

ILLINOIS MATHEMATICS AND SCIENCE ACADEMY®

**SECTION G – PERSONNEL
SECTION J - STUDENTS**

INTELLECTUAL PROPERTY POLICY

SECTION 1 – GENERAL POLICY PROVISIONS

A. Policy Objectives

The objectives of IMSA’s Intellectual Property Policy are to:

1. Enable IMSA to foster the free and creative expression and exchange of ideas and comment;
2. Establish principles and procedures for sharing income derived from intellectual property originating at IMSA;
3. Enable the public to use and benefit from intellectual property originating at IMSA;
4. Manage intellectual property in a way that advances the academic missions of IMSA including research and scholarship; and
5. Assure compliance with applicable laws and regulations in the management of intellectual property.

B. General Policy Statement

It is the policy of IMSA that all intellectual property rights shall remain with the creator/inventor unless the work/invention is created as a specific requirement of employment or a product of an individual’s employment, is supported by a direct allocation of funds through IMSA for the pursuit of a specific project, makes more than incidental use of IMSA resources or personnel, or is otherwise subject to contractual obligations.

It is not the intent of this policy to infringe on the academic freedom of faculty or other teaching staff.

C. Policy Application

IMSA’s policy on intellectual property pertains to intellectual property made (e.g. conceived, authored, fixed in a tangible medium or first reduced to practice) by its faculty and staff members, and students and as otherwise provided in this policy.

This policy is considered a part of the conditions of employment for every employee of IMSA and a part of the conditions of enrollment and attendance at IMSA by students. It is also the policy of IMSA that individuals (including visitors) by participating in a sponsored research project and/or making more than incidental use of IMSA resources thereby accept the principles of ownership of intellectual property as stated in this policy unless an exception is approved in writing by the Chief Financial Officer or designee.

All faculty, staff, and student employees must sign the IMSA Copyright and Patent Agreement acknowledging that they will abide by the terms and conditions of this policy. In addition, non-employees who participate or intend to participate in research projects at IMSA must also sign the IMSA Copyright and Patent Agreement.

1. The Executive Director of Human Resources or designee is responsible for notifying new employees of this policy upon hire and is responsible for getting a signed IMSA Patent and Copyright Agreement form from each newly employed individual.
2. Existing employees will be notified of this policy by the Executive Director of Human Resources or designee and shall be responsible for getting a signed IMSA Patent and Copyright Agreement form from existing employees.
3. Students and their parent/guardian will be notified of this policy by Director for Student Leadership Development or designee and is responsible for getting a signed acknowledgment of acceptance of the terms of this policy.

This policy applies only to intellectual property disclosed after the effective date of this policy.

SECTION 2 – COPYRIGHTS

A. Applicability

This policy is applicable to “original works of authorship” that are copyrighted or potentially copyrightable including, but not limited to, literary works, musical works, including any accompanying words, dramatic works, including any accompanying music, pantomimes and choreographic works, pictorial, graphic, and sculptural works, motion pictures and other audiovisual works, and sound recordings (“works”).

B. Individual Ownership of Copyright

IMSA does not claim ownership of copyright in pedagogical, scholarly, artistic, or research works regardless of the mode of expression except as described in this policy. Therefore, in those instances where IMSA does not claim ownership of a copyright, the copyright will be owned by those defined as authors or creators under copyright law unless there is a contrary contractual or statutory obligation. For works created by IMSA faculty, staff members or students in the course of the individual's employment with IMSA, IMSA may claim ownership as described in this policy. IMSA

claims no ownership of copyright in any work created outside the scope of any employment with IMSA except as set forth in this policy.

C. IMSA Ownership of Copyrights

IMSA has ownership, or the right to obtain ownership by assignment, of copyright in:

1. Any particular and identifiable work created pursuant to either an oral or written agreement between the creator and IMSA.
2. Any particular and identifiable work created within an individual's employment responsibility and activity with IMSA.
3. Works specifically commissioned by IMSA. Work that is "commissioned" refers to a copyrightable work prepared under an agreement between IMSA and the creator when (a) the creator is not an IMSA employee or (b) the creator is an IMSA employee but the work to be performed falls outside the normal scope of the creator's IMSA employment. Contracts covering commissioned works shall specify that the author convey by assignment such rights as are required by IMSA.
4. Any work created by a team of faculty, staff, and/or students of such size or over such an extended period of time that determination of a discrete number of creators would be impossible, impractical, or potentially unfair.
5. Any work created under the terms of a contract or other binding agreement with an entity, other than IMSA, when such contract or agreement requires IMSA ownership of the work.
6. Any works created or developed with more than incidental use of IMSA resources.

"More than incidental use of IMSA resources" includes:

- a. The use of space, facilities, materials, equipment, supplies or other resources, provided by IMSA for academic purposes; or
- b. Significant use of compensated time by a faculty member or support staff.

The occasional and infrequent use of the following would typically not constitute "more than incidental use of IMSA resources":

- a. Routinely available, office-type equipment, including desktop computers and commercially-available software.

Individuals may not use IMSA resources, including facilities, personnel, equipment, or confidential information, except in a purely incidental way, for any non-IMSA purposes, including outside consulting activities or other activities in pursuit of personal gain.

D. Works of Former Employees and Certain Non-Employees

IMSA will own original works of authorship that are copyrighted or potentially copyrightable which are authored or fixed in a tangible medium by a former employee if

the intellectual property was made both (1) with more than incidental use of IMSA resources and (2) during activity directly relating to and closely following employment.

Under the Copyright Act, works of non-employees such as consultants, independent contractors, etc. generally are owned by the creator and not by IMSA, unless there is a written agreement to the contrary. As it is IMSA's policy that it shall retain ownership of such works as described in this policy, IMSA will generally require a written agreement from non-employees that ownership of such works will be assigned to IMSA.

E. Registration

IMSA-owned works shall be protected by copyright notice in the name of the Board of Trustees of IMSA. Such copyright notice shall be composed and affixed in accordance with the United States Copyright Law.

SECTION 3 – PATENTS

A. Applicability

This policy is applicable to any patentable or potentially patentable idea, discovery or know-how and any associated or supporting technology that is required for development or application of the idea, discovery or know how ("invention"), that is conceived or reduced to practice by a person covered by this policy who:

1. Made the invention or discovery within the normal field of his or her employment responsibility and activity with IMSA;
2. Is under or subject to an agreement between IMSA and a third party;
3. Used direct or indirect financial support from IMSA, including support or funding from any outside source awarded to or administered by IMSA; or
4. Makes more than incidental use of space, facilities, materials or other resources provided by or through IMSA or makes significant use of compensated time by a faculty member or support staff.

SECTION 4 – INTELLECTUAL PROPERTY ADMINISTRATION

A. Intellectual Property Committee

The IMSA Intellectual Property Policy shall be administered under the oversight of the Chief Financial Officer or designee. The President or designee shall appoint a standing Intellectual Property Committee. The role of the Intellectual Property Committee shall be to:

1. Advise faculty and staff members and students regarding intellectual property matters including, but not limited to, the resolution of disputes arising from the application of this policy;
2. Evaluate intellectual property to determine whether IMSA has an ownership interest in the intellectual property;

3. Make determinations as to what IMSA resources, if any, were used in the creation of intellectual property and whether more than an incidental use of IMSA resources was used in the creation of intellectual property;
4. Evaluate contractual commitments and make recommendations to the Board of Trustees regarding protection, commercialization and /or disposition of intellectual property;
5. Set and administer rules for determining the creator's or inventor's share of revenues within the parameters outlined in this policy;
6. Advise the Board of Trustees of any need for altering this policy or its administrative implementation; and
7. Publish procedures and take such other administrative actions as are necessary and consistent with the provisions expressed in this policy.

B. Dispute Resolution

The Intellectual Property Committee is available to advise on questions arising under this policy and to assist with its application.

Questions of ownership and policy in unclear cases covered by this policy shall be resolved by the Intellectual Property Committee in consultation with legal counsel and others.

C. Disclosure of Intellectual Property

The creator of any intellectual property in which IMSA may have an ownership interest must promptly disclose the intellectual property in writing to the Intellectual Property Committee on the Disclosure Form provided by the Committee. The disclosure shall consist of a full and complete description of the subject matter of the intellectual property and identify all persons participating in its creation. The creator(s) or inventor(s) shall furnish such additional information and execute such documents from time to time as may be reasonably requested.

In the event any IMSA resources are used in the creation of intellectual property, such as but not limited to, computers, software facilities or compensated time, or there is a question as to whether IMSA has an ownership claim in intellectual property, such intellectual property should be disclosed in writing to IMSA by the creator(s) or inventor(s). Such disclosure is without prejudice to the creator's or inventor's ownership claim. IMSA will provide the creator or inventor with a written statement as to IMSA's ownership interest.

Individuals covered by this policy are expected to apply reasonable judgment as to whether intellectual property must be disclosed considering, among other things, whether the intellectual property was created, conceived or first actually reduced to practice in whole, or in part, in the course of their IMSA responsibilities or with more than incidental use of IMSA resources. Individuals should also consider whether the intellectual property has potential for commercial marketing. If the intellectual property was created, conceived, authored or first actually reduced to practice in whole or in

part in the course of the creator's or inventor's IMSA responsibilities or with more than incidental use of IMSA resources, or commercial potential exists, the intellectual property should be considered "potentially copyrightable" or "potentially patentable," and disclosed to IMSA.

D. Evaluation and Commercialization of Intellectual Property

After evaluation of the intellectual property and review of applicable contractual commitments, IMSA may:

1. Develop the property through licensing;
2. Release it to the sponsor of the research under which it was made (if contractually obligated to do so);
3. Release it to the creator(s) or inventor(s) if permitted by law and under the terms of this policy;
4. Place the property in the public domain; or
5. Take such other actions considered to be in the public interest.

IMSA will inform principal creators or inventors of its substantive decisions regarding protection, commercialization and/or disposition of intellectual property which they have disclosed. However, specific terms of agreements with external parties may be proprietary business information and subject to confidentiality restrictions.

E. Assignment/Licensing

Creators and inventors subject to this policy shall assign to IMSA or another entity designated by IMSA, their entire right in the intellectual property and shall provide reasonable assistance to IMSA or another entity designated by IMSA in obtaining copyright and patent protection and in licensing and/or assigning the copyright and patent rights to others. No creators or inventors have the authority to assign, license, or otherwise dispose of their interests in the intellectual property. IMSA will diligently pursue the best opportunities to transfer intellectual property consistent with the missions of IMSA and for the public benefit. Commercialization by IMSA of intellectual property may not involve statutory protection of the intellectual property rights, such as filing for patent protection, registering the copyright or securing plant variety certification.

IMSA may, at its discretion and consistent with the public interest, license intellectual property on an exclusive or non-exclusive basis to an entity in which the author or inventor has an ownership interest or another entity designated by IMSA. The licensee must demonstrate technical and business capability to commercialize the intellectual property. The license may include clear performance milestones with a provision for recapture of intellectual property if milestones are not achieved. The licensee may be required to assume the cost of statutory protection of the intellectual property.

IMSA reserves the right to designate another entity, such as the IMSA Fund for Advancement of Education or another entity as permitted by law, as the owner of its intellectual property rights and in its interests in copyrighted works or patented

inventions or potentially copyrightable works and potentially patentable inventions. Consistent with the objectives of this policy and subject to the rights of any other parties, IMSA or its designee will seek diligently to license to others the right to use works or inventions under copyrights or patents assigned to it.

No assignment, license or other agreement may be entered into or will be considered valid with respect to intellectual property owned by IMSA except by action of the Board of Trustees.

This section does not apply in any situation where the *Illinois Employee Patent Act* or other law does not permit IMSA to require that rights be assigned to it. In any situation where the inventor or creator retains rights under this policy, the inventor or creator may offer to assign the invention to IMSA or its designee, upon such terms as may be agreed upon.

If IMSA cannot, or decides not to, proceed in a timely manner to copyright and/or patent and/or license or otherwise commercialize intellectual property, it may reassign ownership to the authors or inventors upon request to the extent possible under the terms of any agreements that supported or related to the work.

The creators or inventors, acting collectively where there is more than one, are free to place their works or inventions in the public domain if doing so is not in violation of the terms of any agreements that supported or related to the work.

F. Income Sharing

IMSA shall receive all payments due under a license and shall distribute such earnings under the terms of this policy within 30 days of receipt of funds. Prior to any distribution, IMSA shall recover any out-of-pocket expenses incurred in applying for intellectual property protection, maintaining the intellectual property license or defending the licensed intellectual property and fees associated with the administration of the intellectual property. Also prior to any distribution under this policy, IMSA shall make any payments to others required by agreements, including but not limited to interinstitutional agreements for the management of jointly owned intellectual property. IMSA's gross earnings, less IMSA's out-of-pocket expenses, less payments required to others, are designated as "distributable income." Distributable income shall be allocated as follows:

- a. 50% of distributable income to creator(s)/inventor(s)
- b. 50% of distributable income to IMSA to be administered on a discretionary basis by the Board of Trustees. In keeping with IMSA'S objectives, portions of the institutional earnings from any intellectual property will support research and/or creative endeavors broadly across campus, research and/or creative endeavors related to the intellectual property and administrative efforts to secure and manage additional intellectual property.

With regard to multiple intellectual properties licensed under a single licensing agreement, IMSA and any third parties with an interest in the revenue from such agreement shall determine allocation of distributable income on a case-by-case basis prior to entering into such an agreement.

When more than one creator or inventor is named on any licensed copyright or patent, the creators and/or inventors will receive equal portions of the share of distributable income allocated to that copyright or patent unless there is a modifying written agreement signed by all creators and inventors and approved by IMSA.

G. Sponsored Agreements

Sponsored agreements shall provide that all intellectual property developed as a result of the sponsored project shall belong to IMSA unless otherwise specified in writing. The sponsor may receive an option to license the resulting intellectual property on terms to be negotiated, with the option to be exercised within a specified period following the disclosure of the intellectual property. When the nature of the proposed project allows identification of a specific area of intellectual property or application which is of interest to the sponsor, IMSA may accept agreements with terms which entitle the sponsor to reasonable specific commercial rights within the defined field of interest. Otherwise, the specific terms of licenses and rights to commercial development shall be based on negotiation between the sponsor and IMSA at the time the option is executed by the sponsor and shall depend on the nature of the intellectual property and its application, the relative contributions of IMSA and the sponsor to the work, and the conditions deemed most likely to advance the commercial development and acceptance of the intellectual property. In all cases where exclusive licensing is appropriate, such license agreements shall be executed apart from the sponsored agreement and shall require diligent commercial development of the intellectual property by the licensee. IMSA may also determine, on a case-by-case basis and only if allowed by law, that it is in IMSA's interest to assign ownership of resulting intellectual property to the sponsor as an exception to this policy when circumstances warrant such action.

H. Conflict of Interest

IMSA employees engaged in external consulting work or business are responsible for ensuring that agreements emanating from such work are not in conflict with any IMSA policy including this Intellectual Property Policy or with the employee's contractual commitments with IMSA. Such employees should make their non-IMSA obligations known to the Executive Director of Human Resources or designee and should provide other parties to such agreements with a statement of applicable IMSA policies regarding ownership of intellectual property and related rights.

I. Authority to Enter into Agreements

All agreements regarding intellectual property must be executed by the Chief Financial Officer or designee and attested to by the Secretary of the Board of Trustees or his/her designees.

Licenses, options for licenses and other agreements related to commercialization or exploitation of intellectual property shall be granted in the name of the Board of Trustees of IMSA.

SECTION 5 – EXPLANATION OF TERMS

- A. Intellectual Property** - The term "intellectual property" is broadly defined to include inventions, discoveries, know-how, show-how, processes, unique materials,

copyrightable works, original data and other creative or artistic works which have value. Intellectual property includes that which is protectable by statute or legislation, such as patents, registered or unregistered copyrights, registered or unregistered trademarks, service marks, trade secrets, mask works, and plant variety protection certificates. It also includes the physical embodiments of intellectual effort, for example, models, machines, devices, designs, apparatus, instrumentation, circuits, computer programs and visualizations, biological materials, chemicals, other compositions of matter, plants, and records of research and experimental results.

B. Copyright - Copyright is a form of protection provided by the laws of the United States to the creators of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. The Copyright Act generally gives the owner of a copyright the exclusive right to do and to authorize others to do the following:

- reproduce the work in copies or phonorecords;
- prepare derivative works based upon the work;
- distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- perform the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
- display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work; and
- perform the work publicly (in the case of sound recordings) by means of a digital audio transmission.

In addition, certain authors of works of visual art have the rights of attribution and integrity.

C. Patent - A patent is the grant of a property right by the U.S. government to the owner of an invention. An invention or discovery may be eligible for patent protection if it is a process, a machine, a manufactured object, a composition of matter, or a new use or improvement of any of the preceding. Courts have interpreted the patent statute to extend to software-related inventions when there is some connection to a useful, concrete result, and to biological substances when there is some evidence of human intervention. New uses of "products of nature" also may be patented, as may genetic modifications of otherwise natural organisms.

If an invention meets the threshold eligibility conditions for patenting, it still must meet additional criteria in order to earn a patent. Under U.S. law, a patented invention must be useful, novel, not obvious, and supported by adequate information.

ADOPTED: April 11, 2012

Illinois Mathematics and Science Academy®

Copyright and Patent Agreement

The objectives of IMSA's Intellectual Property Policy are to enable IMSA to: foster the free and creative expression and exchange of ideas and comment; establish principles and procedures for sharing income derived from intellectual property originating at IMSA; enable the public to use and benefit from intellectual property originating at IMSA; manage intellectual property in a way that advances the academic missions of IMSA including research and scholarship; and assure compliance with applicable laws and regulations in the management of intellectual property. It is not the intent of the Intellectual Property Policy to infringe on the academic freedom of faculty or other teaching staff.

I understand that, consistent with applicable laws and regulations, the Illinois Mathematics and Science Academy ("IMSA") is governed in the handling of intellectual property by its Intellectual Property Policy adopted by the Board of Trustees and which is published in the Employee Handbook. I agree to abide by the terms and conditions of this policy, as it may be amended from time to time.

Pursuant to the Intellectual Property Policy, and in consideration of my employment by IMSA, the receipt of remuneration from IMSA, participation in projects administered by IMSA, access to or use of facilities or resources provided by IMSA and/or other valuable consideration, I hereby agree as follows:

1. IMSA policy states that all rights in copyright shall remain with the creator unless the work:
 - a. is created pursuant to either an oral or written agreement between the creator and IMSA;
 - b. is created within an individual's employment responsibility and activity with IMSA;
 - c. is specifically commissioned by IMSA;
 - d. is created by a team of faculty, staff, and /or students of such size or over such an extended period of time that determination of a discrete number of creators would be impossible, impractical or potentially unfair;
 - e. is created under the terms of a contract or other binding agreement with an entity, other than IMSA, when such contract or agreement requires IMSA ownership of the work; or
 - f. is created or developed with more than incidental use of IMSA resources.
2. I will disclose to IMSA all potentially copyrightable works. I hereby assign or confirm in writing to IMSA all my rights, title and interest, including associated copyright, in and to copyrightable works as described under a) through f), above and to execute and deliver all documents and do any and all things necessary and proper on my part to effect such assignment.
3. I will disclose to IMSA all potentially patentable inventions (as defined in the Intellectual Property Policy) conceived or first reduced to practice in whole or in part in the course of my IMSA responsibilities or with more than incidental use of IMSA resources. I hereby assign to IMSA all my rights, title and interest in such patentable inventions and to execute and deliver

all documents and do any and all things necessary and proper on my part to effect such assignment.

4. At the expense of IMSA or a sponsor, as the case may be, I shall assist in every possible way in either the preparation or modification (or both) of copyright or patent applications, and in any litigation which may result or which may become necessary to obtain, assert, or defend the validity of any such copyright or patent.
5. When IMSA and an outside sponsor enter into an agreement for research or other scholarly endeavors to be conducted with funds or facilities provided by said sponsor and I utilize such funds or facilities, I shall comply with the conditions pertaining to copyrights and patents contained in said agreement, and may be required to agree in writing that I comply.
6. I am free to place my works or inventions in the public domain as long as in so doing neither I nor IMSA violates the terms of any agreements that govern the intellectual property.
7. I am not under any consulting or other obligations to any third person, organization or corporation in respect to rights in copyrightable works or patentable inventions which are, or could be reasonably construed to be, in conflict with this agreement.¹
8. I will not enter into any agreement creating copyright or patent obligations in conflict with this agreement.
9. I will deliver promptly to IMSA, upon my separation from employment with IMSA for whatever reason, and at any other time as IMSA may request, copies of all written records stored in any format, relating to IMSA intellectual property including but not limited to: communications, writings, drawings, graphs, charts, photographs, data compilations, notes, files, e-mails, diaries, investigation reports, or material similar to any of the foregoing, which are in my possession, custody or control or for which I can obtain access, which will at all times be the property of IMSA.
10. Upon my separation from employment with IMSA or at any other time, I will not disclose to anyone any proprietary or confidential information or intellectual property which IMSA owns or in which IMSA has an ownership interest.
11. In further consideration of my agreement to abide by IMSA's Intellectual Property Policy, I acknowledge that IMSA agrees to pay to me, my heirs or assigns, a share of the proceeds received by IMSA from the earnings of any such copyrighted work, invention or discovery, arising from any source, whether from license fees, royalties, or sales of the intellectual property or any other source as set forth in IMSA's Intellectual Property Policy.

¹ An alternative to this agreement may be appropriate for personnel with a prior existing and conflicting employment agreement that establishes a right to intellectual property in conflict with IMSA policies. Personnel in this situation should contact the office of the Principal.

12. This agreement is effective on the later of _____ or my date of hire, enrollment, or participation in projects administered by IMSA, and is binding on me, my estate, heirs and assigns.

Signature

Date

April 11, 2012