

# Policy on Intellectual Property Rights

August 2005

## Introduction

The University of the South is committed to learning, teaching, creativity and scholarship. The University believes that the public interest is best served by the dissemination of knowledge within and beyond its campus. Within this context, the Intellectual Property Rights Policy is intended to:

- Encourage excellence and innovation in teaching, scholarship and creative activities;
- Encourage the notion that creative and scholarly works produced at The University of the South should advance the state of knowledge and contribute to the public good;
- Acknowledge and protect the traditional property rights of scholars with respect to products of their intellectual endeavors;
- Guide policy and process for commercial uses of employee-created intellectual property other than the traditional products of scholarly work.

This policy covers all types of intellectual property. Although the following list is not meant to be exhaustive, typical examples of the kinds of work the Policy addresses are inventions, discoveries, writings, art works, software, data sets and literary works.

## Policy

In the case of scholarly works such as faculty-authored books, articles, manuscripts, plays, writings, musical scores, and works of art, the University cedes copyright ownership to the author/creator(s). In other intellectual products, the University adheres to guidelines in the Copyright Act. The “work-for-hire” rule in the Copyright Act gives the University ownership of the copyright to copyrightable works produced by its employees within the scope of their employment. The University owns the rights to all works, inventions, developments and discoveries created by employees within the scope of their employment or whose creation involves the substantial use of University equipment, services, or resources. This includes any patentable invention, computer-related software, databases, web-based learning, and related materials. The use of University equipment, services or resources is “substantial” when it entails a kind or level of use not ordinarily available to all, or virtually all, faculty and/or staff. Substantial use might include, but is not limited to, labor and services provided by University-paid employees or specialized equipment or software. Where a question arises as to whether a particular work involves “substantial use” or falls within the “scope of employment,” the matter shall be referred to an Intellectual Property Committee.

When employee-created intellectual property results from third-party grants, contract, or awards made to the University, the intellectual property is owned by the University unless written agreement involving the University, the employee, and the sponsor establishes an alternative ownership arrangement. No such agreement shall be entered into without the review and approval of the Provost.

Material created for ordinary teaching use in the classroom and in department programs, such as syllabi, assignments, web-based courses, and tests, shall remain the property of the author/creator(s), but the University shall be permitted to obtain and use such material for internal instructional, educational, and administrative purposes. In an agreement transferring copyright for such works to a publisher, where “substantial use” is not applicable, author/creator(s) shall seek to provide rights for the University to obtain copies and use such works for instructional, educational, and administrative purposes. If “substantial use” is applicable, particularly in the case of Web-based courses, the University will make an effort to work with faculty involved to develop a mutually acceptable scheme for joint ownership and compensation.

## **A Special Note on Collaborations**

The University of the South strongly believes in the value of interdisciplinary and cross-disciplinary collaboration but recognizes that as the number of author/creator(s) of a copyrightable or patentable work increases so do possibilities for conflict. If a work involves more than one employee as author/creator, the author/creators will share equally unless they provide the University with an alternative distribution agreed upon by them. If a work involves the collaboration of author/creator(s) outside the University or a student or students, the University strongly encourages its employees to create a written agreement as to its ownership. In the case of works involving author/creator(s) from multiple institutions, the University retains its rights of ownership as stated in this policy unless an alternative agreement has been made.

## **Use of Revenue**

Funds received by the University from the sale of intellectual property owned by the University shall be allocated and expended as determined solely by the University. Funds received by an employee from the sale of intellectual property owned by the employee shall be allocated and expended as determined solely by the employee. In the case of joint ownership between the University and an employee, funds received from the sale of intellectual property shall be allocated and expended in accordance with the specific agreement determined at the time that joint ownership is determined.

## **Intellectual Property Committee**

The Intellectual Property Committee may be convened by the Provost to discuss policy changes or resolve disputes. The Committee shall be appointed by and advisory to the Provost. The committee will normally consist of a faculty member from the Faculty Committee on Advice and Grievances who is not a member of the same department as the author or authors and who will serve as chair, a senior administrator who is not in the same division as the author or authors, and a member of the Exempt or Non-Exempt Employees' Committee who is not in the same division as the author or authors.

In the case of a dispute, the Chair of the Committee will convene and conduct a meeting at which the parties may present information concerning the dispute. The Committee may also seek additional information. The recommendation of the Intellectual Property Committee will be by majority vote of its members, and the recommendation and its justification will be sent to the Provost within 30 days of the review meeting. The Provost will render his or her decision within ten days of receipt of the Committee's recommendation. The decision of the Provost is final.