

# Substantial Use of University Resources

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“Substantial use” is a term used across the country within the university environment to determine when the university has an interest in copyrighted works produced by employees. It is impossible to provide a calculator to determine when the threshold has been crossed. However, the following guidelines will be used to determine substantial use, or the lack of it.

1. The resources listed below provided to employees who produce creative works will not be considered substantial use as long as the resources are those typically provided to employees of the same status and discipline:
  - a. The salary provided by the university to the employee developer;
  - b. Services such as libraries, reference material, the campus network and server space, access to computer laboratories open to students and employees;
  - c. Facilities such as an office, office supplies, desktop or laptop computer; and
  - d. Support staff such as those providing secretarial and IT support services.
2. In the case of students and student organizations, the following support typically provided within the discipline provided will not be considered substantial resources:
  - a. Services such as libraries, reference material, the campus network and server space, access to computer laboratories open to students and employees;
  - b. Portable computing devices provided to all students in a class or discipline;
  - c. The instructional advice and support of faculty, graduate assistants, student advisors, career service advisors and the like;
  - d. Support provided through the student fee allocation process, unless a specific provision of the allocation provides otherwise; and
  - e. In the case of students employed to do programming, the guidelines for employees apply.
3. The provision any one of the following types of resources ordinarily will result in a determination of university ownership:
  - a. Sponsored support from outside entities will be considered substantial resources (because of the infrastructure required to secure sponsored program support) ;
  - b. Internal university grants (unless the university specifically disclaims any ownership interest);
  - c. Dedicated computing resources not generally open to the campus or a college or department as a whole, such as computing time on super-computers;
  - d. Purchase of specialized equipment assigned to the employee or a limited range of employees costing \$20,000 or more;
  - e. Assignment of employees to assist the development of software in a manner not typically provided to other employees of the unit.
4. In certain cases, there may be substantial use of resources, the university may release its interest in the software upon repayment of the resources determined to be substantial. They typical case where the equities favor release under these circumstances involves a major project initiated and pursued by an individual employee, and the substantial resources provided by the university is minimal in comparison to the total scope of the project.