



# **Drexel University Copyright Policy**

## **I. GENERAL POLICY STATEMENT**

It is the general policy of Drexel University to encourage its faculty, staff and students to write research papers and books, to produce artistic works, instructional material and computer software, and to create other scholarly works. Dissemination of such works of authorship contribute to the professional development and advancement of the creators of such works; enhance the reputation of the University; benefit the academic programs of the University; and add to the body of knowledge for the good of society. Recognizing the potential commercial value of such original works of authorship when fixed in any medium of expression, and for which statutory copyright protection exists, it is important that policy guidelines be established by the University to define and protect the respective rights and obligations of the University, its personnel and sponsors of scholarly pursuits relative to copyrightable material produced at or for the University, and to do so while preserving traditional University practices and privileges with respect to the publication of scholarly, instructional and artistic works.

## **II. COPYRIGHT POLICY OBJECTIVES**

The principal objectives of the University Copyright Policy are:

1. to encourage the creation and production of scholarly and artistic works by the faculty, students and staff of the University;
2. to protect the rights in copyright of works created by University faculty, students and staff;
3. to facilitate the early and most productive dissemination of such original works produced by the University personnel;
4. to establish guiding principles for determining the rights of ownership of copyrightable works produced by the faculty students and staff of the University at or for the University;
5. to recognize and reward the creative efforts of faculty, students and staff of the University through the realization of tangible benefits from royalties generated by works copyrighted by the University; and
6. to afford faculty, students and staff of the University the opportunity to further their scholarly and artistic objectives, and that of the University, by disseminating the results of their work to provide maximum benefit to the public, while safeguarding the rights in copyright for the University, author(s) and sponsor(s).

### **III. DEFINITIONS**

In order to provide a general level of understanding of this complex and legal area the following general information is provided:

A. Under the Copyright Act of 1976, 17 U.S.C. section 101 et. seq., federal statutory copyright exists in "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." Such works include but are not limited to the following:

1. Written or printed works such as books, journal articles, poems, manuals, tests, memoranda, syllabi, bibliographies, computer programs, computer-driven displays, programmed instructional material (courseware), simulations and databases;
2. Musical works, including any accompanying words;
3. Dramatic works, including accompanying music;
4. Lectures, presentations and live video or audio broadcasts;
5. Choreographic works, including pantomimes, if such works are fixed in notation or on videotape;
6. Pictorial, graphic and sculptural works including photographs, diagrams, sketches and architectural plans;
7. Films, filmstrips, charts, transparencies and other visual aids;
8. Motion pictures and other audio visual works such as videotapes, audio tapes, videodiscs and cassettes; and
9. Sound recordings;

B. A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work."

C. Copyright protection does not extend to any idea, process, concept, discovery or the like, but extends only to the expression in which it is embodied, illustrated or explained, which constitutes the work.

### **IV. POLICY STATEMENT**

A. All works that have traditionally belonged to the faculty such as books, articles, artistic works, lectures and performances will continue to belong to the faculty and Drexel makes no claim to them.

B. A "work made for hire" is a work created or developed by University faculty, staff or other employee within the scope of his or her employment, or a work specially ordered or commissioned for use as a contribution to a collective work, and is the property of the University. The Copyright Act of 1976 provides that all "works made for hire" are the property

of the employer - the University - and that the employer (1 ) is considered the author of such works, and (2) is the owner of the associated copyright unless both the employer and the employee have signed a written agreement specifying otherwise. Faculty scholarly works as described in paragraph IV.A are not considered by this policy as "works made for hire."

C. All works created or developed by University faculty, students or staff with support from an outside sponsor shall be governed by the provisions covering copyright ownership in the sponsorship agreement, grant or contract. In the absence of such terms, the ownership of copyright in such work shall be determined by reference to paragraphs B, D and E of this section.

D. All works, except as noted in paragraph IV.A above, created or developed by faculty, students and staff, with significant University support and/or resources such as use of funds, facilities, space, equipment, materials or other resources of, or administered by, the University shall be the property of the University. The creator of that work will execute such documents as are required by the University to assure University ownership of the copyright therein.

1. Significant University support and/or resources shall include:
  - a. use of University funds designated for a specific project, e.g. a "commissioned work;"
  - b. use of University release time designated for a specific project or task, except as noted in paragraph IV.A above;
  - c. use of University owned, administered or leased computer facilities, and/or associated equipment;
  - d. use of prior University developments as part of a "derivative work;"
  - e. use of and/or the assistance of one or more University faculty, programmers, or equivalent support staff who are assigned to a project specifically to assist in the creation of a work.
2. The University shall not construe the provision of office or library facilities as constituting significant university support and/or resources.
3. All faculty, students, or staff shall disclose in writing to the Vice President for Research all copyrightable works defined in paragraph IV. B,C, or D. Such disclosure shall be made within a reasonable time following authorship of the material on forms provided by the Office of Sponsored Projects for the purpose of evaluating the commercial value of the work.
4. As copyright owner, the University shall have all the rights of copyright ownership provided by statute. The University will exercise ownership of copyright in ways which benefit both the author and the University. The University's rights shall include, but shall not be limited to the following:
  - a. the exclusive right to reproduce the copyrighted work;
  - b. the exclusive right to prepare derivative works based on the copyrighted work;
  - c. the exclusive right to distribute copies of the copyrighted work by sale or otherwise, e.g. license, rental, lease or lending;
  - d. the exclusive right to perform and/or display the copyrighted work publicly in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;

- e. the exclusive right to distribute the copyrighted work to its faculty, students and staff for internal use in its instructional programs.
- f. the University shall in good faith advise the author(s) of copyrightable works of any business arrangements concerning the copyrightable works and will from time to time seek the author's advice on such matters. However, the University shall initiate a plan for commercialization of the copyrightable work(s) within 120 days following receipt of the work. The University will assign copyright ownership to the author if the University does not demonstrate its intent to commercially exploit the work within the specified time except where such transfer is not authorized under paragraph IV.C.

E. In the case of a thesis generated by research performed in whole or in part by a student in the course of or pursuant to a sponsored research agreement or other written agreement, including an agreement between an author(s) and the University, or using equipment or facilities made available to the University under conditions that impose copyright restrictions, ownership of copyright or control shall be determined in accordance with such agreement or restrictions. In the absence of such agreement or restrictions, copyright ownership in such a thesis shall reside with the student. However, the University shall retain a royalty-free right to use the thesis in whole or in part in publications and in derivative works, with due recognition given to the student, and to reproduce and publicly distribute copies of the thesis for limited and noncommercial purposes.

F. To secure the University ownership of copyright in accordance with paragraphs B, C, and D of this section, all faculty, staff, employees, students, consultants and others authoring works for or producing works on behalf of the University shall sign an agreement assigning such person's rights of copyright. Reproduction and distribution of copyrighted works for internal use by the University shall be made with the understanding that such works are proprietary and shall not be reproduced, copied, leased or sold commercially.

#### **V. DISTRIBUTION OF INCOME**

A. In the case of works described in Section IV in which the University owns the copyright, revenues received by the University through fees, royalties or other considerations for the use of such works as a commercial property will be shared with the creator(s) of such works in accordance with the following schedule

For the first \$5,000 of net income:

100% to the creator

For the next \$500,000 in cumulative net income:

60% to creator

20% to the office of Vice President for Research

20% to creator's Institutional Unit(s)

For the next \$1,000,000 in cumulative net income:

40% to creator

35% to the office of Vice President for Research

25% to creator's Institutional Unit(s)

For cumulative net income in excess of \$1,505,000:

25% to creator

50% to the office of Vice President for Research

25% to creator's Institutional Unit(s)

For the purposes of this policy, net income is defined as the gross income generated by the sale, licensing, or distribution of the work, less out-of-pocket expenses incurred by the University for (1) the sale or licensing the copyrightable work and for the collection of royalties, (2) for production, development, maintenance and distribution of the work, and (3) for litigation and other steps to enforce or defend the copyright. Out-of-pocket expenses incurred by the University shall not include development costs for the original work.

A.1 The term Institutional Unit(s) shall include, without limitation, college, department, administrative unit, group or institute, functions of which are separately budgeted by the University. The royalty distribution shall be divided equally among or between the units, unless the University is provided with an alternative royalty distribution schedule agreed upon by the heads of the respective units and the Vice President for Research or his or her designee. In the event a unit ceases to exist, the distribution of the unit's funds shall be determined by the Vice President for Research or his or her designee.

A.2 The right of a creator of a work to receive income hereunder shall extend for the term of the copyright in the work created and said right may be assigned or bequeathed by the creator. The term of the copyright of works authored by an individual(s) is the life of the author(s) plus fifty (50) years.

A.3 When royalty income is in the form of equity interest, distribution of equity will be made between inventor(s) and the Office of Vice President for Research at the time equity is transferred to the University, and in equal shares. The Office of Vice President for Research will share with the inventor's Institutional Unit(s) the income generated by its equity interest at the time said shares, or portion thereof, is liquidated.

B. Creators of copyrightable works may be faculty, students, staff, consultants and other employees of the University, or any combination thereof. When more than one creator is involved, the responsibility for determining the relative royalty distribution among them rests solely with the creators. Unless they provide the University with an agreed upon alternative

royalty distribution schedule, royalty distribution shall be divided equally between or among the creators. In any event, the University assumes no responsibility or liability in disputes among authors concerning the sharing of royalties among the authors.

C. In the case of a derivative work, developed at or for the University, and based on another University creator's work, the University authors must negotiate an arrangement for royalty sharing with the author(s) of the original work. If they fail to do so before the receipt of royalties, all such royalties due the creators shall be placed in escrow until such arrangement for royalty sharing is reached.

## **VI. ADMINISTRATION**

A. The Vice President for Research shall be responsible for the administration of the Drexel University Copyright Policy.

B. A University Intellectual Property Committee shall make recommendations to the Vice President for Research on all matters regarding University intellectual property.

B.1 The University Intellectual Property Committee shall consist of two (2) members appointed by the Faculty Council, one (1) member appointed by the Vice President for Academic Affairs, one (1) member appointed by the Vice President for Research. In addition, a chairperson of the Committee shall be appointed by the President. At least three (3) members of the Committee must be selected from the full-time, tenure-track faculty.

B.2. Members of the University Intellectual Property Committee shall serve for no more than two successive terms of two years each. The members appointed by the Faculty Council shall be appointed in alternate years; the member appointed by the Vice President for Academic Affairs shall be appointed in an odd-numbered year, while, the member appointed by the Vice President for Research shall be appointed in an even-numbered year. The Chairperson of the Committee shall serve in that position at the pleasure of the President.

C. All appeals and disputes shall be forwarded in writing to the Vice President for Research through the Intellectual Property Committee. These appeals and disputes shall be initially reviewed by the University Intellectual Property Committee which shall make its recommendations to the Vice President for Research, within 60 days after receiving the dispute. The Vice President for Research shall make a determination of the dispute within a period of 30 days after receiving the Committee's recommendation.

An appeal from the determination of the Vice President for Research shall be made within 30 days to an arbitration panel consisting of three members, including a member of the American Arbitration Association ("AAA") to be agreed on by the parties in accordance with the rules of the AAA. The other members shall be selected by the opposing parties. The arbitration proceeding shall be conducted in accordance with the rules of the AAA then in effect as interpreted by the AAA member who shall serve as the chairperson of the panel. The sole basis for the panel's decision will be the provisions of this copyright policy. Submission to arbitration before this panel shall be the final means of resolving disputes hereunder. The decision of the panel shall be final and unappealable and may be enforced in any court of competent jurisdiction.

The award of the arbitration panel shall be made in writing and need not present the panel's vote on each issue, but merely the resolution of each issue. Costs incurred in arbitration shall be borne equally by creator(s) and University in an amount up to but not exceeding \$5,000; costs in excess of \$5,000 shall be borne by the University and credited against current and/or future royalties received by the University for the subject work held in dispute.

D. No assignment of rights, transfer of ownership, license or other arrangements concerning the disposition of University owned copyrights may be entered into except by authorized officials of the University.

E. All creative works covered by this policy must have the copyright notice properly affixed to the works. In those cases where Drexel University is the copyright owner, all copies and reproductions of the copyrighted work shall clearly display:

(c) (year of creation of work) Drexel University

#### Legislative History;

1. Copyright Policy prepared by Vice President for Research 9-26-85.
2. Policy reviewed by legal council 10-4-85.
3. Policy revised by Vice President for Research 10-16-85.
4. Policy sent for comment to Deans, Department Heads, Institute Directors, Vice Presidents 10-17-85.
5. Policy sent to Professor Savchak for review 12-9-85.
6. Policy sent to University Intellectual Property Committee, Academic Council, Faculty Council, Institute Directors, Chairman Sigma Xi, for comment 1-29-86.
7. Revised policy sent to Intellectual Property Committee 6-5-86.
8. University Intellectual Property Committee forwarded final version to
9. Vice President for Research 1-1-86.
10. Research Gram sent University-wide to all faculty 12-5-86.
11. Open hearing for faculty 1-20-87.
12. Policy revised based on open hearing by University Intellectual Property Committee with changes forwarded by a Research Gram to all faculty 2-26-87.
13. Final version forwarded to President Gaither 3-9-87.
14. Policy approved by President Gaither 3-16-87.