be paid to the Creator.

A. The institution may recover its costs before the following conditions apply.

Net revenues on Intellectual Property available to institutions shall be used for research, development, and other scholarly activities and allocated one hundred percent to the institution where the Intellectual Property originated.

B. The Creator's share shall be determined by the following:

- 1) In cases where the institution or Creator, as the case may be, assign such Intellectual Property rights to a research corporation under contract to an institution or to the System, the share of revenue to be paid to the Creator shall be governed by the terms of the contract between the institution or System and the research corporation.
- 2) In cases where the Intellectual Property is covered by a contractual agreement with a sponsoring agency, the financial arrangements shall be in accordance with that contractual agreement as negotiated between the institution and the contracting agency.

- 3) In cases of sponsorship by federal agencies, compliance with the appropriate federal regulations shall be effected in the ultimate agreement.
- 4) In cases where the institution retains ownership of an Intellectual Property from a Creator or Creators, and/or expends funds to develop and market the Intellectual Property, any revenues generated will be used first to cover the expenses of protection (filing, procuring, and maintaining) and marketing the Intellectual Property. Normally, forty percent (40%) of the net revenues will be paid to the Creator, and sixty percent (60%) will be retained by the institution from which the Intellectual Property originated.

With the approval of the System Office, the institution may negotiate an alternative distribution of net revenue consistent with the institutional policy developed pursuant to **VII.A(2)**.

IX. OWNERSHIP OF WORKS CREATED BY NON-EMPLOYEES

The institution claims ownership of Intellectual Property prepared for it by non-employees and requires that all non-employees retained to do work for it enter into a written agreement providing for ownership by the institution of any Intellectual Property created for it by such non-employees.

Policy Reference

USC Title 17 Copyright Law of the USA

Review Process

System Staff
Legal Counsel
Presidents
Vice Presidents for Academic Affairs
Vice Presidents for Finance and Administration
Faculty Advisory Council

Distribution

Presidents
Vice Presidents for Academic Affairs