

# BYU-Idaho IP Policy Procedures

## Purpose and Application

Pursuant to BYU-Idaho Policy 1-3 (Intellectual Property), this document sets forth the procedures regarding the allocation of ownership and use rights of Intellectual Property created by University Personnel. Because the full policy applies to all University Personnel, all University employees, especially faculty, are encouraged to carefully review the policy and become familiar with it. The full policy is available, here: <https://content.byui.edu/s/ip-policy>

In the event of a discrepancy between these procedures and the actual policy, the language of the actual policy will govern.

## Areas of Responsibility

The BYU-Idaho Intellectual Property Office has stewardship over the management of Intellectual Property ownership and use rights at the University. This includes responsibility for any agreement that modifies the default allocation of rights provided by the IP Policy. As outlined below, all such agreements are also subject to review and approval by the University Resources Vice President and the Office of General Counsel.

University Personnel also have responsibilities with respect to Intellectual Property at the University. As a condition of employment, University Personnel agree to comply with all applicable University policies in the creation and use of Intellectual Property. University personnel who have questions about specific policies or obligations as they relate to Intellectual Property are encouraged to contact the Intellectual Property Office.

## Seeking Exceptions to the Default Allocation of Rights

The default allocation of rights set forth in the IP Policy may only be modified by express written agreement with the University. Individuals who wish to seek such an agreement must complete all of the following steps **before undertaking significant effort on the Work for which they are seeking an exception to the default allocation of rights:**

- Step 1. The individual writes a proposal identifying the Work in question and detailing the nature of the exception they are seeking. The individual then submits the proposal to their dean, managing director, or equivalent for approval.
- Step 2. Upon receiving approval from their dean, managing director, or equivalent, the individual provides the proposal and any supporting materials to the Intellectual Property Office for review and evaluation.
- Step 3. The individual, in consultation with the Intellectual Property Office, reviews the proposal to ensure that they have provided all the necessary documentation, including a completed Conflict of Interest Disclosure, and have complied with all other applicable University Policies. The Intellectual Property Office may request that the individual provide additional documents or take additional action to ensure full compliance with this or any other University Policy.
- Step 4. Once the individual is in compliance with all applicable University Policies, the Intellectual Property Office commences an independent review of the proposal and drafts a Memorandum of Understanding (“MOU”) outlining the terms and conditions of the

agreement being sought. The MOU is not the final written agreement, but rather a template for initial rights determinations. No rights are transferred unless and until the final written agreement is signed and dated by both the individual and the University.

- Step 5. The individual then submits the proposed MOU to their dean, managing director, or equivalent for approval and signature. The individual is responsible for obtaining all necessary approvals and returning the signed MOU to the Intellectual Property Office.
- Step 6. Once the signed MOU is returned to the Intellectual Property Office, the Individual may commence undertaking significant effort on the Work. Undertaking significant effort on the Work before the MOU is returned, or before the completion of any portion of steps 1-6, will invalidate the MOU and result in reversion to the default allocation of rights. Doing so may also disqualify the individual from obtaining any exception or agreement regarding the Work in question.

Upon completion of the Work, the individual must complete the following additional steps in order to obtain a binding final agreement with the University:

- Step 7. The individual contacts the Intellectual Property Office and requests a meeting to review the MOU and continue the process of obtaining a final written agreement.
- Step 8. The Intellectual Property Office and the Office of General Counsel review the completed Work and any supporting materials, consult appropriate University offices, and prepare a final written agreement. The final written agreement may contain adjustments that differ from the terms and conditions of the MOU due to modifications or adjustments made by the individual in completing the Work.
- Step 9. The final written agreement is signed and dated by the individual and the University Resources Vice President.

The University Resources Vice President and/or the University reserves the right to disapprove an agreement for any reason and such determination is final. If the individual enters into an agreement with a third party without obtaining a final written agreement that has been signed and dated by all parties, the default allocation of rights under the policy shall remain effective.

### Using Personal Works as Required Course Material

Conflicts of interest may occur when an individual seeks to use their own Personal Work(s) as required material in a course for which he or she has responsibility (e.g., as a course instructor, course lead, course developer, etc.). Such a practice requires careful review and monitoring.

An individual who desires to use their own Personal Work as *required* course material—that is, material which the university or students will be required to purchase for the course (such as textbooks, class notes, workbooks, lab manuals, etc.)—in a course that they teach, or otherwise have responsibility for, must complete each of the following steps before the Personal Work may be used. Failure to complete all steps before use may result in delays in approval or disruptions to the course. Intentional or knowing failure to complete all steps to obtain the necessary approval before use will result in disqualification from any future use of Personal Works as required course materials and additional disciplinary action, up to and including termination. The steps to approval are:

- Step 1. The individual shall first submit the proposed use (taking into consideration the quality, cost, availability, and the need for coordination with other instructors or courses) to their department chair and dean for approval.
- Step 2. The individual shall complete a Conflict of Interest disclosure and take steps to comply with any other applicable university policy requirements.
- Step 3. The department chair and dean consult with Intellectual Property Office to review the proposed use and supporting documents and ensure the use is permissible and complies with applicable University policy requirements.
- Step 4. The department chair and dean document the approval or rejection of the proposed use with any other terms governing the proposed use.
- Step 5. Upon approval, the individual may then proceed with the use, consistent with any conditions or other applicable policy and process requirements.

### Disclosure of existing IP

Within 90 days of employment, New employees should disclose preexisting works to the Human Resources Office using this form (URL). The default allocation of rights under the current IP Policy will not apply to any works so disclosed, although other provisions of this policy, such as provisions governing the use of Personal Works, shall still apply.

Existing employees should disclose preexisting works created prior to July 2018 to the Human Resources Office before April 2019 using this form (URL). The default allocation of rights under this Policy will not apply to works so disclosed, but shall instead be governed by the University Policy in place at the time such works were created.

### Conflict Resolution

Review of claims or disputes as to ownership of or use rights to Intellectual Property at the University will be administered by the following procedure:

- Step 1. The claim or dispute is first submitted in writing to the Intellectual Property Office and to their dean, managing director or equivalent.
- Step 2. The Intellectual Property Office reviews the claim, consults appropriate University offices, the claimant, other members of the BYU-Idaho community, if applicable, and issues a determination.
- Step 3. If the claimant is not satisfied with the determination, he or she may, at their option, forward a letter to the University Resources Vice President detailing the objection to the previous determination.
- Step 4. The University Resources Vice President will review the matter and advise the claimant of the final decision within 60 days of the receipt of the initial letter.

### Effective date of the Policy

The IP Policy became effective July 16, 2018 and is binding on all University Personnel. With respect to Intellectual Property created by University Personnel under this Policy or other agreements that represent modifications to the default allocation of rights, this IP Policy and any agreements shall remain binding on University Personnel even after their relationship with the University changes or terminates.