



MOREHOUSE SCHOOL OF MEDICINE School Policy

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TITLE INTELLECTUAL PROPERTY: COPYRIGHTS AND ROYALTIES EFFECTIVE DATE 9/08 REVISION 01

PURPOSE

To set policy regarding copyrights and royalties for all copyrightable material created by Morehouse School of Medicine (MSM) personnel related to or within the scope of their employment with MSM.

STATEMENT OF PRINCIPLES

Morehouse School of Medicine (School) encourages the dissemination of knowledge and development of creative work that fulfills its educational, research and service missions and benefits the public it serves. The School supports the preparation and publication of copyrightable works resulting from the teaching, research, scholarly and artistic endeavors of faculty, staff and students as part of their unique roles at the School. The School seeks to foster an intellectually stimulating environment in which creative efforts and innovations are encouraged and rewarded, the careers of its members are enhanced, and the School's reputation and prestige are furthered. The School respects, acknowledges and promotes the intellectual property rights in works created by its members. The School strives to maintain a balance among the interests of Creators, sponsoring bodies and the School in copyrightable material and income resulting from such works.

All Morehouse School of Medicine personnel are encouraged to retain ownership of the copyright to Traditional Works of Scholarship (as defined herein) or to obtain a perpetual license from the copyright owner to reproduce, distribute, perform, and/or display the work and to make Derivatives Works there from.

Scientific publications, including original articles, review of articles and books, for which copyright is normally transferred to the publisher and for which no revenue is obtained, are exempt from all reporting requirements of this document. In addition, works that generate less than \$1,000 in revenue are also exempt from reporting requirements of this document.

ACCOUNTABILITY

Under the direction of the President, the Dean and Senior Vice President for Academic Affairs, and the Senior Vice President and Chief Operating Officer shall ensure compliance with this policy. The Senior Associate Dean for Research shall implement this policy. The Dean shall ensure that each new faculty member receives a copy of this policy or is directed to it on the MSM web site. www.msm.edu

APPLICABILITY

This policy applies to all faculty, staff, postdoctoral fellows, residents, students and any other person employed by the School.

DEFINITIONS

1. The following terms are important for purposes of expressing the School's policy on Intellectual Property: Copyrights and Royalties.
 - a. **"Creator"**: Individual or group of individuals who transforms ideas into a tangible form of expression thereby creating Copyrightable Material.
 - b. **"Copyrightable Material"**: Material that is subject to U.S. copyright laws, including, but not limited to, literary works, musical works, dramatic works, choreographic works, graphic works, photographic works, cardiographic, radiographic and pictorial works (e.g., - x-rays, images), sculptural works, audiovisual and videotaped works, sound recordings, films, theses, and works in electronic media (e.g., digitized works and network transmission of digitized works, multimedia broadcast, web-based products, recorded materials, remote transmission of information, instructional software, CD/DVD-ROMs).
 - c. **"Derivative Works"**: Copyrightable Material based on or derived from one or more already existing copyrighted works. Derivative Works include, but are not limited to, new versions, translations, dramatizations, fictionalizations, reproductions, compilations, revisions and condensations.
 - d. **"Instructional Materials"**: A type of "Institutional Work," including textbooks study guides and electronic media (CDs, DVDs, computer software) used for the instruction of MSM students, residents and/or postdoctoral fellows.
 - e. **"Institutional Resources"**: Tangible resources provided by the Institution to a Creator, including funds, office space, lab space, equipment, electronic network resources (hardware and software), support personnel, secretarial support, research, teaching and lab assistants, assistance from medical and graduate students or residents, media specialists or illustrators, supplies, utilities. Funds include grants and contracts or awards made to the Institution by an extramural sponsor.
 - f. **"Institutional Works"**: Copyrightable Material created (1) specifically or predominantly for use by or at MSM, or (2) at the request or on behalf of MSM, or (3) under the specific direction of MSM, or (4) by a person acting within the scope of his or her employment at MSM, or (5) under a written contract between the Creator and MSM, or (6) under a contract between MSM and an external agency. "Traditional Works of Scholarship" will not be considered "Institutional Works" for the purposes of this policy.

- g. **“Other Intellectual Property”**: Any Copyrightable Material other than Traditional Works of Scholarship, Institutional Works, and Instructional Materials.
- h. **“Traditional Works of Scholarship”**: Copyrightable Material reflecting research and/or creativity which is considered evidence of accomplishment in the Creator’s academic discipline or professional field, and is specifically created for predominate use by persons or entities other than MSM and/or its students. Such works include, but are not limited to, books, book chapters, journal articles, abstracts, student theses, plays, poems, pictorial and sculptural works, films, cassettes, musical compositions and other literary works.

POLICY

1. Copyright Ownership

- 1.1. The terms of a sponsored research or other agreement may determine the ownership of all copyrightable material that a person creates in the course of or pursuant to such an agreement. If the agreement does not contain terms relating to the ownership of copyrightable material, the following provisions of this policy will govern ownership of the material.
 - a. Only a commissioned project shall be a “work made for hire”, and accordingly, the School shall own all copyrightable material which a person creates as a commissioned project. If a question arises as to whether a person created copyrightable material pursuant to a commissioned project, the Intellectual Property Committee, after investigation into the appropriate facts shall formulate a recommendation for consideration by the president. In cases of a commissioned project, the Creator of the copyrightable materials shall execute an assignment of rights to the School in any copyrights or registration that may be obtained.
 - b. The Creator of all other copyrightable material not governed by the preceding paragraphs shall own such material notwithstanding any employment relationship with the School.

2. Marking and Disclosure

- a. Copyrightable Material shall be marked at the earliest possible opportunity with the copyright symbol “©” or the word “copyright” or the abbreviation “Copr.” the year of the first production or publication, and the name of the owner of the copyright in the work.
- b. The Creator shall promptly file a copyright disclosure form (Exhibit A) with the Office of Sponsored Research Administration for any (i) School Research, (ii) Instructional Materials and (iii) Other Intellectual Property created with the use of School resources.

- c. The School may release its ownership rights to the Creator when, as determined by the Intellectual Property Committee and Office of General Counsel: (i) there are no overriding special obligations to a sponsor or other third party, and/or (ii) the best interests of the School would be so served. The School shall make this decision within 30 days of receipt of the disclosure form.
- d. If the Intellectual Property Committee denies the Creator's request that the School's ownership rights in the copyright be released to the Creator, the Creator may appeal this decision to Dean and Senior Vice President for Academic Affairs for final decision.
- e. The Office of Sponsored Research Administration shall file an application to register the School's copyright interest in the disclosed work when copyright ownership remains with the School and the Creator is notified in writing.
- f. MSM will retain at nonexclusive royalty free

3. Use of School Resources

- 3.1. When Works from School Research, including Instructional Materials and Other Intellectual Property are created with the use of School Resources:
 - a. The School, through the Office of Sponsored Research Administration shall have the right to determine the licensing, marketing and use of material for which the School has sought and obtained copyright ownership. This determination shall take into account the interests of the School, the public and the Creator, including the Creator's preferences.
 - b. The Creator shall have the right to be identified or to refuse to be identified as the Creator by the School and by subsequent licensees and assignees, except as required by law.

4. Royalties and Revenue Distribution

- a. The School recognizes that, in cases in which the person who created copyrightable material assigns rights to the School, an equity in the material remains with the inventor, and in such cases, unless the Intellectual Property Committee recommends, and the President and Dean adopt, a different distribution warranted by the circumstances, the total net revenue derived from the copyrightable material shall be distributed as follows:
 - 1. Formula for Distribution of Income – Except as otherwise provided in this policy, the following distribution formula will apply to Net Royalties.
 - a. 35% of the net patent income and/or milestones to the inventor(s) personal share; and
 - b. 10% of the net income and/or milestones to the inventor(s) research share; and

- c. 15% of the net patent income and/or milestones to the inventor(s) Department/Center – directed share (if no department or center to be allocated by Dean of the School for research purposes)
- d. 15% of net patent income and/or milestones to the School share
- e. 15% of net patent income and/or milestones to the Dean's share
- f. 10% of net patent income and/or milestones to the OSRA

By Direction of the President _____ Date _____
Dean and Senior Vice President for Academic Affairs