

Copyright Ownership

Responsible University Officer(s):

- Executive Vice President and Provost

Policy Owner(s):

- Executive Vice President and Provost

Policy contact(s):

- Nancy Sims

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Policy Statement

Copyright protects and promotes the creation of intellectual assets that are critical to academic endeavors and thus is fundamental to the creation and sharing of knowledge. Board of Regents Policy: *Copyright* and federal law establish rules governing the ownership of works created by University faculty, staff and students.

Copyright Ownership by Faculty and by Employees with Faculty-Like Appointments. University faculty and University employees who have a "faculty-like" appointment own the copyright in their academic works. as provided in Board of Regents Policy: *Copyright*.

Faculty members and University employees with faculty-like appointments also hold the copyright in software that they develop in the course of or within the scope of their University employment and that is an academic work. In Board of Regents Policy: *Copyright*, University claims ownership of the copyright in that software if:

- it was a directed work;

- a specially ordered or commissioned work;
- a work of administration; or
- a work created under a sponsored project.

The University also claims ownership of the copyright in software developed in the course of or within the scope of an individual's University employment if it is not an academic work and in software so developed by an individual who is not a member of the faculty and does not hold a faculty-like appointment. Under Board of Regents Policy: *Commercialization of Intellectual Property Rights* policy, the University claims ownership of the patent rights in all software developed at the University, including software that is an academic work.

A person may perform faculty-like duties as part of the person's position and, therefore, under Board of Regents Policy: *Copyright*, be deemed to have a faculty-like appointment in connection with those particular duties only; the balance of the person's duties would not constitute a faculty-like appointment.

The dean or the chair/head of the relevant unit will decide whether an individual holds a faculty-like appointment based on the definition of faculty-like contained in Board of Regents Policy: *Copyright*. The decision whether an individual holds a faculty-like appointment may be appealed. Such decision is relevant only in relation to Board of Regents Policy: *Copyright*.

Copyright Ownership by Students. Students own the copyright in works created in or as part of a University course. Nevertheless a University college, department or unit may reserve rights to use the work consistent with the rules and guidelines of the relevant college, department or unit. The University may require a student, as a condition of enrolling in a course or course of study or otherwise participating in a University activity, to permit it to reproduce, distribute, display, perform or otherwise use a work the student authored. The University also may require a student to permit the University to archive a work created and owned by the student.

The University owns the copyright in works created by students as part of their employment by the University, for example as research or teaching assistants. The University will permit a University faculty member or a University employee who has a "faculty-like" appointment to use a work created by a student as part of the student's employment as the University faculty member's or such University

employee's research or teaching assistant. The permission extends to using the work in performing academic duties (including creating an academic work) at the University. The University generally will not assert ownership interest in the copyright in an academic work authored jointly by University faculty or University employee who has a "faculty-like" appointment and by a University student employed as a research assistant. The University will only claim copyright ownership in such a work if the work is a directed work, a work specially ordered or commissioned by the University, a work created in connection with the administration of the University or a work created pursuant to a contract with an outside sponsor that provides for University ownership of the copyright in the work.

Copyright Ownership by the University. Federal copyright law vests in an employer ownership of the copyright in works authored by its employees in the course of their employment. Federal law, however, permits employers to vest that copyright ownership in its employees in designated works or classes of works. Consistent with federal law, the University owns the copyright in works created by University employees in the course of their employment except for ownership rights vested in faculty, University employees holding a "faculty-like" appointment and students as provided in Board of Regents Policy: *Copyright*.

The University owns the copyright in audio and visual recordings or transmissions of courses, lectures or other events delivered by University faculty, staff or students to University students and others. However, the University's claim extends only to recordings or transmissions created by it or its agents or contractors, not to recordings created by faculty or University employees with "faculty-like" appointments at that person's direction and instigation. The University's recording or transmitting of such a lecture or other audio or video presentation, standing alone, would not grant the University under federal law any ownership interest in an academic work presented in the lecture or presentation.

Ownership of Joint Works. Federal copyright law grants authors of a joint work equal ownership and rights to use the work. Federal law permits such authors to agree to different ownership and use rules. The University encourages authors of a joint work created at the University to enter into a written agreement providing for ownership, attribution, use, sharing of royalty or other income, and the registration and protection of the work.

Registration and Protection of Works. The University will not register or otherwise protect or enforce the copyright in works it does not own. The University may register and protect the copyright in a work in which it has some right, title or interest.

Management of Copyrights. Having a more open access to works created by University faculty, staff and students, directly and strategically benefits the University and University faculty, staff and students who will use the works. The University encourages owners of academic works to manage the copyright in the works so as to provide the greatest possible scholarly and public access to the works.

Credit and Attribution. Irrespective of copyright ownership, there is a professional and ethical obligation of University faculty, staff or students to credit or attribute creation of a work appropriately.

~~Reports. Annually, the Executive Vice President and Provost (or designate) will report to the Faculty Consultative Committee on the implementation of Board of Regents Policy: *Copyright* and the related administrative policy and procedure.~~

Reason for Policy

This administrative policy implements Board of Regents Policy: *Copyright*. The policy promotes compliance and provides guidelines for following the Copyright Policy.

Procedures

There are no procedures associated with this policy.

Forms/Instructions

There are no forms associated with this policy.

Appendices

There are no appendices associated with this policy.

Frequently Asked Questions

See: *Copyright Policy: Background and Resources FAQ*

Contacts

Subject	Contact	Phone	Email
Primary Contact(s)	<i>Nancy Sims</i>	612-624-1851	<i>nasims@umn.edu</i>

Definitions

Academic work

A "scholarly, pedagogical or creative work . . ." Board of Regents Policy: *Copyright*, §II, subd. 3. Whether a work is an academic work or not will be determined consistent with the traditions, customs and practices within the relevant academic discipline.

Copyright Protection

The rights granted by federal law to the owner of a copyright in a work to do and to authorize (others to do) any of the following:

- to reproduce the copyrighted work;
- to prepare derivative works based upon the copyrighted work;
- to distribute copies or phonorecords of the copyrighted work;
- to perform certain copyrighted works publicly;
- to display certain copyrighted works publicly; and
- to perform sound recordings publicly by means of a digital transmission.

See United States Code, Chapter 17, §106.

Directed Works

A "work agreed upon between the University and faculty creator(s), the creation of which is based on a specific request by the University and which is supported by substantial University resources beyond those customarily provided to faculty in the respective discipline and University unit." The agreement to create a directed work must be in writing.

Joint Work

A "work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole." United States Code, Chapter 17, §101.

Faculty

Members of the faculty as defined in the policies of the Board of Regents. See Board of Regents Policy: *Employee Group Definitions*.

Faculty-Like Appointment

A "University employee who teach(es) or conduct(s) research at the University with a level of responsibility and self-direction similar to that exercised and enjoyed by faculty in a similar activity." Board of Regents Policy: *Copyright*, §II, subd. 4.

Student

"A registered student at the University." Board of Regents Policy: *Copyright*, §II, subd. 5.

Work

"A work protected under the United States copyright law." Board of Regents Policy: *Copyright*, §II, subd. 4. Federal law provides that "copyright protection subsists . . . in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device." United States Code, Chapter 17, §102.

Responsibilities

Faculty and "faculty-like" employees

Manage the copyright in works they own under Board of Regents Policy: *Copyright*.

Related Information

- Board of Regents Policy: *Commercialization of Intellectual Property Rights*
- Board of Regents Policy: *Copyright*
- Board of Regents Policy: *Outside Consulting and Other Commitments*
- Board of Regents Policy: *Academic Freedom and Responsibility*

History

Amended:

March 2017 - Comprehensive Review, Major Revision. Specifies who holds the copyright in software that faculty and employees develop as part of their University employment that is academic work.

Effective:

October 2008