



Policy Number: I.08
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Originally Issued: April 18, 2013
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Policy Owner: President
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SACSCOC Standard: 6.4

Intellectual Property: Ownership of Created Works

I. Policy Statement and Purpose

In accordance with Athens State University's educational mission, this policy details the University's standards and procedures for establishing ownership rights to intellectual property eligible for copyright, patent, and/or trademark protection pursuant to U.S. Copyright Law and applicable State of Alabama laws. Standards contained in this document apply to the development or creation of materials and works including but not limited to written and graphic material, artistic and design work, and technology-based applications such as software programs and databases. The policy and standards cover all formats to include electronic sources such as those that may be found on the University's web site.

This policy applies to:

- All University faculty, staff, and students engaged in work conducive to the creation and/or development of intellectual property; and
- Independent contractors creating copyrightable or patentable works under agreement with the University.

II. Faculty-Created Materials and Works: Determining Ownership by Use of University Resources

In recognition of the principles of academic freedom and scholarship, and to encourage the development of copyrightable or patentable materials and works, it is policy of Athens State University that ownership of copyrights, trademarks, and/or patents, and the division of any resulting royalties, will be determined by whether faculty-created materials or works are the result of individual efforts, University-assisted efforts, or University-assigned efforts, as defined below.

Individual Efforts

In recognition of the long-standing custom that faculty members own copyright to their individual scholarly work, a faculty member of Athens State University is entitled to ownership of copyright or patents, and royalties or other income, derived from individual scholarly works or personal research. Individual effort or work by a faculty member is defined as that scholarly work generally expected of



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faculty and work which is incorporated into the normal scholarly expectations for faculty members and is not a specific task or required duty assigned by the University.

The President understands that the University benefits when its faculty engage in such efforts, because it adds value to the credentials, experience, and prestige of its faculty members, Therefore, as an individual effort, it is expected that the faculty member may engage in routine use of University time, equipment, and other resources in order to do academic research and writing, on academic topics that are consistent with the subject matter/courses of study for which they are responsible for at the University.

Where the President determines that such efforts will bring a tangible benefit to the University, the President may grant advanced approval for reasonable financial support of a faculty members research activities. In these instances, this type of routine use would not constitute University assistance.

However, use of University resources that are not routine will classify the work as a University-Assisted effort. For example, submitting an entire textbook manuscript to a departmental secretary for word-processing would **not** be considered routine use of University resources.

University-Assisted Efforts

In cases where faculty members create materials or works in which the University co-sponsors the work and/or shares in the production costs beyond routine use of University resources, the materials or works shall be subject to copyright or patent by the faculty member and/or the University. The assignment of copyright or patent and division of any royalties will be determined **in advance** in an application and contract executed between Athens State University and the faculty member in which the faculty member will be authorized to use the resources of the University in the development of the material or work.

In particular, the contract will specify:

- The nature, scope, type, and amount of Athens State University resources that are to be used in the product's development.
- The assignment of copyright or patent with the faculty member, with the University, or both, depending on the percentage of assistance supplied by the University.
- The proportionate share of royalties or fees which the faculty member or the University will be eligible to receive. The application and contract must specify the types of documentation to be



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provided to the University as to what University resources were used and what outside resources were used to develop the material. The portion of any royalties or fees to be received by the faculty member or the University must have a direct relationship to the verifiable amount of the faculty member's personal time, resources, and/or funds which are to be used in the product's development, as compared to the verifiable amount of the University's resources to be devoted to the development of the product.

- That any compensation to the faculty member arising from the development of the product must be made from proceeds derived directly from the publication, manufacture, sale, lease, or distribution of the products, and not from any State or Federal funds.
- That the contract does not provide an exemption from, and does not imply compliance with, the Alabama Ethics Law, and that it shall be subject to the scrutiny of the Alabama Ethics Commission, which will be provided with a copy of the contract.
- That prior to the payment of any compensation to any faculty member of the University under a contract of the type described above, that the President must approve any payment in writing.

Any Athens State University faculty member who is interested in entering into an agreement with the University for the development of an instructional material or work with University assistance should begin the process by submitting a written proposal to the Provost/Vice President for Academic Affairs which describes in detail the nature of the proposed material or work, and which contains a list of all anticipated University resources needed for the development of the work as well as all resources to be provided by the faculty member or any other person or source other than the University.

University-Assigned Efforts

In cases where faculty members create materials or works in which the University directly sponsors the work and specifically assigns the faculty member to write or produce the materials or works, the copyright or patent for the materials or works will be owned by the University. If determined **in advance** by the creator and the University, sharing of any royalties or fees with the author or producer may be authorized as an incentive to encourage further development of copyrightable or patentable materials. A faculty member's general obligation to produce scholarly or creative works and/or the award of a Professional Improvement Leave (sabbatical), unless there is a specific agreement to the contrary, **do not** constitute University-assigned efforts as defined in this policy.

III. Staff/Administrator-Created Materials and Works (Non-faculty employees)



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Works Created Within the Scope of Employment

As defined in the United States Code, title 17 §101, works created within an employee's scope of employment are considered works "made for hire" and the University, as the employer, therefore owns all copyrights and patents to materials and works created by the employee.

University-Assigned Efforts

In cases where an employee produces materials or works in which the University directly sponsors the work and specifically assigns the employee to write or produce the materials or works, the copyright or patent for the materials or works will be owned by the University. If determined **in advance and in writing** by the employee and the University, and if approved by the President, sharing of any royalties or fees with the employee may be authorized as an incentive to encourage further development of copyrightable or patentable materials.

IV. Works Created for the University by Agreement with an Independent Contractor

Ownership of work created in the course of or pursuant to contracted work will be determined in accordance with the terms of the University agreement with the external party and applicable federal and state laws. As a general rule, ownership of works produced on contract normally reside with the University. In all cases, copyright or patent ownership shall be specified in the written contractual agreement prior to the start of the work.

V. Student-Created Materials or Works

Intellectual Property Resulting from Fulfillment of Course Requirements

Students may hold copyright to their own original work, when the intellectual property is created solely for the purpose of fulfilling course requirements. In those instances, neither the University nor the instructor of record for the course owns the material. However, in instances where the student-created work is the product of interaction with the faculty and/or other students, ownership of the intellectual property may not belong exclusively to the student.

Faculty and University administrators should acknowledge a student's potential right to his or her own original work, and seek written permission from the student prior to publishing this material, uploading it to a website, or making it available to other students as a model for future classes. Upon written permission by the student, the University is granted royalty-free license on the use of a student's intellectual property created during the fulfillment of course requirements.



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Intellectual Property Created by Students Employed by the University

Materials and works created by students while carrying out employment responsibilities with the University are classified as a works “made for hire” and therefore copyright or patent belongs to the University.

VI. Works or Materials Created in Connection with Sponsored Projects

Faculty and students may work with non-University entities that sponsor projects relating to academic courses. When such sponsorships occur, notwithstanding anything in this policy to the contrary and except where the sponsoring entity expressly provides in writing to the contrary, all intellectual property rights in works and materials developed by students, faculty, and staff in connection with those projects belong to the sponsoring entity. Upon request, all faculty, students, and staff participating or assisting in connection with such projects will complete such forms as may be requested by the University (including, for example, the University’s [Assignment of Ownership and Non-Disclosure Agreement](#) and/or the [Sponsorship Agreement](#)) to further memorialize the provisions of this paragraph, and file the same with the Office of the Provost before work on a project begins.

VII. Responsibility for this Operating Policy

Policy Owner

As part of the initial approval of this policy by the President and subsequent to the original dissemination of the policy, the President remains the policy owner for the ongoing evaluation, review, and approval of this policy. Subsequent reviews and revisions to this policy must be in accordance with approved operating policy procedures and processes.

This policy will be reviewed every three years or more frequently as needed by the Policy Owner. Revisions will be reviewed/affirmed by the Cabinet and approved by the University President. This policy will be updated/published in the University’s Policy Library.

Responsibility for Policy Implementation



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The President has assigned the responsibility of implementing this policy to the Provost/Vice President for Academic Affairs.