

# **ADELPHI UNIVERSITY INTELLECTUAL PROPERTY POLICY**

## **PREAMBLE**

Adelphi University is committed to providing and ensuring an academic environment that supports and facilitates teaching, creativity and scholarly research. The University recognizes its primary obligation in conducting research is to ensure the pursuit of knowledge for public benefit. In addition, the University acknowledges that its relationship to the faculty is not a simple employer-employee association, but rather a collaborative partnership. This policy is intended to demonstrate the University's support of academic freedom, provide an incentive for engaging in research, and facilitate the creative works of faculty, staff and students.

This Intellectual Property Policy acknowledges the contributions of the creators and the University, assures a fair distribution of any benefits arising from activities in which the University and its members are jointly engaged, including public recognition of activities, and specifies equitable financial remuneration resulting from such activities. It seeks to articulate and balance all parties' interests in a fair, manageable and productive manner that exemplifies Adelphi University's commitment to building intellectual capital among the University community and beyond.

The University strives to protect the traditional rights of scholars with respect to the products of their intellectual endeavors while recognizing that when the University provides special support, either with money, facilities, equipment or staff, for the development of ideas or the production of work, it is reasonable for the University to participate in the fruits of the enterprise and /or be reimbursed for any special costs.

Intellectual property refers to any trademarkable, copyrightable, or patentable matter or discovery, know-how, research, matter or any intellectually created tangible thing or matter including, but not limited to: creative or artistic works, books, texts, articles, monographs, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests and work papers; lectures, musical and/or dramatic compositions, unpublished scripts, films, filmstrips, charts, transparencies, other visual aids; video and audio tapes and cassettes; computer programs, live video and audio broadcasts; programmed instruction materials, drawings, paintings, sculptures, photographs, and other works of art.

### **Policy Objectives**

The following objectives shall govern the development and application of the University's policy with respect to creations (including certain tangible results of research), patents and copyrights:

1. Encourage the notion that ideas or creative works produced at the University should be used for the greatest possible public benefit;
2. Specify the University's responsibilities and privileges to encourage and promote intellectual scholarship and creativity;

3. Specify the responsibilities and privileges of faculty, staff and students, when making discoveries that utilize University resources, facilities and/or funds; and,
4. Clarify ownership rights of intellectual property, specifically copyright and patent.

## **I. Copyright**

- A. Copyright in a work protected under law vests initially in the author or authors of the work. Except as qualified below, staff members, students and faculty of the University are entitled to ownership of copyright royalties or other income derived from works, including books, films, cassettes, software, works of art, or other materials. It is expected that when entering into agreements for the publication and distribution of copyrighted materials individuals will make arrangements that best serve the public interest.
- B. Notwithstanding the above, in accordance with the terms of the Copyright Act of 1976, works created by staff and faculty of the University, as a part of their responsibilities and/or within the scope of their employment, will fairly be treated by the University as “works-for-hire.” With respect to such works, copyright ownership shall be retained by the University.
- C. Notwithstanding the ownership by a creator of a copyright in his/her work, the University may enter into agreements with staff, faculty members and/or students whereby copyright ownership is transferred to the University. Such transfer may be in whole or in part, with or without consideration. Restrictions concerning the copyright or use of the copyrighted materials shall be handled in accordance with such agreement.
- D. In accordance with prevailing academic practice to treat faculty members as the copyright owners of works that are created independently or at the faculty member’s own initiative, the following works, commonly known as “course work” are owned by their creators of such work:
  - Individual course materials such as, but not limited to, syllabi, exams, transparencies, study guides, lectures, worksheets, charts, visual aids, workbooks and manuals, and personal WebPages, which include the foregoing types of information.

## **II. Patents**

Consistent with its public service mission and with the regulations governing federally-funded research, the University endeavors to foster the development of its inventions and discoveries through patenting and licensing.

### **III. Responsibilities of Parties** (Applicable to both those Copyrights held by the University and to Patents)

#### *A. University Rights, Privileges and Responsibilities:*

The primary objective and responsibility of Adelphi University shall be to assure that the products of its intellectual activity are brought to the widest possible use for the benefit of society. The University encourages the active participation of the creator in all efforts of the commercialization process and views intellectual property as an asset for which the appropriate return should be sought. Adelphi University respects these basic principles, and incorporates them into this policy.

1. In circumstances in which there is substantial University involvement in the creation of an intellectual property, the University will have ownership rights in such work if one or more of the following circumstances are involved:
  - a. The University has supplied substantial financial, staff or other assistance;
  - b. There has been special use of the Universities facilities not available to the general public in creating such work;
  - c. The work results from an employee's duties with the University;
  - d. The work is the result of research carried on by, or under the direction of, any employee of the University; and/or
  - e. Creation of the work was commissioned by the University.
2. Upon notice that a creation has been developed, the University has the following responsibilities:
  - a. To determine ownership in accordance with this policy;
  - b. Where the University is entitled to ownership rights, to decide expeditiously upon the method for administering the creation, including whether the University will apply for a patent or whether it will waive its rights to the creation and release them to the discoverer;
  - c. Where it is determined that patenting is inappropriate but that a commercial market may exist for a creation to which the University has rights, to assist in seeking licensing or other agreements for the creation.
3. Adelphi University shall make applications and underwrite the provisions for patents and trademarks of intellectual property for which the University has legal ownership. It is committed to the following process for the support, disclosure and marketing of intellectual property and will accomplish the following:
  - a. Establish an Intellectual Property Committee (IPC), to be composed as determined by the Provost's Office with input from the Senate Executive Committee of the Faculty Senate. If the IPC needs the expertise of an outside professional, the University will be responsible for obtaining such services.
  - b. Establish a procedure for the disclosure of Intellectual Property.

- c. The IPC will determine ownership in accord with this policy. If the IPC decides the work is exempt, the property will be released to the creator. The Provost, the Discoverer, and the Senate Executive Committee will be notified of all actions taken by the IPC committee.
  - d. Expeditiously execute all documents necessary for the filing of a patent or trademark, which includes the retention of lawyers or other necessary personnel. If, after the product has been disclosed to the IPC, no action has been taken by the committee for a period of three months, the rights to the product are released to the inventor.
  - e. Promote discoveries and the faculty, staff or student(s) responsible for the creation.
  - f. Facilitate the marketing of the creation to ensure a significant return on its investment.
4. The University may, at its sole discretion, waive or release all or a portion of its ownership rights to any intellectual property upon such conditions as the University deems appropriate. Where it is determined that the University is entitled to ownership rights, the University can waive its rights to creation and release the intellectual property to the discoverer.

*B. Creator's Rights, Privileges and Responsibilities:*

As members of the Adelphi community, and in the spirit of a collaborative academic environment, faculty, staff and students are encouraged to pursue their intellectual passions and disseminate knowledge with the full support of the University.

The creator of intellectual property is obligated to disclose his/her invention to the University IPC, and follow the guidelines described in this policy. Any person who has a question as to whether the creation of a particular work falls within the scope of employment and/or qualifies under a special circumstance outlined herein shall immediately initiate an inquiry with the Provost. While creators may, in certain circumstances, concede their right of ownership to intellectual property, creators have the privilege of receiving royalties and benefits from disclosing discoveries to the University as described below (see Royalty Distribution). It is the responsibility of all members of the University community to ensure adherence to this Policy. Accordingly, when a creation has been developed and is deemed by the creator worthy of evaluation, the creator has the following responsibilities:

- a. To make a full disclosure in writing of such creation to the Provost;
- b. Where University rights exist to the creation, to execute all appropriate assignments to the University and to execute all documents necessary to apply for a patent;
- c. To cooperate with the University in filing, maintaining, and enforcing patent and all licensing matters;
- d. The creator(s) shall execute a Patent Agreement, as described below.

**IV. Royalty Distribution** (Applicable to Both Copyright and Patent)

In recognition of the efforts and contributions of faculty and staff engaged in research whose creation and patent is owned by the University, the following royalty distributions shall be made.

All out-of-pocket costs paid by the University relating to the research, discovery and/or patent, including all administrative, legal, licensing, marketing, promotional, and other related expenses shall first be reimbursed to the University. Any remaining proceeds shall be deemed the “net proceeds” and shall be distributed as follows:

| <u>Total Net Proceeds</u> | <u>Creator as Personal Income</u> | <u>Creator’s School Research Account for School</u> <sup>1</sup> | <u>University</u> |
|---------------------------|-----------------------------------|--|-------------------|
| ≤ \$500,000               | 50%                               | 20%  | 30%               |
| > \$500,000               | 40%                               | 20%  | 40%               |

The creator’s rights to share in revenue shall remain with the individual or pass to the individual’s heirs and assigns for as long as net income is derived from the property. Further, when two or more individuals have made substantial creative contributions to the intellectual property in question, each individual shall share equally in the share of royalties, unless all individuals previously agreed in writing to a different distribution of such share. At the time of disclosure, the percent effort, ownership or equity should be declared and agreed upon by all parties.

Royalty distributions shall be made on an annual basis in December from the amounts received during the previous fiscal year ending August 31, and the Discoverer shall be given at the same time a report, showing the computation of the amount remitted.

**V. Effective Date of Policy**

This policy shall not apply to any research which was commenced or creation made prior to the date it is approved by the Board of Trustees of Adelphi University and Adelphi University. However, the faculty member at his/her sole discretion may elect to have the terms of the policy applied to said research and/or creation.

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<sup>1</sup> 50% of the amount allotted to the School will be used specifically to support program development, equipment purchases and other activities that enhance research and development in the investor’s area of research.

## **VI. Resolution of Disputes**

- A. Any disputes arising from the application of this policy that cannot be settled through informal discussions may be brought to the attention of the Provost for attempted resolution. The Provost and Senate Executive Committee (SEC) shall refer the matter to an ad hoc committee. That committee shall consist of two full-time tenured faculty members (to be determined by the SEC), two members of the University administration and/or faculty (to be determined by the Provost), and an outside expert in the area of the dispute, selected by the Provost, and agreed upon by the Provost and Creator. The Provost will select the chair of this ad hoc committee. The Creator shall present his/her case to the committee, including all relevant accompanying documentation, and may elect to state his/her case in person. The committee, after a thorough review of the facts and circumstances, shall render its decision to the Provost and SEC, and a final report will be made to the President.
- B. In the event of any litigation, actual or imminent, or any other action to protect intellectual property rights, the University may, to the extent permitted by law, withhold distribution and impound royalties until resolution of the matter.
- C. Any changes to this policy must be in writing and reviewed by the IPC, the Senate Executive Committee, with recommendations to the Provost and President. The Board of Trustees must approve all changes.