

## IP Policy FAQs

1. **What does the concept of works commissioned or directed by the University mean?**
  - a. Directed Work: The Provost directs a faculty or staff member to survey, analyze, and produce a report on students' food preferences using data collected from university dining services and stores. The study qualifies as a report commissioned by the university and the university owns the resulting IP.
  - b. Administrative Work: Any copyrighted work developed by a committee in the performance of its duties. The University owns the IP in that committee work.
  - c. **Compare to: Traditional Scholarly Work**: A faculty member decides to develop a new course. Unless expressly directed by the university in a writing that specifies university ownership, the faculty member owns the IP that faculty member creates.
2. **Who owns copyright in course materials created by personnel?**
  - a. Default Position: The creator of course materials owns the copyright in them whether the materials are used on-line, recorded, or in a face-to-face setting.
  - b. Deviation from Default Position: The University may own copyright in course materials developed by personnel when, for example:
    - i. the University commissions the creation of the course materials;
    - ii. materials are created for university purposes using significant university resources that are not commonly provided to all; and/or
    - iii. the University must own copyright to avoid a breach of a university contractual obligation.
3. **So, can the University use course materials in which I own the copyright if I leave the University?**
  - a. Not unless the University has received your written permission, or the use is authorized under copyright law as a fair use.
  - b. **Note**: The University retains the right to reproduce, prepare derivative works of, and distribute copies of course syllabi for educational purposes (*see* IP Policy Section V.B.1.a.i.). For example, the University may use syllabi for accreditation purposes.
4. **Can a faculty member use (copy and distribute) student course assignments in which students own the copyright?**
  - a. Not unless you have direct written permission, implied permission (statement on syllabus), or the use is authorized under copyright law as a fair use.
5. **After many years of teaching a large laboratory course in Chemistry, I have developed a comprehensive manual describing experiments, methods, and exercises that are now routinely used in the course. Who owns the copyright? And what happens if I leave the University?**
  - a. Default Position: The faculty member owns the copyright in the manual. Colleagues, the department, and the University may not use the manual after you leave or when you go on sabbatical unless: 1) you give written permission or 2) they determine their expected use qualifies as a fair use under copyright law.

- b. Deviation from Default Position: The answer can quickly change if the facts are altered.
- 6. Who owns IP rights in software?**
- a. Default Position: The University owns IP rights in software because most software is created with federal funds under regulations that require the University to own the IP, thus triggering University ownership on grounds that either:
    - i. the University must own IP rights in software to avoid a breach of a university contractual obligation to the Government, or
    - ii. the software was created with the support of significant university resources (i.e., university--administered government funds).
- 7. I'm a faculty member and I developed software under a federal grant, and I want to make it available under an open-source license. How does that work?**
- a. **First**, the University owns the IP rights in the software (*see* FAQ No. 6).
  - b. **Second**, you have a duty to disclose the software to the Office of Technology Development (OTD) so that it may fulfill its reporting obligations to the funding agency.
  - c. **Third**, under current OTD practice, you may state on the IP Disclosure Form to OTD that you want the software to be released under an open-source license. OTD will then follow up with you.
- 8. I am a student and created some intellectual property as part of a class assignment. Who owns the IP rights in that?**
- a. You, the student, own the IP rights. As in the current policy, students own all rights, title, and interests in Copyrighted Works, Inventions, Software, Research Data and Tangible Research Materials they create, conceive, or reduce to practice in the performance of academic course work, regardless of the resources they use. This remains true even if you are an international student.
  - b. **Note**: If you are part of an exchange program through Academic Affairs, ownership is determined by the details of the contract between your home institution and the University.
- 9. What if I created this while working as an RA paid by the University?**
- a. If the work was done during paid employment, ownership is determined by the details of the employee contract. This remains true even if you are an international student.
- 10. Do doctoral students own all rights to their own research data when they are being advised by a university employee, such as a faculty member?**
- a. The involvement of a faculty member as an advisor is not relevant in determining whether the student or the University owns the data developed by the student or the IP created by the student.
  - b. Ownership is decided based on answers to the following questions:
    - i. Is the underlying research funded with sponsored funds?
    - ii. Is there some other written agreement that specifies ownership?

- c. If no written agreement and/or no sponsored funds are involved, the project likely amounts to an independent project of the student and the student will own the data even if the project involves significant university resources.

**11. I'm a faculty inventor and I disclosed an invention to OTD. OTD files a patent application then licenses the patent rights to a company. How much money will I receive?**

- a. Inventors receive 50% of net revenue.

**12. How is net revenue determined?**

- a. Net revenue is the amount the University receives after the University deducts its unreimbursed expenses incurred in the protection of licensed IP (generally, patent expenses).

**13. What are unreimbursed patent expenses?**

- a. Patent Expenses: The University's costs actually incurred for the drafting, preparation, filing, prosecution, and maintenance of specific patents.
- b. Unreimbursed Patent Expenses: Patent expenses that are not directly reimbursed by a third party.
- c. Before incurring any patent expense, the University, through OTD, makes informed filing, prosecution, and maintenance decisions. The University sets rates and fees with outside patent counsel engaged through the Office of General Counsel.

**14. How is the revenue distributed if there are multiple creators in multiple departments or units?**

- a. If there are multiple creators in multiple departments, the department share goes to each person's department affiliation at the time of the invention. If a person has a split appointment, the distribution is to those departments in accordance with their % appointment.