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*Proposed Revisions to*

**INTERIM**  
**Operational Procedures for**  
**Implementation of Faculty Manual**  
**Part VII, Section II (Copyrights)**

*Full text available at*  
*<http://www.research.ecu.edu/ott/copyright.HTM>*

**B. Determining Ownership of University Copyrighted Works**

Nothing contained in these guidelines is intended to restrict or limit the freedom of faculty, students and staff to generate copyrightable material or to maintain a personal portfolio of their works. This Section is designed to define the procedures and guidelines that will be used for determining ownership of copyrighted works that are developed at the University.

**1. Faculty**

Ownership of the copyright to scholarly works including but not limited to research papers, teaching materials, book chapters, textbooks, *derivative works, and works substantially similar to the original work* belong to the faculty author or authors unless it falls within one of the exceptions described below. Works developed jointly shall be jointly owned, with authors responsible for determining their respective contribution for purposes of sharing royalty income.

**a. Exceptions**

- (1) If copyrightable material is created by faculty pursuant to an agreement between the university and a third party (i.e.: a government agency or a publisher), copyright ownership shall be governed by the provisions of that agreement.
- (2) Different treatment from above may be accorded in case of specific contracts where the constituent institution or sponsor employs personnel for the purpose of producing a specific work, where different treatment is deemed necessary to reflect the contribution of the institution to the work or where a sponsored agreement requires otherwise. In such cases, an institute, center, or other unit of the university that engages faculty members and other employees to write for publication by that unit or produce other copyrightable materials for the unit, such as audiovisual materials or computer software may, subject to the approval of the chancellor, adopt rules providing that copyright in materials prepared by such faculty members

and other employees in the course of their professional work for that unit vests in the unit and not in the author.

In no case will such rules be implemented retroactively to precede the date of first approval by the chancellor. In all cases, approval of the rules will be contingent upon the inclusion of a provision that all affected employees be properly informed of the rules and that the accomplishment of this requirement be documented in the employee's personnel file. It is the responsibility of any institute, center, or other unit of the university desiring such provision to present to the chancellor for his or her consideration the details of the requested rules. In a specific case in which no rules exist, a unit head may negotiate, before the fact, a specific contract, subject to the approval of the chancellor, for a university employee to produce a product whose copyright is to be vested with the unit.

- (3) These guidelines do not preclude faculty from assigning copyright rights to the University if both parties believe that such action is to their benefit. Similarly, these guidelines do not preclude the University from assigning copyright rights to the author, if both parties believe that such action is to their benefit.

## **2. Students**

Students, as a condition of enrollment in their desired academic program, are required to create papers, computer programs, theses, dissertations, artistic and musical works and other intellectual works. Ownership of the copyright to these works is presumed to belong to the student unless it falls within one of the exceptions described below.

### **a. Exceptions**

- (1) If copyrightable material is created by a student pursuant to an agreement between the university and a third party (i.e.: a government agency or a publisher), copyright ownership shall be governed by the provisions of that agreement.
- (2) Instances in which a student is also an employee of the University and during the course of employment the employee is required to produce reports, guidelines, software, and other works, such works shall be considered to fall within the scope of Work for Hire and the University shall retain copyright ownership of the work.
- (3) *Title to works that are substantially similar to or a derivative product of another work, such as classroom notes and handouts, shall remain with the original author. Use of such works outside of the intended academic setting requires written permission from the author.*

(4) This policy does not preclude a student from assigning any or all rights to the copyrightable material to the University if both parties believe that such action is to their benefit. Similarly, this policy does not preclude the University from assigning any or all of its rights in a copyrightable work to the author, if both parties believe that such action is to their benefit.

**3. Staff**

The copyright to all works prepared by University staff within the scope of their employment falls within Section 201(b) of the Act (Work for Hire) and, therefore, remains the property of the University.

**4. Commissioned Works**

The University shall own the copyright to any commissioned work that is specifically ordered or commissioned by the University if there is a written agreement, executed prior to the creation of the work, in which the author and University agree that the copyright shall belong to the University.

**5. University Assignment to Creators**

Subject to University conflict of interest rules, the University may reassign copyright ownership to creators who elect to market, protect and license the work on their own with minimal University involvement. The return to the University for re-assignment of ownership will consist of recovery of University intellectual property and licensing expenses plus 15% of royalties, equity or other value received through subsequent licensing or re-assignment.