

Policy on Intellectual Property Rights

Preamble

The University of Puget Sound believes that its educational mission and the public interest is best served by creating an intellectual environment whereby creative efforts and innovations are encouraged and rewarded, while retaining for the University and its learning communities reasonable access to, and use of, Intellectual Property created with University-provided assistance. Such assistance includes remuneration, dedicated time, and academic resources.

The University supports the development, production, and dissemination of Intellectual Property by its faculty members, staff and students.

Definitions

As used in this policy, the following capitalized terms have the following meanings:

"Copyright" means that bundle of rights that protects original "Works of Authorship" fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. "Works of Authorship" include, without limitation, course materials such as syllabi, lesson plans, assignments, and lecture notes; computer programs and applications; written works of any length; musical works, including any accompanying lyrics; dramatic works, including any accompanying music; pantomimes and choreographic works; sound and visual recordings; works of visual art; and architectural works. "Tangible media" include, without limitation, books, manuals, periodicals, manuscripts, phonorecords, films, tapes, discs and any digital storage drive or server.

"Intellectual Property" means all works subject to intellectual property rights in the United States, whether existing under a statute or at common law or equity, now or hereafter in force or recognized, including without limitation Copyright, Trademark, and Patent, irrespective of whether or not formal protection is sought.

"Patent" means that bundle of rights that protects inventions or discoveries of any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.

"Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.

Ownership of Intellectual Property

Faculty

Intellectual Property created, made, or originated by a faculty member shall be the sole and exclusive property of the faculty member, except as otherwise provided below in this policy.

“Faculty member,” as used in this policy, means (i) tenured, tenure-track, term, and part-time faculty and (ii) staff, librarians, and administrators when they create work while teaching a course for credit.

The University shall own Intellectual Property only in the following circumstances:

- I. The University expressly directs a faculty member to create a specified work, or the work is created as a specific requirement of employment or as an assigned institutional duty that falls outside the normal scope of the faculty member’s employment. Such assignments may, for example, be included in a written job description or an employment agreement that supersedes or supplements a faculty member’s standard contract.
- II. The faculty member voluntarily transfers the Intellectual Property, in whole or in part, to the University. Such transfer shall be in the form of a written document signed by the faculty member and the University.
- III. The University contributes to a “joint work,” as defined under the Copyright Act of 1976. The University can exercise joint ownership under this section when it has contributed specialized services and facilities to the production of the work that goes beyond what is traditionally provided to faculty members generally in the preparation of their course materials and/or scholarship. Such arrangement is to be agreed to in writing, in advance, and in full conformance with other provisions of this policy. The granting of sabbaticals, junior leaves and professional development grants by the University shall not constitute grounds for “joint work” unless specified by the University in the terms of the sabbatical, leave or grant.
- IV. The Intellectual Property is more integral to, and reflects more directly on, the identity of the University than on the identity of the faculty member(s) who created the Intellectual Property. Examples of this type of Intellectual Property include, but are not limited to, University website content, admissions materials, University publications, and the University Bulletin.
- V. The Intellectual Property results from externally funded research, such as a grant or contract from a government entity (local, state, federal, or foreign), foundation or other non-profit, or private industry, where ownership by the University conforms to the requirements of the external funding entity.

Students

Intellectual Property created, made, or originated by a student shall be the sole and exclusive property of the student, except as provided below:

- I. The student voluntarily chooses to transfer such Intellectual Property, in full or in part, to the University or to a faculty member.
- II. The Intellectual Property results from externally funded research, such as a grant or contract from a government entity (local, state, federal, or foreign), foundation or other non-profit, or private industry, where ownership of the Intellectual Property must conform to the requirements of the external funding entity.
- III. The Intellectual Property is created by a student acting as an employee of the University and working on a project as part of the student's responsibilities as an employee, or the student is acting in his or her capacity as an elected officer of the Associated Students of the University of Puget Sound.
- IV. The Intellectual Property is created by a student who is assisting a faculty member on a faculty run or sponsored project; in this case the faculty member owns the Intellectual Property. Faculty members are expected to acknowledge assistance or co-authorship when appropriate.

Staff

Intellectual Property created, made, or originated by a staff member in connection with his or her required job duties shall be the sole and exclusive property of the University. The staff member shall own any Intellectual Property created not in connection with his or her designated job responsibilities, including any Intellectual Property created as part of professional development activities when such activities are not related to the staff member's designated work tasks.

Use of Intellectual Property

Material created for teaching use in the academic programs, such as syllabi, assignments, and tests, or for research shall remain the property of the faculty member author, but the University shall be granted a non-exclusive, irrevocable, perpetual, and royalty-free right and license to use such material for instructional, research, educational, and administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions.

In any agreement transferring Copyright for such works to a publisher, faculty member authors are expected to preserve the rights for the University to use such works for internal instructional, educational, and administrative purposes on a non-exclusive, perpetual and royalty-free basis.

Work created by students in connection with course assignments or in response to surveys or other assessment instruments administered by the University shall be available for the University to use on a non-exclusive, irrevocable, perpetual and royalty-free basis for

instructional, research, educational, and administrative purposes, including the assessment of student learning outcomes.

Distribution of any Funds Generated

Subject to the below paragraph, funds received by the student, faculty or staff member from the license, use, distribution or sale of Intellectual Property subject to this policy solely owned by that student, faculty or staff member shall be allocated and expended as determined solely by that student, faculty or staff member.

If Net Revenue of Intellectual Property subject to this policy owned solely by a faculty member exceeds \$1,000,000, then the Net Revenue that exceeds \$1,000,000 shall be shared as follows: 70 percent to the faculty member and 30 percent to the University. "Net Revenue" means the revenue received by the faculty member from the commercialization of the faculty member-owned Intellectual Property, less all costs and expenses incurred by the faculty member in connection with the faculty member-owned Intellectual Property, including, without limitation, legal fees, filing fees, licensing agent fees and out-of-pocket expenses.

Funds received by the University from the license, use, distribution or sale of Intellectual Property subject to this policy owned by the University shall be allocated and expended in accordance with any applicable laws or agreements as determined solely by the University.

Funds received by faculty member(s) and/or the University from the license, use, distribution or sale of Intellectual Property subject to this policy owned jointly by faculty member(s) and/or the University shall be divided equally between the faculty member(s) and/or the University unless a different agreement was entered into when the work was first undertaken or as designated differently in this policy.

Resolution of Emerging Issues and Disputes

The President's Cabinet shall consult with relevant faculty members and administrative bodies to monitor and review technological and legislative changes affecting this Intellectual Property policy. The President's Cabinet shall receive and act on proposals to change this Intellectual Property policy.

Disputes over faculty member ownership, and its attendant rights, of Intellectual Property will be decided through the grievance process identified in the Faculty Code. Any disputes over student and/or staff member ownership, and its attendant rights, of Intellectual Property will be decided by the President of the University. Should a dispute arise, the President shall call into session a committee formed by three faculty members appointed by the Faculty Senate, the Chief Technology Officer, and the Vice President for Finance and Administration who shall chair the committee. The committee shall make an initial determination of whether the University or any other party has rights to the invention or other creation, and, if so, the basis and extent of those rights. The committee shall also make a determination on resolving competing faculty member, student or staff claims to ownership when the parties cannot reach

an agreement on their own. The committee shall make a recommendation to the President who shall make the final determination.

Use of University Names and Marks

The University owns or has a proprietary interest in any trademark, service mark or other distinguishing mark (collectively, "Marks") that represents or identifies the University, its programs, or its services, including, without limitation, the name, seal, and logos associated with the University and its programs. Unauthorized use of the Marks is prohibited. Faculty members, students, and staff members shall only use the Marks in accordance with the University's policies regarding the use thereof.

Effective July 24, 2012

Approved by the Board of Trustees, October 12, 2012

Owner: Office of the Academic Vice President