

 <b>UNIVERSITY of DENVER</b>	<b>UNIVERSITY OF DENVER POLICY MANUAL Copyright Policy</b>		
<u><b>Responsible Department:</b></u> <u><b>Recommended By:</b></u> <u><b>Reviewed By:</b></u> <u><b>Approved By:</b></u>	<u><b>Policy Number</b></u> 2.40.020	<u><b>Effective Date</b></u> Nov. 24, 1982 <u><b>Updated</b></u> Nov. 1, 1986 January 7, 1992	

## **I. INTRODUCTION**

The University of Denver acknowledges the right of faculty, staff, and students to generate copyrighted materials in their ordinary daily pursuits to which they have sole ownership. However, the University may exercise rights to materials generated in one of the following situations:

- With significant use of University facilities and resources,
- By a contractual arrangement, or
- With support of a third-party sponsor.

## **II. POLICY**

### **A. Rights to Copyrightable Material**

The policy on rights is based on the definition of “work for hire”, a legal term defined in the Copyright Act as “a work prepared by an employee within the scope of his or her employment.” This definition includes works prepared by employees in satisfaction of sponsored agreements between the University and outside agencies and works specifically assigned, or commissioned, and funded by the University.

The employer by law is the “author” and hence the owner of works for hire for copyright purposes. Ownership in a work for hire may be relinquished by an official of the University specifically authorized to do so. Otherwise, the Vice Chancellor for Business and Financial Affairs has the authority to determine the use and/or commercial development of copyright material as outlined within this policy.

It is not the intent to bar publication rights, privileges, and responsibilities of any employee of the University of Denver. Therefore, any right the University may have or claim is hereby waived in favor of any employee granting copyright ownership to any recognized refereed or unrefereed journal where such right is requested as a condition of publication.

1. Individual

Rights belong to the creator if materials are produced as part of their normal teaching, research or employment activities and not as a paid University assignment, and if they involve only incidental use of University facilities and resources.

2. Joint ownership exists between the University and the individual when the University provides significant supporting funds, facilities, or resources beyond those normally provided. The sharing of royalty income is subject to division as defined in Section II D.

3. University Supported

Rights to material produced from a paid University assignment belong to the University. The sharing of royalty income is subject to division as defined in Section A. 5.

4. Sponsored Supported

Rights to materials are subject to provisions of grant, contract, or agreement under which they are developed. If there are not provisions, the University has the rights stated in Section 3.

B. Materials Subject to Copyright

The following types of materials may be subject to copyright:

- Literary works, including computer programs;
- Musical works, including any accompanying words;
- Dramatic works, including any accompanying music;
- Pantomimes and choreographic works;
- Pictorial, graphic, and sculptural works;
- Motion pictures and other audiovisual works; and
- Sound recordings.

Other materials not specifically listed may be copyrightable and subject to this policy.

C. Committee on Copyrights

The committee shall be advisory to the Vice Chancellor for Business and Financial Affairs.

The Committee shall consist of:

1. The Chairperson, who shall be appointed by the Vice Chancellor for Business and Financial Affairs.
2. Three members appointed from the faculty and research staff by the Provost, for three-year, staggered terms.

3. One faculty member appointed annually by the President of the University Senate with the consent of the Senate Executive Committee.
4. One non-voting member to be assigned from the Patent Committee by the Chairperson of that Committee.

D. Royalties

1. Royalties shall pass directly from the licensee to the creator for material that belongs to the creator alone.
2. Where the University has or shares ownership with the creator, the Vice Chancellor for Business and Financial Affairs, with the advise of the Copyright Committee and creator, shall negotiate the license agreement and share any income according to the following schedule:

<u>Income</u>	<u>Creator</u>	<u>Department/Division</u>	<u>University</u>
\$0 - \$5,000	100%	-0-	-0-
\$5,001 - \$50,000	40%*	30%	30%
\$50,001 and over	33 1/3%**	33 1/3%	33 1/3%
* of the amount over \$5,000			
** of the amount over \$50,000			

3. Income is defined as royalties and/or other receipts in excess of the costs of securing the copyrights and license agreement.
4. In those cases where the material is made under a sponsored agreement which includes conditions on the distribution of royalties, the creator's share shall be subject to the terms of these agreements. Where co-creators are involved, the creators' portion of the revenues shall be shared equally, unless a written agreement between the co-creators states differently.
5. The department share shall be disbursed by the department head. Such funds will ordinarily be used for activities related to the licensed material or to support like creative activities of the creator. In cases where this is not possible, these criteria will be approached by the department with alternate creators and activities.
6. Proceeds from the copyright material shall be deposited in the Research Development Fund or similar account which shall be controlled by the Vice Chancellor for Business and Financial Affairs.

### III. PROCEDURES

A. Changes in Copyright Arrangements

1. University Assisted/University Sponsored

If material ownership rests jointly with the creator and the University and if the creator wishes to obtain an arrangement differing from II A (2) and (3) above, the creator may request such agreement in writing to the chairperson of the involved department and the Chairperson of the Copyright Committee. This request will include a brief description of how much University facilities, personnel, and time is involved in the creative process. Such arrangement should be made prior to undertaking assignments where University ownership or joint ownership are anticipated.

2. Sponsored Supported

If no provision exists in sponsored agreements and the creator wishes to obtain an arrangement other than that stated in II A (4) above, the creator shall submit a written request as outlined in III A (1).

Should the grant/contract specify disposition of copyrights, the creator may petition a different arrangement, submitting a request as outlined in III A (1). The request shall include grant/contract number, sponsor and DU account number. A copy shall be submitted to the appropriate Project Administrator in Program Support Services in addition to those individuals stated in III A (1).

3. The Copyright Committee will meet within one month of receipt of a disclosure or request for an alternate agreement to determine the University's interests. The Chairperson will notify all parties of the decision.

If the decision involves negotiation of a special arrangement with a sponsoring agency, Program Support Services will conduct such negotiations.

4. If there is an appeal, it may be made to an ad hoc committee composed of:

- a. A member of the Copyright Committee, selected by the Chairperson.
- b. A person chosen by the individual.
- c. A person agreed on by the first two.
- d. The recommendations of the ad hoc committee will be given to the Vice Chancellor for Business and Financial Affairs whose decision shall be final.
- e. If publication must take place prior to a decision on the creator's rights, the following notice shall be placed on the material:

Copyright, year, University of Denver (Colorado Seminary)

- f. If rights are granted later to the creator, the University will assign its rights to the published material.