

(The Senate and Senate Committees should use the following form for officially communicating recommendations to the Provost. Such committees would include: UCC, UPC and Executive Committee of the Senate along with any other committees which provide recommendations directly to the Provost.)

Senate Recommendation to the Provost

Originating Body Faculty Senate Originator C. Richard McKenzie

Date submitted 4-23-02 Requested Effective date
NA

Recommendation The Senate endorsed the attached (pdf format) addition to the USM Intellectual Properties policy at the April 9, 2002 Senate meeting.

Attach any supporting documentation.

Action Taken by Provost:

Date 4/23/02

☒ Recommendation Accepted ☐ Recommendation Not Accepted
☐ Recommendation returned to Originating Body for further review (see attached)

Disposition for Approved Recommendation:

☐ President
☒ Faculty Senate Chair
☐ Forum Chair
☐ Webmaster
☐ Catalogue Editor
☐ Student Handbook Editor
☐ Faculty Handbook Editor

☐ VP Student Affairs
☐ VP Finance
☐ School Deans
☐ Graduate Council
☐ Provost Council

☒ Other: Sent to Vicechancellor Academic Affairs at USM office.

provost/scw/0302

Start a file on:
Faculty Senate
Recommendations.
File these type ^{Done}
for ms. copy as X. _{4/23}

SALISBURY UNIVERSITY

TECHNOLOGY-MEDIATED INSTRUCTIONAL MATERIALS

VIII. PREAMBLE

The traditional practice of universities is to vest faculty and students with ownership over intellectual property that is developed in the course of preparing and presenting material used for instruction. Such a long-standing practice is consistent with the interests of the University, Faculty, Students, and the Public because it provides an environment that maximizes the quality of instructional material. It is recognized that a core element of Salisbury University's Mission is the provision of high-quality instruction. Consistent with the recognition of the importance of teaching at Salisbury University, and the importance of traditional practices of assigning ownership in assuring high quality instruction, the following document provides a framework for the creation and assignment of ownership over technologically-mediated instructional material at Salisbury University.

It is recognized that all instructional materials prepared by a faculty member is the intellectual property of that faculty member under present law and university policy. The following policy does not amend these comprehensive intellectual property rights but rather addresses these rights for technology-mediated materials.

Technologically-mediated instruction is defined as, but not limited to, methods of instruction that utilize computer based interfaces, multimedia presentations, video and audio devices, and includes circumstances where the faculty member may or may not be present at the same location as the student.

Technology-mediated instructional materials are defined as, but not limited to, the content of all instructional materials produced by faculty members within their scope of employment, such as textual material that reside in electronic format, video and audio transcripts, email, etc.

Ownership of Technology-Mediated Instructional Materials

A. Ownership by Creator

Personnel and Students shall have all rights to works as detailed below, and with several exceptions.

Faculty

Any material developed by a faculty member(s) for use in a technology-mediated forum or any material developed by a faculty member that is used in a technology-mediated forum is the sole property of that faculty member(s). Where more than one faculty member is involved in the development process it is the sole responsibility of

these persons to resolve any and all ownership issues. Absent such agreement the existing law of the State of Maryland will apply.

The University reserves the right to require faculty members to first attempt to resolve any intellectual property ownership disputes by use of internal non-binding dispute resolution mechanisms in place at the University. When there are inter-institutional agreements these agreements must be consistent with section X of this document.

Where a faculty member(s) works with any non-faculty members (i.e. students, staff, etc.) in the development of technology-mediated materials or other instructional materials, all intellectual property rights are the sole property of the faculty member.

Should the student, staff, or other non-faculty personnel seek any intellectual property rights in the faculty member's instructional material that individual (or individuals) is required, at the time of the onset of the collaboration, to enter into a written agreement with the faculty member that clearly sets forth how the intellectual property rights of the faculty member are modified.

Where such an agreement is entered into by the faculty member and non-faculty personnel, all ambiguities are to be resolved in favor of sole intellectual property ownership by the faculty member. The intent of this paragraph is to require clear and unequivocal written modification of all intellectual property rights that would otherwise rest with the faculty member(s) who prepared the materials for use in instruction.

The decision to exploit the technology-mediated materials in any commercial or noncommercial forum is the sole and exclusive right of the person(s) who own the intellectual property rights in this material. As set forth above, absent an agreement allocating rights away from the faculty member(s), the intellectual property rights and thus all exploitation rights for technology-mediated instructional materials are owned by the faculty member(s).

The costs and revenue from any exploitation of technology-mediated materials, and any other contractual details are to be negotiated between the owner of the intellectual property rights and any party seeking to exploit this property on a case-by-case basis.

The faculty member retains all legal rights to protect against the exploitation of any technology-mediated materials owned by the member.

The faculty and the university will act in good faith to develop policies and procedures consistent with this policy. To assist the faculty in determining the value of their property rights to technology-mediated instructional materials, the University agrees to disclose the financial terms of all agreements entered into between the University and any party for the use of technology-mediated instructional materials.

B. Exceptions

1. Scope of Employment. The University owns all rights for work produced by non-faculty Personnel within the Scope of Employment.
2. Sponsored Research Agreements. The University owns all rights for work produced by Personnel or Students under Sponsored Research Agreements.
3. Signed agreements. The University owns all rights to work as stated in written agreements negotiated at the onset of the development of the technologically-mediated instructional material.

C. Right of Use

1. University rights. The University shall have the right to use and reproduce for research and educational purposes technologically-mediated instructional material, whether owned by the University, Non-faculty Personnel, or Students, for which it has provided resources. The University rights in regards to works owned by faculty members is detailed in section VIII A.
2. Additional Rights. If the University wishes to secure additional rights to technologically-mediated instructional material from the creator it shall so specify in writing at the time it provides resources beyond Resources Usually and Customarily Provided or other consideration.

D. Revenue Sharing

In the absence of a written agreement stating otherwise, revenue generated through university ownership of copyrights to technologically-mediated instructional material shall be shared according to section XI A of this document. Revenue generated through university ownership of patents to technologically-mediated instructional material shall be shared according to section XI B of this document.

Localized Language Establishing Ownership to Software

Section VII A)1)a of the BOR reads

Within the Scope of Employment. The University owns computer programs and software created by Personnel within the Scope of Employment.

Add the following language:

At Salisbury University, as a matter of policy, faculty own computer programs and software created within the Scope of Employment, except when covered by a written agreement.

Section VII A)1)b of the BOR reads

Use of University Resources. The University owns computer programs and software created by Personnel, graduate Students, or professional Students with the use of University resources.

Add the following language:

At Salisbury University, as a matter of policy, faculty own computer programs and software created with the use of University resources, except when covered by a written agreement.