

Asbury University Intellectual Property Policy

Date of Adoption: April 18, 2011

Responsible Executive Officer: Provost

Persons Covered by Policy: All employees and students of Asbury University and any non-employee who participates in University sponsored scholarship, research, or teaching projects.

Purpose

The purposes of this policy are:

- To preserve traditional academic practices and privileges regarding publication of scholarly work;
- foster and promote the free expression and exchange of ideas and to promote the creative search for new knowledge, processes, inventions, or products;
- establish criteria to determine ownership of intellectual property developed at the University or commissioned by the University;
- develop principles and processes for sharing and distributing income derived from intellectual property developed at the University or commissioned by the University;
- protect the interests of the University and the creator(s) of intellectual property.

Copyright

Copyright involves the control and ownership of intellectual property in original works in any forms or mediums that are subject to U.S. or international copyright law. Normally copyright will remain with the creator of the copyrightable work unless it was commissioned by the University or its creation involved substantial University resources, including personnel. The University will not claim ownership of books, articles, poems, musical compositions, plays, pedagogical devices, or other creations of scholarly or artistic endeavor that result from the activities expected of a faculty employee as long as that creation was supported only by University resources typically available to faculty. These include access to the library, provision of office or laboratory space, salary, and use of information technology. Textbooks or related instructional media resulting from a faculty member's general scholarly obligations described in the Faculty Manual, including those created during sabbatical leave, are not of equity interest by the University. Also, works created by persons not employed by the University such as independent contractors or consultants normally are owned by the creator, unless there is a written agreement to the contrary. The University may decide to forgo a claim of interest even if it may be legally entitled to equity interest.

Individuals may not make use of University resources for non-University purposes in pursuit of personal gain. Creative or scholarly works that are commissioned by the University or created with significant University resources are of equity interest by the University. Significant resources consist of \$10,000 in any twelve consecutive month period of non-faculty personnel costs, equipment, supplies, and/or facilities. Except by written agreement to the contrary, copyrightable works developed during a project that is controlled, administered, or arranged by the University and sponsored by organizations, agencies or persons external to the University also are of equity interest by the University. Unless otherwise agreed to in

writing, royalties or other payments received by the University under any claim of equity interest shall be distributed in accordance with the *Royalty and Licensing Policy* described below. This includes income from courses or course components created for distance learning or distributed learning activities, including on-line coursework.

Faculty members who create distance learning materials, including on-line coursework, without the aid of University resources retain copyright. If the creation of such materials or courseware resulted from a contract with the University and involved University resources, as defined above, the University will own copyright. Both the University and the creator will own a non-exclusive “right to use” license for educational purposes, even if the creator leaves the University. Unless otherwise agreed to in writing, the creator may not offer these materials to others, including other employers, and may not offer them for commercial use.

Courses and course materials such as lectures, labs, and class activities that are recorded using any form of media are University property and may not be distributed without University permission. This excludes evanescent recording and distribution to students for educational purposes (which is always permitted) or for other approved University purposes. If the University retains and/or markets such recordings for later on- or off-campus instructional use, consent of the creator must first be obtained.

The University retains the right to use recordings of on-campus performances by its students and employees for educational, archival, promotional, or commercial purposes. If the University records such performances in any form of media for commercial purposes, permission of the performers shall first be obtained. Royalties or other revenues received by commercialization will be distributed in accordance with the *Royalty and Licensing Policy* described below on a pro-rata basis to all performers unless otherwise specified in a pre-performance contract.

To protect copyright, the following notice should appear on all University-owned materials: *Copyright © {year} Asbury University. All Rights Reserved. No part of this work may be reproduced or transmitted in any form or by any means without the prior written permission of Asbury University, unless such copying or transmittal is expressly permitted by federal or international copyright law. Address inquiries to: Copyright Permission, Provost, Asbury University, One Macklem Drive, Wilmore, KY 40390.* The date listed should be the year when the work was first produced or published.

Intellectual Property

In addition to anything that is copyrightable, intellectual property includes any issued patent, or legal right inhering in a patent, or any potentially patentable invention, device, process, product (including databases), or improvement in biological, chemical, or mineral materials. Included also are trade or service marks, logos, or distinctive symbols identifying the University or associated with goods or services distributed by the University.

The University shall seek effective means of transferring for public benefit and use University-owned intellectual property, including that with commercial value or potential. Toward this end the University may negotiate exclusive or non-exclusive licensing

agreements with outside entities. Such licenses must be approved by the Provost's Office before they are executed. Grants or contracts frequently involve arrangements for shared intellectual property rights. Such arrangements must be approved by the President prior to the award of any grant or contract that limits intellectual property rights of the University, its employees, or its students.

Royalty and Licensing Policy

Following recovery of any costs associated with commercialization of University-owned intellectual property, including but not limited to attorney's fees, patent filing fees, and marketing costs, the net revenue generated from royalties, licensing fees or other revenue sources will be distributed as follows: **50% to creator(s) or inventor(s); 40% to the University; 10% to the creator(s) or inventor(s) Department(s)** except as otherwise agreed to by contract, governing law, or regulations.