

Gettysburg College Intellectual Property Policy

Purpose and Scope

Gettysburg College (“Gettysburg” or “College”) recognizes that in the course of performing their duties for the College, employees may develop Intellectual Property that has value not only to the College, but also to the greater community. The purpose of this policy is to define the rights and responsibilities of Gettysburg College, and its employees. The prompt and open dissemination of the results of research and the free exchange of information among scholars are essential to Gettysburg’s fulfillment of its obligations as an institution committed to learning and education. Gettysburg also seeks to preserve traditional Gettysburg practices and privileges with respect to the publication of scholarly works, as well as to protect Gettysburg’s assets and reputation.

Key Terms

Intellectual Property – Intellectual property refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. Some Intellectual Property is eligible for registration such as patents, copyrights or trademarks. Throughout this policy the term Intellectual Property shall include Tangible Research Property, as defined below, whether or not the Tangible Research Property is eligible for patent, trademark or copyright protection.

Author/Creator – This refers to the Gettysburg employee (faculty and staff) that has authored or created a work that constitutes Intellectual Property and that is subject to this policy.

Patent – A utility patent is a property right granted by the government to an inventor for a new, non-obvious and useful process, machine, manufacture or composition of matter, or any useful improvement of one of the foregoing. A design patent is a property right granted by the government to an inventor for an ornamental design. Throughout this policy inventions subject to either utility or design patent protection are referred to as “Inventions.”

Copyright – In contrast to a patent, which protects an idea and its implementation, copyright protects the expression of an idea, not the idea itself. Copyright is a form of protection provided under federal law for "original works of authorship", including literary (which includes software code), dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright. Copyright covers the expression of works that are fixed in a tangible medium (e.g. written or recorded).

Tangible Research Property - Tangible research property (TRP) includes items produced in the course of research projects sponsored by Gettysburg or by external sponsors. TRP includes such

items as biological materials, engineering drawings, clinical data, computer software, integrated circuit chips, computer databases, prototype devices, circuit diagrams and equipment.

Identity Interest - Gettysburg has an identity interest in Intellectual Property that is more integral to, and reflects more directly on, the identity of Gettysburg than on the identity of the individuals who create it. Examples of works in this category are Gettysburg's website, alumni bulletins, admission materials, fundraising materials, catalogs and magazines. Also included in this category are works which prominently use Gettysburg's name or any image, trademark or logo owned by Gettysburg. However, simply identifying the author of a book as a professor at Gettysburg or using Gettysburg's logos in a presentation or talk would not likely be considered a prominent use of Gettysburg's name.

Ownership of Intellectual Property

Most Intellectual Property created by an Author/Creator, particularly Gettysburg's faculty, will be owned by the Author/Creator. Exceptions to this are:

- when the Author/Creator have entered into a specific agreement that says otherwise (as described below);
- when Gettysburg has an Identity Interest in the work (as defined above); and,
- Intellectual Property created by a Gettysburg employee within the scope of his/her employment when the Intellectual Property is specifically intended solely for use by Gettysburg (most of these will fall into the category of Identity Interest works).

Intellectual Property that falls into the above exceptions will be owned by Gettysburg. Intellectual Property that falls outside the above exceptions will be owned by the Author/Creator.

If Intellectual Property is owned by the Author/Creator, and absent any obligation imposed by an agreement between the Author/Creator and Gettysburg, Gettysburg shall have no obligation to assist the Author/Creator with protecting or commercializing any Intellectual Property or avoiding any loss of Intellectual Property rights or protections. Authors/Creators acknowledge that certain disclosure or failures to timely seek formal protections for some Intellectual Properties can result in a loss of rights or diminution of protections available and that Gettysburg bears no responsibility to prevent such an occurrence.

Either prior to the creation of the Intellectual Property or at any point during its creation or later use, the Author/Creator and Gettysburg may enter into a formal agreement involving the funding, protection, commercialization, ownership or any other aspect of any Intellectual Property. Such an agreement shall only be established if both the Author/Creator and Gettysburg mutually agree on the terms.

Works Put into Service of the College

Under this Policy, most Intellectual Property created by Gettysburg's faculty will be owned by the Author/Creator (i.e. the faculty), but in some cases that Intellectual Property may be put into service for Gettysburg's internal use. Non-limiting examples of the internal use of Intellectual

Property by Gettysburg include use of software to facilitate Gettysburg's administrative or educational functions, use of dramatic works to facilitate a dramatic performance produced by Gettysburg or use of educational materials for Gettysburg's coursework. If ownership of such Intellectual Property remains with the Author/Creator, but Gettysburg relies on the use of such works, then Gettysburg needs some assurance that it can continue to use such works. Therefore, for Author/Creator-owned Intellectual Property that is used by Gettysburg for its internal use, Gettysburg shall have a royalty-free license to use and continue to use such Intellectual Property as long as it remains used for Gettysburg's internal use.

Jointly Developed Works

If Intellectual Property is to be developed jointly between Gettysburg's employees and employees or representatives of other institution(s)/organizations, Gettysburg shall negotiate an agreement in good faith with the other institution(s) which shall govern the ownership of the Intellectual Property as between it and the other institution(s).

Bayh-Dole Act

For any federally sponsored research, Gettysburg is obligated by federal regulations to promptly report (within two months) to the appropriate federal agency any inventions conceived or reduced to practice during the course of a government-sponsored research program. The Author/Creator shall cooperate with Gettysburg in meeting any of the reporting requirements. The Bayh-Dole Act permits a university, small business, or non-profit institution to elect to pursue ownership of an invention in preference to the government.

Procedure

In the event that an Author/Creator desires to engage Gettysburg in an agreement regarding any Intellectual Property the request should be made to the Executive Vice President who may require that the Author/Creator provide any information necessary to permit Gettysburg to evaluate whether to enter into a formal agreement with the Author/Creator. Such information may include, among other things, the use of Gettysburg's resources to develop the Intellectual Property, potential for protection of the Intellectual Property and potential for its commercialization. Gettysburg shall have no obligation to engage in agreements with an Author/Creator or to act on any particular timeline if an agreement is explored.