

HAMPSHIRE COLLEGE

INTELLECTUAL PROPERTY POLICY

I. Mission Statement

Hampshire College's Intellectual Property Policy (the "Policy") defines the intellectual property rights for projects produced through the intellectual activities of the campus community. It promulgates clarity and certainty about the intellectual property process, and fosters ongoing, collaborative discourse on intellectual property. Consistent with the College's mission, this Policy promotes social justice, social entrepreneurship, and public benefit. In the interest of equity, the Policy also seeks to promote proportionality in the distribution of benefits from intellectual property among the people and organizations that contributed to the intellectual property. It is based on respect for creators, and is designed to foster innovation, creativity, and artistic expression. Based on the College's educational platform, student-centered discovery and transparency are intrinsic to this Policy.

II. What are Intellectual Property Rights?

Intellectual Property Rights are rights that allow control over the use, distribution, modification and commercialization of original works of art, music, publications, inventions, materials and ideas. This Policy addresses the ownership, control over and use of Intellectual Property Rights for work products created at or in connection with the College. The types of Intellectual Property addressed by this Policy are: Copyrights, Patents, and Trademarks/Service Marks. These are defined as follows:

A "Copyright" is a federally granted right to prevent others from copying, modifying, distributing, performing or publicly displaying an original work of authorship, or creating new works based on that original work, without the owner's permission. Copyright exists in original works of art, sculpture, text, music, photos, digital art, architectural plans, books and articles, and, to some extent, software code. Copyright is created as soon as it is fixed in a tangible medium—no special application is required to acquire copyright in one's works. A copyright notice can be placed on most works of authorship but is not required to maintain the copyright: "© [date of first publication] [name of author]." There are certain circumstances where the notice format will be different than the one described and it generally is appropriate to file an application for copyright registration with the United States Copyright Office.

A "Patent" is a federally granted right to prevent others from practicing, making, selling, offering to sell, or importing a novel, useful and non-obvious invention without the owner's permission. It is typically a utility patent covering machines, compositions of matter, and processes. There are also design patents and plant patents. A patent must be applied for and is granted only after significant review by the United States Patent and Trademark Office.

A "Trademark" or a "Service Mark" is a word, slogan, or logo used as an adjective describing the source of a product or a service offered in commerce. For instance, it is correct to "make a copy on a XEROX® machine," but not correct "to make a XEROX®." Trademarks might be applicable to the types of research programs or classroom projects undertaken at the

College. Trademarks are created when they are used in commerce and can be represented by a “TM” or ™. If desired, a mark can be federally registered through the United States Trademark Office. A federally registered mark is indicated with the symbol ®.

III. General Definitions

A. “*Administrative Tasks*” means activities that are assigned by the College over which the College, as an employer or through its supervisory employees, has significant authority and oversight. See Appendix A for more examples.

B. “*Covered Person(s)*” means any member of the Hampshire College community, including all employees, full faculty, visiting faculty, adjunct faculty, instructors, interns, staff faculty associates, researchers, teaching assistants, students and other staff.

C. “*Creator(s)*” means Covered Persons who Develop any Creation (i) while at the College or on sabbatical, (ii) in performance of their employment to the College, or (iii) making use of College resources in connection with their academic, scholarly or artistic pursuits. Activities performed on leave of absence are not in performance of employment unless there is a written agreement between the Covered Person and the College with respect to defining such activities.

D. “*Creation*” means any original, new and unique work that embodies IP. Creations include the following:

i. “*Teaching Creations*” are Creations Developed by a Creator to provide or support any classroom instructional activity at the College or provided by the College, or any other instructional activity for the benefit of students, including course materials, teaching materials, syllabi, slide presentations, and other materials.

ii. “*Scholarship/Art Creations*” are Creations Developed by a Creator in a manner where the Creation is assessed by or available to the Creator’s peers, including, for example, scholarly publications, performances, exhibitions (such as art, film or sculpture), work commissioned by third parties, published curricular materials (such as text books and readers), and contributions to peer reviewed literature on pedagogy.

iii. “*Sponsored Creations*” are Creations Developed by a Creator with special support or funding from a third party, including Creations made in collaboration with other parties.

iv. “*Administrative Creations*” are Creations Developed by a Creator in performance of Administrative Tasks and that are not Scholarship/Art Creations or Sponsored Creations.

v. “*College Directed Creations*” are Creations Developed by a Creator at the specific request of the College and not in the ordinary course of Developing Scholarship/Art Creations, Teaching Creations, Sponsored Creations or Administrative Creations, such as College promotional materials, distance learning projects or other specially funded College projects.

Hampshire IP Policy - Ownership by Creation Type

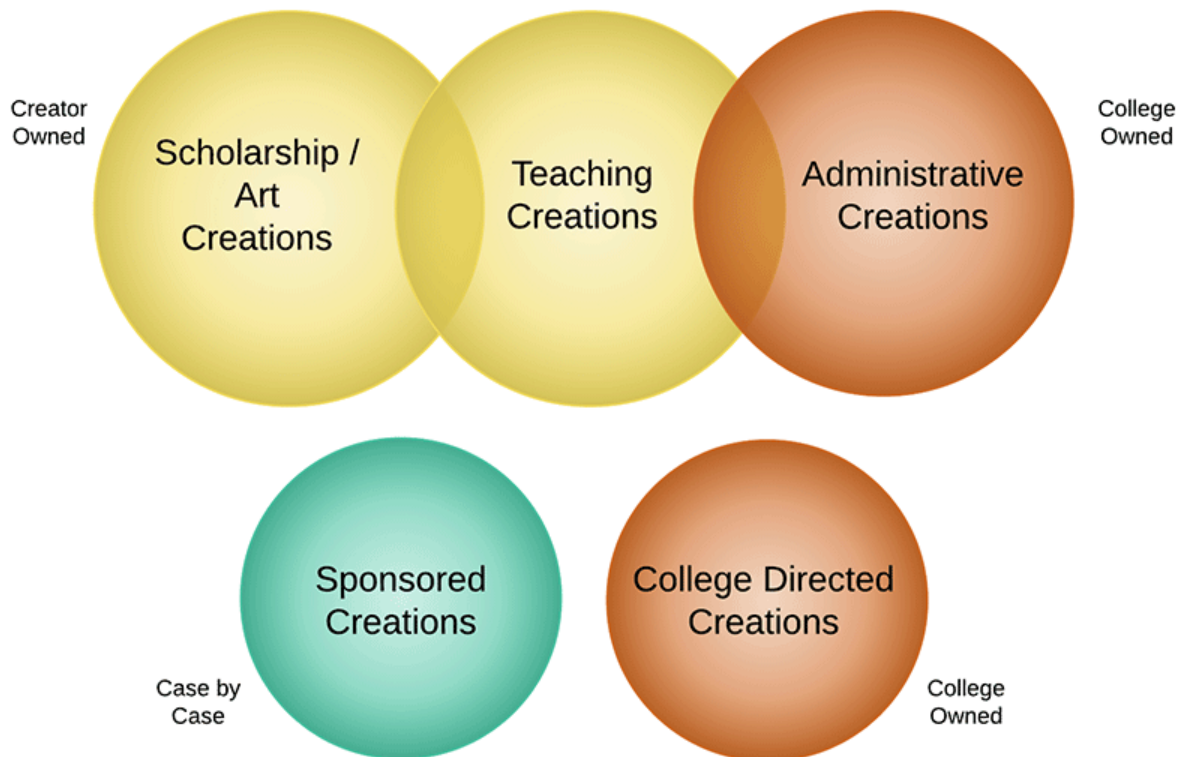


Figure 1. The five types of creations described in this policy. IP ownership categories are grouped by color and overlap indicates that some creations can fall into more than one category.

E. “*Develop(s)(ed)(ing)*” means the act or process of developing, discovering, inventing, creating and/or authoring Creations.

F. “*IP*” means intellectual property, which for the purposes of this Policy are Copyrights, Patents, and Trademarks/Service Marks.

G. “*Usage Rights*” describes certain permissions granted by each Creator or owner of Creations allowing designated Covered Persons to use the Creations in a specified and limited manner. Usage Rights are designated through the grant of a non-exclusive license, as further described in the next section.

IV. IP Ownership and Usage Rights

It is in the interest of the continuing educational mission of the College and in the interest of academic freedom to ensure continuity of access to undertakings falling within the scope of this Policy. The College recognizes that Creators desire to control and influence use of their Creations. This Policy balances the needs of the Creators with the common good of the College community. All IP ownership allocated under this Policy is subject to Usage Rights as specified

below. The stated positions in this Policy can be changed by agreement of the affected parties on a case-by-case basis.

A. IP Ownership

Creators own the IP in Teaching and Scholarship/Art Creations that they Develop, subject to College Usage Rights and Faculty Usage Rights.

The College owns the IP in Administrative Creations and College Directed Creations, subject to Creator Usage Rights.

If IP is both an Administrative Creation and a Teaching Creation, the College owns the IP, subject to Creator Usage Rights.

Sponsored Creations may be subject to third party rights that alter the Usage Rights under this Policy and will be addressed on a case-by-case basis.

B. Usage Rights

College Usage Rights. The College has a non-exclusive, perpetual, irrevocable right to distribute, reproduce, make derivatives of, display, perform, and otherwise use Teaching Creations for the noncommercial purposes of education and scholarship, exhibition, accreditation, development, alumni relations, promotion, as examples of Creations Developed by College Covered Persons, and for inclusion in College's permanent collection and/or archives. The College will make reasonable efforts to get permission from the Creator of a Teaching Creation if the College desires to exercise its College Usage Rights with respect to the Teaching Creation in a manner not within the control or supervision of the Creator. This provision is not meant to interfere with usage rights under the Fair Use Doctrine of the Copyright Law.

Faculty Usage Rights. Faculty members have a non-exclusive, perpetual, irrevocable right to make photographic or similar representational reproductions of the faculty member's students' Creations and to distribute, display, perform and otherwise use those reproductions for noncommercial educational and scholarly purposes on behalf of the College and as examples of their students' work. Faculty should make reasonable efforts to get permission from students. This provision is not meant to interfere with FERPA requirements. If a Teaching Creation is made by a student as part of fulfilling classroom assignments and/or as divisional work, then, in addition to College Usage Rights, the student Creation is also subject to Faculty Usage Rights.

Creator Usage Rights. If the Creator is not the owner of the Creation, the Creator will have the non-exclusive, perpetual, irrevocable right to make, distribute, display, perform, and otherwise use reproductions of, and make derivative works based on, the Creator's own Creations for noncommercial educational and scholarly purposes, as examples of their own work, and for purposes of exhibition.

V. Exceptions to IP Ownership Positions

From time to time, the College and a Creator may desire to or be required to modify the IP ownership or Usage Rights positions set forth in this Policy. This may be a particular issue

with respect to Sponsored Creations. To the extent that IP ownership or Usage Rights of any Creation is required to be different than the default positions above, the College will disclose the IP ownership and Usage Rights positions in advance to Covered Persons who desire to participate in the project. To make the modification, the College and participants in the project must agree as to IP ownership and their respective rights, including Usage Rights. Participants in such projects will be required to disclose IP that they Develop to the College in writing in a reasonable manner determined by the College.

The following are some situations where the College will own the IP and where Usage Rights might be modified:

1. *Gifts and Donations.* Gifts and donations received from third parties may require that the College own IP resulting from use of the gifts or donations. Usage Rights will be subject to the terms of the gift.
2. *Third Party Contractual Obligations.* Research or other contracts entered into with third parties may require that the College own IP resulting from the research or other activities under the contract and may result in modified Usage Rights. Third party contractual obligations may restrict the College's ability to transfer ownership of the IP to the Creator even if the College desires to do so at a later date.
3. *Federal and Other Governmental Requirements.* Federal or state laws (including the Bayh-Dole Act governing patentable subject matter arising from US federal funding) may require that the College own IP resulting from use of the funding provided by the federal or state agency and may result in modified Usage Rights. Further, the College may be restricted from transferring ownership of the IP to Creator even if the College desires to do so at a later date.

VI. Creator-Initiated Modifications

The College recognizes that, from time to time, Creators who own IP may desire that the College assist with the protection, commercialization or other dissemination of Creator-owned IP. If the Monday Group determines it is consistent with the mission of the College, the College may agree to assist on terms and conditions to be negotiated on a case by case basis with the Creator who is making the request. Negotiations will be made on behalf of the College by the Vice President of Finance and Administration, or designee. Such terms may include, among other things, the requirement that the IP ownership is assigned to the College and revenue earned in connection with the IP is shared with the College.

The College encourages all Recipients to recognize the contributions and mission of the College and consider donating additional funds to the College.

VII. IP Owned and Commercialized by the College

In those situations where the College owns IP as a result of this Policy and commercializes the IP, the College will commit to the following:

1. The College will make reasonable efforts to work with the Creators to determine an appropriate strategy for commercializing the IP.
2. If Creators provide a reasonable business plan, the College would be willing to license the IP to the Creators as individuals or as companies.
3. The terms of the license will be as negotiated by the College and the Creators.

If the College licenses the College-owned IP to a third party (not a Creator or Creator company), the College may receive payments in exchange for such license. If the College receives payments in exchange for licensing the College-owned IP, the College will share those payments with the Creators of the licensed IP in allocations agreed upon with the Creators.

The College will retain an amount to reimburse all unreimbursed costs and expenses incurred by the College in connection with protecting and licensing the IP, including any legal and marketing costs. The College and Creator will negotiate how to allocate the remainder.

If the College receives any equity from any licensee, the College shall hold the equity in its own name and on its own behalf. If, and only if, the College receives cash payment in exchange for the equity, the College may, in its sole discretion, allocate the cash, or any portion of it, as set forth above.

VIII. Adherence

The College desires that this Policy be consistently applied and adhered to within the College community. As such, the College requests that all Covered Persons sign the written statement attached at Appendix B agreeing to be bound by the terms of this Policy. The College may require that a Covered Person sign the attached statement as a condition to receiving the benefits afforded by the Policy, receiving financial support from specified funding sources, or participating in designated projects.

Nothing in this Policy is intended to prohibit or interfere with the College's ability to receive charitable donations and targeted gifts or to comply with any restrictions or obligations related to donations and gifts.

IX. Disputes

Disputes relating in any way to the academic program, curriculum, scholarly work, teaching or research will be managed by the Dean of Faculty Office. Any disputes relating to staff work that in no way touch the academic program will be managed by the Office of Finance and Administration.

X. Policy Revisions

This Policy is intended to address the needs of the College community over time. The Policy will be reviewed on a regular basis and may be modified from time to time.

Appendix A: Examples of How the Policy May Be Applied
Appendix B: Intellectual Property Policy Adherence Agreement

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APPENDIX A: EXAMPLES OF HOW THE POLICY MAY BE APPLIED

Any particular outcome described in these examples is not necessarily the outcome that would be reached in an actual situation.

Example 1 – College Use of Scholarly/Art Creations

A faculty member does research on their field of specialization. Out of this research, the faculty member writes a peer reviewed article, which is published in a prominent journal in the field. The journal allows the faculty member, as author, to retain creator IP rights. The faculty member also makes the article publicly available online on their web page.

A year after the article's publication, Hampshire College is organizing and hosting a conference on a related topic.

a) *Can Hampshire print and distribute the paper to conference participants?*

The paper is a Scholarly/Art Creation and is owned by the Creator without automatic College Usage Rights. The College must request permission from the Creator, and possibly the publisher, to print and distribute the paper at the conference.

The Creator, if the rights are available, is encouraged to grant rights to the College to use the Scholarly/Art Creation for Colleges educational purposes, which includes the conference.

b) *Can Hampshire sell copies of the paper at the conference?*

The College would need permission from the Creator or the publisher and it would require a written agreement.

c) *Can Hampshire forward a copy of the paper to a conference organized by some other academic institution?*

The College would need permission from the Creator or the publisher and it would require a written agreement.

Example 2 – Teaching Creations

A faculty member creates syllabi and other teaching materials, then goes to a different institution.

a) *Who owns the IP for the syllabi and other teaching materials?*

The syllabi and other teaching materials are Teaching Creations owned by the Creator, subject to College Usage Rights.

b) *Can the faculty member use them at the new institution?*

Yes, to the extent the faculty member is the sole Creator. If any other Covered Person is a Creator, the faculty member will need their permission.

c) *Can Hampshire use them?*

As Teaching Creations, Hampshire has the right to use them under the College Usage Rights.

Example 3 – Staff Member Creations: Administrative Creations

An employee in the Information Technology Office (ITO) develops a new tool to assist departments with their annual budget planning. The tool migrates data from The Hub into newly generated Excel tables that also incorporate and track expenditures based on a variety of departmental data points. By running different scenarios the tool assists in aligning spending with the projected projects for the upcoming year. The tool is developed while at the College and using the College's computers and networks. The employee is designing the tool to address a need or to increase efficiency at the College.

a) *Who owns the IP?*

The College owns the Administrative Creation, subject to Creator Usage Rights.

The ITO employee is performing an Administrative Task and the tool is an Administrative Creation. The task directly relates to the operation of the College, uses College resources and, because it is being designed to address a need of the College, is within the employee's job responsibilities. In addition, Development or implementation of the tool likely requires additional College oversight and approval.

Some more examples of Administrative Tasks include drafting press releases, providing internal seminars to staff or faculty on College resources and how to use College resources, contributing to and supporting the College's information technology systems, and creating any materials designed for the promotion, marketing or advertising of the College. Participation in College governance, development of College policy, or organizing or providing activities enriching student life outside of the classroom that are specific to the College fall within this definition.

b) *The new tool, while developed as an Administrative Task, is also a tool that is in demand and marketable to outside parties. Can the Creator sell the Administrative Creation to outside parties?*

No. Sale to outside parties would be a commercial undertaking. The Creator retains Creator Usage Rights, which enable the Creator to make, distribute, display, perform, and otherwise use reproductions of, and make derivative works based on, the Creator's own Creations for noncommercial educational and scholarly purposes, as examples of their own work, and for purposes of exhibition. Commercial distribution is not included in the Creator's Usage Rights.

Example 4 – Staff Member Creations: Teaching Creations

A staff member working at the circulation desk at the College library notices that many students request assistance with accessing the reserved collection and accessing materials that are only

available digitally. On their own initiative, the staff member creates a curriculum and teaching materials to educate students on how to access these library resources. The staff member then goes to a different institution.

a) *Who owns the IP in the curriculum and teaching materials?*

Since these materials were developed for teaching purposes, they are Teaching Creations with the IP owned by the staff member, subject to College Usage Rights. Nothing in the Policy overrides any restrictions that may exist on staff member sharing confidential information relating to the operation of Hampshire's library services.

b) *Can the staff member use the materials at the new institution?*

Yes, with respect to IP ownership, but subject to any other restrictions, such as confidentiality, applicable to the information contained in the materials.

c) *Can Hampshire use the materials after the staff member leaves?*

Yes, Hampshire can use Teaching Creations pursuant to the College Usage Rights.

Example 4a – Staff Member Creations: Teaching and Administrative Creations

Consider the same setup as Example 4, except the staff member is directed by their manager to create the curriculum and teaching materials.

a) *Who owns the IP?*

The College owns the IP, subject to Creator Usage Rights, since these materials qualify as both Teaching Creations (“to provide ... instructional activity for the benefit of students”) and Administrative Creations (“activities that are assigned by the College...”).

b) *Can the staff member use IP at the new institution?*

Since the staff member created the IP, they get Creator Usage Rights, which grant a variety of rights to the staff member. Depending on why and how the staff member wanted to use IP at the new institution, the use of materials could be allowed or not. For example, the staff member could not commercialize or sell the materials, but they could use the materials for noncommercial educational purposes. See the Creator Usage Rights section for more details.

Other restrictions unrelated to IP ownership may still apply, such as confidentiality.

c) *Can Hampshire use the materials after the staff member leaves?*

Yes, since Hampshire owns the IP.

Example 5 – Students: Scholarship/Art Creations

Students develop a digital game as part of a classroom activity. Some of the assignment is performed in class and some is performed as homework outside of the class.

a) *Who owns the IP for the game?*

The game is a Scholarship/Art Creation and is owned by the Creators. Allocation of the ownership among the Creators is either decided by the Creators by agreement or determined by U.S. intellectual property law.

Note: Because shared IP ownership can get complicated (with or without this Policy), faculty members, students, and everyone else involved in group projects are encouraged to be particularly clear before starting any shared ownership project. One recommended approach is to agree in advance that all IP will be made available to the public for educational and noncommercial use via a Creative Commons license (<http://us.creativecommons.org/>), which aligns with our mission to promote public benefit and simultaneously avoids transferring the commercial value of the IP to third parties.

Example 6 – Research Results: Federally Funded and Otherwise

A biochemistry faculty member performs research in faculty member's laboratory at Hampshire, but outside of the classroom. The faculty member invites a student to assist in performing the research.

a) *If the research is funded through an NIH grant, does the faculty member own the IP in the results of the research?*

Results of federally funded research are Sponsored Creations subject to modification of the default IP ownership positions of the Policy.

Pursuant to the federal Bayh-Dole Act, patentable IP resulting from NIH funded research must be owned by the College, as the recipient of the grant, or waived to the government. If the College retains ownership, the College is subject to certain obligations to try to commercialize the patentable IP. If the College waives its ownership rights to the federal government, the College will retain a right to use the IP for education, scientific and research purposes.

It is a requirement of the Bayh-Dole Act regulations that, as a condition to receiving federal funding, the College have in place an IP Policy enabling the College to comply with the Bayh-Dole Act. To fulfill this requirement, the College will require each recipient of federal funding to sign the Intellectual Property Policy Adherence Agreement.

b) *If the research is funded through an NIH grant, does the student own the IP in the results of the research?*

The provisions of the Bayh-Dole Act apply to students as well as to faculty members.

c) *If the research is funded through faculty member's discretionary funds at Hampshire, does the faculty member and/or the student own the IP in the results of the research?*

Results of unsponsored research outside of the classroom, where the results are not related to teaching, are Creations owned by the Creator. If the Creator publishes the research results, the publication would be a Scholarship/Art Creation owned by the Creator.

Ownership of the Creation as between the faculty member and the student is determined between them and likely in accordance with applicable U.S. intellectual property laws.

Example 7 – Sponsor Funded Projects

A faculty member receives funding from a foundation to explore the success or failure of a new student testing and evaluation method. The faculty member engages other faculty members at Hampshire to use the new testing and evaluation methods and to contribute their results to his report. The faculty member hires students to assist the other participants in the grant in administering the new form of exam in their classes.

a) *Who owns the IP in the results of the research?*

To the extent that the research results contain any IP (patentable, copyright, or trademark), the IP would be a Sponsored Creation owned by the Creators, unless the foundation contract requires a different outcome.

Any publication, reports or other works that use the research results will be owned by the Creators of the publication, reports or other works.

Each Creator of the IP, to the extent of their ownership by mutual agreement or under U.S. intellectual property laws, controls the rights in their own IP. Any Covered Person or any other person who desires to use, copy, or modify the IP must get permission from the applicable Creator, subject to limited fair use exceptions under copyright law.

b) *Who are the Creators?*

If the IP is not owned by the College, it is the responsibility of the Covered Persons to resolve among themselves who qualifies as a Creator of any IP. If the Covered Persons have not reached a written agreement as to ownership, U.S. intellectual property law will apply.

If the foundation grant requires a specific outcome as to ownership or Usage Rights, the College will require the recipient faculty member and all other participants in the project to comply with the terms of the foundation contract. Compliance will be agreed upon through a written agreement.

Example 8 (a) – Summer Funding: College Directed Creations

The College asks a faculty member to create a musical arrangement over the summer, and provides the funding for the project.

a) *Who owns the IP created over the summer, and what type of creation is it?*

Because the musical arrangement is created at the specific request of the College and the faculty

member wouldn't have otherwise created this musical arrangement, it is a College Directed Creation. Hampshire owns the IP, and the faculty member has Creator Usage Rights.

Alternatively, if Hampshire placed special terms on the funding, IP ownership and Usage Rights will be pursuant to the terms of the funding. Faculty member(s) and funding department(s) are strongly encouraged to clarify issues of IP ownership prior to administering funding or starting any work.

Example 8 (b) – Summer Funding: Scholarship/Art Creations and Teaching Creations

A faculty member (whose work relates to theater in some way) applies for and receives summer funding from Hampshire to write a play.

a) *Who owns the IP created over the summer, and what type of creation is it?*

The play would be a Scholarship/Art Creation, and the faculty member would own the IP. If the play also falls under the definition of a Teaching Creation, then Hampshire would have College Usage Rights.

Alternatively, if Hampshire placed special terms on the funding, IP ownership and Usage Rights will be pursuant to the terms of the funding. If the funding is especially substantial, the work may be deemed a Sponsored Creation or a College Directed Creation. Faculty member(s) and funding department(s) are strongly encouraged to clarify issues of IP ownership prior to administering funding or starting any work.

Example 9 – College Directed Creations

A staff member who does not work in College Advancement voluntarily participates in the creation of a fundraising appeal video, either as a director or as a performer.

a) *Who owns the IP for that video?*

The video is a College Directed Creation owned by the College, subject to Creator Usage Rights.

Example 10 – Revenue Sharing

A faculty member writes a book and gets royalties from book sales.

a) *Who owns the IP?*

The faculty member owns the IP as a Scholarly/Art Creation.

b) *Can the College use the book for its own educational purposes?*

If the faculty member makes the book available to the College, the college may use it only to the extent of the permissions granted by the faculty member to the College.

c) *Does the College get any share of the money from book sales?*

The College gets no revenue from the book sales.

Example 11 – Outside of the Policy

A staff member voluntarily contributes a photograph they took with their own camera to be featured on the institution's holiday card.

a) Who owns the IP for the photograph, can the staff member reproduce the photo elsewhere, and can Hampshire use it?

The photo was created outside of staff member's role as a Covered Person and therefore is not directly subject to the Policy. Nothing in the Policy changes the existing IP ownership of the photo. The staff member has the same rights with respect to the photo as before it was offered to Hampshire, unless Hampshire and the staff member enter into an agreement stating otherwise.

Example 12 – Outside of the Policy

As part of the normal procedures of the College, a faculty member writes a student evaluation and a student writes a faculty evaluation.

a) Who owns the IP in standard procedure student and faculty evaluations?

These evaluations are specifically excluded from Creations under this Policy and the College does not assert that any copyright is created in any of these materials. Submission, copying, and use of the evaluations is governed by other policies and practices at the College and in the case of student evaluations, by federal law. The College expects that students and faculty will respect each other's reputations and privacy and comply with policies and the law.

Example 13 – MOOCs

A faculty member creates a syllabus and other teaching materials for a Hampshire class, teaches the class, then builds on the course to create a Massively Open Online Course (MOOC). The MOOC generates revenue for the faculty member.

a) Who owns the IP for the original course materials?

The faculty member is a Covered Person under the Policy. The syllabus and other teaching materials are Teaching Creations. The faculty member owns the IP in Teaching Creations per the "IP Ownership and Usage Rights" section. The faculty member's ownership will be subject to the College Usage Rights.

b) Can the faculty member create the MOOC based on the Hampshire course, and if so, who owns the IP for the MOOC?

Since the faculty member owns the IP in the original Teaching Creation, the faculty member can do whatever he or she wants with it, including making a MOOC. If the MOOC is created to be used by Hampshire, but is not a special Hampshire project, the MOOC would be a Teaching Creation. If the MOOC is created for a third party, and likely paid for by a third party, to be used

other than at Hampshire, the MOOC would be a Scholarship/Art Creation. The faculty member owns the IP in Teaching Creations and Scholarship/Art Creations per the "IP Ownership and Usage Rights" section. The faculty member's ownership of the Teaching Creation will be subject to the College Usage Right. If the MOOC is deemed a Scholarship/Art Creation, Hampshire could only use the MOOC if the faculty member makes it available to Hampshire.

c) *Does Hampshire get any share of the revenue?*

The College gets no revenue unless the Creator and the College enter into a separate written agreement with respect to revenue sharing.

Example 14 – MOOCs

A faculty member creates a syllabus and other teaching materials for a Hampshire class, then teaches the class. Hampshire would like to turn that class into a Massive Open Online Course (MOOC) for non-commercial educational purposes. Hampshire may hire a 3rd party to create the MOOC, and the MOOC may generate revenue for Hampshire.

a) *Who owns the IP for the original course materials?*

Same as Example 1.

b) *Can Hampshire create the MOOC based on the Hampshire course, and if so, who owns the IP for the MOOC?*

First, Hampshire will make reasonable efforts to get permission from the faculty member per the College Usage Rights.

If Hampshire creates the MOOC with independently hired consultants or using special funding that has been identified as modifying the IP ownership provisions of the Policy, then Hampshire will own the MOOC as a College Directed Creation. If the Creator of the MOOC is a Covered Person, then Hampshire's IP ownership may be subject to Creator Usage Rights, depending on the terms of the special funding.

If Hampshire merely requests either the faculty member or any other Covered Person to create the MOOC without any special restrictions or requirements, the Covered Person who creates the MOOC will own the IP in the MOOC. Since the MOOC is for teaching at Hampshire, it is a Teaching Creation and the IP ownership will be subject to College Usage Rights.

c) *Does the faculty member get any share of the revenue from the MOOC?*

The faculty member receives no revenue related to Hampshire's use or distribution of the MOOC.

Example 15 – Work during Sabbatical

A faculty member does some scholarship or teaching preparation while on sabbatical.

a) Does the IP Policy apply, and does the Hampshire get College Usage Rights as normal?

Yes. The faculty member is a Covered Person, the policy applies normally, and Hampshire gets College Usage Rights as described in this policy.

Example 16 – Work while On Leave or over the Summer

A faculty member does some scholarship or teaching preparation while on leave, over the summer, or prior to being employed by Hampshire.

a) Does the IP Policy apply to that work?

No, based on the definition of Creator(s) in this policy. But, if the faculty member makes use of College resources for that Creation, then the answer is Yes, again based on the definition of Creator(s).

b) If the faculty member later brings that work into the classroom at Hampshire, does it become a Teaching Creation and College Usage Rights apply?

Yes. If a faculty member brings prior work into the classroom, then it will become a Teaching Creation, and this policy will apply, including College Usage Rights.

Example 17 – Divisional Committees

A faculty member contributes to a student's Division III project by giving advice, guidance, and/or feedback on the work.

a) Who owns the IP?

If the student is considered to be the sole Creator, the student owns the IP. If a faculty member (or anyone else) makes such a significant contribution to the project that they could be considered a co-Creator, then ownership may be shared pursuant to U.S. intellectual property laws. Students, faculty and anyone with whom they collaborate are strongly encouraged to address and clarify ownership issues prior to starting any work on a project.

b) What happens after graduation?

Ownership and rights are maintained after graduation as well.

APPENDIX B: INTELLECTUAL PROPERTY POLICY ADHERENCE AGREEMENT

This Intellectual Property Policy Adherence Agreement (this “Agreement”) is provided in connection with implementation of the Hampshire College Intellectual Property Policy (“Policy”). All terms with initial capital letters that are not defined in this Agreement are defined in the Policy. By signing this Agreement, you demonstrate your participation in the College community and enable the College to meet its obligations to you and to third parties with respect to intellectual property. You understand that the College is or may be required to have your written agreement to the Policy as a condition of performing or funding certain projects.

Covered Person Name (*Please print*): _____

I, named above, agree as follows:

1. I have read, understand and agree to be bound by the Policy. I understand that the Policy is available at the College’s website at _____, or may be requested from the Dean of Faculty Office.
2. The Policy states that if the IP that I create will be owned by the College, the College will disclose that requirement in advance of my participation in the particular project that has that requirement. To effect the College’s ownership of IP solely in that event, and subject to and in compliance with the Policy, I hereby assign and agree to assign to the College, my entire right, title, and interest in any and all IP (as defined in and subject to the Policy) conceived, reduced to practice, authored or made as a result of performing or having access to the project.
3. I agree to promptly disclose to the College or the College’s designee any IP required to be disclosed by the Policy and in connection with the applicable project. I agree to provide such disclosure in any format designated by the College.
4. I agree to execute any other documents the College may reasonably request to document my agreement with the Policy and my assignment of ownership of my entire right, title and interest in the IP described above.
5. I agree to cooperate with the College or its designee in the evaluation, preparation, filing, prosecution, defense and enforcement of patents, copyrights and other legal protections for the IP that is assigned in accordance with this Agreement, and in the preparation and execution of all documents necessary or incidental to those actions.
6. This Agreement shall be binding on me and my estate, heirs and assigns.

I accept and agree to the terms and conditions of the Policy and this Agreement.

Signature

Printed Name

Date

Current Address:

