

## Negotiating Royalties

When negotiating the percentage rate for calculating royalties (to be used in the educational license clause of the IP agreements excluding the department-owned category), the department chair represents the interests of the University and the faculty member represents their own personal interest. The two parties have a shared interest in creating high-quality, reusable online course materials using a reasonable distribution of resources to accomplish this. Hence, the primary negotiation point becomes what is a *reasonable distribution of resources*? The information below is provided to help the department chair and faculty author in this discussion.

When negotiating the percentage rate of state-mandated tuition (currently \$50 per credit hour) that should be paid to a faculty member when someone else teaches the course they developed, the department chair and faculty author should take the following 5 factors into consideration:

1. the magnitude of the resources provided to the faculty author during the development process (e.g., course release, summer salary, graduate student, services from CLEAR, internal grant, etc.)
2. the amount of effort that will be required of the faculty author to update and enhance the course when the faculty author is not the one teaching the course [This would include any effort the author makes in preparing materials for another faculty to use when teaching the course (a teaching manual) and/or effort made to orient the instructor of record to the course, as well as advice he/she may give throughout the semester when the instructor of record asks for it.]
3. the amount of royalty funds that would be needed to cover the effort of the faculty author (see #2)
4. the size of the course enrollment when the course is not offered by the faculty author
5. and the frequency with which the course will be offered by someone other than the faculty author.

Using the “Royalty Calculation Spreadsheet” on the Intellectual Properties page is a good way to see how the percentage rate, student enrollment, etc. influence both the potential faculty income and the additional cost to students if the royalty is paid by adding an instructional course fee to cover paying royalties.

The five factors above account for most of the variation one sees in the percentage rates across the existing intellectual property contracts in our [online course approval database](#). Please note that just because an intellectual property agreement with a 24% royalty exists, that doesn't mean that the

faculty author is ever paid at this rate. In fact, higher royalty fees actually encourage the department chair to assign only the faculty author to teach the course or to ask another instructor to develop the same course for a smaller royalty or none at all. Another factor that contributes to the variation in the percentage rates across time is the change in the basis for calculating a royalty. The oldest contracts used all tuition paid by a student as the basis, but when tuition was deregulated by the State of Texas, the basis was eventually changed to use only the state-mandated portion of the tuition, a much more stable figure.

[Jane Himmel](#) or [Patrick Pluscht](#) in CLEAR are available to meet with the department chair or faculty author (individually or together) regarding royalty negotiations.