

Policy on Intellectual Property Rights

April 2015

Introduction

As part of fulfilling its mission as an educational institution, the University of the South encourages and supports scholarship and creativity by faculty, staff, and students. The University believes that the public interest is best served by the dissemination of knowledge within and beyond its campus. The University further believes that the interests of the University community are best served by sharing the benefits of significantly commercialized work by faculty and students undertaken while associated to the University.

Within this context, the Intellectual Property Rights Policy is intended to:

- Encourage excellence and innovation in teaching, scholarship, and creative activities;
- Affirm 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;
- Encourage, and guide policy and process for, commercial uses of employee- and student-created intellectual property other than the traditional products of scholarly and other professional work in the academy.

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 and other academic professional work, such as faculty- or student-authored books, articles, manuscripts, plays, writings, musical scores, and works of art, the University normally intends that copyright ownership should belong to the author/creator(s) and may be assigned to others at their discretion.

For other intellectual products, the University intends that benefits be shared between the author/creator(s) and the University. 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 therefore 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. Similarly, 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 a written agreement involving the University, the employee, and the sponsor, reviewed and approved by the Provost, establishes an alternative ownership arrangement. Should there be significant revenue from these forms of intellectual property, the University intends that these be shared between the University and the employee and encourages a joint agreement to that effect. In the absence of such an agreement, the University is not required to distribute any proceeds from the intellectual property it owns.

These forms of intellectual property 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 ad hoc group convened by 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 in any revenue sharing, 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 an employee from the sale of intellectual property owned by the employee shall be allocated and expended as determined solely by the employee, absent a prior agreement with the University. 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, absent a prior agreement with the creators. 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.

Review and Advice

An Intellectual Property Review Group may be convened as needed by the Provost to consider specific situations involving intellectual property, ownership, and revenue-sharing, and offer advice to the administration. Such a Review Group would be appointed by and advisory to the Provost, and will normally include one or more faculty from the Hearings Committee, a senior administrator, and a member of the Employee Advisory Committee, taking care to avoid constituting the group with members of a department or division closest to a presenting issue. For any relevant issue on which the group intends to make a recommendation, the group will do so within 30 days of its last meeting on the issue, and the Provost will render the final administrative decision within ten days of receipt of the that recommendation.