

NEW JERSEY INSTITUTE OF TECHNOLOGY COPYRIGHT POLICY

OBJECTIVES

The copyright policy of New Jersey Institute of Technology (NJIT) seeks to protect and promote the traditional academic freedom of NJIT's faculty, staff, and students in matters of publication; seeks to balance fairly and reasonably the equitable rights of authors, sponsors, and NJIT; and attempts to ensure that any copyrightable material in which NJIT has an equity interest is utilized in a manner consistent with the public interest.

OWNERSHIP AND DISPOSITION OF COPYRIGHTABLE MATERIAL

Copyright ownership and the rights thereof are terms defined by Federal law. NJIT believes that its copyright policy objectives will best be attained within the context of the Federal Law by defining the equities of ownership of copyrightable material in terms of the following categories:

A. Copyright ownership of all material (including unpatentable software, but excluding theses and books) which is developed in the course of or pursuant to a sponsored research or other agreement shall be determined in accordance with the terms of the sponsored research or other agreement, or in the absence of such terms, the copyright shall become the property of NJIT.

Comment: Normally, research contracts sponsored by the government provide the government with specified rights in copyrightable material developed in the performance of the research. These rights may consist of title to such data vesting solely in the government or the reservation of a royalty-free license to government, with title vesting in NJIT. In some cases, the government prohibits any private copyright ownership. Grants and other types of sponsored research agreements, whether by the government or by private industry, may, on the other hand, provide no specific provision concerning rights in such material.

The purpose of this provision (which applies to all academic and research employees of NJIT) is to ensure that NJIT will be free to dispose of all such data in a manner consistent with its obligations to the sponsor and to the public.

In cases where a researcher wishes to publish Category A material in journals or other media, Federal law now requires the written consent of the owner of the copyright. Requests for such consent, which will normally be routinely provided, should be addressed to the Research Office. The Research Office is responsible for the processing and management of copyrights under the direction of NJIT's Intellectual Property Committee.

B. Copyright ownership of all material (including unpatentable software, but excluding theses and books) which is developed with the significant use of funds, space or facilities administered by NJIT, including but not limited to classes and laboratory facilities, but without any NJIT obligation to others in connection with such support shall reside in NJIT.

Comment: NJIT shall exercise its rights in such material in a manner that will best further NJIT's basic aims as an educational institution, giving full consideration to making the material available to the public on a reasonable and effective basis, avoiding unnecessary exclusions and restrictions, and providing adequate recognition of the authors.

In this respect NJIT recognizes and reaffirms the traditional academic freedom of its faculty and staff to publish freely without restriction. In keeping with this philosophy, NJIT will neither construe the provision of office or library facilities as constituting significant use of NJIT space or facilities, nor will it construe the payment of salary from instructional accounts as constituting significant use of NJIT funds, except for those situations where the funds were paid specifically to support the development of such material.

Publications not prepared within the scope of an NJIT employee's duties are excluded from the ownership provisions of this category. Textbooks developed through the use of classes are excluded from the provisions of this category, unless such textbooks were developed using NJIT-administered funds paid specifically to support such textbook development.

Unless significant use of university resources were utilized in the creation of instructional material, or the ownership is subject to research or contractual restrictions, the faculty member owns the copyright to the materials created. Subject to the terms of this policy, the faculty member shall also be deemed to own the course materials and/or curriculum outlines that they develop, whether in physical or electronic formats.

All persons who have developed copyrightable material through the significant use of NJIT space, funds, or facilities shall be required to transfer copyright ownership of such material to NJIT as a condition of such use.

C. Copyrightable material not within the provisions of Categories A and B of this policy shall be the sole property of the author, except for theses, as discussed below.

NJIT claims rights in inventions or discoveries, including computer software, which are or may be patentable. Such inventions or discoveries shall be covered by NJIT's Patent Policy.

For certain copyrightable works, NJIT's Patent Policy may apply and may be in conflict with this Copyright Policy. In such circumstances, the Patent Policy will take precedence over this Copyright Policy.

Theses created by students shall be governed by the following provisions:

D. Copyright ownership of theses generated by research which is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend or grant from funds administered by NJIT shall be determined in accordance with the terms of the support agreement, or in the absence of such terms, shall become the property of NJIT.

E. Copyright ownership of theses generated by research performed in whole or in part utilizing equipment or facilities provided to NJIT under conditions that impose copyright restriction shall be determined in accordance with such restrictions.

F. Copyright in theses not within the provisions of Categories D and E of this policy shall be the property of the author. However, the student must, as a condition of a degree award, grant royalty-free permission to NJIT to reproduce and publicly distribute copies of the thesis.

As with faculty and research staff, NJIT wishes to encourage broad dissemination of all such material. Requests for permission to publish Category D and E theses should be addressed to the Office of Research.

COPYRIGHT ROYALTIES

Royalty income received by NJIT through the sale, licensing, leasing, or use of copyrightable material, under Categories A and B, in which NJIT has acquired a property interest, will normally be shared with the author and the unit (department, laboratory, center, etc.) within NJIT where the material originated. The gross royalties received by NJIT will usually be distributed as follows:

1. To NJIT, 60%;
2. To the author(s), a total of:
35% of the first \$50,000 in accumulated gross royalties,
25% of the next \$50,000 in accumulated gross royalties,
15% of the accumulated gross royalties thereafter;

3. To the originating department, laboratory, or center within NJIT: 5% of the first \$50,000 in accumulated gross royalties, 15% of the next \$50,000 in accumulated gross royalties, 25% of the accumulated gross royalties thereafter.

Authorship shall be determined by the director of the originating unit (department, laboratory, center, etc.). If there is an appeal regarding the determination of authorship, that determination will be reviewed by the Senior Vice Provost for Research, equivalent, or their designee in consultation with the Office of the General Counsel. Where, after review, authorship cannot be determined, the percent share of royalties intended for the author shall be distributed instead to the originating unit (department, laboratory, center, etc.). (As used herein, the phrase "originating unit," means the department, laboratory, center, etc., which administered the funds, space and facilities used in developing the copyrightable material.)

NJIT reserves the right at its discretion to deduct from gross royalty income prior to any such distribution, expenses such as litigation which may be incurred in enforcing or defending the copyright or in licensing the copyrightable material.

INVENTION AND COPYRIGHT AGREEMENTS

The policies set forth above constitute an understanding which is binding on NJIT faculty and staff, students, and others as a condition of their participating in NJIT research programs or their use of funds, space or facilities. Where NJIT may have had an obligation to assign rights in inventions or copyrights to a sponsor, or may itself acquire rights under this policy, it will require a formal invention and copyright agreement.