

UNIVERSITY OF THE PACIFIC
McGEORGE SCHOOL OF LAW

Law School Protocol

This Protocol supplements the Intellectual Properties Policy included as part of Section 9.6 in the Faculty Handbook.

I. OWNERSHIP INTERESTS IN ACADEMIC WORK

- A.** Property interests are hereby confirmed in the creator, subject to University interests as follows. The University holds an interest in the following academic works, and any income therefrom is subject to University policy on royalties:
- 1.** Institutional works, which are materials created:
 - a.** at the specific direction or request of the University for a specific University purpose;
 - b.** as part of a project involving a grant or contract sponsor with whom the University has entered agreements concerning copyright ownership;
 - c.** as part of a project involving other third parties with whom the University has entered agreements concerning copyright ownership; or
 - d.** by the use of "significant University resources," which includes direct allocation of University funds as those terms are defined herein.
 - 2.** Courses taught by the faculty of the University, as distinguished from the components of courses, to which faculty members hold the copyright, as further described in III. below.
- B.** When a faculty member commences activities described in I.A. above in which the University intends to claim an interest, the Dean of the Law School (hereinafter "the Dean") shall advise the faculty member involved that the University intends to claim an interest.
- C.** The copyright to all other works created by faculty members, known as "academic works," belongs to the creator. Academic works include the following:
- 1.** Artistic, scholarly, and learned materials, whether traditionally, electronically or otherwise published, created by faculty and/or by students in the course of their educational endeavors that are not patentable;

2. Papers, reviews, articles, theses, dissertations, scholarly papers, abstracts, monographs, treatises, in-person presentations made at scholarly meetings, electronically recorded and disseminated individual classes and presentations, non-fiction and fiction books and writings, textbooks, and software that enables on-line presentation of similar matters; and
3. All other works of artistic or scholarly creation which are not institutional works or courses as defined in I.A.

II. DETERMINATIONS OF WHAT ARE SIGNIFICANT UNIVERSITY RESOURCES

- A. Significant University resources are used in the creation of academic works if the University has made a direct allocation of funds or provided specialized resources or equipment, either of which is significantly greater or different from what is customarily available for creation of academic works.
- B. The resources customarily available at the law school for the use of regular faculty member's academic activities include:
 1. use of law school facilities and support staff;
 2. use of University computers including on-line research and other electronic research assistance;
 3. use of other standard equipment, including recording equipment, television cameras, and other electronic equipment;
 4. faculty development leaves, sabbatical leaves, research stipends, and other financial support or encouragement for scholarly activities; and
 5. use of student research assistants hired by the law school for compensation.
- C. In cases in which a faculty member is making use of University resources not customarily available with the result that the University might assert an ownership interest in any resulting intellectual property, the Dean shall advise the faculty member involved as soon as such non-customary usage becomes apparent.
- D. In making the decision whether to notify the faculty member or members of a potential University claim, the Dean may consider the following factors:
 1. whether the law school is prepared in the near future to extend what is customarily available to include the resource use

- involved in the case at hand so that, in equity, the new policy might reasonably be extended to the case at hand; and
2. whether creation of the particular academic work at issue is likely to result in such benefits to the law school that, on balance, the use of law school resources should not be considered "significant."

III. DETERMINATIONS OF WHAT ACTIVITIES CONSTITUTE THE DELIVERY OF A UNIVERSITY-OWNED COURSE AS DISTINGUISHED FROM USING THE COMPONENTS OF A COURSE WHOSE COPYRIGHT IS HELD BY A FACULTY MEMBER

A. The Policies to be Served by the above-designated Determinations Include:

1. The contract of employment of full-time faculty precludes simultaneous teaching at another educational institution without express approval from the Dean. Any faculty member who receives such permission to teach at another institution while employed at the law school may use any materials originally prepared for McGeorge classes.
2. Former members of the law school faculty who become employed at another institution may use any materials originally prepared by them for McGeorge classes. Class materials prepared by former faculty members while at McGeorge may also be used by succeeding McGeorge professors with proper attribution.
3. Full-time law school faculty may lecture and teach in programs such as bar review courses, continuing legal education courses, and all other programs that do not directly compete with McGeorge programs, and may also lecture and teach in summer session programs whether domestic or foreign, and whether or not such programs directly compete with McGeorge programs. In the conduct of such activities, faculty members may use any materials originally prepared for McGeorge classes.
4. The University has the right to prevent or restrict current members of the full-time faculty from selling or otherwise providing packaged courses to on-line law schools or other educational institutions that will or may use such materials in direct competition with the on-going programs of McGeorge.
 - a. Preparation of electronic or hard-copy learning materials used by students, lawyers, or others interested in legal

matters does not directly compete with any activity of the University.

- b. Preparation of or presentation of a course for the education of law students at another institution which could draw students who might otherwise attend McGeorge does directly compete with the University.

B. The Dean shall make the initial determination of when a faculty member is delivering a course rather than using the components of a course.

1. In making this initial determination, the Dean may consider the following factors:

- a. The extent to which the faculty member is personally involved in academic use of the materials;
- b. Whether academic credit is being given by another school at least in part based on personal services delivered by the faculty member; and
- c. The extent to which the delivery includes all or only a part of the materials used when the faculty member teaches the course at the university.

2. The initial determination shall be communicated to the faculty member involved who may proceed under the next paragraph if not satisfied with the initial determination.

IV. RESOLUTION OF DISPUTES ARISING OVER THE OWNERSHIP OR CONTROL OF INTELLECTUAL PROPERTY RIGHTS

A. In the case of disagreement over ownership or control of intellectual property rights, the faculty member involved will meet with the Dean. These parties are authorized to make a settlement binding upon the University and the faculty involved.

B. If agreement is not reached with the Dean, then either the faculty member involved or the law school may take the matter to the Provost, or to such other official as the University may from time to time designate, to attempt to reach a settlement that will be binding upon the University and the faculty member involved.

C. If agreement is not reached between the Provost or other official and the faculty member involved, either party may demand binding arbitration. Such arbitration is a prerequisite to any resort to the courts to enforce rights hereunder.

V. VISITING SCHOLARS AND FACULTY

Unless specified otherwise in writing by the Dean, visiting scholars and faculty will be subject to the same provisions of the University policy and these protocols as regular University personnel during the period they are associated with the law school.