

Intellectual Property Policy

Purpose

This policy establishes guidelines for creative works, inventions, improvements, and discoveries resulting from the work of Pacific Lutheran University faculty, administrators, staff, students, research associates, visiting scholars, and anyone employed by PLU.

Creative Works of Authorship

Copyrightable works created by University employees, other than faculty, as part of their job, are deemed “Works Made for Hire” and are owned by the University. Copyrightable works are described in Section 102 of the Copyright Act of 1976. “Works Made for Hire” are defined in Section 101 of the Copyright Act of 1976, and the employer’s ownership of them at Section 201(b) of the Copyright Act. This policy includes works created by student employees.

Works created by students in their capacity as students belong to them, unless the copyright is transferred to the University by written agreement. However, a student’s work may be derivative of a faculty member’s work, in which case it is likely owned by the faculty member, not the student. Unauthorized use of a faculty member’s work is prohibited.

The University recognizes and reaffirms the traditional academic expectation that all faculty (including full-time, part-time, adjunct, visiting, and research associates) own and control instructional materials and scholarly works created by their own initiative with the aid of standard and customary University resources. The University’s policy is that these works are not “works made for hire.” Therefore, faculty members will own the copyrights in works that result from a faculty member’s pursuit of traditional teaching, research and scholarly activities, including the creation of books, articles and other literary works; computer software; inventions; artistic, musical or dramatic works; or course materials, whether in traditional or electronic form, unless they fall within one of the exceptions below.

The University may own copyrightable works created by faculty in specific instances.

Those instances will include:

- (a) When there is a written agreement between the faculty member and the University regarding ownership of the copyright;
- (b) The Work was developed pursuant to a sponsored research project or other agreement in which the copyright terms are specifically stated or negotiated;
- (c) The Work was created as part of an administrative assignment for the University (for example, a report to a University committee); or
- (d) The Work was created using “extraordinary resources” from the University, as defined below.

Inventions, Improvements and Discoveries

Under patent law, inventions are owned by the inventor and not the employer unless the inventor agrees to assign his or her rights in an invention to the employer. Unless “extraordinary resources” of the university are used in the creation of a work, the university will not expect the faculty member to assign his or her rights in an invention conceived, developed, or discovered during the faculty member’s employment with the university. With regard to any particular

invention, the university and the faculty member may mutually agree on an alternative ownership arrangement. These provisions for inventions apply equally to improvements and discoveries.

Definition of Extraordinary Resources

“Extraordinary resources” means that the Work was created using more University resources than are standard or customary for the faculty member’s position. Extraordinary resources may consist of release time from regularly assigned duties, direct investment by the university through funds or staff; the university’s purchase of special equipment for the project; use of the university multimedia production personnel and facilities; or extraordinary use of the university’s computing resources.

Where ambiguity may exist, whether extraordinary resources are used for the Work shall be determined on a case-by-case basis. In each case it is important that the university and the faculty member have a clear understanding of what is "standard and customary." At a minimum, “standard and customary” resources will include funds provided by the University as part of its regular and on-going budgetary support, such as Regency Advancement or similar faculty/student research grants, sabbatical leaves, travel support, incidental supplies, an office computer, and the like. If a faculty member has doubts as to what is standard or customary in their particular case, the faculty member should seek clarification from the university by inquiry to the Provost. If the faculty member believes the university's interpretation of what is standard and customary in their particular case is incorrect, the faculty member has access to the dispute resolution process described below.

Cooperative Actions

For all works for which the university retains ownership, the faculty member agrees to cooperate with the university and take any further actions necessary to effectuate ownership by the university.

Administration and Disputes

This Intellectual Property Policy will be administered by the Office of Finance and Administration. Disputes concerning application of this policy will be resolved by a Review Panel of three members consisting of one member appointed by the President, a representative appointed by the creator or inventor, and a third member (who may be from outside the University) appointed by the other two representatives. If the third member has not been selected within thirty (30) days of the appointment of the other two, then, upon written request by either of the two members of the Review Panel, the President may select the third member of the panel. The Review Panel may determine the procedures it will follow. The Review Panel will facilitate a negotiated resolution of the issues if the parties request.

If, after reviewing the initial materials provided by the University and the creator or inventor (here, the “Claimant”), the Review Panel decides that it can decide the issues without further information, then it shall so notify the parties of its decision. If the Review Panel feels that further information or investigation is needed, it may seek additional materials from one or more of the parties and may ask for briefing and oral arguments on the issues. After receiving and reviewing the information received, the Review Panel shall issue its decision and deliver that decision to the President and the Claimant.

Within thirty days of receipt of that decision, the President and the Claimant shall notify each other and the Review Panel of their acceptance or rejection of it. If either rejects the Review Panel's decision, he or she may appeal to the Board of Regents within thirty days of that rejection. If the decision is not appealed within said time, then the Review Panel's decision will be final and binding on the parties. On appeal to the Board of Regents, the Board shall have the authority to issue a final decision, binding upon the parties, using such procedure as it deems appropriate.