

Pratt Institute Intellectual Property Policy

**Draft Issued for Community Review
by the
Academic Affairs Committee of the Board of Trustees**

October 4, 2006

This draft is issued for community review and comments by faculty, students, and staff. This community review phase will last for one month.

The Committee will receive written and verbal comments at its mid-November, 2006 meeting from four representatives: one each from the Academic Senate, Student Government, Dean's Council, and Institutional Advancement. The representative shall be chosen internally by each group.

- Faculty should provide direct their comments to their Senators, Chairperson, or Director.
- Students should direct their comments to their Student Government officers or to the Vice President of Student Affairs.
- Staff should direct their comments to their supervisor.
- Chairs should direct their constituent's comments to the appropriate Dean.
- Academic Directors should direct their comments to the Office of the Provost
- Vice President.
- Directors and their staff should direct their comments to their supervisors. The Office of the Provost will represent perspectives from non-teaching units of the institute.

The schedule projects adoption of an Institute wide Intellectual Property Policy by the Board of Trustees in May 2007.

DRAFT for Community Review
Intellectual Property Policy

1. Policy Overview

This document sets forth Pratt Institute's policy regarding the Ownership and Use Rights of Intellectual Property created by members of its community. This Policy establishes general rules. Its intent is to act as the default for the vast majority of our Intellectual Property issues. It should be noted that the general rules set forth in this Policy may be superseded by individual agreements addressing ownership of Intellectual Property created in the Pratt community.

The Institute is committed to fostering artistic and intellectual creativity among its Students, Faculty and Staff. Therefore, Student, Faculty, and Staff Creators typically retain Ownership of Personal Works they create in line with time honored academic traditions.

Pratt is also committed to sharing the intellectual products of this creativity, where appropriate, to further the knowledge and academic growth of its collective community. Thus, this Policy grants certain Use Rights to various community members and the Institute to promote this sharing.

Responsibilities and procedures for administration of this Policy are provided, along with processes to be followed in cases where modification of these general rules is required for specific Works.

Students, Faculty, and Staff are required to adhere to the policies and procedures defined herein.

2. Definition of Terms

The following definitions apply only to this Intellectual Property Policy.

Committee: the Advisory Committee for Intellectual Property (ACIP).

Institute: Pratt Institute.

Intellectual Property: any patentable invention, copyrightable subject matter, trademarks, trade secrets, or other types of intellectual property. These include, but are not limited to, works of art, designs, architecture, literary works, writings, student theses, inventions, software, discoveries, trade secrets, musical compositions, performances, and creations that might normally be developed on a proprietary basis.

Net Revenues: non-equity revenues and royalties received by the Institute and remaining after deducting all Institute direct expenses necessary for obtaining protection for, evaluating, marketing, licensing, and development of the applicable Intellectual Property. Deducted costs shall be reasonable and fair, and shall be disclosed, along with the sources and amounts of revenue, to the Creator(s) of the Intellectual Property upon request.

Under this Policy, Net Revenues generated from Sponsored Works created by Faculty will be divided equally between the Faculty member and the Institute. The Faculty member will have the right to request an audit with respect to these revenues, and the Institute will comply with the request in a reasonable amount of time.

Ownership: owning and controlling the Intellectual Property Use Rights to a Work or Works. The individual(s) or entity with Ownership is considered the Owner(s). It does not necessarily mean owning and controlling the physical work when the work has a physical form.

Creator(s): any person or persons who create an item of Intellectual Property.

The following define all persons to whom this Policy applies and their classification(s) under this Policy. It is understood that individual Creator(s) can occupy more than one classification. The applicable class shall be determined by which role the individual is predominantly filling when creating a specific Work.

Student(s): individuals are considered Students when they are enrolled in “for credit” or “not for credit” courses or classes at the Institute whether full-time, part-time, matriculated, or non-matriculated.

Faculty: individuals are considered Faculty when employed or otherwise compensated to lecture, teach or develop materials related to “for credit” or “not for credit” courses, classes, or curriculum at the Institute. Faculty also includes library faculty, visiting scholars/lecturers, and individuals holding faculty rank and status at the Institute while engaged in research.

Staff: all individuals employed by the Institute, full-time or part-time, are considered Staff other than when acting in the capacity of Student or Faculty. Students are considered Staff

for works created as part of work-study or graduate assistantship assignments. Staff shall also include all volunteers servicing the Pratt community.

Use Rights: The non-exclusive, royalty-free, perpetual, and irrevocable license for the noncommercial purposes of: education, scholarship and exhibition. In the case of rights granted to the Institute, this also includes recruitment, accreditation, development, collection and/or archives, alumni relations, promotion, operations and the like. It is assumed that all Use Rights remain with the Owner unless stated otherwise in this Policy or assigned. These Use Rights are not intended to limit “fair use” as defined by U.S. laws. When appropriate, attribution will be given to the Creator(s).

Work(s): The following are intended to define all Works to which Intellectual Property Use Rights may be attached. For the purposes of this Policy, a specific Work shall belong to only one category of Work.

Personal: traditional scholarly and artistic Works reflecting research and/or creativity which, within the Institute, are considered as evidence of professional advancement or accomplishment which are not considered Class, Employment, or Staff Works. These are Works created without explicit special support or designated sponsorship by the Institute. The incidental, occasional, or even routine use of Institute facilities or equipment commonly available to the community shall not, of itself, be the basis of exclusion of Works from this category.

Class: Student created academic and studio Works and Faculty created instructional and evaluation materials that are produced for classes, courses, studios, labs, or lectures planned or held by the Institute.

Employment: all other Works created in the course and scope of employment that do not fall into the other five categories of Works. These Works are performed substantially using Institute facilities and equipment, but use of personal time or other facilities to create the Work does not change its basic nature if the Work is employment related.

Sponsored: Works created with financial funding or other forms of resources provided by the Institute or an external entity through a separate agreement with the Institute. These Works are created by Creator(s) in their capacity as a Faculty member, Student or Staff member and only in the course of their employment or studies at the Institute. All Creator(s) working on a Sponsored project shall be notified by the Institute in advance.

Commissioned: Specific Works created by Creator(s) at the direct request of the Institute and not in the course of the Creator(s) employment or studies at the Institute. Appropriate consideration for the creation of such Work, will be determined by agreement between the Institute and the Creator(s).

Other: Works created by other activities related to the Institute and not covered by the preceding categories which, within the Institute, are considered evidence of service to the Institute or student body. These include Works, whether compensated or not, for the Institute, schools, departments, units, centers, labs, governance entities, clubs, committees, or events.

3. General Rules

The following three matrices define the general rules of Ownership and Use Rights granted for Intellectual Property created by Creator(s).

Works created as Student						
Type of Work	Personal	Class	Employment	Sponsored	Commissioned	Other
Ownership	Student(s)	Student(s)	Institute	Institute	Institute	Institute
Use Rights Granted by Owner(s) to:	None ¹	Faculty, Staff & Institute	None ²	None	None ²	None ²
Notes	<p>None¹: The Institute has and can exercise Use Rights in such Works only to the extent that the Student(s) voluntarily brings those Works to or otherwise makes them available at the Institute.</p> <p>None²: Use Rights can be granted in writing by direct supervisor for personal portfolio purposes.</p>					

Works created as Faculty						
Type of Work	Personal	Class	Employment	Sponsored	Commissioned	Other
Ownership	Faculty	Split ¹	Institute	Institute ¹	Institute	Institute
Use Rights Granted by Owner(s) to:	None ¹	Faculty, Students, Staff & Institute	None ²	Faculty	Faculty	Faculty
Notes	<p>Split¹: Course syllabi, exams, student/course evaluation materials, study guides, and materials created with special Institute support are owned by the Institute. Other instructional materials such as lectures and presentations are owned by the Faculty member.</p> <p>Institute¹: Net Revenues from licensing or sale of rights will be divided: Institute 50%, Faculty member 50%, unless specified otherwise by another agreement.</p> <p>None¹: The Institute has and can exercise Use Rights in such Works only to the extent that the Faculty voluntarily brings those Works to or otherwise makes them available at the Institute.</p> <p>None²: Use Rights can be granted in writing by direct supervisor for personal portfolio purposes.</p>					

Works created as Staff						
Type of Work	Personal	Class	Employment	Sponsored	Commissioned	Other
Ownership	Staff	na	Institute	Institute	Institute	Institute
Use Rights Granted by Owner(s) to:	None ¹	na	None ²	None	None ²	None
Notes	<p>None¹: The Institute has and can exercise Use Rights in such Works only to the extent that the Staff member voluntarily brings those Works to or otherwise makes them available at the Institute.</p> <p>None²: Use Rights can be granted in writing by direct supervisor for personal portfolio purposes.</p>					

4. Responsibilities

A. Institute Responsibilities:

The Institute will make this Policy and any amendments widely available to the community and promote understanding and collegiality with regard to its implementation.

The Office of the Provost will provide and maintain a group of Frequently Asked Questions (FAQ's) which clarify the Policy and assist with community understanding.

B. Creator(s) Responsibilities:

Creator(s) shall promptly disclose to the Office of the Provost the intended creation of or the development of Intellectual Property which holds possible commercial value in all categories of Work except Personal or Class Works. Creator(s) agree to execute any documents deemed necessary to perfect legal rights in the Institute and to enable the Institute to file applications for patents, copyrights and trademarks when appropriate.

Creator(s) who are also employees of outside entities or who enter into Intellectual Property agreements with outside entities, shall resolve any conflicts between this Policy and provisions of outside agreements prior to beginning any undertaking at the Institute that will involve the development of Intellectual Property. Notification of the Office of the Provost of such potential conflicts is the responsibility of the Creator.

Faculty, Staff, and/or Students may wish to enter into joint agreements between themselves in relation to the creation of Works (and commercialization thereof) specifically with regard to Personal or Class Works. The Institute takes no stake in these matters except to the extent that Use Rights are granted by this Policy. However, Creator(s) are required to disclose the existence and general nature of such agreements to the Office of the Provost in order for the Institute to safeguard against any appearance of impropriety or unfairness.

This Policy only addresses Intellectual Property. It does not address the physical property to which Intellectual Property Use Rights may be attached. It is the responsibility of the physical property's owner to insure the safe keeping and storage of their own physical property, whether or not other parties have Ownership or Use Rights to the attached Intellectual Property.

5. Procedures

The following procedures shall govern the administration of this Policy.

A. Administration of the Policy

The Office of the Provost shall be responsible for day to day administration and enforcement of this Policy, management of Intellectual Property Ownership and Use Rights at the Institute, distribution of Net Revenue, and accounting of all costs, if requested, and review and approval of individual agreements that replace these general rules. To assist with these tasks, the Office of the Provost shall establish, convene, and chair an Advisory Committee for Intellectual Property (ACIP).

ACIP Membership:

- Provost – Chair (non-voting except in cases of tie votes)
- VP for Finance and Administration – or designated representative
- VP for Development – or designated representative
- 1 Dean or Director – selected by the Dean’s Council to serve a two year term.
- 1 Departmental Chair – selected by the Academic Senate to serve a two year term
- 1 Faculty Member – selected by the Academic Senate to serve a two year term
- 1 Student – appointed by the VP of Student Affairs to serve a one year term

The Committee will establish reasonable operating procedures, to be adopted by the Senior Staff with advisement from the Academic Senate, that ensure community awareness of and compliance with this Policy and other procedures involving Intellectual Property at the Institute.

Additionally, the Committee shall serve as an advisory board and the appeals board to handle resolution of conflicts and rulings on matters related to this Policy.

B. Agreement Approval Procedures

Review and approval of agreements outside of this Policy will be administered by the following procedure:

1. The submitting party shall first submit the proposed agreement to the Office of the Provost for approval. The Provost reviews the agreement and any supporting materials, consults appropriate Institute offices and legal counsel if necessary, recommends adjustments as appropriate, and forwards the agreement to the VP for Finance and Administration for signature on behalf of the Institute, and if applicable, the submitting party(s) for signature.
2. The Provost and/or the Institute reserves the right to disapprove an agreement for any reason and such determination is final. If the submitting party(s) enters into an agreement without obtaining approval, then allocation of Ownership and Use Rights provided by the relevant general rules of this Policy will remain in effect.

C. Conflict Resolution

Review of claims or disputes as to Ownership of or Use Rights to Intellectual Property at the Institute will be administered by the following procedure:

1. The claim or dispute is first submitted in writing to the Office of the Provost. The Provost reviews the claim, consults appropriate Institute offices, the claimant, other members of the Pratt community if applicable and legal counsel if necessary, and issues a determination.

2. If the claimant is not satisfied with the determination, he or she may, at their option, forward a letter to ACIP via certified mail, detailing the claim to be resolved. The Committee will review the matter and advise the claimant of its final decision within 60 days of ACIP's receipt of the letter

D. Modification of General Rules with Respect to Particular Works

It is anticipated that the relevant parties may on occasion wish to modify the allocation of Ownership, Use Rights, or other provisions provided by the general rules with respect to a specific Work(s). The burden of seeking and obtaining such an agreement will rest with the party seeking the modification. The contents of such agreements will be considered confidential by all parties, with specifics made available only to individuals required for decision making and implementation. Procedures for administration of such requests shall follow those outlined in section **5.B.** above.

E. Amendments to the policy

Amendments may be proposed by the Academic Senate, Student Government, Institute administration or ACIP. Proposed amendments, prior to submission, must be approved by a majority in each of the Academic Senate, Dean's Council, and the Student Government. All so approved amendments shall be forwarded in writing to the Office of the Provost by the initiating group. These will be presented to the ACIP by the Provost. The Committee shall consider such amendments, and holds sole authority for ratification of all amendments.

F. Effective date of the policy

This Policy will become effective *Month/ Day/ Year*. Once effective, this policy will be binding on all Creator(s). With respect to Intellectual Property created by a Creator(s) under this Policy or other agreements that represent modifications to the general Policy, this Policy and agreements shall remain binding on the Creator(s) even after their relationship with the Institute changes or terminates.

END of Policy