Responsible University Official: Vice Provost for Faculty Affairs
Responsible Office: Faculty Affairs
Origination Date: October 11, 1990
Last Amended Date: December 19, 2014

COPYRIGHT POLICY

Policy Statement

The university encourages the creation and publication of scholarly, technical, literary and artistic works as part of its educational mission. Generally, when the Faculty, Librarians or Students, in pursuit of their normal scholarly, professional, or academic responsibilities, including normal use of the university's physical facilities, by their own initiative create copyrightable works, the copyright and any resulting royalties vest in the Faculty, Librarian, or Student as author of the copyrighted work. When Staff or Students create copyrightable works within the scope of their employment duties at the university, the copyright will generally belong to the university. For Faculty and Librarians, the university only claims ownership of the copyright if the work qualifies as a Work Made for Hire, or if the work's creation required Substantial Use of university resources, as defined below.

Reason for Policy/Purpose

The purpose of this policy is to provide administrative guidance on copyrightable works and ownership and to comply with the copyright laws.

Who Needs to Know This Policy

Faculty, Librarians, Staff and Students

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Policy/Procedure

INTRODUCTION

The university encourages the creation and publication of scholarly, technical, literary and artistic works as part of its educational mission. Generally, when the Faculty, Librarians or Students, in pursuit of their normal scholarly, professional, or academic responsibilities, including normal use of the university's physical facilities, by their own initiative create copyrightable works, the copyright and any resulting royalties vest in the Faculty, Librarian, or Student as author of the copyrighted work. When Staff or Students create copyrightable works within the scope of their employment duties at the university, the copyright will generally belong to the university. For Faculty and Librarians, the university only claims ownership of the copyright if the work qualifies as a Work Made for Hire, or if the work's creation required Substantial Use of university resources.

DESCRIPTION OF FEDERAL COPYRIGHT LAW

Under federal copyright law, copyright protection exists for "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." The copyright exists from the moment the work is fixed in a tangible medium of expression. The following categories of material, whether published or unpublished, may be subject to copyright protection: (a) literary works, such as books, journal articles, textbooks, laboratory manuals, lectures, or computer programs; (b) musical works, including any accompanying words; (c) dramatic works, including any accompanying music; (d) pantomimes and choreographic works; (e) motion pictures and other audiovisual works, such as films, video-tapes, videodiscs or multimedia works; (f) pictorial, graphic, and sculptural works; (g) sound recordings, such as audio tapes, audio cassettes, phono records or compact discs; and (h) architectural works.

Copyright protection does not cover the ideas or concepts embodied in a work, but rather the manner of expression. In general, for works created after 1978 the term of the copyright is the life of the author plus 70 years, or for works made for hire and anonymous and pseudonymous works, the shorter of 95 years from the year of the first publication or 120 years from the year of creation. Subject to certain limitations, the owner of a copyright has the exclusive right to do and to authorize the following: (a) to reproduce copies of the copyrighted work; (b) to make derivative works based on the copyrighted work; (c) to distribute copies of the copyrighted work; (d) to perform the copyrighted work publicly; and (e) to display the copyrighted work publicly.

COPYRIGHT POLICY OF THE GEORGE WASHINGTON UNIVERSITY

1. ORDER OF PRECEDENCE

Order of Precedence.

If any individual subject to this policy has dual or multiple status in more than one defined category, any questions under this policy shall be determined under the provisions applicable to the status of the individual with respect to the activity in question, if that status is clear. In case of joint or unclear activity, the order of precedence shall be to apply the provisions applicable to Faculty, Librarians, Students and Staff in that order, and in case of any remaining doubt, questions shall be resolved in a manner that gives greater rights to the individual. Any disputes under this section, as for other disputes under this policy, shall be resolved in accordance with Section 5.4 of this policy.

2. CATEGORY I: INDIVIDUAL WORKS, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE FACULTY, LIBRARIANS, STAFF OR STUDENTS OF THE UNIVERSITY

2.1 Scholarly Works.

a) The university makes no claim of ownership of copyright in works of authorship created by members of the university community, unless such works:
    1. qualify as Works Made for Hire as defined in Section 4 of this policy;
    2. involve Substantial Use of university resources as defined in Section 3 of this policy; or
    3. are created within the scope of a Sponsored Project under an agreement that provides for ownership of copyright by the university or a third party, in which case the Sponsored Project agreement shall take precedence. Sponsored Research, without a specific agreement for copyright, shall be considered scholarly work and the copyright in such works shall belong to the author(s), not to the university.

b) The university strongly encourages Faculty and Librarians who assign their copyright rights in scholarly publications to outside publishers to retain the royalty-free rights of reproduction and instructional use for themselves. Upon request, university administrators and legal counsel will provide assistance relating to assignment agreements and such retention-of-rights clauses.

2.2 Textbooks and Instructional Materials.

The university makes no claim of ownership of copyright in textbooks or other instructional materials in any medium, including electronic and multimedia

materials, unless said materials have been made with Substantial Use of university resources or qualify as Works Made for Hire as defined below.

2.3 Theses and Dissertations.

Students retain ownership of copyright in theses or dissertations prepared by Students to fulfill credit or degree requirements. Students are required to publish their thesis or dissertation through the electronic thesis and dissertation process. When a Student submits a thesis or dissertation for electronic publication, the Student is required to grant the university a nonexclusive license to archive and make the thesis or dissertation available to the public by completing the Electronic Theses/Dissertation (ETD) Access/Approval Form.

3. CATEGORY II: SHARED RIGHTS

3.1 Policy Statement on Prior Approval.

Faculty and Librarians may make Substantial Use of university resources in creating copyrightable works within the scope of their job duties, with any usual or necessary approvals relating to the resource usage. Staff and Students, and Faculty and Librarians intending to work outside the scope of their university duties, shall not make Substantial Use of university resources to create copyrightable works without advance permission from, and an appropriate written agreement signed by, the relevant vice president or designee. Failure to obtain such approval shall cause any copyrightable work created to be treated pursuant to Section 3.2.

3.2 Works Made with Substantial Use of University Resources.

Ownership of copyright in materials created by Faculty, Librarians, Staff or Students with Substantial Use of university resources shall be transferred by the author(s) to the university in accordance with Section 3.4, unless the university agrees, in writing, to waive or alter its rights. Notwithstanding the foregoing sentence, a transfer of copyright ownership by a faculty author to the university shall not be required under this Section 3.2 and Section 3.4 if a work has been created with Substantial Use of university resources in accordance with the request or direction of the university or with the approval referenced in Section 3.1, unless the faculty author and the university have entered into a specific written agreement governing copyright ownership with respect to the work.

3.3 Definition of Substantial Use.

Substantial Use of university resources is that use of university laboratory, studio, audio, audiovisual, video, television, broadcast, computer, computational or other facilities, resources and Staff or Students which: (i) falls outside the scope of the Faculty member's or Librarian's normal job responsibilities or the Student's

academic program or (ii) entails a Faculty member's or Librarian's use of such resources that are not ordinarily available to all or virtually all Faculty members with comparable status in the same school or department or to all or virtually all similarly situated Librarians. The term Substantial Use does not include the use of university provided office space, local telephone, library resources and computer equipment incidental to outside activities that are permitted under the Policy on Conflicts of Interest and Commitment for Faculty and Investigators.

3.4 Transfer of Rights to University.

When a work subject to copyright is created with Substantial Use of university resources as provided above, unless otherwise agreed in writing, each Faculty member, Librarian, Staff and Student author of such work shall execute an irrevocable written transfer or assignment to the university, in a form approved by the university, which provides for the following:

a) That the author transfers all right, title and interest in and to the copyright to the university;
b) That the work is an original work created by the author, that there are no known joint authors (or that any joint authors are or have been identified in writing to the university), and that the rights in such work have not been transferred, licensed or assigned to any other entity;
c) That any preexisting materials, whether copyrighted or in the public domain, reflected in the subject work, are or have been identified in writing to the university;
d) That the author shall not distribute any copies of the work without the university's permission and that any copies of the work distributed by or with the authority of the author shall bear an appropriate copyright notice, and notice of the university's interest therein; and
e) That the author shall execute any further documents, and provide any additional information and cooperation necessary to obtain registration or deposit of the copyright, or to enforce the rights in the copyright.

3.5 Allocation of Royalties for Copyrights Transferred to the University.

When ownership of a copyright is transferred to the university as provided in Section 3.4, unless otherwise agreed in writing, any income derived from publication, distribution, performance, display or sale of the work or derivative works, or licensing of any rights in the copyright, shall be allocated as follows:

a) University costs associated with registration or deposit of the copyright, and any costs incurred by the university in connection with publication, distribution, performance, display or sale of copies of the work or licensing or enforcement of any rights in the work shall first be reimbursed;

b) The remainder of any revenues after payment of the above costs shall be deemed "Net Income" and divided for the term of the copyright in the following manner:

Net Income Distribution

	Author	Author's Department	Author's School	Research Office
1st $100,000/year	50%	20%	10%	20%
Above	40%	20%	15%	25%

4. CATEGORY III: WORKS MADE FOR HIRE, THE COPYRIGHT OF WHICH WILL NORMALLY BELONG TO THE UNIVERSITY

4.1 Ownership of Copyright in a Work Made for Hire.

Copyright in a Work Made for Hire as defined below shall be owned by the university. When a work subject to copyright is a Work Made for Hire, the Faculty member, Librarian, Staff, or Student author of such work shall execute any documents necessary to effectuate the university's ownership in a form approved by the university in the university's discretion.

4.2 Definition of Work Made For Hire.

A Work Made for Hire is:

a) A work prepared by a Staff member or Student employed at the university within the scope of employment; or
b) A specially commissioned work created by a Faculty member or Librarian within the scope of employment, as set forth in a specific written agreement between the Faculty member or Librarian and the university.[1]

[1] *Although not strictly within the scope of this policy, under federal law and university practice a Work made for Hire may also include a work created by a contractor that is specially ordered or commissioned by the university and is subject to a written agreement stating that it is a work made for hire and is one of the following:(i) part of a contribution to a collective work; (ii) part of a motion picture or other audiovisual work; (iii) a translation; (iv) a supplementary work (meaning a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes and indexes); (v) a compilation; (vi) an instructional text (meaning a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities); (vii) a test, or answer material for a test; or (viii) as an atlas. It is the university's policy and practice to require transfer of copyright rights from third parties to the university for all such specially ordered or commissioned works.*

4.3 Consideration for Works Made for Hire.

Where a work subject to copyright is created as a Work Made for Hire as defined above, the normal salary or other remuneration paid to the Faculty member, Librarian, Staff member or Student shall ordinarily constitute full consideration for the creation of the copyrighted work, unless, for specially-commissioned works under section 4.2(b), additional consideration is agreed upon by an authorized university official in writing in advance.

5. COPYRIGHT ADMINISTRATION

5.1 Disclosure of Category II and Category III Copyrightable Materials.

Whenever any Student or Staff member intends to create a copyrightable work that is outside the scope of the academic program or employment of a Student or Staff member and that may involve Substantial Use of university resources, that person shall disclose such intent to the vice provost for faculty affairs, or her designee, in the form and manner approved by the university, to obtain in advance a tentative decision of the relevant official on whether the work will be a Work Made for Hire or will involve Substantial Use of university resources. In addition, if at any time a Student, Staff member, Faculty member or Librarian creates a copyrightable work that is a Work Made for Hire or involves Substantial Use of university resources, and such work or use of university resources has not received advance approval from the appropriate official, or if the basis on which an advance approval was given has materially changed, the Student, Staff member, Faculty member or Librarian shall make a disclosure to and seek a decision from the appropriate official on whether creation of the work was Work Made for Hire or involved Substantial Use of university resources. Failure to comply with this Section 5.1 may result in the forfeiture of the individual's rights under this policy. Such cases will be reviewed by the vice provost for faculty affairs and additional sanctions consistent with other Faculty, Staff, Librarian or Student policies may be imposed, in accordance with such policies.

5.2 Registration, Deposit, Disposition and Protection of Copyright.

Registration, deposit, disposition and protection of all copyrights owned by the university or in which the university has rights hereunder shall be accomplished in accordance with the university's directions, unless the university elects in writing to waive such rights with respect to any work and to transfer such rights to the author.

5.3 Copyright Administrator.

The vice provost for faculty affairs shall be the copyright administrator for the university. The copyright administrator is responsible for the enforcement of the Copyright Policy and will supervise the preparation of copyright registrations and

deposits for Category II and Category III copyrightable works, maintain records, and provide advice to Faculty, Librarians, Staff and Students on copyrights and application of this policy.

5.4 Advisory Council.

The Advisory Council on Research (which will include faculty representatives designated by the Faculty Senate) will assist the copyright administrator in the negotiation of copyright matters, the evaluation of ownership and the disposition of royalty income, primarily through its subcommittee, the Patent and Scholarly Works Review Panel. Disputes on copyright matters, including the interpretation of this policy, shall be referred to the Patent and Scholarly Works Review Panel for review and recommendation. The vice provost for faculty affairs shall make a ruling on the dispute. Any appeal of a ruling by either official will be heard by the provost and executive vice president for academic affairs, who will then make the final ruling.

5.5 Periodic Review.

The university administration and the Faculty Senate shall review this policy at least once every four years and, following such review, shall jointly determine whether modifications to the policy are necessary or desirable to best serve the interests of the university and its Faculty and Librarians, Staff, and Students. Proposed amendments that result from such review and joint determination shall be presented by the provost and executive vice president for academic affairs to the Board of Trustees for final approval.

5.6 Reference to Official Titles.

Each reference in this policy to the official title of a university official or body shall be deemed to include the successor to any such official or body.

Website Addresses for This Policy

GW University Policies

Contacts

Subject	Contact	Telephone Number
Copyright	Vice Provost for Faculty Affairs	(202) 994-0513

Definitions

Faculty	All those individuals listed in Part I, Section B of the Faculty Code.
Librarians	All those individuals receiving a letter of appointment from the provost and executive vice president for academic affairs to appoint them to a professional librarian position, with or without compensation from the university, and whether full-time, research, part-time, visiting, or other status.
Staff	All those individuals, in regular positions, or on wage account status, whether full-time, part-time, or other status, receiving compensation from the university as employees, other than Faculty and Librarians.
Students	All individuals in an active student status, defined by enrollment for a term, including those enrolled on continuous enrollment or leave of absence.
Sponsored Research/ Sponsored Project	Refers to research activities or other work performed by Faculty, Librarians, Staff or Students under sponsorship from any agency, party or parties external to the university, pursuant to an agreement between such agency or party and the university, which research activity or other work may result in the creation of copyrightable works.
Substantial Use	That use of university laboratory, studio, audio, audiovisual, video, television, broadcast, computer, computational or other facilities, resources and Staff or Students which: (i) falls outside the scope of the Faculty member's or Librarian's normal job responsibilities or the Student's academic program or (ii) entails a Faculty member's or Librarian's use of such resources that are not ordinarily available to all or virtually all Faculty members with comparable status in the same School or Department or to all or virtually all similarly situated Librarians.
Work Made for Hire	A work prepared by a Staff member or Student employed at the university within the scope of employment; or a specially commissioned work created by a Faculty member or Librarian within the scope of employment, as set forth in a specific written agreement between the Faculty member or Librarian and the university.

Who Approved This Policy

Steven Lerman, Provost and Executive Vice President for Academic Affairs
Beth Nolan, Senior Vice President and General Counsel

History/Revision Dates

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