



UAH Copyright Policy (1994)

(Appendix H of the *Faculty Handbook*)

UAH supports the creation and dissemination of scholarly and/or creative works. In particular, the university recognizes and reaffirms the right of its faculty and staff to publish the results of their intellectual or creative labor without undue restriction. At the same time, where institutional resources are significantly involved in the production of a copyrightable work, the university has equities in it that must be recognized. The purpose of this policy is to clarify the respective rights of the university, its employees, and third-party sponsors regarding copyrightable works.

For the purpose of this policy, the following definitions shall apply. (a) Copyright: Grant to an author of a copyrightable work or other copyright proprietor, of the exclusive right to publish, reproduce, distribute, sell, perform, or display the work. (b) Copyrightable work: Any original work of authorship in tangible form, including written works, such as books, journal articles, study guides, manuals, syllabi, lecture notes, programmed instructional materials, proposals, musical and dramatic compositions; pantomimes and choreographic works; pictorial, graphic and sculptural works, such as fine, graphic and applied art, photographs, prints, art reproductions, maps, globes, charts, technical drawings, diagrams, and models; films, filmstrips, and other audiovisual works; sound recordings; and computer programs. U.S. copyright protection for works created on or after January 1, 1978, begins at creation and lasts until fifty years after the author's death. If the creator of the work is an employee or in cases where the work has been specially commissioned as instruction, as a test, or answer material for a test, copyright protection lasts for 75 years from the date of first publication or 100 years from the date of creation of the work, whichever date expires first. Copyright protection covers both published and unpublished works. That a work is out of print does not affect its copyright. Copyright begins at the moment the work is created according to the Copyright Act of 1976. Registration with the Copyright Office in Washington D.C. is recommended for certain rights and advantages. (c) University employee: Any full-time or part-time faculty or staff member of the university or any other person with whom the university has an employment relationship. (d) University resources: funds, personnel, equipment, and facilities administered by the university or under its authority or control.

Determination of respective interests in a copyrightable work produced by a university employee will be made in accordance with the following principles. (a) Individual efforts: The copyright in a copyrightable work produced by an employee on his or her own initiative shall be the exclusive property of such employee unless the work was specifically commissioned or assigned, or unless the work was prepared under the terms of a contract or grant, or unless preparation involved significant use of university resources. (b) University assigned efforts: The copyright in a copyrightable work prepared by an employee in the course of his or her regular employment duties or by special direction or commission shall be the property of the university. Such condition

of employment or such directions shall be in writing and shall be agreed to in advance by both the university and the employee. A faculty member's general obligation to produce scholarly and creative works does not constitute a university assignment in the context of this paragraph. A copyright agreement providing for the sharing of royalties, as discussed later in this policy, may at the discretion of the university be entered into by the university and the employee in regard to the work. (c) Sponsor supported efforts: Copyright ownership in copyrightable materials developed during work supported partially or in full by an outside sponsor through a contract or grant with the university is determined by the applicable provisions of such contract or grant. In the absence of any governing provision, the copyright shall be the property of the university. (d) University assisted individual efforts: Where a copyrightable work is developed with significant use of university resources and is not sponsor-supported, the income derived from such work shall be shared by the parties. The university and employee shall, before the significant use of institutional resources, enter into a copyright agreement by which the copyright is assigned and provision is made for the disposition of royalties. The respective equities of the parties in copyrightable works and the extent of their participation in the income derived from such works shall correspond generally to the categories of ownership described above. Income from materials produced by the individual initiative of an employee shall belong entirely to the employee.

Concerning works resulting from university-assisted individual efforts, the employee and the university shall enter into a copyright agreement before the project. The agreement shall provide for assignment of copyright ownership; division of royalties from the sale, licensing, leasing, or other distribution of the work; statement of rights concerning revision or withdrawal of the work and the use thereof; and other pertinent terms. In determining an equitable division of royalties, consideration shall be given to the extent of the university's contribution, by its resources, to the development of the work; any reimbursement to be made for such resources; any costs to be incurred in obtaining the copyright. Ordinarily, the employee shall receive a two-thirds share of royalties, although the particular circumstances of each case shall ultimately govern and a different division may be made.

Concerning university assigned and/or sponsor supported efforts, the university may, at its option, offer to share a portion of any royalties accruing to it. An appropriate copyright agreement shall be executed with the employee setting forth the stipulated division of income.

In those instances in which resources of a particular department, center, laboratory, or other university unit are to be used in developing the copyrightable material, the copyright agreement between the university and the employee shall provide for internal distribution of a designated percentage of the university's share of royalty income to such unit. The university may waive or release any or all of its rights to a copyrightable work in an appropriate case.

The name and/or logo of the university may not be used in connection with the publication, display, or distribution of a work where the copyright is in the name of an employee, except upon prior approval of the university or except to show the employee's affiliation with the university.

The senior vice president for research has the responsibility for administering the principles and policies stated herein. Actual implementation shall be handled primarily

by the patents and copyrights administrator and the Patents and Copyrights Committee. All university employees should report to the administrator any copyrightable work of his or her own in which the university has or may have an interest. Such reports must be made at the earliest point at which the likelihood of institutional interest becomes reasonably apparent. It is the intent of these policies that, wherever possible, determination of equities, income distribution, and other rights be made before the completion of the copyrightable work.

The employee and the patents and copyrights administrator will determine the classification of the work under these policies, the respective equities of the parties to be reflected in a sharing of royalties or other financial arrangement, and any rights in regard to revision or withdrawal of the work and the use of the university name and logo. Agreement on these issues shall be reduced to writing in the form of a copyright agreement to be executed by the employee and an authorized university representative. If the employee and the administrator cannot reach agreement, the matter will be submitted to the Patents and Copyrights Committee. The committee will review all the relevant circumstances and recommend to the senior vice president for research on all issues requiring determination. In the event the employee is not satisfied with the decision of the senior vice president for research, appeal may be made to the president, whose decision is final.

The administrator provides advice and assistance in copyright and related matters to university employees upon request. Those responsible for carrying out programs that may generate copyrightable materials with significant support by the university or a sponsor should seek clarification in advance from the administrator concerning all questions of equities, copyright ownership, and rights as to such material.

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