

1. INTRODUCTION

The University of Notre Dame, as an institution of higher learning, aims to share existing knowledge with its students and to engage in research and scholarly activities. The products of scholarly research efforts often have far-reaching social benefits and commercial potential. Protection of the intellectual property developed by the University creates a societal benefit by allowing the results of research to be known and used. This policy governs the protection and administration of intellectual property arising from University Work, as defined herein.

2. POLICY STATEMENT

The University of Notre Dame, subject to the rights of government and other sponsors as well as any exceptions contained in this policy, owns all intellectual property arising from University Work. Creators of intellectual property have an obligation to disclose intellectual property arising from University Work in the manner prescribed within this policy. In consideration of employment with the University or by otherwise engaging in University Work as described in this Intellectual Property Policy, Creators automatically assign to the University all intellectual property rights arising from such University Work, and agree to assist the University in legally protecting that intellectual property. The University owns or retains an interest in, as applicable, any portions, modifications, extensions, derivations, improvements, or translations of intellectual property as it would in the original work. The University and the Creator share in any royalty income resulting from the intellectual property as described in this policy.

2.1. Patents

The University owns all rights to all patentable inventions arising from University Work. The University will normally make an initial decision whether to pursue a patent or other legal protection within three months of the initial disclosure of such potential invention to the University by the Creator. If the University deems more information is required from the Creator to complete the evaluation of the invention, the University may extend its initial decision period up to twelve months from the initial disclosure to the University by Creator. If the University elects to pursue a patent or other legal protection, all costs shall be borne by the University or by a sponsor or licensee. The University may, at any time, elect not to pursue legal protection or commercialization, at which time all University rights to the intellectual property may be released by the University, in its discretion, to the Creator(s) of the intellectual property at their request, subject to any restrictions imposed by grant, sponsor, or other requirement.

2.2. Copyrights

The University owns all copyrightable materials (including computer programs, software, or multi-media productions) that are works made for hire under copyright law or that are

developed pursuant to University Work unless otherwise provided in this policy. Consistent with long-standing academic tradition, the University does not normally claim ownership of works such as textbooks, articles, papers, scholarly monographs, or artistic works. Creators therefore retain copyright in such works, unless such works are created under a grant or sponsored program that specifies ownership rights in some entity other than the Creator, such works are the subject of a contract modifying ownership rights, or rights in such works are otherwise addressed in this policy.

2.3. Educational Materials

Educational materials produced in the normal course of the University's educational mission will generally be owned by the Creators of the materials. Certain circumstances, however, may give rise to ownership by the University, e.g., Educational Materials that are works made for hire, such as those produced by non-faculty employees within the specific scope of their employment with the University. Because all possible circumstances cannot be envisioned in this policy, the Office of the Vice President for Innovation will evaluate, or if it deems necessary identify another appropriate office of the University (taking into account the University's Delegation of Authority among any other relevant factors) to evaluate each particular situation to determine ownership interests and who may have the right to use the Educational Materials. The University intends for this evaluation of ownership interests and rights to use Educational Materials to take place prior to production of the materials, consistent with this policy.

2.3.1 Educational Materials Developed as Works Made for Hire

The University owns all Educational Materials (including computer programs, software, mobile apps, games, or multi-media productions) that are works made for hire under copyright law, unless otherwise specified in this policy, or that are required to be assigned to the University by contract terms with third parties or by the terms of a grant or sponsored program under which the University is a recipient.

2.3.2 Educational Materials Developed on the Initiative of the Creator with less than Substantial Use of University Facilities and Resources

This category includes a faculty member developing learning materials, whether printed, video, digital or in another format, to supplement a new or existing Notre Dame course, with incidental or less than substantial use of University-provided facilities or resources. In this situation, the Educational Materials would be owned by the Creator. As such, the Educational Materials could be used by the Creator outside the context of the University course, consistent with the University's Conflict of Interest and Conflict of Commitment policies. For any such use, the Creator is not allowed to use the University's name in conjunction with the Educational Materials without the specific written permission of the University. If the Creator of these types of Educational Materials seeks to distribute or share the Materials through University-provided platforms or channels, they may do so after reaching a written agreement with the IDEA Center or the Office of the Provost, as applicable.

2.3.3 Educational Materials Developed on the Initiative of the Creator with a Substantial Use of University Facilities and Resources

Educational Materials that require greater than incidental use of University-provided facilities or resources, such as extensive video production, custom software development, course development with third-party vendors, and the like, making substantial use of University resources are owned by the University. The University will grant to the Creator a paid-up, royalty-free, non-sub-licensable, non-exclusive license for the use, reproduction, and creation of derivative works of the underlying creative content for the Creator's purpose. The tangible Educational Materials owned by the University may be used by the Creator while still employed by the University, consistent with the University's Conflict of Interest, Conflict of Commitment policies. When the University engages Creators to use these types of Educational Materials within a partnership, consortium, or other arrangement for external distribution, entered into by the University, the rights and responsibilities of both the University and the Creator shall be governed by a written agreement. This written agreement will address issues such as compensation for production of the materials, sharing of any potential revenues resulting from commercial distribution of the Educational Materials, the relationship of the assignment to other duties, the use of the Educational Materials on an ongoing basis by the University and the Creator's involvement in such use, and any other relevant issues related to the production of the Educational Materials. For any other use of these Educational Materials outside the University, however, specific written permission of the University is required.

2.3.4 Educational Materials Commissioned for Production by the University

Educational Materials commissioned for production at the initiative of the University, or with learning outcomes and creative content authored or designed by the University, are works made for hire, and as such are owned by the University. When the production of such a commissioned work is anticipated, a written agreement will be entered into in advance of production between the University and the Creator, acknowledging University's ownership rights in the Educational Materials. This written agreement will address issues such as compensation for production of the materials, sharing of any potential revenues resulting from commercial distribution of the Educational Materials, the relationship of the assignment to other duties, and any other relevant issues related to the production of the Educational Materials. Commissioned Educational Materials may be used by the Creator outside the University only with specific written permission of the University.

2.3.5 Educational Materials Funded by an External Sponsor

Ownership of externally funded Educational Materials will be governed by the terms of the sponsor's agreement with the University. In the absence of specific ownership terms for Educational Materials in the sponsorship agreement, Educational Materials developed through external funding will be treated as though commissioned for production by the University.

2.3.6 Changes to Educational Materials

The owner of Educational Materials has the right to change or make derivative works of his or her Educational Materials. Educational Materials owned by the University may only be changed, and derivative works of University-owned Educational Materials may only be made, with the written permission of the University.

2.4 Other Intellectual Property

The University owns all other forms of intellectual property arising from University Work, including trade secrets, trademarks, and know-how (unless the know-how is related to intellectual property not otherwise owned by the University.) The University also owns or retains an interest in any portions, modifications, extensions or translations of intellectual property as it would the original work, Educational Materials or invention, consistent with the treatment of derivative works under copyright law.

2.5 Waivers

The University may grant a waiver of any provision of this policy on a case-by-case basis. All waivers must be approved in writing and signed by the Vice President for Innovation or designee, consistent with the University's delegation of authority. Any decision to grant a waiver should take into account the best interests of the University and the facts of the particular situation involved. This paragraph shall not relieve the University of its obligations under this policy. Any waiver granted pursuant to this paragraph will apply only to obligations imposed on the Creator, unless otherwise agreed to by the Creator.

2.6 Intellectual Property Developed During a Leave of Absence

Subject to the terms of this Policy, the University will not own Intellectual Property developed by the Creator during an approved leave of absence if all of the following criteria are met:

1. The University does not pay for any of the Creator's leave of absence expenses.
2. The Intellectual Property developed was not conceived of, developed or reduced to practice as a part of University Work.
3. The Creator has a written contractual relationship with the sponsor, if any, of the leave of absence that is not in violation of University policy.
4. The Creator did not use University resources (as defined under Substantial Use) in the conception, development or reduction to practice of the Intellectual Property.
5. No other University faculty, staff or students (that are not also under contractual obligation to the sponsor of the leave of absence) are also Creators of the Intellectual Property.

If the University partially pays for leave of absence expenses, the University will not own Intellectual Property developed by the Creator if all of the above criteria are met and the Intellectual Property is not in the area of professional expertise for which the Creator was hired at the University.

2.7 Intellectual Property Developed During Consulting

The University will not own Intellectual Property developed by the Creator while consulting for an entity outside the University if all of the following criteria are met:

1. The Intellectual Property developed was not previously conceived of, developed or reduced to practice as a part of University Work.
2. The Creator has a written contractual relationship with the outside entity that is not in violation of University policy.
3. The Creator did not use University resources (as defined as Substantial Use – see Definitions) in the conception, development or reduction to practice of the Intellectual Property.
4. No other University faculty, staff or students (that are not under contractual obligation to the sponsor of the consulting) are Creators of the Intellectual Property.

2.8 Amendments

The University reserves the right to amend this policy at any time. Royalty distributions due to University employees with respect to intellectual property matters are established by the policy in effect at the time that the University enters into any license agreement or other contractual arrangement concerning exploitation of the intellectual property. If the Intellectual Property policy has changed after the University enters into any license agreement or other contractual arrangement concerning the exploitation of the Intellectual Property and before the University receives Net Royalty over One Thousand Dollars, the Creator may elect to use the Intellectual Property policy then currently in effect.

3. SCOPE

This policy applies to faculty, staff, students and others who make use of University facilities, equipment, or other resources or who receive funds from the University in the form of salary, wages, stipend, or other support, but not including undergraduate financial aid.

The University will ordinarily waive its rights to intellectual property created by student Creators in the course of their academic course of study (other than University Work) where the use of University facilities, equipment or other resources has been properly authorized, except when:

- Faculty or staff involvement is substantial,
- The work is part of a larger University work or specifically commissioned by the University,
- The use of facilities, equipment, or other resources is in excess of the norm for educational purposes, or
- The intellectual property resulted from a student’s employment with, or other related compensation by, the University
- An employee(s) of the University is also a Creator of the intellectual property, or
- The United States of America or other external sponsor has rights in the intellectual property.

4. DEFINITIONS

Creator	Any inventor (as defined under U.S. patent law), developer, or author, of intellectual property covered by this policy, including faculty, students, and staff of the University.
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Educational Materials	The content and associated tools and technologies for delivery of content, including materials developed for traditional “face-to-face” classroom courses, as well as other delivery methods such as Internet web-based delivery or other distance learning media. For the purposes of this policy, Educational Materials do not normally include works such as textbooks, articles, papers, scholarly monographs, industrial graphics, architectural designs, compositions, and literary or artistic works produced in the normal course of academic scholarship.
Intellectual Property	Intellectual property refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.
Net Royalty	Revenue arising from the licensing of the University’s Intellectual Property, less the University’s costs and expenses associated with the legal protection, commercialization, or internal development of the Intellectual Property.
Substantial Use	The use of University resources (including, for example, funding, personnel time, property, equipment, facilities, supplies, resources or intellectual property owned by or paid for through the University) other than (a) property, equipment, facilities, supplies or other resources the University makes available either to the general public (for example, library facilities and resources) or to the Creator and his or her colleagues in the Creator's department or unit (for example, office furnishings, office supplies, computers, communications equipment, and administrative support if such use is not in excess of the amount normally provided the Creator and his or her colleagues). "Substantial Use" shall include the efforts or time of the Creator to the extent the University has compensated (or will compensate) the Creator for such efforts or time, subject to the terms of this Policy.
University Work	Any research or development activity which is undertaken in connection with an externally funded project, or which derives from the scholarship, duties, and responsibilities for which a person is employed by or otherwise compensated by the University, or which is conducted with Substantial Use of University facilities or resources, consistent with the University’s Conflict of Commitment Policy. This includes, but is not limited to the topic of a grant (submitted application or awarded), publication (submitted, accepted or published in any public or University manner) or oral/poster presentation (submitted, accepted or presented in any public or University venue) submitted by Creator or any of Creator’s students, post-docs and graduate students (volunteer or paid) or working in Creators lab/Center/Institute (volunteer or paid), subject to the terms of this Policy.

5. RESPONSIBILITIES

5.1 Office of the Vice President for Innovation

The Office of the Vice President for Innovation is responsible for intellectual property protection. Where actions or decisions in this policy are to be taken by the University, this Office, with advice from the Committee on Intellectual Property and the Office of General Counsel where appropriate, will have ultimate responsibility. The IDEA Center reviews all intellectual property disclosures and administers all aspects of the intellectual property process. Under the guidance of the Vice President for Innovation, the IDEA Center is assigned the sole role for dealing with third parties with respect to disposition of intellectual property rights including licensing and deal negotiation, consistent with the University's delegation of authority.

5.2 University Committee on Intellectual Property

The University Committee on Intellectual Property advises the Vice President for Innovation on intellectual property matters generally and the disposition of rights in those intellectual properties referred to the committee. At the request of the Vice President for Innovation, the committee will be available to assist in mediating disputes on matters related to intellectual property developed by members of the University.

6. PROCEDURES

6.1 Disclosure

Creators have a duty to communicate, in a timely manner, all creations of intellectual property covered by this policy to the IDEA Center. They are also required to cooperate fully in steps necessary to protect the University's rights. The failure to confirm these obligations in no way diminishes or extinguishes the rights of the University. Creators shall disclose modifications, extensions, derivations, improvements, or translations of previously identified works, educational materials, or inventions to the University, and such disclosures will be administered according to this policy. Disclosure of modifications, extensions, derivations, improvements, or translations to the University is required regardless of any previous or pending University decision to assign rights or interests to the creator in the case of an underlying work or invention.

6.2 Review

Upon receipt of the Intellectual Property disclosure, the IDEA Center will ensure that the ownership rights are properly defined. The IDEA Center may use any resources necessary to perform an adequate review of the intellectual property. Once the scope of the University's ownership interest has been defined, the invention will be evaluated on the basis of appropriate available legal protection and commercial feasibility.

The Creators will be informed in writing of the action the University intends to pursue with respect to the intellectual property; this communication will normally take place within three months of the disclosure of the intellectual property to the IDEA Center. The IDEA Center will advise the Creators in writing if it needs more than six months to properly evaluate

the intellectual property. The University may, at any time, elect not to pursue legal protection or commercialization, at which time all University rights to the intellectual property may be released by the University, in its discretion, to the Creator(s) of the intellectual property at their request, subject to any restrictions imposed by grant, sponsor, or other requirement.

6.3 Assignment of Ownership Rights

In consideration of Creator's employment with the University and ongoing ability to engage in University Work, Creators of intellectual property assign all intellectual property rights resulting from University Work to the University upon their employment in accordance with the provisions of this policy and also as required by law. Creators agree to cooperate in the execution of any documents required by the University to record and perfect the assignment of such rights to the University. University-owned intellectual property rights may be assigned, licensed, or otherwise transferred to a third party only by an authorized representative with the written consent of the University. The University may, at any time and in its sole discretion, elect not to pursue a patent or other legal protection or commercialization activities. Under the authority of the Vice President of Innovation, the IDEA Center may either 1) release the ownership rights to the Creator(s) (or research sponsor) where applicable, or 2) define ownership rights of the University subject to any restrictions imposed by grant, sponsor or other requirements.

6.4 Licensing Negotiations

Based on the University's assessment of any commercial interest in the intellectual property, the University may negotiate with one or more potential licensees. The University may accept equity as consideration for a license transaction for University-owned technology.

All decisions as to licensing or other disposition of intellectual property owned by the University, and liquidation of any consideration received by the University for such licensing, are at the sole discretion of the University, consistent with the University's delegation of authority. All licensing terms and documents are considered confidential and may be shared with the Creator at the sole discretion of the IDEA Center.

The University will normally not license Intellectual Property to a prospective licensee if any of the following criteria are met:

- The majority of the management team of the prospective licensee is comprised of the Creators of the Intellectual Property to be licensed.
- The majority of the Board of Directors of the prospective licensee is comprised of the Creators of the Intellectual Property to be licensed.
- The President or Chief Executive Officer of the prospective licensee is the Creator and is also a full time employee of the University.

Exceptions require the written approval of the Vice President for Innovation.

6.4.1 Equity Agreements

When equity is acquired as part of a licensing agreement, the University will normally follow these guidelines:

1. The University will follow the following protocol for the maintenance and liquidation of equity investments.
 - a. Liquidate half of the holdings as soon as marketable
 - b. Hold half of the holdings for at least 12 months after becoming marketable
 - c. After twelve months, the Office of the Vice President for Innovation, in its sole discretion will review the remaining holdings and make a determination to sell or hold for another twelve months.
2. The University may acquire, at its sole discretion, additional equity not acquired as part of a licensing agreement.
3. The University may acquire equity for the following: Intellectual Property licensing, in-kind services, and capital investment. Creators of Intellectual Property will only be remunerated under this Policy on the liquidation of equity received in exchange for the University's grant of the license to the Intellectual Property.
4. The University will be informed by the Socially Responsible Investment Guidelines as published by the United States Conference of Catholic Bishops when acquiring equity in a licensee.

6.5 Management and Royalty Distributions

6.5.1 Intellectual Property Expenses

If the University decides to pursue legal protection for intellectual property, the University will normally bear the costs associated with such protection or require payment for such costs of its licensees. The University must be reimbursed for its costs before revenues are distributed to Creators under this policy. The University will maintain appropriate accounts for documenting the expenses and revenues associated with intellectual property.

6.5.2 Commercialization Expenses

If the University decides to provide funding to further de-risk or otherwise develop or commercialize the Intellectual Property, the University must be reimbursed for those costs before revenues are distributed to Creators under this policy. The University will maintain appropriate accounts for documenting the expenses and revenues associated with commercializing the Intellectual Property. These expenses will only include direct expenses the University makes to commercialize the Intellectual Property.

In recognition of the substantial effort and the difficulty of capturing all attendant costs in protecting and commercializing the Intellectual Property, the University will also normally assume a standard amount of Ten Thousand Dollars in addition to the direct expenses identified in this Section 6.5.2 for each disclosed Intellectual Property, or related group thereof, before revenues are distributed to Creators under this policy.

6.5.3 Collaboration Agreement

In cases in which the University's rights and interests in intellectual property are shared with other institutions, organizations, or program collaborators, or when such entities agree to contribute to the evaluation, development, or exploitation of the intellectual

property, the University may elect to enter into separate agreements to establish means by which the intellectual property rights will be protected and royalties will be distributed among the parties. Distribution of royalties to University employees will be governed by this policy. Royalties distributed to third parties (those not affiliated with the University) shall not be considered part of net royalty income under this plan.

6.5.4 Royalty Distributions

Any royalty income received by the University from intellectual property covered under this policy is first used to reimburse the University for all direct expenses associated with the protection, development, and commercialization of the intellectual property. Any distribution of royalties, or other distributable funds paid pursuant to this policy constitute supplemental income to the recipient, who bears all tax consequences.

Funds or other consideration provided by external sponsors to the University to support the performance of University Work are not royalties and do not constitute income to the University on which royalty distributions may be computed.

Net Royalty will be distributed as follows:

Net Royalty	Creator(s) Share	Creator(s) Department(s)	Creator(s) College(s)	Provost	General Fund
Up to and including \$1Million	33%	15%	10%	21%	21%
Over \$1Million	33%	15%, until cumulative distributions to the Department(s) equal \$1 million, with no further share accruing thereafter	10%	21%, until the cumulative distributions to the Department(s) equal \$1 million, and thereafter 28.5%	21%, until the cumulative distributions to the Department(s) equal \$1 million, and thereafter 28.5%

1. Income and expenses will be computed on a cumulative basis. At the end of each fiscal year, the undistributed cumulative net income will be distributed according to the above schedule.
2. In the case of multiple University Creators, the Creators' share will be divided among the co-Creators as they mutually agree at the time of disclosure of the intellectual property to the University. This agreement shall be in writing, signed by all Creators involved, and submitted to the University. Should the Creators not mutually agree on a division, the University will make the final decision on division after consultation with all parties involved. If several intellectual properties are licensed under a single licensing agreement, the University will determine the share of net income to be assigned to each intellectual property.
3. For the purposes of royalty income only, all intellectual property, such as disclosures, patents, copyrights, marks, licenses, and similar matters related to a single technology and

improvements and extensions thereon, shall be grouped together. In cases of doubt, the University shall determine which matters shall be grouped into a single technology.

4. In the event that the University elects to receive a one-time, upfront amount for the prospective license of all Intellectual Property associated with a sponsored program, such amount will normally be distributed to the principal investigator(s) of such sponsored program at the time of award according to the Net Royalty distribution chart above.
5. In considering the distribution of the University's share of any revenues, the University will take into account the research needs of the originating department and college as well as University costs in maintaining technology programs.

6.6 Equity Liquidation

In licensing transactions in which the University has taken an equity interest in the licensee company, proceeds of the liquidation of license-related equity will be distributed as a Net Royalty according to the schedule of Section 6.5.4.

7. POLICY ENFORCEMENT

Enforcement	<p>Failure to comply with this policy may result in disciplinary action in accordance with University codes of conduct or policies. Sanctions may include one or more of the following:</p> <ul style="list-style-type: none"> • suspension or termination of access to University facilities and resources; • disciplinary action up to and including termination of employment; • student discipline in accordance with applicable University policy.
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8. RELATED DOCUMENTS

Policy or Document	Web Address
Conflict of Interest Policy	http://policy.nd.edu/policy_files/ConflictofInterestPolicy.pdf
Conflict of Commitments Policy	http://policy.nd.edu/policy_files/ConflictofCommitmentPolicy.pdf
Ethical Conduct Policy	http:// http://policy.nd.edu/policy_files/EthicalConductPolicy.pdf

9. CONTACTS

Subject	Office or Position	Telephone Number	Office Email or URL
Policy Clarification	IDEA Center	(574) 631-8825	Ideacenter.nd.edu

Web Address for this Policy	http://policy.nd.edu/policy_files/IntellectualPropertyPolicy.pdf
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