



This policy provides the incentives and protections to encourage the discovery and development of new knowledge, and its application and transfer for public benefit and to the benefit of University of Western States.

This policy applies to all covered persons as defined below.

In the event of a conflict between this policy and other policies of the university with respect to intellectual property, the terms of this policy apply. If there is an ambiguity in meaning between this and other university policies with respect to intellectual property, the ambiguity is resolved in favor of this policy to the fullest extent possible.

1. Definitions

Covered Person(s): all faculty, staff, and students of University of Western States; any person employed by the university, and all persons participating in a sponsored project and/or making significant use of university resources and/or participating in teaching, research, or service projects.

Intellectual Property: copyrightable works, trademarks, inventions, and tangible research property (see definitions below) and includes, but is not limited to, that which is protectable by statute or legislation, such as patents, copyrights, trademarks, service marks, and trade secrets. It also includes but is not limited to, the physical embodiments of intellectual property. Intellectual property may be created by a single individual or a group of individuals.

Copyrightable Work(s): original work(s) of authorship fixed in any tangible medium of expression, now known or later developed that can be perceived, reproduced, or otherwise communicated, either directly or indirectly. Copyrightable works include instructional material, literary works (such as books, journal articles, manuals, memoranda), tests, computer programs, databases, bibliographies; pictorial and graphic works; video recordings; audio recordings; websites and associated internet-based application and works; and any other works determined to be copyrightable under United States copyright law.

Commissioned Work(s): copyrightable work(s) prepared under a written agreement between the university and the creator when: (1) the creator is an employee of university but the copyrightable work falls outside the normal scope of employment or (2) the creator is not an employee of the university but the copyrightable work is contemplated by the individual's contract, amendment, addenda or other agreement between such individual and the university.

Course Materials and Scholarly Work(s): (1) instructional materials, namely works for primary use in student instruction, such as textbooks, syllabi, and study guides other than commissioned



works, and (2) traditional works of scholarship, namely works reflecting research and/or other activities such as scholarly or educational publications, journal articles, research bulletins, monographs and books, and student-created traditional works made during education at the university, such as dissertations, theses, papers, articles, and software applications, other than commissioned works.

Trademark(s): any word(s), name(s), symbol(s) or device(s), or any combination thereof, adopted and used to identify goods and services and distinguish them from those manufactured or sold by others, such as names or symbols used in conjunction with the computer and internet applications.

Invention: a process, method, discovery, device or other creation that reasonably appears to qualify for protection under the United States patent law (utility patent, design patent, etc.), whether or not patented under the federal Patent Act.

Tangible Research Property: perceptible items produced in the course of research that are not patented but may have value due to their proprietary nature, including but not limited to test applications, prototype devices, engineering drawings, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment. Individual items of tangible research property may be associated with one or more intangible properties, such as copyrightable works, trademarks, and inventions.

University Resources: any support provided by or through University of Western States, including but not limited to funds, facilities, equipment, personnel or students; and funds, facilities, equipment, or personnel provided by private or public organizations which are administered or controlled by the university. For the purposes of this policy, university resources do not include the mere use of office space, on-campus training, library facilities, or salary, except in instances where the resources were furnished specifically to support the development of intellectual property.

Creator: a covered person who has participated in the conception, creation, discovery, invention, or development of intellectual property.

2. Intellectual Property Ownership Rights and Obligations

2.1. Copyrightable Works

A creator retains all rights in and to their course materials and scholarly works, provided that the creator hereby grants to the university a limited royalty-free right and license to use, duplicate, or distribute materials for educational purposes within the university unless the work is published and the copyright is owned by the publisher. Such use of course materials and scholarly works by the university may include but is not limited to administrative purposes such as course assessments, accreditation agency reviews, and other functions that allow the university to fulfill its responsibilities. Administration will notify creators of any use of copyrighted materials.



Creators of copyrightable works that are not commissioned works own the copyrights to their works and are free to publish them, register the copyright, and to receive any revenues that may result.

The university has sole authority to negotiate third party license agreements granting the right to use, develop, or otherwise commercialize copyrightable works owned by the university. Any agreement to license or transfer ownership of copyrightable works owned by the university must be approved in writing by the Vice President of Academic Affairs or their designee.

2.2. Trademarks

The university owns all right, title, and interest in trademarks as related to an item of intellectual property owned by the university or related to a program of education, service, public relations, research, or training program of the university. Only the university has the authority to license or permit third parties to use the trademarks of the university. Any use of the trademarks without the express written permission of the university is prohibited. All income from the licensing of trademarks associated with the university and its programs belongs to the university and is not subject to the principle of division.

2.3. Tangible Research Property

The university owns all right, title, and interest in tangible research property related to an individual's employment responsibilities and/or developed with support from university resources.

2.4. Inventions

The university owns all domestic and foreign rights in inventions made or developed by all covered persons, either in the course of employment or through use of university resources, unless a contractual agreement(s) or this policy provides otherwise. The rights owned by the university include all economic and property rights as well as the right to patent inventions.

2.4.1. Individual Efforts

Patent rights to inventions made by covered persons outside the course of their employment with the university and without the use of university resources belong to the creator.

2.4.2. Multi-Institutional Efforts

When a covered person participates in research at another institution in which the effort is co-sponsored by University of Western States, unless agreed to in writing otherwise, any



patentable inventions created through that research are co-owned by the participating institutions, and the distribution of derived royalties between the institutions is negotiated after an invention disclosure, but prior to the initiation of any patent filing.

2.4.3. Duty of Inventors to Disclose

To avoid the misuse of intellectual property, and recognizing that certain rights in intellectual property may be lost if actions to protect such rights have not been taken prior to the initial disclosure of such intellectual property, all covered persons must promptly disclose in writing to the University of Western States Vice President of Academic Affairs, or their designee, all inventions to which university may have rights under this policy. Such persons are required to cooperate with the university, to the best of their ability, in protecting intellectual property rights in the invention, and must furnish such additional information and execute such documents as the university may reasonably request, including without limitation, an invention assignment.

2.5. Data Ownership

University of Western States is the owner of any and all data created as a result of work performed by or on behalf of the university, unless otherwise provided by an agreement between the university and a covered person. Data includes data created by covered persons as a result of research or other work performed at the university or as a result of work using university resources. Covered persons may use any such data while employed by or pursuing education or research at the university.

2.6. Intellectual Property Database; Determinations to Protect and Commercialize

The university may establish one or more systems and databases for collecting and organizing information with respect to creators and intellectual property and all associated actions, commercialization efforts, revenue, and royalty payments.

The President of University of Western States, or their designee, consistent with state and federal law, determines in their sole discretion how, when, and where intellectual property owned by the university is to be protected or commercialized, including whether to commit funding to obtain protections for intellectual property, the sharing of net benefits of commercialization of intellectual property with the creator(s), and/or the assigning of ownership of non-commercialized intellectual property to creators or third parties. Any such determination is final and binding. A creator of intellectual property is afforded a reasonable opportunity to present their position on any such protection or commercialization decision to such determining party in writing prior to a final decision being issued.

2.7. Intellectual Property Resulting from Sponsored Research



Except as otherwise expressly provided in this policy, or required under state or federal law, any intellectual property resulting from research supported by a grant or contract with the federal government or an agency thereof, any not-for-profit or for-profit nongovernmental entity, or any private gift or grant to the university is owned by the university.

Consistent with federal requirements, any invention(s) arising from federally funded research projects must be reported to the government agency that funded the project. Creator(s)/inventor(s) must comply with Section 2.4.3 of this policy (Duty of Inventors to Disclose) to facilitate compliance with such requirements.

The university reviews any grant, contract or gift that fails to conform with the terms of this policy to determine whether the benefits of acceptance of such a grant, contract or gift outweigh any potential disadvantage that may result from failure to conform to this policy.

Each creator of intellectual property resulting from research supported by a grant or contract with the federal government or an agency thereof, any not-for-profit or for-profit nongovernmental entity, or any private gift or to the university must make such assignment of their rights in such intellectual property and execute and deliver such documents and instruments as may reasonably be necessary to permit the university to discharge all of its obligations to such supporting party under the applicable agreement.

The terms of this section are subject to any conflicting specific terms pertaining to intellectual property rights which may be included in any agreement which the university may enter into with any third party which provides for federal grants or contracts, grants or contracts with not-for-profit or for-profit nongovernmental entities, or private donations to the university.

3. Administration

The President of University of Western States, and any of their designees, which may include a committee(s) created at the president's direction, has ultimate authority over intellectual property developed at the university. In accordance with this policy, University of Western States retains sole discretion to decide how to deal with intellectual property owned by Institution, including protections, licensing, commercialization, and distribution of proceeds and/or revenue. In the event of any disputes concerning the interpretation or application of this policy, the dispute is resolved and decided by the President, after the President gives due consideration to the input and recommendations from stakeholders.

4. Copyright and Fair Use

All covered persons must adhere to copyright law in all academic and professional activities.

4.1. Overview of Copyright Law



The U.S. Copyright Act (17 USC) protects copyrightable works with protections that arise automatically when an author creates an expressive work if the work is both (1) original (meaning that the work is independently created by the author(s); and has some minimal creativity); and (2) fixed, meaning that the work is captured in a tangible form. (See 17 USC §101-106a)

Copyright law protects both published and unpublished copyrightable material in a broad range of forms, including:

- Books, newsletters, and text of advertising or marketing materials.
- Website content, including text, graphics, and audiovisual elements.
- Computer software programs, including any accompanying manuals and documentation.
- Photographs, drawings, diagrams, and other types of artwork.
- Audiovisual works.
- Songs and jingles.

4.2. Prohibition on Unauthorized Reproduction and Distribution

Unauthorized reproduction and distribution of copyrighted material is strictly prohibited, and it is against university policy for any covered person to copy, scan, digitize, distribute, broadcast, perform, excerpt, modify, translate, or otherwise use any third party copyrighted works, whether for personal use, internal or external use, or use by others, in violation of copyright laws.

Covered persons identified as having violated this policy may be subject to disciplinary action, up to and including but not limited to dismissal from the university, dismissal from employment, and/or legal action as appropriate.

4.3. Permissible Uses; Fair Use

To ensure compliance with copyright law, covered persons desiring to use copyrightable materials are required to contact a copyright owner to obtain permission to use a copyrighted work.

The use of content posted on the internet or social media is also subject to the website or app provider's applicable terms of use. Covered persons may not circumvent or otherwise impair or remove any electronic or digital copyright protection measures.

The "fair use" doctrine (17 USC §107) allows, under **limited** conditions, the reproduction of copyrighted material for purposes such as criticism, comment, news reporting, teaching, scholarship, or research.



Whether a use qualifies as fair use depends on balancing the following factors:

- The purpose and character of the use (for example, whether it is for a commercial or a nonprofit educational purpose).
- The nature of the copyrighted work (whether the work is creative or factual).
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- The effect of the use on the potential market for or value of the copyrighted work.

Other permissible exceptions to the rights granted under copyright law exist beyond the provisions granted by fair use (see 17 USC §108-112, 117, 119, 121-122).

Related Policies: [Policy 1024 Copyright Violation](#)
 [Policy 1605 Use of Copyrighted Works in Education and Research](#)
 [Policy 1230 Academic Integrity](#)
 [Policy 6004 Archival of Course Materials and Gradebooks](#)

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