

# Copyright Policy

## I. Purpose

The Copyright Policy of Wake Forest University is intended to:

1. Encourage research and teaching by rewarding the authors of intellectual works, assisting them in implementing their ideas, and by providing a system for the encouragement of scholarship and creative activity;
2. Serve the public interest by providing means through which intellectual works may be made available to the public; and
3. Protect the rights of the University, its faculty, its staff, and its students with regard to intellectual works developed at the University.

## II. Definitions of copyrightable works

Copyrightable works can be divided into two categories: "device-like" and "informational." These categories are defined as follows, taken from the [Inventions and Patents Policy](#) adopted by the Board of Trustees in February, 1999:

"Inventions" are tangible or intangible inventions, discoveries or other innovations, whether or not patentable or reduced to practice. Inventions include "device-like" software or other "device-like" copyrightable material, that like a device, is intended and likely to result in the accomplishment of a task or in allowing the user to produce, manage, analyze, or manipulate a product, such as data text, a physical object, or more software. Device-like software or material acts as a tool or building block in the accomplishment of such a task or in the creation or management of such a product or result. Inventions do not include "informational" software or other "informational" copyrightable material, which may be interactive, to the extent it is intended to inform or educate the user. In the case of software or other copyrightable material that is both device-like and informational, appropriate distinctions will be made in accordance with the principles of this policy.

Device-like works are governed by the existing Inventions and Patent Policy and are not the subject of this policy. This policy only addresses "informational" works.

## III. Ownership and disposition of informational works

Copyright ownership of all informational works by faculty, other employees, or students shall vest in the Author except under any of the following circumstances:

*A. Subordination to Other Agreements:* Copyright ownership of all material that is developed in the course of or pursuant to a sponsored research or other agreement to which the University is a party shall be determined in accordance with the terms of the sponsored research or other agreement. In the absence of terms specifically assigning ownership, the copyright shall become the property of the University only if the terms of such agreement directly or indirectly create University obligations as to intellectual property developed thereunder or if ownership is conferred upon the University by operation of another provision of this Policy.

*B. Work for Hire:* The copyright of material that is created pursuant to a specific direction or assigned duty (other than the teaching of courses) from the University or any of its units shall be the property of the University. However, the author will retain ownership of informational works in which he or she contributed substantially to the key creative and intellectual content.

*C. Use of University Resources:* Copyright ownership of works that are developed with the "Substantial Use" of University resources, funds, space, or facilities shall reside in the University. For purposes of this Policy, University resources include grants, contracts or awards made to the University by extramural sponsors. The use of University resources is "Substantial " when it entails the use of University resources not ordinarily used by, or available to all, or virtually all, members of the faculty. At the time of formulation of this policy, such ordinarily available resources include office space and personal office equipment, office computer workstations, library and other general use information resources, and the means of network access to such resources. Incidental involvement of students receiving funding from the University or of Academic Computing Specialists are also excluded from the definition of "Substantial Use". However, ownership of scholarly papers will reside with the author, even if developed with substantial use of University resources.

## **IV. Students**

Works created by students are additionally subject to the following rules:

- A. The University makes no claim to copyright ownership of works created by students working on their own, i.e. not within the scope of an employment relationship with the University or with one of its employees, and not making Substantial Use of University resources.
- B. Students working on a project governed by a contract or agreement to which the University is a party shall be bound by the terms of that contract or agreement.
- C. Students who are hired to perform "specific tasks" that contribute to a copyrightable work will ordinarily have no rights to ownership of that work, regardless of the source of funds from which they are paid. In such cases, the party who owns the copyright of the rest of the work will ordinarily retain copyright ownership of the portion contributed by the student.
- D. Students working collaboratively with faculty or other employees on projects that result in

informational copyrightable work may be granted the same rights and obligations of copyright ownership as would another academic employee working collaboratively on the project. Students and academic employees are encouraged to establish these rights at the outset of their collaboration.

## **V. Resolution of Disputes**

The President or his designate shall appoint a Copyright Review committee composed of faculty from both campuses, and including one faculty member from the law school. If a question as to whether a title is in the Author or the University arises with respect to works falling into the three categories described in paragraphs IIIA-C, the issue shall be promptly disclosed in writing to the Legal Department for an opinion. In cases where there is a difference of opinion on ownership of informational materials or other provisions of this policy, the Committee will recommend to the President a final disposition. The President's decision is binding on all parties.

## **VI. Recognition Of Author's Desire For Intellectual Control**

In recognition of the Author's desire to maintain intellectual control of his or her work, the University will give consideration to views of the Author as to disposition of intellectual property rights when it takes title to a copyrightable work under this Policy. Where the University owns a copyright under this Policy, the Author will be permitted to continue to use the work for his or her own noncommercial purposes. Distribution, if any, to academic colleagues outside of the University will be permitted under approved written agreements obtained from the Office of the University Counsel.

## **VII. Assignment To Author**

In cases where the University has copyright ownership of a work under this Policy, the University may, upon request and for good cause shown, assign copyright ownership to the Author subject to a perpetual royalty free license to the University to use the work for its own purposes. Such requests should be submitted to the Vice President for Research and Advanced Studies.

## **VIII. Requirement Of Disclosure**

Works potentially falling into the three categories described in section III above shall be promptly disclosed by the author in writing to the Office of the University Counsel for a determination as to whether title is in the Author or the University. To determine whether a work described in section III is patentable, it should be submitted to the Office of Technology Asset Management for an evaluation.

## IX. Independent Contractors

Under current law, ownership of works created by outside consultants and independent contractors could reside in such individuals and not in those hiring them to perform the work at issue. Therefore, those hiring outside consultants and independent contractors should observe the precaution of having a written agreement including an assignment of copyright. Students and nonacademic employees working outside the scope of University employment should be considered independent contractors for such purposes. Assistance in drafting such agreements can be obtained from the Office of University Counsel.

## X. Copyright Royalties

Except in the case of Works for Hire, described in paragraph III-B above, royalty income received by the University through the sale, licensing, leasing or use of copyrightable material, which the University owns pursuant to any section of this policy shall be distributed in accordance with the distribution provisions of the University's Inventions and Patents Policy, as amended from time to time. In the case of such intellectual property owned by the University pursuant to paragraph III-B, that share of royalties which would ordinarily be distributed to the creator under the [Inventions and Patent Policy](#) will be deposited in a pool to be used to support additional research and creative activity.

## XI. Responsibilities Of Parties

It is the responsibility of the University and all members of the University community to ensure adherence to this Policy.

Academic staff and other Authors governed by this Policy shall have the obligation to:

- A. Make themselves aware of and adhere to restrictions on or rights in copyrightable material deriving from agreements between the University and contracting or granting agencies or other interested third-parties, or deriving from any University interest pursuant to this Policy. The University Office of Sponsored Programs shall assist Authors to be aware of their responsibilities.
- B. Inform the Office of Technology Asset Management of material that should be copyrighted in the name of the University pursuant to the provisions of this Policy, and to cooperate with the University in obtaining such copyright protection.
- C. Obtain permission from (*whom?*) to publish, in journals or other media, materials to which the University owns the copyright pursuant to this Policy, such permission not to be unreasonably withheld.
- D. Ensure that students or contractors and other faculty and staff working collaboratively or under their direction (whether or not for pay) on projects which may result in copyrightable material have signed appropriate agreements concerning the assignment of copyright to the Author or to the University, or such other disposition of rights to copyright as shall be appropriate pursuant to

this Policy. Such agreements shall also clarify to students their rights to include or copyright any part of the work that they may wish to include in theses or dissertations. Upon request, the University Counsel shall assist Authors in this regard.

University officers have the obligation to respond in a timely fashion, normally within forty-five days, to written requests pursuant to this Policy.

The University shall, furthermore, use reasonable efforts to promote works to which the University owns the copyright under this Policy.

## **XII. Copyright Agreements**

The policies set forth above constitute an understanding that is binding on the University, and on its academic and nonacademic employees, students, and others as a condition of their participating in University research programs or their use of University resources. The University may require formal copyright agreements to implement the policy as appropriate, but the absence of such executed agreements shall not invalidate the applicability of this policy.

## **Appendix: Illustrative examples of ownership**

- A. A faculty member writes a book in her office during normal working hours using her university-provided word processor. Since the work is "informational" and does not involve "substantial use" of university resources (i.e., above those normally available to faculty), she owns the work.
- B. A faculty member collaborates with an academic computing specialist to develop software to interactively teach a topic in chemistry. Since the work is "informational" and does not involve "substantial use" of university resources, the faculty member and academic computing specialist jointly own the work, with ownership share in proportion to the contribution of each.
- C. A faculty member writes an article, which includes several illustrations prepared by the institution's media department and paid for by the faculty member's discretionary funds. At this point, the faculty member holds the copyright to the illustrations. Upon submitting the article for publication, the faculty member assigns the copyright for the illustrations to the publisher. If the faculty member wishes to use these illustrations in another publication, he/she must obtain permission from the copyright holder (publisher).
- D. A staff member is directed to develop an online system for managing housing on campus. Since this qualifies as "work for hire," the university owns the work.
- E. A faculty member develops a program similar to CourseInfo that enables faculty to easily put courses online. This software is "device-like" in that it is a tool for creation and presentation of informational content, rather than informational in itself. Thus, this software does not fall under this policy. Instead, it is an "invention," and falls under the Inventions and Patent Policy. Ownership resides with the university, with the author receiving a share of all revenues as specified in the Inventions and Patent Policy.

- F. A scientist uses extraordinary University laboratory facilities to conduct research that is reported in a scholarly publication. Although this involves substantial use of University resources, the work is a scholarly paper and is thus excluded from the provisions of paragraph III-C of the above section on ownership. The author owns the paper, not the University.
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