

COPYRIGHTED WORKS POLICY

BACKGROUND

This Copyright Policy governs the ownership and control of intellectual property rights in copyrightable works at Chapman University (the “University”). All faculty, academic staff, as well as non-employees who participate in teaching and/or research or scholarship projects at the University are bound by this policy (such persons are referred to as the “Author(s)”). They are also required to sign the Chapman University Patent and Copyright Agreement found on the [Institutional Policies](#) webpage. This policy applies, and those subject to this policy are deemed to assign their rights, to copyrightable works as required under this policy whether or not a Chapman University Patent and Copyright Agreement is signed and is on file.

For purposes of this policy only, the term “academic staff” refers to post-doctoral candidates, senior scientists, visiting researchers, administrators holding a concurrent tenured faculty rank and other staff that may be so designated from time to time. Other University staff are subject to a separate policy. This policy cannot address every situation that may arise in the development, enforcement and management of intellectual property rights. Rather, this policy is intended to serve as a set of guidelines for University Authors. This policy is established with the understanding that it may be supplemented by statements of policy, or other interpretive guidance, focused on particular circumstances, especially those arising out of new media or technology. Further, this policy itself may be amended over time to effect changes deemed to be in the best interest of the University community.

NOTE: The University’s policy governing patentable inventions, including patentable software, is contained on the [Institutional Policies](#) webpage.

GENERAL POLICY

Subject to the exceptions noted below and in keeping with longstanding academic tradition, ownership of copyright in textbooks, scholarly publications, art works, motion pictures, musical compositions literary works, or other pedagogical works regardless of the medium of expression, resides with the Author. Ownership of any trademarks associated with such works also resides with the Author except to the extent any such trademark incorporates or would otherwise infringe on a trademark owned or in use by the University.” The only exceptions to Author ownership of copyrightable works are as follows:

Commissioned works

Where the Author is requested or commissioned by the University to create copyrightable material, the resulting work shall be owned by the University. All online courses are considered commissioned works.

Institutional Works

The University shall retain ownership of Institutional Works. Institutional Works include:

- institutional/business records and documents, such as, for example, University planning documents, strategic reports, accreditation reports, ordinary business correspondence, forms, and templates, or
- works that are the result of improvements or modifications to works owned by the University.

Use of University Funds or Resources

If the creator of a copyrightable work makes exceptional non-ordinary use of the services of University non-faculty employees or University resources to create the work, he or she shall disclose the work to the University Intellectual Property Committee and assign ownership to the University. Examples of ordinary use include use of desktop computers, University libraries and limited secretarial or administrative resources, as well as ordinary use of other types of University resources readily and regularly available to faculty or staff working in his or her specific program, college, department or school (“University Department”) which do not significantly impact its operation. Questions about what constitutes ordinary use should be directed to the Dean and disputes may be resolved by University Intellectual Property Committee. A University Department may request the University Intellectual Property Committee to provide additional clarification of the provisions of this section as it relates to the specific circumstances of their Department. University Departments may also propose, for evaluation and approval by the Committee, supplemental guidance regarding the definition of resources that are “readily and regularly available resources” for their faculty and staff.

Works Otherwise Subject to Contractual Obligations

Ownership of works developed pursuant to or under contract, grant, sponsorship or other arrangement with a third party shall be subject to the terms and conditions of such contract, agreement or grant. If no such terms and conditions are stated, then the works shall be subject to the terms of this Policy.

This Policy shall not be interpreted to limit the University's ability to meet its obligations under any contract, grant, or other arrangement with third parties. Copyrightable works that are subject to sponsored research agreements or other contractual obligations of the University shall be owned by the University, so that the University may satisfy its contractual obligations regarding licensing or assignment of ownership under such agreements.

Syllabi and Courseware

In the interest of maintaining continuity of curriculum, the University retains all ownership rights in Syllabi and Courseware. Courseware means the embedded tools, technologies and content of digital teaching media, courses delivered by television, video, Internet or other media or technologies not yet developed, web publications and any other materials required for the delivery or teaching of a course. Courseware is not intended to include standard teaching materials unless embedded in syllabi or courseware.

If a faculty member leaves the University, he or she may continue to use at another academic or not-for-profit research institution for teaching, research and other noncommercial purposes, all Syllabi and Courseware he or she created at the University, except to the extent such use conflicts with the terms of applicable law, or the terms of an agreement with a third party. The University's name shall not be used on such materials for any purpose other than the University's copyright notice. The departing faculty member shall bear the cost of copying such materials.

License to University

The University shall receive a non-exclusive, perpetual, irrevocable, worldwide, royalty free license to perform, display, copy, modify and distribute works developed and owned by Authors during their term of employment with the University, for University's academic and internal use without payment of royalties or other fees to the Author. The provisions of this section shall apply except to the extent otherwise required by law, such as, for example, the provisions of The California Art Preservation Act (California Civil Code Section 987), and except to the extent that the Author has informed the University in writing that such license is in conflict with contractual commitments with publishers or similar contractual arrangements.

Student Purchases

Faculty often create materials in which they hold commercial interest and which might be used in courses or programs which the faculty is teaching or administering for the University. It is the policy of the University that faculty may require students to purchase materials in which the faculty or staff member holds a commercial interest for courses taught or programs administered by that faculty member. In this situation, however, the faculty member shall not make direct sales to students.

Reconveyance of Copyright to Creator

When copyright is assigned to the University under this policy, the creator of the copyrighted material may make a request to the University Intellectual Property Committee that ownership be reconveyed back to the creator. Such a request can, at the discretion of the University Intellectual Property Committee, be granted if it does not: (i) violate any legal obligations of or to the University, (ii) limit appropriate University uses of the materials, (iii) create a real or potential conflict of interest for the creator, or (iv) otherwise conflict with

University goals or principles. A request for reconveyance may be made by the creator at any time and the University Intellectual Property Committee shall respond not later than three months or its next regularly scheduled meeting, whichever is longer, and the timeframe is subject to extension by mutual agreement.

Licensing by University

University ownership of any copyrightable work shall not constitute any promise, duty or undertaking on the part of the University with respect to the protection, enforcement or exploitation of such work.

Where the University receives royalties or income from copyrightable works it owns, the Author will receive thirty percent (30%) of the gross sum of any royalty or income paid in cash and received by the University after the University has recovered any costs and expenses associated with development, protection, licensing and enforcement of rights in the work.

Administration of Policy

The application and interpretation of this Policy not resolved by the Dean, and questions of ownership, licensing, royalty or other matters pertaining to works covered by this Policy shall be resolved by the Intellectual Property Committee. Decisions of this panel shall be final and non-grievable under other internal processes.

Waivers of the provisions of this policy may be granted by the Intellectual Property Committee, giving consideration among other things to University obligations to sponsors, University obligations under applicable law, whether the waiver would be in the best interest of technology transfer, whether the waiver would be in the best interest of the University and whether the waiver would result in a conflict of interest.

Use of the University Name in Copyright Notices

The following copyright notice should be placed on University-owned materials:

Copyright © [year] Chapman University. All Rights Reserved.

No other institutional or departmental name is to be used in the copyright notice, although the name and address of the department to which readers can direct inquiries may be listed below the copyright notice. The date in the notice should be the year in which the work is first published, i.e. distributed to the public or any sizable audience.

Additionally, works may be registered with the United States Copyright Office using its official forms. Forms may be obtained from <http://www.copyright.gov/forms> to which questions concerning copyright notices and registration also may be addressed.

Explanation of Terms

1. Copyrightable Works

Under the federal copyright law, copyright applies to original works of authorship which have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include:

Literary works such as books, pamphlets, brochures, journal articles, poems, manuals, memoranda, tests, computer programs, instructional material, databases, bibliographies

Musical works including any accompanying lyrics

Dramatic works, including any accompanying music

Pantomimes and choreographic works (if fixed, as in notation or videotape)

Pictorial, graphic and sculptural works, including photographs, diagrams, sketches and integrated circuit masks

Motion pictures, audio, video or other audiovisual recordings and other audiovisual works such as videotapes

2. Scope of Copyright Protection

Copyright protection does not extend to any idea, process, or concept, but only protects the work in which it may be embodied. For example, copyright protects a written description of a manufacturing process. However, copyright only prevents unauthorized copying of the written description; the ideas behind the process described are not protected by copyright. They could be protected by some other means, such as patent or trade secret.

Subject to the exceptions and limitations provided for in the copyright law, the copyright owner has the exclusive right to reproduce the work, prepare derivative works, distribute copies, and display or perform the work publicly. Ownership of copyright is distinct from the ownership of any material object in which the work may be embodied. For example, purchase of a film on DVD grants ownership of the DVD medium but not ownership rights to the underlying content. The term of copyright in works created on or after January 1, 1978, is the life of the author plus seventy years. Copyright in works-for-hire is for ninety-five years from the date of first publication or one hundred twenty years from creation, whichever period first expires.

3. Intellectual Property Committee

The Intellectual Property Committee shall consist of the Chancellor or his or her designee, the Chief Operating Officer, or his or her designee, and a Faculty Senate Designee.