Excerpted from the Faculty Handbook

6.2 Intellectual Property Rights
Anderson University encourages and supports scholarship and research, technical and creative efforts, artistic or literary works, and other academic and service activities and products of its faculty, staff, and students. As part of the mission of the University, employees and students produce new written materials, and many other expressions of research, creativity, and scholarly activity. These works often involve the rights and rewards of ownership, as well as responsibilities and a need for protection during development; these concerns affect the individuals involved as well as the university as a legal entity. Given the many changes on any campus (faculty and students, technology, funding, etc.), ongoing revision is needed to keep this policy current.

The following are the guiding principles of this policy:

a. The University encourages the discovery and development of original works and dissemination of knowledge as part of its academic mission.

b. The University recognizes that the development of original works and the rights to, benefits from, and responsibilities for these works may arise from a variety of efforts.

c. The University recognizes that ownership and benefit from intellectual property may be multifaceted and strives to ensure appropriate benefits to all contributors.

A. Applicability
This policy applies to all Creators who are Anderson University faculty members (including part time faculty and visiting scholars), staff (including ancillary staff), students, and non-employees of the University engaged on a contracted basis, and others who make use of University facilities, equipment, or other resources or who receive funds from the University in the form of salary, wages, stipend or other support, not including student financial aid.

The University will ordinarily waive its rights to intellectual property created by student Creators where the use of University facilities, equipment, or other resources has been properly authorized, except when: faculty or staff involvement is substantial; the work is part of a larger University work or specifically commissioned by the University; the use of University resources is substantially in excess of the norm for educational purposes; or the intellectual property resulted from the student’s employment with the University.

All aspects of the ownership and administration of intellectual property arising from University Research that is funded in whole or in part by an external sponsor, specifically including matters dealing with royalties, will be governed by this policy and the terms of the agreement between the University and the sponsor.

B. Ownership of Intellectual Property Arising from University Research

Patents
The University owns all rights to all patentable inventions arising from University research. The University shall make an initial decision whether to pursue a patent or other legal protection within six months of initial disclosure. If the University elects to pursue a patent or other legal protection, all costs shall be borne by the University or a sponsor or licensee.

Creators must be aware that an invention may become un-patentable unless a formal application is filed with the U.S. Patent and Trademark Office in a timely manner. Special rules that vary from country to country govern the time limits within which foreign patent protection may be acquired.

Copyrights
The University owns all rights to all copyrightable materials, including but not limited to computer programs, software, or multi-media productions that are ‘Works Made for Hire’ under copyright law, or that are required to be assigned to the University by the contract terms of a grant or sponsored program. The University does not normally claim ownership of works such as textbooks, articles, papers, scholarly monographs, or artistic works. Creators, therefore, retain rights in copyright in their works, unless they are created under a grant or sponsored program that specifies ownership rights in some entity other than the Creator, they are the subject of a contract modifying ownership rights, or they are otherwise addressed in this Policy.

When the University commissions a work or otherwise causes a work to be developed that is a Work Made for Hire under copyright law, but the Creator is an employee whose position is not normally considered to be one immediately related to the production of copyrightable works for the University, the Creator will be required to acknowledge the University’s ownership of the work in writing before production of the work.
Creators of works, such as computer software, that are not “Works Made for Hire” but that are developed with the substantial use of university facilities or resources agree, consistent with other relevant agreements or contracts, to grant to the University a paid-up, royalty-free non-exclusive license for the use of the work for academic, research, or other scholarly purposes.

Creators may, in certain circumstances, choose to assign their ownership interest in copyrightable works to the University. In those cases, royalty income derived from the work will be shared with the Creator as specified in this policy or in any other written agreement with the University.

C. Educational Materials

Educational Materials represent a broad spectrum of copyrighted works. These materials encompass traditional educational materials, such as lesson plans and face-to-face course presentations, as well as other methods of course delivery, such as Internet-based learning. The University desires to encourage the development of creative and effective educational tools and media in order to further the University’s educational goals.

In keeping with the University’s general policy of not claiming ownership in the scholarly works of its Creators, Educational Materials produced in the normal course of the University’s educational mission will, generally speaking, be owned by the Creators of the materials. Certain circumstances, however, may give rise to a claim of ownership by the University; for example, in the case of Educational Materials which are “Works Made for Hire,” such as those produced by non-faculty employees within the specific scope of their employment. Because all possible circumstances cannot be envisioned by this policy, each particular situation will have to be evaluated on its own facts to determine ownership interests and who may have the right to use Educational Materials that are developed. This section provides a general guide for determining ownership and control of Educational Materials developed by University personnel.

1. Educational Materials Developed on the Initiative of the Creator with less than Substantial Use of University Facilities or Resources:

This category includes, for example, a faculty member’s traditional face-to-face class lecture materials or online education materials to supplement an existing University-offered course. Such materials would be owned by the Creator. In keeping with academic tradition, original works by faculty and students not involving substantial use of university facilities or resources and regardless of the form of expression, shall be the property of the creator(s), unless a specific contractual agreement regarding the work exists.

Use of such materials by faculty members shall be consistent with the University’s conflict of interest policy. The University owns the course descriptions and syllabi for its programs and courses, to be used as needed for course catalogs, accreditation, decisions on student course transfers, etc. For purposes of instructional continuity, Creator(s) shall assign non-transferable, non-exclusive rights for teaching and course materials to the University for three years.

2. Educational Materials Developed on the Initiative of the Creator involving Substantial use of University Facilities or Resources

An example of this situation would be the development of Educational Materials which requires extensive video production, integration of video streaming, or website development made possible through the use of University resources. The tangible works developed, i.e. the website or video production, are owned by the University, while the Creator maintains ownership of the underlying content of the materials. Creators of this type of Educational Materials grant to the University a paid-up, royalty-free, non-exclusive license for the use, reproduction, and creation of derivative works of the underlying creative content for the University’s purposes. Tangible educational materials owned by the University may be used by the Creator while employed by the University, consistent with the University’s conflict of interest policies. For any such use outside the University, however, specific written permission of the University would be required.

3. Educational Materials commissioned for production by the University
This category includes institutional works and educational materials developed as specifically directed by the University. For example, the assigned development of an enrichment course to be offered to the public. Such materials, including the underlying creative content, are works made for hire and as such are owned by the University. When the production of such a work is initiated, a written agreement will be entered into in advance of production between the University and the Creator, acknowledging the University’s ownership rights, compensation for production of the materials, sharing of potential revenues resulting from commercial distribution of the materials, and so forth. Commissioned educational materials may be used by the Creator outside the University only with specific written permission of the University and in a manner consistent with the University’s conflict of interest policy.

4. Educational Materials funded by an External Sponsor

Ownership of externally funded Educational Materials will be governed by the terms of the sponsor’s agreement with the University. In the absence of specific ownership terms in the agreement, they shall be treated consistently with the terms of this policy.

D. Disclosures

Persons to whom this policy applies have a duty to report, in a timely manner, all creations of intellectual property covered by this policy to the Provost. They are also required to cooperate fully in steps necessary to legally protect the University’s rights.

E. Waivers

The University may grant a waiver of any provision of this policy. All waivers shall be in writing and signed by the Provost.

F. Fair Use of Intellectual Property

All members of the University community, including faculty, staff, and students, must comply with laws protecting U.S. copyright owners. Copyright protection applies to creative works including most text, videos, music, images, motion pictures, and computer software; protection usually applies even if the work lacks a copyright notice and is not registered with the U.S. Copyright Office. Copying, digitizing, uploading, or transmitting copyrighted materials constitutes infringement unless the work is in the public domain, or the user has permission from the copyright owner, or the user is a faculty member acting within fair use guidelines, or the use is identified under one of the specific, statutory exceptions. Guidelines for the fair use of copyrighted works are available in Section 6.1 Copy Right Policies of this Personnel Handbook.

G. Right of Appeal

In the absence of a specific contractual agreement, in cases where rights and/or equities are in dispute, there is a right of appeal. Individuals shall follow the established procedures for campus appeal as published in Section 3.45 Grievance Policy of this Personnel Handbook. The Provost shall provide oversight for this policy.

H. Definitions

- **Creator**: Any inventor, developer, author, or creator of intellectual property covered by this policy.

- **Educational Materials**: The content and associated tools and technologies for delivery of content, including materials developed for traditional “face to face” classroom course, as well as other delivery methods such as Internet web-based delivery or other distance learning media. Educational Materials do not normally include works such as textbooks, articles, papers, scholarly monographs, or artistic works produced in the normal course of academic scholarship.

- **University Research**: Any research or development activity which is undertaken in connection with an externally funded project, or which is related to duties and responsibilities for which a person is compensated by the University, or which is conducted with substantial use of University facilities or resources.

- **Intellectual Property**: For the purpose of this policy, intellectual property includes copyrightable materials, patents, trademarks, and service marks.

- **Copyright Material**: Copyrightable Materials are materials fixed in any tangible medium including electronic and include, but are not limited to, the following examples:
  - books, Journal articles, reports, texts, glossaries, bibliographies, study-guides, laboratory manuals, syllabi, tests and proposals;
b. lectures, musical or dramatic compositions, and unpublished scripts;
c. photographs, films, film strips, charts, transparencies, and other visual aids;
d. video and audio tapes and cassettes;
e. live video and audio broadcasts;
f. sound recordings;
g. programmed instructional materials, (including Web-based courses or materials);
h. computer programs (software);
i. choreographic work and pantomimes;
j. graphic and sculpture works; works of art;
k. drawings and plastic works of a scientific or technical character;
l. architectural plans and structures; and
m. dress and fabric designs.

Substantial Use of University Resources: The utilization of University resources beyond that which is normally provided to carry out one’s duties. Examples of such resources include the assignment of additional teaching or graduate assistants, use of specialized production facilities and personnel, use of multimedia labs and associated personnel, clerical support that exceeds what is routine, the purchase of additional supplies or equipment, the allocation of specific additional travel or other funds, the assignment of additional space or facilities, etc. Resources not considered substantial, i.e., “standard” resources, include the following:

a. payment of salary
b. provision of office and/or laboratory space, including general media laboratory space and general administrative support
c. use of library resources
d. reassigned time or sabbatical leave of absence
e. internal grants or seed money. Substantial use is defined as the use of resources beyond the standard.

Syllabus: A syllabus is the descriptive overview of an official University course. Syllabi usually include, but are not limited to, the following: a course description, course objectives, required text(s), method of evaluation and grading and an outline of course topics, reading assignments including assignment and exam due dates. Faculty may include additional information that is not required, such as Web links, suggested reading, study guides for tests, lecture notes, handouts etc.

Work made for hire: Work made for hire is work prepared by an employee within the scope of his employment or a work specially ordered or commissioned in certain specified circumstances. When a work qualifies as a work made for hire, the employer or commissioning party is considered to be the author. Section 101 of the copyright law defines a “work made for hire” as “a work prepared by an employee within the scope of his employment; or 2) a work specially ordered or commissioned for use as a contribution to a collective work, as part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer materials for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. See the statutory definition in Section 101 of the 1976 Copyright Act.