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Recommended Citation

Garofalo, Mary A., "Intellectual Property: A Student and Faculty Resource" (2022). *General Research*. 1.
https://digitalcommons.kean.edu/general_research/1

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Intellectual Property: A Student and Faculty Resource
Mary A. Garofalo, Ph.D. - NTLC Research Lead

For both faculty and students, the concept of intellectual property (IP) is important to understand. Arguably, the application and protection of intellectual property is even more important. Over the past several years, IP has become increasingly more valuable to institutions of higher education, both domestically and globally. The innovation and creation of scholarship, technology, industrial processes, data analytics and so forth, not only are now tied to accreditation requirements for universities, but also allow for the collaboration between the private sector and universities through financial sponsorship (Van Dusen, 2013; Duval-Couetil et al., 2014).

Understanding IP

The United States Patent and Trademark Office defines intellectual property as “creations of the mind—creative works or ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them.” That said, it is important to understand that in large part, the mission of U.S. universities is to create works, ideas, and processes that can be disseminated in the world to solve problems and change thinking- in direct relation to our ever-changing world. This is especially true for technology and scientific development, but no less true for creative works of thought, scholarship and research discoveries (Ross, 2012).

Intellectual Property and Students

Increasingly, undergraduate students are more involved in the development of technologies and products that can be used outside of the university setting. Often, when undergraduate students are engaged in such creative and/or technical ventures, they often have a faculty sponsor at said university AND/OR are often partnering with private sector collaborators for funding/research. Undergraduate students, whether engaged in research or production, regardless of the field, are increasingly producing IP, yet often the IP policies are not very clear for students who are producing at a university, but are not employed by said university (Duval-Couetil, et al., 2013).

Kean University fosters the relationship between faculty and undergraduate students in the [Center for Undergraduate Research and Fellowships](#) where students can pursue their research interests with faculty mentors of their choosing. However, it is important to note that the overwhelming majority of the research on undergraduate IP suggests that students are often without the information and the training to delineate how to protect their own IP, from that of the faculty mentor(s) and of the University.

SafeGuards for Students

Some general rules to be sure to protect IP of students in the face of challenging power differentials between faculty and students, university and students and private sector/funding sources and students.

1. Agree on who gets the IP rights in the initial planning stages and get it in writing.
2. If there is funding involved, be sure to understand what are the “strings” attached to the funding in terms of IP rights, expectations and so forth.
3. For scholarship of any kind, a discussion of authorship, and rank of authorship (1st author, 2nd author, and so on) should be addressed often and may be open to changes based on division of labor, discovery and so forth.
4. [Check what the University's policies on IP are for students.](#)
5. [Review Kean University's Supplemental Ethics Code.](#)

Although some of these things may be difficult for students to discuss with their faculty mentors, due to the fact that faculty often have a role in grading, and an outsized role in publishing due to their experience, these conversations are important. If students feel uncomfortable, they should meet with the Department Chairperson and figure out the best way to handle things.

Scholarship and Teaching and Learning for Faculty

At U.S. universities, IP policies are ever-evolving due to the nature of the increasing reliance of digital scholarship in the last 10 years, and with an enormous increase in over the last three years due to Covid-19. Tenure-track faculty are required to publish their own work as a requirement for tenure and thereby the concept of IP is enmeshed in the job itself.

In terms of scholarship, faculty have a right to their own IP in the form of publications and conference presentations. It would be important to be clear about authorship, including ranked authorship (see above) when collaborating with other faculty members and/or graduate students. Authorship should be discussed in the initial planning stages with the collaborating partners. If faculty are collaborating with graduate students, it would be important to recognize the power dynamics and knowledge/experience differential when it comes to academic writing and publishing. Students should understand the process and how the IP of the research, product, process, and/or new knowledge should be divided and protected for and by all parties involved.

When dealing with the creation of course materials, faculty have rights to their own materials. However, most faculty, especially dealing with digital resources, operate with the expectation that their course materials will be used often, and can be shared with students. Only when given permission, can other faculty or students (not enrolled in their course) utilize the materials. It would be important that faculty discuss with their students what the parameters of reproducing and sharing their materials beyond the course time frame. This should be explicitly stated in the course syllabus, along with any other limitations of the reproduction or distribution of the faculty's IP. Similarly, when faculty create digital materials and publish online in a blog, website, or other open modality, the understanding of the faculty should be that their IP will be shared as an Open Educational Resource for students and faculty.

IP and University Policy

[Kean University's IP policy](#) clearly describes the process by which faculty or graduate students who develop IP on campus, with campus resources, during employment belong to the University. This is not unique to Kean University, in fact, it is one of the only nearly universal policies throughout IP policy in Higher Education in North America (Van Dusen, 2103). According to Kean University's Policy (2010),

All inventions, discoveries and improvements, whether or not patentable, that are made, conceived, or reduced to practice in whole or in part by faculty or staff (including student research assistants) or by non-employees who participate in research projects at the University, using the facilities, equipment, funds or other resources of Kean University or who participate in research projects for the University regardless of whether University facilities are being used, will be the sole property of Kean University. All original data, records, and other documents relating to the invention will be the sole property of the University(p.2).

That said, it would be important, as previously stated, to clear your research, invention, production with your Dean and the [Office for Research and Sponsored Programs](#) before beginning your innovation.

References

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