EDUCATIONAL MATERIALS POLICY

## BACKGROUND

This purpose of this policy is to encourage and support the exercise of academic freedom, innovation, and creativity and clarify the rights of ownership and the rights to use educational materials at Iowa State University (University) in a way that:

* Enables the development and dissemination of educational materials resulting from academic instruction, extension, professional development, and research;
* Preserves the rights granted to authors in traditional scholarly works;
* Permits the University to retain ownership of and/or use educational materials under certain circumstances; and
* Does not conflict with applicable policies and federal and state laws and regulations regarding the use and management of educational materials.

This policy is intended to supplement existing University policies on intellectual property that may also apply.

## DEFINITIONS

* 1. "Educational Materials" means instructional and course materials produced for academic programs, professional development programs, extension, or research, in any format, including print materials, digital materials, and audio and video recordings. .
	2. "Author" means faculty or staff responsible for creating Educational Materials whose contributions warrant authorship. Students whose contributions warrant authorship may be included if engaged as employees of the University, are supported with University funds on an assistantship, their contributions use Substantial University Resources, or their contributions were created under a separate agreement specifying University ownership.
	3. “Faculty” means individuals holding appointments described in Section 3.3 of the Faculty Handbook. For persons with dual appointments, to the extent Educational Materials results from faculty work, such individuals will be treated as faculty.
	4. "Substantial University Resources" means substantial University resources have been used in the development of the Educational Materials, including the assistance of support staff outside the author’s unit, or assistance of support staff from the author’s unit, provided such assistance is greater than that normally provided to others in the unit, the use of specialized media production services or facilities not normally available to units, or the works are derived from University-owned Educational Materials.
	5. “Scholarly Works” means traditional scholarly, literary, and artistic works such as journal papers, books, essays, poems, paintings, sculptures, musical scores, and other similar creative works.
	6. “Staff” means individuals on appointment at the University, including Professional and Scientific, Merit, contract temporary, and casual appointments, including hourly student employees.

## POLICY STATEMENT

Ownership of Educational Materials rests with the author unless the terms of a sponsored project or other written agreement designate(s) that the University or other entity will own the Educational Materials or the Educational Materials are a work for hire as described below. Scholarly Works shall be owned by the author unless there is a written agreement between the University and the author for a specific work asserting such work shall be owned by the University (e.g., University commissioned art installations).

**Agreement**

Ownership of Educational Materials may be determined by agreement between an author and the University. In addition, where the creation of Educational Materials is supported by sponsored project or other agreements requiring that the Educational Materials be owned by the University or other entity, the Educational Materials shall be owned by the University or other entity as provided.

**Works for Hire**

Substantial University Resources: Where Educational Materials are created using Substantial University Resources, the Educational Materials shall be owned by the University.

Collaborative Works: Where Educational Materials are created by a team of authors of such size or over such an extended period of time that determination of a discrete number of authors would be impossible, impractical, or unfair, the Educational Materials shall be owned by the University.

Extension Work: Where Educational Materials are created for the purposes of providing information or services to the general public as part of the extension mission, the Educational Materials shall be owned by the University.

Works Derived from using University Owned Educational Materials: Authors who create derivative works of University-owned Educational Materials do so with the understanding that such improvements are owned by the University unless the Educational Materials have been released under a copyright license that requires the Educational Materials be released under otherwise specified terms.

Works Created by Staff: When Educational Materials are created by University staff as part of the staff member’s regular duties, the Educational Materials are owned by the University as a work for hire under copyright law. University staff who teach or conduct research at the University with a level of responsibility and self-direction similar to that exercised and enjoyed by faculty in a similar activity shall have the same ownership as faculty under this policy when those activities result in the creation of Educational Materials.

The University may assign its rights in the Educational Materials to the Iowa State University Research Foundation, Inc. (ISURF), a sponsor or other third party as necessary to meet University obligations.

## USE OF EDUCATIONAL MATERIALS

* 1. University-owned Educational Materials

For University-owned Educational Materials, the University may use, reproduce, adapt, modify, update, display, distribute, or create derivative works of the Educational Materials for instruction or education, including teaching, research, extension and service in the public interest, and may permit others to do so on its behalf. If updates are necessary, the University will offer the author the first opportunity to perform such updates. If, within a reasonable period of time as determined by the University, the parties are unable to reach an agreement or the author is unwilling or unable to update the materials, the University may engage another author to make such necessary updates.

The use of University-owned Educational Materials should include appropriate attribution where feasible and the author should be consulted regarding their preferred attribution when possible. The author should also be given the option not to be listed as a source of the material if they prefer not to be associated with its subsequent usage or update by the University.

The University will grant to the author a non-exclusive, royalty-free limited license to use the University-owned Educational Materials for the author’s own personal and educational non-commercial purposes provided such use does not conflict with any applicable University policies, including the Conflict of Interest and Commitment policy.

* 1. Author-owned Educational Materials
1. Internal Use

For Author-owned Educational Materials, the University is granted a non-exclusive, royalty-free license for the internal use of Educational Materials by any unit of the University for instruction or education including teaching, research, extension and service in the public interest.

Unless otherwise specified, the license for the University’s internal use will continue for a period of three (3) years to ensure the availability and continuity of academic and educational programming (the “Internal Use Period”). The University and the author will work together in good faith to update the Educational Materials as mutually agreed upon. If, within a reasonable period of time as determined by the University, the parties are unable to reach an agreement regarding updates or the author is unwilling or unable to update the materials, the University may engage another author to make such necessary updates. After expiration of the Internal Use Period, the author may request in writing that the University cease internal use of the Educational Materials, and if revision is not feasible, the University will cease use of the Educational Materials.

All internal use of Educational Materials should include appropriate attribution where feasible and the author should be consulted regarding their preferred attribution when possible. The author should also be given the option not to be listed as a source of the material if they prefer not to be associated with its subsequent usage or update by the University.

1. External Use

If the author consents, the University may permit the external use of Educational Materials by educational institutions, government or nonprofit institutions, and other third parties. The author may use the Educational Materials outside of the University subject to the University’s internal license granted above and provided such use does not conflict with any applicable University policies, including the Conflict of Interest and Commitment policy.

## ROYALTIES

Any royalties generated through the external use of University-owned Educational Materials and disclosed to ISURF as agreed by University and ISURF, shall be distributed consistent with ISURF’s royalty distribution policy.

## No royalties, additional compensation, or remuneration will be paid to the author for the University’s internal use of Educational Materials. The University will, however, recognize through established policies and procedures the author’s additional effort in preparation of the materials.

An author who uses his or her own Educational Materials or Scholarly Works in courses for which they receive royalties or remuneration from external entities shall assign those royalties or remuneration to the University or to a body mutually agreed upon by the University and the author. Authors may be allowed to retain royalties under either of the following circumstances:

* The use of such Educational Materials or Scholarly Works is in accordance with departmental procedures for selecting such materials and the author does not participate in the selection process; or
* Because of exceptional circumstances the department chair recommends the author be allowed to retain the normal royalties, and the recommendation is approved by the appropriate dean and the Senior Vice President and Provost (SVPP)

## MANAGEMENT

The implementation and management of this policy, including determination of ownership, will be the responsibility of the author’s department and college, in consultation with other University offices as necessary. The Office of the Vice President for Research should be consulted if the Educational Materials involve sponsored projects or other external agreements. If the Educational Materials contain patentable items or copyrightable software, the Patent Policy and Copyright Ownership and Management of Software Policy should be consulted.

If ownership is unclear or if there is a dispute regarding ownership, a faculty, staff member, or student may appeal to a committee convened by the SVPP which shall include the following members:

* A representative designated by the SVPP, who will chair the committee
* The associate dean for academic affairs of each author’s college
* The associate dean for research of each author’s college, if it is a dispute involving research
* Each author’s department chair
* A representative of the senate or council based upon each author’s status (e.g., Faculty Senate, Professional and Scientific Council, Graduate and Professional Student Senate, or Student Government)

**RESOURCES**

[Patent Policy](https://www.techtransfer.iastate.edu/wp-content/uploads/2018/09/Patent_Policy.pdf)

[Copyright Ownership and Management of Software Policy](https://www.policy.iastate.edu/softwarecopyright)

[Royalty Distribution Policy](https://www.techtransfer.iastate.edu/wp-content/uploads/2018/09/Royalty-Distribution-Policy.pdf)

[Authorship Policy](https://www.policy.iastate.edu/authorship)

[Conflicts of Interest and Commitment Policy](https://www.policy.iastate.edu/policy/conflict)

FAQ Guidance on Educational Materials