Intellectual Property Created at Allegheny College

Terms:

• “Copyright” shall be understood to mean that bundle of rights that protect 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 include, but are not limited to the following: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works (photographs, prints, diagrams, models, and technical drawings); motion pictures and other audiovisual works; sound recordings; and architectural works.

• “Patent” shall be understood to mean that bundle of rights that protect inventions or discoveries which constitute “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof” or other discoveries and processes as defined by the United States Patent and Trademark Office.

I. Ownership of Copyright in Works Created by Faculty

Traditionally, faculty scholarly work has not been considered work-for-hire. “It has been the prevailing academic practice to treat the faculty member as the copyright owner of works that are created independently and at the faculty member’s own initiative for traditional academic purposes.” (AAUP Statement on Copyright) In addition, AAUP policy holds that for faculty work to be considered work-for-hire, it requires use of extraordinary resources. Use of traditional resources “such as office space, supplies, library facilities, ordinary access to computer and networks, and money,” are not sufficient to make faculty work into work-for-hire.

Allegheny College recognizes the following categories of scholarly work for which the College will waive any ownership interest in favor of the faculty member: textbooks, class notes, research findings, research proposals, classroom presentations and instruction, research articles, research monographs, computer software created for teaching purposes or intended as open source programs, student theses and dissertations, paintings, drawings, sculpture, audiovisual works, musical compositions and performances, dramatic works and performances, choreographic works and performances, poetry, and popular fiction and nonfiction.

II. Intellectual Property Products

A. Copyrighted Materials

Allegheny College will consider a faculty member who produces traditional scholarly works in the categories listed above (Section I) to be the sole owner of those materials and the copyrights in such materials if they are produced without assistance over and above the traditional resources normally provided by the College for the routine use of its faculty. When a faculty member’s effort in developing a work (whether copyrightable or not) is significantly assisted by the use of College facilities, resources, or personnel,
beyond the traditional resources normally provided by the College for the routine use of its faculty, or if the College has contributed to a “joint work” as defined under the Copyright Act, then the College shall be a joint owner of the work itself as well as in any and all copyrights in the work.

For the purpose of determining ownership of the copyright in scholarly or artistic works created by faculty, exceptional, extraordinary, and significant resources (resources considered more than the traditional resources normally provided by the College) may include the following:

- release time
- development money
- exemptions from standard, customary fees for equipment or facilities
- staff support beyond customary secretarial support

Traditional resources normally provided by the College include, but are not limited to, the following:

- sabbatical leaves
- pre-tenure leaves
- course release for divisional teacher/scholar chair
- course release for advising of Senior Projects
- Demmler grant funding
- Academic Support funding
- travel-to-conference funding
- summer paid research interns
- work-study students

The College shall make the determination in its reasonable discretion whether it has contributed to a joint work, or contributed services and facilities to the production of the work that go beyond the traditional resources normally provided to faculty members.

In order to avoid disputes over the ownership of works created at Allegheny College, faculty who anticipate using significant College resources in the creation of scholarly materials should contact their Department Chair and the Dean of the College to negotiate terms of ownership in advance.

**B. Patented Materials**

The ownership of patents pursued by faculty using College resources (such as facilities, equipment, or funds controlled by the College) is determined on a case-by-case basis. A patent application may be filed when a new and useful process, machine, manufacture, or composition of matter is conceived or developed, or when unusual, unexpected, or non-obvious research results are obtained. A faculty member who decides to apply for a patent must notify the Dean of the College in compliance with Section D below. Upon disclosure of the faculty member’s intent to file a patent application, the Dean of the College will determine whether the College is entitled to an ownership interest in the invention or discovery and any patent that may issue covering such invention or discovery.
If the College is entitled to an ownership interest and chooses to apply for patent protection, it will fund the upfront fees and legal costs incurred in the patent application process. In consideration of its investment, Allegheny College will recoup the aforementioned costs from the initial profits of the invention, in addition to half of all subsequent shares in the profit.

In cases where the Dean of the College determines that the College is not entitled to an ownership interest or decides not to pursue co-ownership of the patent, the College will confirm/release ownership of the invention or discovery to the faculty member, who will have the right to pursue the patenting and/or commercialization of the invention at his or her own expense.

C. Procedure for Disclosure of Copyrightable Works

Faculty members wishing to pursue copyright registration of works that do not fall under the category of scholarly works as described in Section I, or which comprise scholarly works that are produced using significant College resources beyond the traditional resources normally provided by the College, must make prompt disclosure to the Dean of the College, in writing, of their intent.

The Dean will consult with the faculty member to ascertain the nature, purpose, and genesis of the works and determine the extent to which the College has contributed as a joint author, or that College resources have been used in creation of the works. The Dean shall make a determination as to: a) Allegheny College’s right to joint ownership of the work and any associated copyrights; b) Allegheny College’s intention to pursue copyright registration for the work; and c) Allegheny College’s desire to be involved in commercialization or enforcement of the copyrights in the works.


Faculty members who intend to apply for a patent must make prompt disclosure to the Dean of the College, in writing, of their intent.

Upon receiving a disclosure, the Dean will consult with the faculty member to ascertain the nature and purpose of the invention or discovery to be patented and determine the extent to which College resources have been used in its creation. The Dean shall make a determination as to: a) Allegheny College’s claim to joint ownership of the invention or discovery and any associated patents; b) Allegheny College’s intention to pursue patent protection for the invention or discovery; and c) Allegheny College’s desire to be involved in commercialization or enforcement of the patent.

If the Dean determines that the College is not entitled to an ownership interest or that the College has no intention of pursuing patent protection for the invention or discovery, all ownership of the invention or discovery shall be confirmed/released to the creator of the invention or discovery.
E. Intellectual Property Created Using Grant Support

The ownership of intellectual property created at Allegheny College using grant or sponsor funds shall be determined by the terms of the granting agency’s contract.

F. College and Community Interests

Although individual faculty may own in their entirety certain of the scholarly works described in Section I above, the College community has interests in being able to use such works for educational and administrative purposes. Faculty members should keep these purposes in mind when creating and disseminating instructional materials and scholarly works. When publishing scholarly works, faculty creators are encouraged to provide rights for use for the College community.

The College shall at all times have and/or retain the right to use, display, distribute, perform, copy, and modify faculty-created teaching materials (such as syllabi, assignments, tests, and other course content) for administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions, and for educational purposes at the College including in its internally administered programs of teaching, research, and service on a perpetual, non-terminable, royalty-free, non-exclusive basis.

Likewise, the College shall at all times have a non-exclusive right to make and use, solely for internal purposes, any invention or discovery made by using College resources.

III. Works Produced by Non-Faculty Employees

Works produced by non-faculty employees in the scope of their employment are generally considered works-for-hire, and as a consequence, are the property of Allegheny College.

There may be circumstances where non-faculty employees make substantial creative contributions to an intellectual property project. The College may choose to share ownership with the employees involved. In such a case, the College and the employee should create a specific agreement clarifying ownership of the intellectual property in question.

The College does not claim ownership of works created by non-faculty members at their own initiative, outside the scope of their employment, and without the use of exceptional, extraordinary, and significant College resources.

IV. Works Created by Students

A. Student Materials

In general, student initiated research and creative work—including papers, drawings, models, and other objects submitted to the school in satisfaction of course or degree requirements—remain the physical and intellectual property of the creator. Student materials that are assigned and completed in support of faculty initiated research—
including papers, drawings, models, and other objects submitted to the school in satisfaction of course or degree requirements—become the physical property of the school, although the creator retains all rights to the intellectual property contained within the material unless (i) the student received financial support from the College in the form of wages, salary, stipend, or grant funds for the research, (ii) the student made significant use of College resources (including College-administered funds or College-funded time, facilities, or equipment) in connection with the research, or (iii) the research was funded by a sponsor pursuant to a grant or sponsored research agreement or is subject to a materials transfer agreement, confidential disclosure agreement, or other legal obligation that restricts ownership of Intellectual Property.

The school assumes no responsibility for the safeguarding of such material and may, at its discretion, retain such material, return it to its creator, or discard it. Ordinarily, material of current students will not be discarded without giving the student a chance to reclaim it.

B. Senior Projects
The College shall have, as a condition of the degree award, the royalty-free right to retain, use, and distribute a limited number of copies of the senior thesis, together with the right to digitize it for archival use.

V. Resolution of Disputes
In cases where there is a dispute over ownership, and its attendant rights, of intellectual property, an ad-hoc committee comprised of one individual selected by the Dean of the College, one individual selected by the creator of the intellectual property, and one individual agreed to by both parties, will be appointed. The Committee members will have knowledge about the particular field or intellectual property issue and will have no personal interest in the matter.

The committee shall make an initial determination of whether the College or any other party has rights to the invention or other creation, and, if so, the basis and extent of those rights. It will make its recommendation to the Dean of the College for a final decision.

VI. Credit
Notwithstanding any of the above, at the College’s request, the creator of any intellectual property created at the College, or by a College employee using College resources, will give the College appropriate credit on every copy of the work.

VII. Trademarks
The College retains the exclusive right to control the use of its name and trademarks in association with any work, regardless of the ownership of the work.