MEREDITH COLLEGE
INTELLECTUAL PROPERTY POLICY

I. Introduction

Meredith College (the “College”) is dedicated to teaching and scholarship. In these pursuits, intellectual property is often created by members of the College community. The purposes of this intellectual property policy are to establish means for allocating ownership of such intellectual property and any revenues obtained on account of the commercialization of such intellectual property in compliance with applicable law and agreements and to provide guidance respecting the protection and enforcement of the College’s intellectual property rights and the resolution of disputes that may arise from time to time.

This intellectual property policy applies to all College employees, students and independent contractors as well as anyone else using College facilities and resources under the supervision of or with the permission of College personnel.

The universe of intellectual property is as boundless as the collective imagination of humankind. This intellectual property policy is concerned chiefly with works of original authorship and inventions created by covered individuals acting alone or with collaborators, whether all collaborators are members of the College community or not.

II. Definitions

As used in this intellectual property policy, the following terms have the meanings set forth below:

A. “College facilities and resources” means funds, work space, equipment and supplies, library collections, release time and administrative and technical support owned or provided by Meredith College.

B. “Covered individual” means any employee, independent contractor, student and anyone else using College facilities and resources for work or study under the supervision or with the permission of Meredith College personnel, including, without limitation, volunteers.

C. “Employee” means all faculty including full-time, part-time, adjunct and visiting teaching and administrative faculty; all staff; and all students who are employed by the College.

D. “Faculty” means the President, the Vice Presidents, all teaching faculty and such other persons as may be so designated by the President and approved by the Executive Committee.

E. “Funded invention” means an invention funded in whole or in part by third-party grants or sponsorships awarded to the College or administered by the College on behalf of the grantee.

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F. “Funding agreement” (also “sponsorship agreement”) means a written agreement whereby an individual or entity provides monetary support for the creation of a work or conception of an invention by a covered individual.

G. “Independent contractor” means a person or entity retained by Meredith College to perform certain duties under the terms of a written professional services or vendor agreement.

H. “Invention” means, collectively, any new, useful and nonobvious process, machine or composition of matter and any new or useful improvement thereto conceived by one or more individuals. Notwithstanding its status as a literary work under the Copyright Act, computer software may in some instances also be regarded as an invention.

I. “Net revenues” means all revenues attributable to the exploitation of a work or invention (i.e., gross revenues) less any deductions or overhead expenses agreed in writing between or among the applicable parties.

J. “Original work of authorship” means any literary, musical, dramatic, choreographic, artistic, audiovisual or architectural work that owes its creation to the independent effort of an author.

K. “Royalty” means a periodic payment made by an assignee or licensee of one or more intellectual property rights to the owner or licensor of such intellectual property rights pursuant to a written agreement respecting the commercialization of a work or invention.

L. “Staff” shall mean all Meredith College employees other than teaching faculty and administrative faculty.

M. “Student” shall mean any individual who registers for any course through the Meredith College Registrar’s Office or the Graduate and Professional Studies Program Office.

N. “Substantial use of College facilities and resources” shall mean requires resources of a degree or nature not routinely made available to all faculty.

O. “Work made for hire” as it relates to copyrightable works of original authorship shall mean either (i) a work prepared by a Meredith College employee within the scope of his or her employment or (ii) a work specially commissioned by Meredith College under the terms of a written agreement which fits one of nine categories specifically enumerated in the Copyright Act.
III. Copyrights

A. Works by Faculty

Generally, it is fairly simple to determine who owns a copyright under the law. Copyright typically vests in the author or authors of a protectable work. Where a work is created by an author within the scope of his or her employment, however, copyright vests in the employer because under the law the employer is the author, and the work is a so-called work for hire. In the academic setting courts have frequently recognized a so-called teacher, or academic, exception, which presents a perpetual conundrum. Even when faculty create works within the scope of their employment, this teacher exception operates to allocate the ownership of any resulting copyright, not to the employing institution, but to the author. This is not a provision of the copyright statute, and some courts have declined to follow it.

Under the terms of this policy, for clarity and in keeping with the value the College places on scholarship and teaching, the College recognizes the teacher exception. Unless otherwise provided in a writing, the copyright in a work of original authorship created by a member of the faculty, whether working alone or in collaboration with others (be they covered individuals or not) is allocated to the author or authors without implicating the work-made-for-hire rules, which might otherwise pertain. As consideration the College requires that faculty members benefiting from the teacher exception grant back to the College a nonexclusive right to use their works for educational purposes identified by the College in its sole discretion.

When the College specially commissions a member of the faculty to create a work of original authorship which does not fall within the scope of that faculty member’s employment but does fit within one or more of nine categories specifically enumerated in the Copyright Act, that work may be deemed a work made for hire if and only if the College and faculty author sign a written agreement to that effect. If such an agreement is signed, the College becomes the owner of copyright. The College in its sole discretion may require that such an agreement be signed prior to commissioning the work.

Where a member of the faculty enters into a collaboration with another covered individual, including a student, or with someone who is not a member of the College community, with the intention that the parties’ contributions be merged to create a joint work, each author owns a fractional interest in the copyright in the entire work. In other words, if there are two authors, each one owns a one-half interest in the entire copyright and not simply an interest in the copyright in his or her individual contribution to the work. Each author may enter into nonexclusive licensing agreements respecting the joint work, provided he or she renders an accounting of revenues earned to each coauthor.

When joint authorship with a student or an individual who is not a member of the College community is contemplated, this intellectual property policy requires the signing of a written acknowledgment of the collaboration by each participant as a condition of participation in the collaboration. The Office of the Vice President for Academic Programs will provide appropriate form agreements for execution by the parties.
B. Works by Staff

Pursuant to the work-made-for-hire doctrine of U.S. copyright law, the College is regarded as the author and owner of copyright in all works of original authorship created by staff, including administrators with faculty status when acting in their administrative (non-teaching) roles.

C. Works by Students

Students are presumed to own the copyrights in their individual works of original authorship except when such works are the product of a student’s College employment. In that event, the work-made-for-hire rules apply. In the case of joint works created by two or more students as part of a collective class project, any resulting copyrights shall be assigned in writing by each student to the College as a condition precedent to participating in the project. The College requires that students grant to the College a nonexclusive right to use their works for educational purposes identified by the College in its sole discretion.

D. Works by Independent Contractors and Others

Absent a written assignment of copyright to the College, independent contractors, volunteers and visitors who are specifically commissioned by the College to create works of original authorship own the copyrights in such works. Typically, the College will require a written assignment of copyright in such cases.

E. Registration of Copyrights

The College has the right, but not the obligation, to register its copyrights in its own name in the U.S. Copyright Office. In the case of works of original authorship in which the College is not the owner of copyrights, the College encourages, but does not require, the author or authors to register the applicable copyrights in the U.S. Copyright Office. Federal courts are generally barred from exercising jurisdiction in disputes involving unregistered copyrights.

F. Exceptional Circumstances

The foregoing allocation of copyrights notwithstanding, under certain exceptional circumstances, the College may claim copyright in works of original authorship created by faculty and/or students, that is, works that do not come within the purview of the work-made-for-hire doctrine.

From time to time works of original authorship are funded by third-party grants or sponsorships awarded to the College or administered by the College on behalf of the grantee. Where a funding or sponsorship agreement stipulates that the College will be the owner of any resulting intellectual property rights, the affected author will execute a written assignment of his or her intellectual property rights in the work to the College as a condition for the release of funds or other resources.

From time to time, the development of works of original authorship by faculty and/or students requires an extraordinary allocation of College facilities and/or resources. An
extraordinary allocation is defined as an allocation exceeding what is normally provided to faculty members generally in the preparation of course materials, to be determined by the College. As consideration for granting a request for an extraordinary allocation of College facilities and/or resources, the College may require the author to assign his or her intellectual property rights in the work to the College as a condition for permission to use the facilities and/or resources.

The College understands that adjunct and visiting faculty may be subject to conflicting intellectual property policies that restrict the College’s claims of ownership in their works of original authorship. Such conflicts will be considered on a case-by-case basis by the Vice President for Academic Programs.

G. Permitted Uses of Works of Original Authorship by the College

The College is the owner of all right, title and interest, including, without limitation, copyright, in all works made for hire and may exercise all of the exclusive rights granted to such owners by the Copyright Act. In addition, the College is the owner of those rights assigned to it and may exercise all such rights without seeking permission of the authors. The College may make any use of any works of original authorship pursuant to any of the exemptions set forth in the Copyright Act.

IV. Patents

There are multiple distinctions between the doctrines of copyright and patent. Originality and creativity are the hallmarks of a copyrightable work of original authorship. Neither novelty nor utility is a prerequisite. Patentability, by contrast, requires both novelty and utility. A work of original authorship only becomes copyrightable when it is expressed in a tangible medium, while the elements of an invention must be articulated but need not be rendered—and in some cases cannot be rendered—in concrete form. An individual or organization can qualify as an author. Only individuals working alone or in collaboration with others can qualify as inventors; organizations cannot. Understandably then the concept of a work made for hire, which is a critical in the realm of U.S. copyright, does not exist in the realm of patent law.

A. Inventions

The College encourages its faculty and staff to engage in the types of innovative activity that could lead to inventions and respects the ownership rights that arise from such activity. Therefore, other than in exceptional circumstances (discussed below), the College does not seek to challenge those rights and regards each invention as the property of the covered individual(s) who can be properly regarded as inventors. Each covered individual acknowledges, however, that when an invention has been developed using College facilities and resources, the College typically obtains what is known as a “shop right,” which provides the College with limited, nonexclusive rights to use the invention. The College shall not exercise any shop right, however, before (a) the filing of a patent application by the inventor or his or her attorney or agent or (b) receipt of written confirmation from the inventor that patent protection will not be sought.

So that patent rights are not inadvertently forfeited, inventors who are members of the College community and their collaborators, if any, must refrain from commercializing and
publishing inventions without, first, disclosing the invention in confidentiality to the Vice President for Academic Programs; and second, obtaining counsel from a patent attorney or agent who is registered with the United States Patent and Trademark Office (the “PTO”). If the invention is owned by one or more covered individuals and not by the College, then the covered individual(s) can decide whether to seek patent protection. The cost of seeking such protection will be borne by each inventor.

Confidential disclosure of all inventions conceived by College employees is required under this policy. The Vice President for Academic Programs will provide confidential disclosure forms for this purpose.

B. Exceptional Circumstances

Where funding or sponsorship agreements stipulate that the College will be the owner of any intellectual property rights relating to inventions conceived and reduced to practice by employees, each inventor shall irrevocably assign his or her rights in the funded invention to the College as a condition for the release of funds or other resources. From time to time thereafter, the inventor may be required by the College to execute additional instruments as the College deems necessary for the filing or prosecution by the College of any and all patent applications directed to the funded invention through to a final action on each such application by the PTO. Ultimately, the College in its sole discretion shall decide whether to seek patent protection, and the College shall be solely responsible for the costs of doing so. In accordance with U.S. patent law, any issued U.S. patent covering a funded invention shall name the original inventor(s) despite patent ownership by the College.

In addition, as in the case of works of original authorship developed with the assistance of extraordinary allocations of College facilities and/or resources, the College may require each inventor to assign his or her intellectual property rights in the invention to the College as a condition for permission to use such facilities and/or resources. For example, providing a faculty member with his or her own dedicated lab space or extended IT support from a staff member would be considered substantial use of College resources. However, ordinary use of computers or library resources or use of a departmental lab space that is available to all department members would not be considered use of substantial resources.

V. Distribution of Revenues

In the absence of any other agreement, Meredith College will share the net revenues it receives from an invention owned by or assigned to the College with the employee(s) who developed the property. The formula is:

<table>
<thead>
<tr>
<th>Net Revenue for Entire Invention</th>
<th>Employee(s)</th>
<th>Academic School Budget</th>
<th>Appropriate Vice President Budget</th>
<th>Meredith College General Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>First $20,000</td>
<td>100%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>$20,001 - $75,000</td>
<td>50%</td>
<td>15%</td>
<td>15%</td>
<td>20%</td>
</tr>
</tbody>
</table>
A. If the employee is not associated with an academic school then the academic school revenue share will be allocated to the division.

B. The academic school share may be used for equipment purchases, research and instructional activities, and other purposes approved by the Vice President for Academic Programs, but it may not be used to create or support regular faculty or staff positions.

C. Where covered individuals enter into collaboration across academic schools or college divisions, allocations to schools and vice presidents will be made in equal shares.

VI. Trademarks and Service Marks

From time to time, the College may claim ownership of certain registered or unregistered trademarks and service marks. Such marks are for the exclusive use of the College in connection with the goods and services, among others, identified in federal and state registrations and pending federal applications. It is a violation of this policy for any member of the College community to make use of such marks without the express authorization of the Vice President for Academic Programs.

A. Allegations of Infringement

From time to time members of the College community or others might claim that a work of original authorship or invention owned by the College by assignment infringes a third-party’s rights. Conversely, a member of the College community might from time to time become aware that a third party is infringing the College’s rights in a work or invention. In either case, it is important that all College parties with an interest in the matter notify the Vice President for Academic Programs of any such claims of infringement so that appropriate action can be initiated.

The College has the right, but not the obligation, to take action to stop third parties from infringing its intellectual property right. If the College elects to do so, all damages, costs or other amounts recovered by the College as a result of any such action shall be the sole property of the College.

VII. Miscellaneous

The President, or the Vice President for Academic Programs, if so delegated, has the authority to administer and enforce this policy.

If a dispute arises between a covered individual and the College, between two or more covered individuals or between a covered individual and a collaborator who is not a member of the College community, such dispute will be referred to the Vice President for Academic Programs.
VIII. Effective Date

This policy will be effective as of July 1, 2009. Any instances for which the Vice President for Academic Programs has been provided confidential disclosure prior to that date will not be subject to the terms of this policy unless negotiated by a separate agreement.

Approved by Faculty Council on May 7, 2009