

Drew University Intellectual Property Ownership Policy Office of the President

A. Purpose

The purpose of this Policy is to describe the intellectual property interests, rights, and responsibilities in the work created by members of the Drew University community (University).

Academic and scholarly work and research created by faculty, researchers, RISE fellows, staff, administrators, and/or students is owned by its creator except in those limited circumstances where the work constitutes directed work or involves the use of substantial University resources, or in the case of staff or administrators, where the work is created in the course of their employment.

The University seeks to encourage intellectual inquiry, research, scholarship, and creativity among the members of its community in furtherance of the University's nonprofit educational and academic mission. The University is committed to an academic tradition that recognizes the intellectual property rights of those who create work, including legally compliant uses of the work of others in the course of scholarly inquiry. This policy is intended to promote the free exchange of ideas and to advance the University's commitment to academic freedom. Members of the community are encouraged to pursue learning, research, academic inquiry, and other creative endeavors and to distribute, publish, and share their work.

B. Scope

This policy is applicable to intellectual property created by faculty, researchers, RISE fellows, staff, administrators, students, and contractors of Drew University.

C. Terms

As utilized in this Policy, the following terms are defined as follows:

“Academic Work” means scholarly, pedagogical, research, or creative or artistic works in any medium developed by faculty members, researchers, RISE fellows, or students. Academic work can include, by way of illustration, fiction and nonfiction books, textbooks, articles, dramatic works, works of visual art, musical compositions, scores, scripts, choreography, data sets, or software, as well as course syllabi, tests, problem sets, course websites, and lecture or class notes, whether in paper, electronic, or other form.

“Substantial University Resources” means the provision of support, facilities, or services, including staff or administrative assistance, over and above the resources made available in the ordinary course of teaching, writing, lecturing, or conducting research. The term does not include incidental support customarily provided to faculty, researchers, or RISE fellows in connection with their work and responsibilities as faculty, RISE fellows, or researchers. The University will not construe its provision of offices, library resources, laboratories, sabbatical leaves, computers, or IT support services to faculty in the ordinary course of their faculty responsibilities, including teaching or research, as constituting “substantial University resources” unless that support is

furnished by the University for the purpose of supporting directed or commissioned work, or as otherwise may be agreed upon.

For staff and administrators, the term “Substantial University Resources” refers to support provided outside the scope of their normal job responsibilities pursuant to an agreement with the University.

“Directed Work” means intellectual property and any work or invention:

- 1) created by staff or administrators in the course of their employment;
- 2) commissioned by the University; or
- 3) developed as work for hire, excluding academic work, unless developed pursuant to an agreement.

It may also include work created by faculty, researchers, RISE fellows, or students pursuant to an agreement and when supported by substantial University resources beyond those customarily provided to faculty, researchers, RISE fellows, or students in their respective disciplines.

The term “Substantial University Resources” does not refer to academic work unless developed with substantial University resources. Work in any medium specifically developed by faculty, researchers, RISE fellows, and/or students pursuant to an agreement with the University for institutional purposes would constitute directed work.

The term Directed Work includes work created for institutional purposes, such as work created at the request or direction of the University. By way of example, materials created by staff or administrators in the course of their employment, including software, digital and/or electronic works, promotional materials, catalogs, alumni communications, enrollment materials, training programs, personnel procedures, departmental or divisional standard operating procedures, policies, internal memoranda, reports, databases, data sets, surveys, designs, processes, and University trade secrets or other products relating to the operations and functions of the University can constitute directed work.

“Intellectual Property” refers to creations or works and the rights to those works under law. A variety of federal and state laws protect ownership of creative works, including writing, music, art work, photography, films, trade or service marks, software, and inventions. Depending upon their form, works can be copyrighted by their creator and/or with the government, as in the case of a writing, trademarked as in the case of a logo, or patented, in the case of an invention. In addition, an owner of a work can license or grant legal permission to another person to use his or her work. Under this policy, the term “Intellectual Property” and associated terms are applied consistent with their legal meaning.

D. Ownership of Intellectual Property

1) Work Owned by the Creator

Drew University faculty, RISE fellows, researchers, scholars, and students own the intellectual property rights in the academic and creative works and other intellectual property they create, except when developed as directed work or with the use of

substantial University resources. For the avoidance of doubt, the University does not claim ownership to pedagogical, scholarly, or artistic works regardless of their form of expression, including books, novels, articles, works of visual art, dramatic works, musical compositions, scripts, choreography, research, or software, whether in paper, electronic, or other form unless that work constitutes directed or specially commissioned work or is developed with substantial University resources.

The rights to intellectual property developed by staff and administrators outside the scope of their employment and/or without the use of substantial University resources are owned by the administrator or staff creator.

The University does not claim ownership to faculty prepared course work that does not constitute directed work or work developed with substantial University resources. Examples of work ordinarily owned by faculty include course materials, syllabi, tests, problem sets, course websites, lecture or class notes, including materials posted on University technology platforms, as well as textbooks, lecture notes, individualized handouts or charts, class notes, curriculum guides, conference materials, syllabi, software, and peer-reviewed or refereed publications

2) Student and Class Work

Work developed by students in connection with class assignments and without the commitment of substantial University resources, including capstone projects, software, or research projects are owned by the student(s)/creator(s). Where the work is specifically developed for institutional or operational purposes, the students should ordinarily be requested to grant the University permission to use the work.

Work developed collaboratively by faculty and students in the customary course of class assignments and without the commitment of substantial University resources shall be owned by the faculty and student creator(s). Where substantial University resources are utilized, the question of intellectual property rights ownership should be addressed in writing prior to any undertaking, and should include at a minimum the assignment to the University of a non-revocable license.

3) Work Developed in Collaboration or Under Sponsorship

Work and materials provided to University faculty, fellows, students, administrators or staff pursuant to material transfer agreements or developed pursuant to collaboration or sponsorship agreements shall be governed by the terms of such agreements, which can include a recognition of the intellectual property rights of the sponsor, donor, Drew, or the federal government.

4) Work Which the University Owns

Work created as work for hire, in the absence of an agreement to the contrary, is owned by the University and includes work related to the identity, operations, and functions of the University. The University shall recognize the contributions of the authors or creators of works in works where it maintains intellectual property rights. Any such author or

creator may not utilize the University's name for commercial purposes or to suggest endorsement by the University without the University's prior approval.

By way of example, the University owns the intellectual property rights in the following types of work:

- Directed work, work for hire, or other work commissioned by the University and for which the University has agreed, in writing, to specially compensate or provide other support to the creator(s);
- Works developed for institutional or operational purposes by University staff or administrators acting within the scope of their employment, including software, programs, processes, hardware, digital content, or operations or administrative materials;
- Work created in connection with the use of substantial University resources;
- Work, in any medium, developed for University purposes with University resources as directed work;
- Works created pursuant to a contract with an outside sponsor or other agreement that provides for University ownership of any intellectual property interest in the works.
- Trade or service marks owned or created by the University in connection with institutional purposes and/or materials that are connected to the identity of University, such as catalogs, institutional webpages, alumni or fundraising communications, and enrollment materials;
- Work created by staff working with faculty, RISE fellows, or students, and providing assistance constituting substantial University resources, such as software developed by staff upon request.
- Work created pursuant to contract, grants, sponsorship agreements, or as a result of legal requirements, such as governmental funding programs, that vest intellectual property rights in the University.

5) Works Created Pursuant to Agreement

In matters involving specially ordered or commissioned works, works created with the substantial commitment of University Resources, or works created in connection with outside sponsors, including Common Good or federal grants, the purposes for which the work is created shall be documented in advance and where directed work is not involved, intellectual property rights, including copyright, trademarks, patents, and licenses should be determined in advance.

Work developed in collaboration with outside sponsors in connection with an academic program, such as civic engagement community agreements, shall be governed by the

terms of the agreement with the sponsoring organization.

When ownership of copyrighted or patented work is created under an agreement with an outside sponsor or independent contractor, any intellectual property rights produced under such an agreement shall recognize the University's interests and be determined consistent with the terms of the agreement and applicable law. In most instances, the University will enter into appropriate written contracts with independent contractors or external sponsors before services are provided to the University where the work may result in the creation of copyrighted patentable, or trademarked works. University personnel should endeavor to recognize and protect the University's interests and rights in works created collaboratively with other entities or institutions and intellectual property rights, including copyright, trademarks, patents, and licenses should be determined in advance.

6) Outside Uses

Nothing in this policy shall be construed to preclude the University and faculty and students from entering into written agreements governing the use, licensing, or sharing of licensing revenues derived from works owned by them consistent with the requirements of this policy.

E. For-Profit and Commercial University Uses

University resources shall not be used in connection with for-profit commercial enterprises or other non-academic or non-University purposes unless such arrangements are reviewed and approved by the University administration. However, faculty and students retain the right to publish or display their work in for-profit publications or fora, while being cognizant of their obligation to recognize Drew's identity and intellectual property interests

F. Need to Memorialize the Allocation of Intellectual Property Rights When Substantial University Resources Are Utilized

When the use of substantial University resources will be involved, the University should be so advised and questions regarding the allocation of intellectual property rights should be addressed prior to the undertaking. The creator of such work is responsible for advising the University in advance in order to ensure that questions of ownership can be mutually addressed at an appropriate point in time.