Intellectual Property Policy - DRAFT

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 belongs 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, which generally will be agreed upon in advance between the faculty member and the University. 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);
(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 (but not a sabbatical or similar leave); direct investment by the university through funds or staff; the university’s purchase of special equipment for the project; use of the university’s multimedia production personnel and facilities; or extraordinary use of the university’s computing resources. Use of incidental supplies, use of a university computer in a faculty office, or use of university personnel or shared facilities on an occasional basis will not be considered use of extraordinary resources. The University will determine whether extraordinary resources have been used on a case-by-case basis.

**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**

This Intellectual Property Policy will be administered by the Office of Finance and Administration. Disputes concerning application of this policy will be resolved by the University Dispute Resolution Committee.