



University of Dallas

Intellectual Property
Copyright Ownership and
Infringement Policy

POLICY APC
Responsible Executive:
General Counsel
Responsible Office:
Office of General Counsel
Issued: 7.1.21
Revised: n/a

1. PURPOSE

The University of Dallas is committed to maximizing the creative potential of its faculty and affirms that support for and ownership of creative works should be retained by the creators of those works, subject to the University retaining rights for internal educational use in accordance with this Policy, applicable law, and negotiated agreements.

2. USE OF COPYRIGHTED WORKS

Members of the University community may not reproduce, distribute, display publicly, perform, digitally transmit or prepare derivative works based upon a copyrighted work without permission of the copyright owner except as set forth below.

- 2.1. Fair Use. The University supports the responsible, good faith exercise of full fair use rights as set forth in United States Copyright law by faculty, librarians and staff in furtherance of teaching, research and service activities.
2.1.1. The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
2.1.2. The nature of the copyrighted work;
2.1.3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
2.1.4. The effect of the use upon the potential market for or value of the copyrighted work.
2.2. Unauthorized Distribution. Unauthorized distribution by members of the University community, including students, of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the individual to civil and criminal liability.
2.3. Legal Penalties. Members of the University community, including students, who violate Federal copyright laws may be subject to various penalties, including, but not limited to,

- 2.3.1. Payment of the actual dollar amount of damages and profits;
 - 2.3.2. Statutory damages up to \$150,000 for each work infringed;
 - 2.3.3. Payment of all attorney fees and costs;
 - 2.3.4. An injunction to stop the infringing acts;
 - 2.3.5. Impounding by the court of illegal works; and/or
 - 2.3.6. Imprisonment.
- 2.4. **Disciplinary Action.** Members of the University community, including students, who engage in illegal downloading or unauthorized distribution of copyrighted materials, especially when committed using the University sponsored systems, are subject to disciplinary action by the University, including, but not limited to, reprimands, fines, probation, and/or separation from the University.

3. COPYRIGHT OWNERSHIP

Ownership of copyrighted works by faculty, staff or students depends primarily on the category of work and on the status of its creator(s).

- 3.1. **Faculty Scholarly, Professional and Creative Work.** Unless otherwise specified as an exception in University policy, the University presumes, in accordance with academic tradition, that copyright ownership of Scholarly, Professional and Creative Work vests with the faculty member who created the work. When multiple faculty members create a Scholarly, Professional or Creative Work, the faculty members are presumed to be joint copyright owners of the work unless determined otherwise by written agreement.
- 3.1.1. **Exception - Written Agreement.** When Scholarly, Professional and Creative Works are produced pursuant to the terms of a written agreement, the agreement shall govern the ownership of the work.
 - 3.1.2. **Exception - Substantial Use of University Resources.** The University retains copyright ownership of Scholarly, Professional and Creative Works produced with substantial use of University resources in the absence of a different written agreement. Use of University resources in the creation of Scholarly, Professional and Creative Works will be considered “substantial” when creation of the work required substantial and dedicated use of University equipment, facilities or personnel. The use of a computer in a faculty office, incidental supplies and occasional use of University personnel or shared facilities would typically not be considered significant use. In contrast, utilization of University laboratories or special instrumentation, dedicated assistance by University employees, special financial assistance or extensive use of shared facilities would constitute significant use. This exception is not applicable to COVID-19 Courses.
 - 3.1.3. **Exception– Works Made for Hire.** Copyright in works made for hire by University faculty are owned by the University.

- 3.2. **Use of University sponsored systems.** The inclusion of Scholarly, Professional and Creative Work or Instructional Materials by faculty in University sponsored systems (such as the University's learning management system and Google drives provided by the University) does not transfer ownership of such Scholarly, Professional and Creative Work or Instructional Materials to the University.
- 3.2.1. The inclusion of Scholarly, Professional and Creative Work or Instructional Materials by faculty in University sponsored systems grants the University a limited license regarding such Scholarly, Professional and Creative Work or Instructional Materials:
- 3.2.1.1. To facilitate the University's maintenance of the University sponsored systems; and
- 3.2.1.2. To remove or delete the Scholarly, Professional and Creative Work or Instructional Materials from the University sponsored system at the University's discretion.
- 3.2.2. The University is not responsible for maintaining or preserving a faculty member's Scholarly, Professional and Creative Work or Instructional Materials. The University is not responsible for the loss of any Scholarly, Professional and Creative Work or Instructional Materials due to, among other causes, a failure of a University sponsored system.
- 3.3. **COVID-19 Course.** In light of the public health crisis resulting from the COVID-19 pandemic, many faculty members must employ a hybrid (in-class and online) course delivery method or deliver an entirely online course where they would otherwise not choose to do so. In light of these extreme circumstances, online course development agreements in which a faculty member surrenders a portion of his or her ownership of course materials are not being required to move COVID-19 Courses partially or fully online. Therefore, in accordance with academic tradition, the University presumes that copyright ownership of such Scholarly, Professional and Creative Work or Instructional Materials (including video recordings developed for COVID-19 Courses) vests with the faculty member who created the work. When multiple faculty members create a COVID-19 Course, the University presumes the faculty members will be joint copyright owners of the Scholarly, Professional and Creative Work or Instructional Materials unless determined otherwise by written agreement.
- 3.3.1. In consideration for the University's release of ownership interest (unless specified in this Policy) in Scholarly, Professional and Creative Works, including Instructional Materials, created in furtherance of a COVID-19 Course, faculty members grant the University a non-exclusive, perpetual, royalty-free license to use such COVID-19 Course works and materials for ordinary teaching use in the classroom or on-line. Appropriate attribution will be made in uses of substantial intellectual contributions, where reasonable and appropriate.
- 3.4. **Student Work.** Students retain ownership of copyright in all works produced by the student, including ownership of copyright for theses or dissertations prepared to fulfill credit or degree requirements. Graduate students are required to publish their thesis or dissertation through the electronic thesis or dissertation process. When a student submits a thesis or dissertation for electronic publication, the student is required to grant the University a non-exclusive license to archive and make the thesis or dissertation available to the public.

- 3.5. **Work by Staff.** Work produced by staff members within the scope of their employment is considered work for hire and the University owns the copyright to work produced, unless there is a written agreement between the parties.
- 3.5.1. Work created by students while acting as a University student employee and as part of their assigned duties, is owned by the University.
- 3.5.2. Graduate assistants who assist faculty with producing Scholarly, Professional and Creative Works as part of their assistantship should be provided with a written agreement clearly stating the copyright interest of the student in the work. If the student is a significant contributor to the work, then the student should be considered a co-author, co-creator, or co-inventor and should share proportionately in rights to the work.
- 3.6. **Works by Independent Contractors.** Any copyrightable work to be created for the University by an independent contractor shall be considered a work for hire and shall be owned by the University. No University department or office may enter any agreement for works to be produced by an independent contractor without a written agreement, signed by an authorized University official, which includes a provision that the University shall own copyrighted works produced by the independent contractor. Any exceptions must be approved by the Provost.
- 3.7. **Sponsored Research.** Copyrightable property that is created in the course of research supported by the University, and which is funded by the University and/or a sponsor pursuant to a grant or research agreement, or which is subject to a confidential disclosure agreement, a material transfer agreement or other legal obligation affecting ownership, will be governed by the terms of such agreement, as approved by the University. Ordinarily, the University will own copyright in such property.

4. ONLINE COURSES

The development and adoption of on-line course materials requires the commitment of significant University resources as well as substantial time and effort of faculty. The University affirms the traditional rights of faculty to ownership of their writings and other Scholarly, Professional and Creative Works while also confirming the University's ownership and control of on-line educational offerings. Section 4 of this Policy does not apply to COVID-19 Courses, unless they were made pursuant to a written agreement as a work for hire. That a faculty member may have made substantial use of university resources does not transfer ownership of COVID-19 Courses to the University.

- 4.1. **Ownership of On-line courses.** All on-line courses commissioned by the University through a written agreement as a work for hire or through substantial use of university resources are owned by the University and all related ownership rights are reserved to the University except as set forth elsewhere in this Policy.
- 4.2. **Named Credit and Acknowledgement.** Faculty authors who develop an on-line course will be acknowledged as authors in all current and future uses of the course. Other copyright holders contributing to the substantive content or materials will receive acknowledgement and named credit.

- 4.3. **Limitations on Use of the Course.** Use of individual copyrighted work as a component of an on-line course must comply with all applicable copyright law, contracts and licenses. Faculty must seek and receive specific permission to include individual copyrighted work unless such use qualifies within the definition of “fair use” or the material is within the public domain. Permissions to use copyrighted work should include permission for use of the copyrighted work in subsequent semesters.
- 4.4. **Rights Reserved by the University.** As the holder of copyright in an on-line course, the University retains the following rights:
- 4.4.1. The right to use the on-line course for credit and noncredit instruction without payment of any royalties, fees or residuals to the course creator, nor payment to any third parties holding copyright to elements used in the course except as provided by negotiated license or contract.
 - 4.4.2. The right to maintain continuity beyond the original creation by creating derivative works to keep the content current and relevant and to maintain the usefulness and quality of the course materials as a University instructional offering.
 - 4.4.3. The right to use the course beyond the involvement of the original creator, and after the original creator has left the University.
 - 4.4.4. The right to prohibit the use of the course as designed, and its subsequent derivative designs, at another institution during the useful life of the course at the University of Dallas.
 - 4.4.5. The right to control the distribution and future use of the on-line course without an obligation to consult with the original creator.
- 4.5. **Rights Reserved for Faculty.**
- 4.5.1. The faculty creator and any third-party creator(s) whose preexisting work is incorporated into the on-line course retain all rights of ownership in those materials.
 - 4.5.2. A faculty creator who includes his or her own preexisting and copyrighted works into an on-line course owned by the University grants the University a non-exclusive, royalty-free right to use the materials as part of the course (including subsequent derivative works) during its useful life. In such cases, the faculty creator retains all other rights of ownership to the work and will be credited and acknowledged in all University uses of the work.
 - 4.5.3. The faculty creator is granted the right to use the substantive content of the course materials, without further consent or approval of the University, in any Scholarly, Professional or Creative Works that do not compete with the University’s actual or intended use of the course materials. In particular, the author retains the right to use the content in textbooks, journal articles, conference presentations, consulting projects, and other scholarly or professional activities.
 - 4.5.4. The faculty creator retains the right to request permission from the University to use parts of an on-line course or the entire course at another university or setting. Granting of permission

will be at the exclusive and sole prerogative of the University. Such permission shall not be granted in situations deemed to create competition or conflict with the University.

- 4.6. **Future Delivery of On-Line Courses.** After the first offering of an on-line course, the faculty author / developer will be given the opportunity to review and revise the course before it is offered again by the University.
- 4.6.1. If a faculty creator is not available or chooses not to teach the developed on-line course during any given term, the University may assign another instructor to deliver the on-line course.
- 4.6.2. If a faculty creator leaves the University, the University may revise, adapt and assign the on-line course to a replacement instructor.

5. COMMERCIALIZATION OF WORKS

- 5.1. **University Ownership.** Where the University owns copyright to a work, the University retains all royalties or other benefits from any commercialization of such work, unless there is a mutual written agreement between the creator and the University regarding shared ownership of copyright to such work.
- 5.2. **Faculty or Student Ownership.** Where a faculty member or a student owns copyright to a work, the faculty or student shall retain all royalties or other benefits from any commercialization of the copyrightable property.

6. RESOLUTION OF DISPUTES

Disputes arising out of application of this Policy and ownership of copyright must be brought to the Provost who will render a decision. The decision will be final.

7. DEFINITIONS

- 7.1. **“Creators”** are any persons who create intellectual property.
- 7.2. **“Copyright”** refers to protection provided by the laws of the United States to “original works of authorship” including literary, dramatic, musical, artistic and certain other intellectual works, whereby copyright owners may claim, for a limited time, certain exclusive rights to specified works. This protection is available to both published and unpublished works and gives the copyright owner the exclusive right to reproduce, distribute, sell, perform, display or prepare derivatives of the work, and to protect a copyright against infringement. Copyright protection does not extend to an idea, procedure, process, slogan, principle or discovery.
- 7.3. **“Copyrighted Work”** means an original work of authorship that has been fixed in a tangible medium of expression, including books, articles, artwork, music, software, traditional or electronic correspondence, and on-line instructional materials, that are likely to be subject to protection under United States copyright law.

- 7.4. **“Fair Use”** means the non-infringing, legally authorized, use of a copyrighted work, including reproductions, for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, without obtaining permission of, or payment to, the copyright holder.
- 7.5. **“Scholarly, Professional and Creative Works”** refers to a pedagogical, scholarly, literary, or artistic work created by University faculty (including full-time, affiliate or adjunct faculty) as part of traditional academic activity. Such works may include, but are not limited to: textbooks, journals, articles, reviews, manuscripts, scholarly works, fixed lecture notes, course syllabi, tests, course assignments, on-line course materials not falling into another category, works of art or design, musical scores, poems, films, videos, audio recordings, or other works of the kind that have historically been deemed in academic communities to be the property of their creator.
- 7.6. **“Directed Works”** refers to works that are specifically funded by or created at the direction of the University.
- 7.7. **“Sponsored or Externally Contracted Works”** refers to any type of work developed using funds supplied under a contract, grant or other arrangement between the University and third parties, including sponsored research agreements.
- 7.8. **“Work Made for Hire”** is either (a) a work prepared by University faculty, staff or student within the scope of his or her employment; or (b) work specifically ordered or commissioned from an independent contractor if the parties expressly agree in a written instrument signed by them that the work shall be considered a “work made for hire.”
- 7.9. **“Student works”** refers to papers, computer programs, theses, dissertations, artistic and musical works and other creative works made by students.
- 7.10. **“On-Line Course”** is an organized collection of articles, notes, media, assignments, on-line communications, tests and similar materials, some of which may have been previously authored and copyrighted works and some which may have been specifically developed for the course with University support. The course exists as a specific configuration or collection of teaching artifacts.
- 7.11. **“Instructional Materials”** are those materials used to support the education of students which may include syllabi, course descriptions, reading lists, assignments, slides, lecture notes, lab exercises, tools, simulations, multimedia, web pages, exams, student assignments and recorded discussions.
- 7.12. **“COVID-19 Course”** is a series of lectures or other matter dealing with a particular subject, taught during Academic Year 2020-21 employing a hybrid (in-class and online) or entirely online delivery method. It may make use of Scholarly, Professional and Creative Works (as defined herein at §7.5) and Instructional Materials (as defined herein at §7.11).
- 7.13. **“University”** and **“the University”** mean the University of Dallas.
- 7.14. **“University sponsored systems”** means such servers, shared drives, learning management systems, and cloud service providers (e.g., Google Drive, Gmail) that are approved by University Information Technology Services for storage or transmission of confidential information.

8. RESPONSIBILITIES

Responsible Party	List of Responsibilities
Office of General Counsel	<ol style="list-style-type: none">1. Review contracts regarding ownership or transfer of copyright.2. Monitor compliance with this Policy.
Office of the Provost	<ol style="list-style-type: none">1. Review and decide disputes regarding application of this Policy and ownership of copyright.2. Monitor compliance with this Policy.
Dean's Offices	<ol style="list-style-type: none">1. Monitor compliance with this Policy as regards allegations of copyright violations by students in academic work.2. Investigate and, as appropriate, take disciplinary action.
Office of Student Affairs	<ol style="list-style-type: none">1. Monitor compliance with this Policy as regards allegations of copyright violations by students (other than in academic work).2. Investigate and, as appropriate, take disciplinary action.
Human Resources Office	<ol style="list-style-type: none">1. Monitor compliance with this Policy as regards allegations of copyright violations by employees.2. Investigate and, as appropriate, take disciplinary action.

9. PROCEDURES

Task	Procedure
Resolve Disputes	<ol style="list-style-type: none">1. The Office of the Provost receives complaints from members of the University regarding disputes they have as to their alleged ownership of work they created, made, or developed.2. The Office of the Provost investigates the dispute.3. The Office of the Provost provides a decision, which is final, regarding ownership of the disputed work.
Investigate Allegations	<ol style="list-style-type: none">1. The Office of General Counsel, Office of the Provost, the Office of Student Affairs, or the appropriate dean's office receives a report of a violation of this Policy.2. In accordance with this Policy, the Office of General Counsel, Office of the Provost, the Office of Student Affairs, or the appropriate dean's office investigates the allegations.
Take Disciplinary Action	<ol style="list-style-type: none">1. If the Office of General Counsel, Office of the Provost, the Office of Student Affairs, or the appropriate dean's office concludes that a violation of this Policy has occurred, the relevant office determines what, if any, disciplinary action is appropriate.

10. POLICY ENFORCEMENT

Enforcement	The Office of General Counsel, Office of the Provost, the Office of Student Affairs, or the appropriate dean's office will investigate suspected violations of this Policy, and take appropriate action in accordance with University policy.
Reporting Violations	Report suspected violations of this Policy to the Office of General Counsel, Office of the Provost, the Office of Student Affairs, or the office of the dean of the appropriate college or school.

11. RELATED DOCUMENTS

Policy or Document	Web Address
Copyright Law of the United States (government publication)	https://www.copyright.gov/title17/
Policy AIC-I – Institutional Information	https://udallas.edu/about/university-policies/index.php

12. CONTACTS

Subject	Office or Position	Telephone Number	Office Email or URL
Policy Clarification	Office of General Counsel	(972) 721-5363	hlachenauer@udallas.edu
Ownership Disputes	Office of the Provost	(972) 721-5226	ProvostOffice@udallas.edu
Reports of Violations (by Students)	Office of the Provost	(972) 721-5226	ProvostOffice@udallas.edu
Reports of Violations (by Employees)	Office of Human Resources	(972) 721-5382	hr@udallas.edu
Web Address for this Policy		https://udallas.edu/about/university-policies/index.php	