

**Intellectual Property and Conflict of Commitment Policies**  
**Comparison of peer institutional policies**  
**January 2001**

**Institutional policies compared in this document:**

- **University of Chicago**
- **Columbia University**
- **Duke University**
- **Harvard University**
- **Stanford University**

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## **Intellectual Property**

### **Relationship of current policy with traditional faculty authorship rights (e.g. textbooks)**

#### **Chicago:**

Faculty currently enjoy royalties on their texts, whether disseminated in print or electronically. This should not change. As a general matter, however, the University should own the intellectual property created under its auspices or with its resources.

#### **Columbia:**

By longstanding custom, faculty members hold copyright for books, monographs, articles, and similar works as delineated in the policy statement, whether distributed in print or electronically. This pattern will not change. This copyright policy retains and reasserts those rights.

#### **Duke:**

In this policy Duke reaffirms its traditional commitment to the personal ownership of intellectual property rights in works of the intellect by their individual creators, whether the creators work alone or with others, and whether they work privately or as members of the Duke community.

#### **Harvard:**

The policy should protect the traditional rights of scholars with respect to the products of their intellectual endeavors. For example, the policy should not interfere with the right of a scholar to decide to publish a book or an article and, if so, when and under what circumstances. With respect to works in which the University takes ownership or has any form of control, the person(s) who created the intellectual property shall be consulted in the determination of how it is to be made public, developed, modified, and/or commercialized.

#### **Stanford:**

In accord with academic tradition, except to the extent set forth in this policy, Stanford does not claim ownership to pedagogical, scholarly, or artistic works, regardless of their form of expression.

### **Criteria for ownership: scope of employment, resources used**

#### **Chicago:**

The creation and dissemination of knowledge is a collective enterprise at a university. Work in the classroom, library, or laboratory is necessarily a joint venture. Even when faculty members teach a class that they have prepared at home with their own materials, the work is itself supported by the salary the faculty members enjoy and all the other support-intellectual, financial, logistical, and otherwise-that the University provides. For this reason, we recommend that the University formally implement the principle that the University owns the intellectual property the faculty create at the University or with substantial aid of its facilities or its financial support.

The University should not assert [their ownership of intellectual property] in the case of a faculty member's noncommercial use of new information technology or in the case of the commercial use of such technologies until the revenues generated are

substantial. Outside a handful of faculty, royalty income from texts, whether print or electronic, does not cross the threshold where it would be appropriate for the University to assert ownership rights, even if it had them.

### **Columbia:**

The University asserts copyright ownership in any work of authorship that is: (i) created with substantial use of University resources, financial support or non-faculty University personnel beyond the level of common resources provided to faculty; (ii) created or commissioned for use by the University; or (iii) created under the terms of a sponsored project where the terms of the sponsored project require that copyright be in the name of the University. Additionally, any work created by an officer of administration (including a faculty member or officer of research only when acting in his or her capacity as an officer of administration), or by a support staff member acting within the scope of his or her employment generally constitutes a "work made for hire" as defined by federal law, and the University asserts copyright ownership in such works.

### **Duke:**

Intellectual property rights arising in certain categories of academic works (i.e. works primarily related to the teaching or research missions of the university), appear to justify exceptional treatment on a recurring or categorical basis:

- Works supported by extraordinary allowances, grants or subventions (whether in money or money's worth, and whether or not supported by outside sources under contract), when designated as such in advance by the University.

- Collaborative works by persons working as members of the Duke community, when numerous individual original contributions are indistinctly merged, as a practical matter, into a new and distinct work fixed in a tangible medium of embodiment, and the individual creators have not entered into an agreement with respect to joint authorship.

- Intellectual property rights arising in courses approved for Duke University credit ordinarily belong to their individual creators; but rights may vest in Duke to the extent that a course is created, acquired or developed by Duke.

### **Harvard:**

When University support makes the enterprise possible or when it provides extra or special support, either with money, facilities, equipment or staff, for the development of ideas or the production of works, it is reasonable for the University to participate in the fruits of the enterprise and/or to be reimbursed for the University's extra or special costs, if such ideas or works are introduced commercially.

### **Stanford:**

It is the policy of the University that all rights in copyright shall remain with the creator unless the work is a work-for-hire (and copyright vests in the University under copyright law), is supported by a direct allocation of funds through the University for the pursuit of a specific project, is commissioned by the University, makes significant use of University resources or personnel, or is otherwise subject to contractual obligations....Courses taught and courseware developed for teaching at Stanford belong to Stanford.

## **Resource use criteria and/or definition**

### **Chicago:**

See statement above under criteria for ownership.

### **Columbia:**

Ordinary use of resources such as the libraries, one's office, desktop computer and University computer infrastructure, secretarial staff and supplies, is not considered to be substantial use of such resources for purposes of vesting the University with copyright ownership in a work.... The use of new media technologies has changed the process of creation of intellectual works. Some of the resources (physical, financial, and human) needed to employ the new technologies are shared resources, provided by the University for the common benefit of all members of the University community. But, in many cases, the use of new media technologies requires increased involvement by the University in the form of financial support, expert services, equipment, and other facilities beyond the base level of support and common resources provided to faculty.

### **Duke:**

No specific discussion or definition of criteria for resource use.

### **Harvard:**

[The] circumstances in which there is substantial University involvement include:

- (a) substantial University financial, staff or other assistance;
- (b) extensive use of special or rare University holdings, such as museum collections;
- (c) significant use of voice or image of students or staff in a product, or substantial creative contribution by staff or students to the preparation of the product; or
- (d) use of the name or insignia of the University or any of its units (other than for purposes of identification of individual faculty members) to identify or to promote the distribution of a product, or other identification or promotion that implies the approval or endorsement by the University or one of its units.

### **Stanford:**

Examples of non-significant use include ordinary use of desktop computers, University libraries and limited secretarial or administrative resources. Questions about what constitutes significant use should be directed to the appropriate school dean or the Dean of Research.

## **Revenue sharing formula**

### **Chicago:**

In many cases, income generated from use of new information technologies in teaching and research may be small. Asserting ownership in such cases may discourage innovation without bringing significant revenue to the University. For this reason, we also recommend that individual faculty enjoy the revenue generated until it is substantial. As the University has recognized in the case of patents, individual faculty members are entitled to share in the revenues from the intellectual property they have a hand in creating. The share may vary from case to case, depending on the contribution of the faculty member as well as the costs incurred by the university and others. As a starting place, divisions of revenue should follow those already in place for patents and discoveries.

**Columbia:**

Allocations are calculated for each innovation/creation and are not affected by changes in the licensee(s) for any particular innovation/creation.... There are two distribution models. The first follows the current practice for intellectual property policy distribution that has been followed with respect to software and applies to software/new media that will not be further enhanced within the University. The second applies to software/new media that will require additional development efforts within the University. Expenditures for continuing development may be subject to limitations imposed by external entities with whose support innovations/creations were conceived. Details of distribution model at:

<http://www.columbia.edu/cu/provost/docs/copyright.html#AppendixB>

**Duke:**

No formula for revenue sharing presented.

**Harvard:**

Royalty Sharing Policy for Intellectual Property:

<http://www.techtransfer.harvard.edu/RoyaltySharing.html>

**Stanford:**

Royalties will normally be allocated in accordance with the University's policy on Inventions, Patents, and Licensing.

<http://otl.stanford.edu/inventors/process.html>

paragraph 8 & 9

**Administration of the policy****Chicago:**

Disputes about ownership should be resolved by the same faculty committee that resolves other disputes about intellectual property.

**Columbia:**

A Copyright Policy Standing Committee, made up of faculty members, a student officer and academic administrators, with the majority of the Committee consisting of faculty members who do not hold administrative positions, shall be formed by the Provost to address any issues concerning the proper interpretation of this Policy and to resolve any disputes between creators and the University concerning ownership of works and what constitutes substantial use of University resources. Members of the University community may obtain advice from this Committee. A representative of the General Counsel's Office shall serve as an ex officio member of the Committee. The creator of a work may appeal the decision of the Committee to the President. The decision of the President will be final. Decisions of the Standing Committee and the President will be publicly available.

**Duke:**

This policy shall be interpreted and administered by a new University Intellectual Property Board, to consist of seven members appointed by the Provost, no fewer than four of whom shall be members of the faculty nominated by the Executive Committee of the Academic Council.

**Harvard:**

The University Committee on Patents and Copyrights, appointed by the President, shall have the responsibility for interpreting these policies, resolving disputes concerning the interpretation and application of these policies, and recommending changes to the President and Governing Boards from time to time as experience suggests the desirability of such changes. Inventors or creators may submit appeals to the Provost regarding the University's handling of Inventions, Patents or Copyrights assigned to the University under this policy.

**Stanford:**

Questions of ownership or other matters pertaining to materials covered by this policy shall be resolved by the Dean of Research (or his or her designee) in consultation with the Office of Sponsored Research, the Office of Technology Licensing and the Legal Office. For academic and research issues, the Dean of Research is the Provost's designee.

**Conflict of commitment****Requirement to disclose and permission process****Chicago:**

As in the case of inventions and discoveries, faculty members who exploit new technology for commercial gain should disclose their work to their dean (or to their chair who in turn passes it on to the dean). It is too soon to set down fixed rules and formalities. Disclosure, however, should take place as early as possible. As with any other kind of teaching or research, the principal obligation remaining belongs to the chair or dean--the obligation to ensure that all members of the faculty can do their best work.

**Columbia:**

In order to ensure that a proper determination of ownership is made, creators will promptly disclose to the University all copyrightable works in which the University may claim or assert rights under this Policy. Part of the disclosure by creators shall include a disclosure of the circumstances under which the work was created, a description of any University resources that were used, and any financial or other relationship with a third party that might affect the University's rights in the work (for example, any consulting agreements or third party funding agreements pursuant to which a work was created). If the creator is uncertain whether the University would claim copyright ownership in a work, the work should be disclosed.

**Duke:**

An individual member of the Duke Faculty, who is employed on a permanent full time or equivalent basis, and who intends to enter into any non-Duke internet distance education project in which he or she proposes to teach a course regularly or recurrently, shall first disclose the proposed undertaking in advance to his or her Dean or Department Chair (or their designate), who will examine the proposed undertaking in order to insure that no conflict of interest or commitment will arise.

**Harvard:**

This Statement [on Outside Activities of Holders of Academic Appointments] does not purport to prescribe a set of rigid rules, but rather seeks to maintain an

environment in which faculty members and other academic appointees will exercise caution in undertaking activities that could reasonably be perceived as teaching at or for other institutions or organizations. In such cases, academic appointees are expected to consult in advance with their Dean and, if in the Dean's judgment the activity falls within the scope of this Statement, with the Corporation.

**Stanford:**

If a situation raising questions of conflict of commitment or interest arises, faculty are urged to discuss the situation with the department chair, school dean, or the Vice Provost and Dean of Research and Graduate Policy ("Dean of Research").

**Determination if faculty can teach courses, create courseware for other institutions**

**Chicago:**

Whenever faculty do work outside the University, we must confront issues governing both conflict of interest and conflict of commitment...New information technologies provide a means by which we can teach outside the confines of the Quads. We can anticipate that in many cases the University, Division, School, or Department will appear to users as a source or a sponsor or co-sponsor of the work. (In other words, users will perceive the work as being a product of the University, Division, School, or Department, not merely the institution with which the faculty member is affiliated.) Whenever the University, Division, School, or Department appears as a sponsor or producer of work, larger interests are implicated.

In some cases, notice to the department chair or dean may be sufficient. In other cases, the project may be akin to a course of instruction. A course of instruction using new technologies, like any other, requires the approval of the faculty of a Division or School, according to the procedures that it has adopted.

**Columbia:**

Independently of copyright ownership, a full-time faculty member may teach courses and create courseware at other academic institutions as part of ordinary scholarly exchanges, including visiting professorships and guest lectures, as long as these activities remain consistent with the terms set forth in the University's policies on conflict of interest and conflict of commitment (including the provisions that require approval by the Provost and the appropriate dean or department head), and as long as these activities do not include or allow the commercialization of any course content, courseware or other teaching or research-related activities created or conducted at another institution. A faculty member may not teach any course or create any course or courseware for a commercial enterprise without the approval of the appropriate dean and the Provost.

**Duke:**

Conflicts of interest or commitment will be addressed generally in accordance with the terms of the University Policy on Conflicts of Interest. A conflict of interest or commitment will be presumed to arise:

a) when an individual proposes to teach a bob-Duke internet course substantially equivalent to a conventional course he or she is regularly assigned to teach at Duke;

b) when an individual proposes to teach a non-Duke internet course in circumstances likely to be directly competitive with an existing or proposed Duke internet course which he or she has been offered an opportunity to teach;

c) when an individual proposed to participate in teaching a non-Duke internet course in circumstances likely to confuse or mislead the public with respect to his or her primary obligations or allegiance as a member of the Duke Faculty; or

d)when an individual proposes to participate in teaching a non-Duke internet course in circumstances likely to impair the continuing performance of his or her primary responsibilities at Duke.

**Harvard:**

Persons holding full-time academic appointments at Harvard should devote their teaching efforts primarily to the education of Harvard students. Faculty members may not hold a regular faculty appointment at another institution, except in connection with a Harvard-sponsored joint program with that institution, or similar arrangement as approved by their Dean. They should not teach a course, or a substantial portion of a course, at or for another institution or organization without the advance permission of their Dean and the Corporation. This policy should be followed regardless of whether the activity is conducted in person or through some form of electronic communication.

**Stanford:**

This issues not addressed in their policy.

**Determination if faculty can commercialize course content**

**Chicago:**

See statement above on determination if faculty can teach courses.

**Columbia:**

Also consistent with the University's policies on conflict of interest, conflict of commitment, and use of the University name, a faculty member, notwithstanding copyright ownership, may not commercialize course content or courseware created or taught at the University, without the approval of his or her respective dean and the Provost. The University will not commercialize either institutional or non-institutional course content and courseware, without the agreement of the faculty member or members who created the course content or courseware in question.

**Duke:**

This issue not addressed in their policy.

**Harvard:**

This issue not addressed in their policy.

**Stanford:**

This issue not addressed in their policy.

**Definition of how the name of the institution and faculty affiliation can be used**

**Chicago:**

The University may follow other universities and implement a general policy about the use of its name by faculty and others that would apply to new technology as

well as to other things. In the interim, however, each faculty member should follow established practice and should be aware of the need to disclose given that issues of sponsorship and conflicts of commitment can arise in new and subtle ways in this conduct.

**Columbia:**

Use of the University's name in connection with a work, other than by way of identification of the creator as a faculty member, researcher, other employee or student at Columbia, is itself use of a significant University resource, thus triggering an interest on the part of the University. Additionally, use of the University's name can affect the reputation and academic standing of the institution. Consistent with the University's general use of name policy (see the 2000 Faculty Handbook), faculty members, researchers, other employees (as well as their respective departments and schools), and students may not participate in the creation or use of works that might give the impression of University sponsorship where there is none. Any use of the University name (other than to identify the creator by his or her title at Columbia) in connection with a work created by a faculty member, researcher or other employee must be approved in advance by the Provost. Similarly, if the name of the University is to be used in connection with any works created under collaborative agreements with outside entities (other than to identify the creator by his or her title at Columbia), such agreements must be approved in advance by the Provost.

**Duke:**

Intellectual property rights arising in Duke University's name, logos and other impedimenta of identify belong to Duke. Members of the Duke Community may identify themselves as such from time to time, with such indicia of their status as is usual and customary in the academy; but any use of Duke's name, logos or impedimenta of identity shall be reasonably calculated to avoid any confusing, misleading or false impression of particular sponsorship or endorsement by Duke, and when necessary shall include specific disclaimers to that end.

**Harvard:**

Members of the University are expected to take individual responsibility for their participation in any outside activity, and use their best efforts to avoid false or misleading suggestions by others that the activity is an undertaking of Harvard or any of its units. In general, all members should observe the University's policy on the use of the Harvard name, and limit their identification with Harvard to listing their formal titles as appropriate. <http://www.provost.harvard.edu/useofname/policy.html>

**Stanford:**

In teaching, research and other academic activities of the University, Stanford's name and marks may be used, subject to the normal review processes established within schools, departments, centers and programs. This policy is not intended to limit use of the Stanford name for legitimate purposes that fall within the normal scope of University activities. However, when a faculty or staff member is involved in activities not directly associated with Stanford (e.g., independent consulting, other business activities, publications, etc.), use of Stanford's name and marks is limited to identification of the individual by his or her affiliation (e.g., Jane Smith, Professor of History, Stanford University).

The Stanford name and marks may not be used for purposes other than in direct relation to teaching, learning and research at Stanford without written approval from the designated office described above under "Approval for Use." Faculty members and others engaged in activities involving business relationships with third parties may contact the Office of the Vice President for Business Affairs/CFO for information and assistance on name use issues. For questions concerning courseware and related materials, contact the Vice Provost and Dean for Institutional Planning, Learning Technology and Extended Education.

**Copies of the complete policies can be found at:**

**Chicago:**

**<http://www.uchicago.edu/adm/ura/guidelines/G200/223.html>**

**Columbia:**

**Columbia University Copyright Policy (adopted June 3, 2000)**

**<http://www.columbia.edu/cu/provost/docs/copyright.html>**

**Duke:**

**Duke University Policy on Intellectual Property Rights**

**<http://www.provost.duke.edu/>**

**The Faculty Handbook, 2000 – Appendix Q**

**(beginning on page 174 of Acrobat document)**

**Harvard:**

**Statement of Policy in regard to Inventions, Patents and Copyrights. Last updated, August 10, 1998**

**<http://www.techtransfer.harvard.edu/PatentPolicy.html>**

**Statement on Outside Activities of Holders of Academic Appointments, effective July 1, 2000**

**[http://www.provost.harvard.edu/reports/outside\\_activities.html](http://www.provost.harvard.edu/reports/outside_activities.html)**

**The Use of Harvard Names and Insignias, adopted February 9, 1998**

**<http://www.provost.harvard.edu/useofname/policy.html>**

**Stanford:**

**Inventions, Patents and Licensing, July 1999**

**<http://www.stanford.edu/dept/DoR/rph/5-1.html>**

**Copyright Policy, December 1998**

**<http://www.stanford.edu/dept/DoR/rph/5-2.html>**

**1994 Faculty Policy on Conflict of Commitment and Interest, April**

**<http://www.stanford.edu/dept/DoR/rph/4-1.html>**

**Using of Stanford Name, Fall 1999**

**<http://adminguide.stanford.edu/contents.html>**

**See 15.5**