



## **COPYRIGHTABLE WORKS**

1. As a general rule, rights to a copyrightable work remain with the creator unless:
  - a. The work is created as work for hire.
  - b. The work is specifically commissioned or contracted by the institution and includes an assignment of copyright to the institution.
  - c. The creator made more than incidental use of institutional resources.
  - d. The work is also patentable or is associated with a Goshen College Trademark.
2. Rights to works created with up to \$5,000 of institutional funds or resources (such as small Mininger Center grants or small amounts of release time), and not specifically required by the institution are defined as incidental and, normally remain with the creator. Grants have a written agreement on ownership of rights.
3. In order to support the academic tradition of free and open dissemination of ideas and knowledge, creators of copyrightable works are encouraged to copyright their work under a CopyLeft or Creative Commons license.
4. Goshen College does not claim ownership to instructional materials or traditional works of scholarship unless an exception is stated in some other part of this policy. If a person subject to this policy retains title to copyright for instructional material, that person, by accepting this policy through a contractual employment agreement with Goshen College, assigns royalty-free right to Goshen College to use, duplicate, distribute or modify the material for non-profit educational purposes within the institution and its associated programs. This assignment of royalty-free right to Goshen College does not apply to commercially published books.

## **TRANSFER OR WAIVER OF RIGHTS**

1. The creator of intellectual property has the right to request that ownership of a patent or copyright be transferred to or shared with the creator.
2. The decision to transfer or share ownership is made by President's Council based upon factors including:
  - a. Does transfer or sharing of rights create a real or potential conflict of interest?
  - b. Does the intellectual property have significant commercial or public value which may best be exploited by the College itself?
  - c. Does transfer or sharing of rights otherwise conflict with College goals or principles?

## RESPONSIBILITIES

1. Goshen College
  - a. Goshen College has sole authority to negotiate any and all legal, license, royalty or reassignment agreements for intellectual property to which the institution claims ownership rights.
  - b. President's Council is responsible to evaluate and determine whether use of institutional resources is deemed incidental or significant.
2. Employees
  - a. Employees must disclose any invention to the institution, whether or not the inventor believes the institution has a vested interest in rights to the invention.
  - b. Employees must promptly notify their supervisors when they become involved in any project that might involve more than incidental use of institutional resources, or is associated with the Goshen College trademark.
  - c. The offering, with intent to generate income, of a recorded course or equivalent online course through another institution or organization that competes with a course offered by Goshen College is a conflict of interest and is not permitted unless written permission is obtained from Goshen College.

## DISTRIBUTION OF NET INCOME

1. Net income is the income received from intellectual property royalties, licensing fees and other income producing agreements after the cost of exploiting, licensing or selling the property is deducted.
2. Net income from intellectual property covered by this policy and owned by Goshen College, and not work-for-hire or institutional work, is distributed annually and per item according to the following formula:
  - a. The creator of the intellectual property receives the first \$5,000 of net annual income.
  - b. The next \$45,000 of net annual income (amount between \$5,000 and \$50,000) is equally shared (50% / 50%) by the creator and a designated development fund. For teaching faculty the designated fund is the Miner Center. For staff and administrative faculty the designated fund is the staff development fund.
  - c. Net annual income exceeding \$50,000 is shared by the originator (25%) and the institution (75%). President's Council is responsible to distribute the institution's share and is expected to give due consideration to the creator's department and the designated development funds.

Over \$50,000	25% Originator 0% Fac/Staff Devel. 75% Institution
\$ 50,00 to \$5,000	50% Originator 50% Fac/Staff Devel. 0% Institution
Up to \$5,000	100% Originator 0% Fac/Staff Devel. 0% Institution

3. President's Council will oversee all distribution of net income and periodically review the distribution formula and make appropriate adjustments for inflation and changes in compensation.

## GLOSSARY

**Commissioned Work** refers to any intellectual property that is created under a written agreement between the institution and the creator when the creator is not an employee of the institution, or when the work is outside the normal scope of an employee's responsibilities. If the institution desires to retain rights to the commissioned work, the agreement must specify that the creator conveys by assignment all rights desired by the institution.

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**Copyrightable Work** is any original work of authorship fixed in any tangible medium of expression, now known or later developed, from which the work can be perceived, reproduced or communicated, either directly or via the use of a machine or other device.

This includes, but is not limited to, books, journal articles, poems, manuals, memoranda, tests, computer programs, instructional materials, databases, bibliographies, musical and dramatic works (including words and music), pantomime and choreographic works, artistic works (pictures, graphics, sculptures, diagrams, sketches and other artistic expressions in any medium), motion picture and audiovisual works, analog and digital recordings, multimedia (websites, games, CD-ROMs and DVDs, video-clips), architectural works, and any other works that are copyrightable under existing or future federal copyright law.

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**Incidental Use of Institutional Resources** is use that is customary or usual for a person's appointment or assignment. Use of office space, computer equipment, photocopier, telephone, office supplies, library resources, internet access, personnel and other assigned services in the support of ordinary educational, scholarly or creative responsibilities is considered incidental.

**Institution or Institutional** means Goshen College in its entirety and any of its programs, campuses or organizational components.

**Institutional Resource** is any resource or support owned, administered or controlled by Goshen College. This includes, but is not limited to, funds, personnel, facilities, equipment, and supplies. Resources provided by outside public, private or government organizations, and which are administered or controlled by Goshen College, are considered institutional resources.

**Instructional Materials** are materials primarily created and used for the instruction of students. These include, but are not limited to, textbooks, syllabi, notes, exams, laboratory guides, assignments, audio, visual and multimedia creations for instructional use.

**Intellectual Property** refers to all creative works or ideas expressed or embodied in a form that can be shared or can enable others to view, listen to, recreate, emulate, or manufacture them. Intellectual property includes, but is not limited to, that which can be protected by copyright, patent, trademark, design, or trade secret laws. It also includes all tangible property and perceptible items produced in the course of research or intellectual effort.

**Invention** means any process, method, discovery, device, biological material, chemical, composition of matter or other creation that appears to qualify for protection under current or future patent law whether or not a patent was applied for or granted.

**Significant Use of Institutional Resources** means use of institutional resources, facilities, equipment, personnel or an employee's paid time that is beyond incidental use as described elsewhere in this document.

Examples of significant use include, but are not limited to, a) extended use of the creator's time that results in a reduction of teaching or other assigned responsibilities, b) more than incidental use of supplies, laboratories, studios, production facilities and specialized equipment or computing resources, c) more than normal use of personnel and/or student time paid by the institution, or d) significant use of institutional funds or gifts in the creation or production of the work.

**Tangible Property** is any property or perceptible item produced in the course of research or intellectual effort including, but not limited to, notes and notebooks, designs, recordings, photographs, multimedia creations, engineering drawings, computer programs, computer files and databases, models, prototype devices, integrated circuit chips, circuit diagrams, biological materials, chemicals, compositions of matter, and equipment.

**Trademark** means all trademarks, service marks, trade names, seals, symbols, designs, slogans or logos associated with intellectual property developed as a result of work by institutional personnel. Trademarks used to identify the goodwill and/or services of the institution (i.e. use of an institutional seal or logo in a presentation) are not subject to provisions in this policy.

**Traditional Works of Scholarship** are copyrightable works resulting from research, authorship or creativity. These include, but are not limited to, scholarly publications, journal articles, monographs, books, research data, plays, poems, musical compositions, photographs, recordings, works of art and audio, video or multimedia works. This may also include works of students created in the course of education such as papers, articles, theses, works of art, and audio, visual or multimedia creations.

**Work for Hire** is work or activity that is specifically required as part of an employee's duties or for which the employee's time has been paid. This may include the entire scope of an employee's duties or may be limited to a single work.

Materials created by employees for institutional use or distribution are considered work for hire. This includes, but is not limited to, computer programs and databases, brochures, manuals, graphics, drawings, training materials, videos, websites, multimedia content, CD-ROMs and DVDs.

Academic works of faculty are not assumed to be works for hire unless an agreement with the individual explicitly designates the work as for hire.