

CORNELL UNIVERSITY COPYRIGHT POLICY FOR THE MEDICAL COLLEGE AND GRADUATE SCHOOL OF MEDICAL SCIENCES**

**Adopted by the Board of Trustees on June 28, 1990.

GENERAL STATEMENT

Cornell University is committed to providing an environment that supports the research and teaching activities of its faculty, students and staff. As a matter of principle and practice, the University encourages all members of the Cornell community to publish without restriction their papers, books, and other forms of communication in order to share openly and fully their findings and knowledge with colleagues and the public. The Copyright Policy has been prepared in this spirit and with this intent. The Copyright Policy is intended to promote and encourage excellence and innovation in scholarly research and teaching by identifying and protecting the rights of the University, its faculty, staff, and students.

Copyright ownership and the rights thereof are concepts defined by federal law. University policy is structured within the context of the federal copyright law. The long-standing academic tradition that creators of works own the copyright resulting from their research, teaching, and writing is the foundation of the University's Copyright Policy. Exceptions to this rule may result from contractual obligations, from employment obligations, from certain uses of University facilities, or by agreement governing access to certain University resources. This Policy addresses these exceptions.

DEFINITIONS OF COPYRIGHTABLE MATERIAL

It is expected that laws and judicial interpretations of laws governing protection of intellectual property will change from time to time, particularly as they apply to new and rapidly changing technologies such as computer software. New paradigms may require new approaches. As such, this Policy differentiates between traditional intellectual property, such as books, incorporated under "Traditional Works", and newer forms, such as computer software, incorporated under "Encoded Works".

Traditional Works:

Copyrightable **Traditional Works** such as books, manuscripts, artistic works, movies, and television programs, historically have been the property of the Author. It is not the intent of this Policy to change significantly the relationship between the Author¹ and the University that has existed through the years.

Encoded Works:

Encoded Works include software and other technologies used to support the electronic capture, storage, retrieval, transformation and presentation of digital data and information or to interface between digital forms and other communications and information media. The University will exercise its equitable ownership interest in **Encoded Works** under the circumstances identified below.

OWNERSHIP AND DISPOSITION OF COPYRIGHTABLE MATERIAL

Copyright ownership of all work by academic² employees, non-academic employees, or students shall vest in the Author except under any of the following circumstances:

Regarding both **Traditional Works** and **Encoded Works**:

0. Subordination to Other Agreements: Copyright ownership of all material that is developed in the course of or pursuant to a sponsored research or other agreement to which the University is a party shall be

determined in accordance with the terms of the sponsored research or other agreement. In the absence of terms specifically assigning ownership, the copyright shall become the property of the University only if the terms of such agreement directly or indirectly create University obligations as to intellectual property developed thereunder or if ownership is conferred upon the University by operation of another provision of this Policy.

I. Work for Hire: The copyright of material that is created by a nonacademic employee within the scope of University employment or by academic employees pursuant to a specific direction or assigned duty (other than the teaching of courses) from the University or any of its units shall be the property of the University.

Regarding **Encoded Works** only:

II. Use of University Resources: Copyright ownership of **Encoded Works** which are developed with the "Substantial Use" of University resources, funds, space, or facilities shall reside in the University. For purposes of this Policy, University resources include grants, contracts or awards made to the University by extramural sponsors. The use of University resources is "Substantial" when it entails the use of University resources not ordinarily used by, or available to all, or virtually all, members of the faculty. As the concept of Substantial Use evolves with changes in the customary working environment, the term may be refined by the Provost for Medical Affairs from time to time, following consultation with the Executive and General Faculty Councils of the Medical College and the Dean of the Graduate School of Medical Sciences, and such definition shall be incorporated as an Appendix to this Policy.

STUDENTS

Works created by students are additionally subject to the following rules:

@. The University makes no claim to copyright ownership of works created by students working on their own, i.e. not within the scope of an employment relationship with the University or with one of its employees, and not making Substantial Use of University resources.

A. Students working on a project governed by a contract or agreement to which the University is a party shall be bound by the terms of that contract or agreement.

B. Students who are hired to perform specific tasks that contribute to a copyrightable work will ordinarily have no rights to ownership of that work, regardless of the source of funds from which they are paid. In such cases, the party who owns the copyright of the rest of the work will ordinarily retain copyright ownership of the portion contributed by the student.

C. Students working collaboratively with academic employees on projects that result in copyrightable work may be granted the same rights and obligations of copyright ownership as would another academic employee working collaboratively on the project. Students and academic employees should establish these rights at the outset of their collaboration.

D. If none of the above relationships applies, students performing work compensated by the University are subject to the provisions governing non-academic employees under Section II.

E. Students may also be subject to rules and restrictions of their units, colleges or of the Graduate School of Medical Sciences which are not inconsistent with the University Copyright Policy. For example, students who copyright their theses or dissertations must grant the University rights to reproduce and distribute copies of their works in accordance with the policies of the University or College.

RECOGNITION OF AUTHOR'S DESIRE FOR INTELLECTUAL CONTROL

In recognition of the Author's desire to maintain intellectual control of his or her work, the University will give consideration to views of the Author as to disposition of intellectual property rights when it takes title to a copyrightable work under this Policy. Where the University owns a copyright under this Policy, the Author will be permitted to continue to use the work for his or her own noncommercial purposes. Distribution, if any, to academic colleagues outside of the University will be permitted under approved written agreements obtained from the University Counsel through the Associate Dean for Research and Sponsored Programs.

ASSIGNMENT TO AUTHOR

In cases where the University has copyright ownership of a work under this Policy, the University may, upon request and for good cause shown, assign copyright ownership to the Author subject to a perpetual royalty free license to the University to use the work for its own purposes. Such requests should be submitted to the Associate Dean for Research and Sponsored Programs.

REQUIREMENT OF DISCLOSURE

Works potentially falling into the three categories described in paragraphs I through III above shall be promptly disclosed in writing to the Associate Dean for Research and Sponsored Programs or his designee for a determination as to whether title is in the Author or the University. To determine whether an **Encoded Work** described in paragraphs I through III is patentable, it should be submitted to the Associate Dean for Research and Sponsored Programs for evaluation.

USE OF OUTSIDE CONSULTANTS AND INDEPENDENT CONTRACTORS

Under current law, ownership of works created by outside consultants and independent contractors could reside in such individuals and not in those hiring them to perform the work at issue. Therefore, those hiring outside consultants and independent contractors should observe the precaution of having a written agreement including an assignment of copyright. Students and non-academic employees working outside the scope of University employment should be considered independent contractors for such purposes. Assistance in drafting such agreements can be obtained through the Office of Legal Affairs.

ADVICE AND INTERPRETATION

Members of the University community may obtain advice, from the Associate Dean for Research and Sponsored Programs on the application of this Copyright Policy to their work, and information about restrictions on copyright ownership related to grants or other sponsored agreements.

RESOLUTION OF DISPUTES

Disputes concerning application of this policy and the ownership of copyrights involving individuals of the Medical College shall be brought in writing to the Dean of the Medical College, who shall refer the matter to an ad hoc committee consisting of two members of the Executive Faculty Council who are department chairmen and two elected members of the General Faculty Council, all selected by the Dean, together with the University Vice President of Information Technologies and Director of Patents and Technology Marketing. Disputes concerning application of this policy and the ownership of copyrights involving individuals of the Graduate School of Medical Sciences (GSMS) shall be brought in writing to the GSMS Dean, who shall inform the Provost for Medical Affairs of receipt of the notice of a dispute. The GSMS Dean shall refer the matter to an ad hoc committee consisting of four members of the GSMS Executive Committee, all selected by the Dean, together with the University Vice President of Information Technologies and Director of Patents and Technology Marketing. The ad hoc committee shall report its recommended decision for resolution of the dispute to the Dean of the Medical College or the GSMS Dean (as the case may be), the Provost for Medical Affairs and the Office of Legal Affairs. The Provost for Medical Affairs shall render a final decision (which may or may not adopt the recommendation of the ad hoc committee). The decision of the Provost for Medical Affairs will be final. The determination of the Provost for Medical Affairs will be rendered in most cases within seventy five days or the University will relinquish rights to ownership of the disputed copyright.

COPYRIGHT ROYALTIES

Except in the case of Works for Hire, described in Section II above, royalty income received by the University through the sale, licensing, leasing or use of copyrightable material, which the University owns pursuant to any section of this policy shall be distributed in accordance with the royalty distribution provisions (Section E) of the University's Patent Policy, as amended from time to time. In the case of such

intellectual property owned by the University pursuant to Section II, that share of royalties which would ordinarily be distributed to the creator under the Patent Policy will be deposited in a pool to be used, at the discretion of the University President, to recognize meritorious contributions made by University employees. All employees shall be eligible for recognition.

RESPONSIBILITIES OF PARTIES

It is the responsibility of the University and all members of the University community to ensure adherence to this Policy.

Academic staff and other Authors governed by this Policy shall have the obligation to:

* Make themselves aware of and adhere to restrictions on or rights in copyrightable material deriving from agreements between the University and contracting or granting agencies or other interested third-parties, or deriving from any University interest pursuant to this Policy. The Office of Research and Sponsored Programs shall assist Authors to be aware of their responsibilities.

* Inform the Office of Patents and Technology Marketing of material that should be copyrighted in the name of the University pursuant to the provisions of this Policy, and to cooperate with the University in obtaining such copyright protection.

* Obtain permission from the Associate Dean for Research and Sponsored Programs to publish, in journals or other media, materials to which the University owns the copyright pursuant to this Policy, such permission not to be unreasonably withheld.

* Ensure that students or contractors working collaboratively or under their direction (whether or not for pay) on projects which may result in copyrightable material have signed appropriate agreements concerning the assignment of copyright to the Author or to the University, or such other disposition of rights to copyright any as shall be appropriate pursuant to this Policy. Such agreements shall also clarify to students their rights to include or copyright any part of the work they wish to include in theses or dissertations. At the request of the Associate Dean for Research and Sponsored Programs, the Office of Legal Affairs shall assist Authors in this regard.

The Associate Dean for Research and Sponsored Programs and other University officers have the obligation to respond in a timely fashion, normally within forty-five days, to written requests pursuant to this Policy.

The University shall, furthermore, use reasonable efforts to promote works to which the University owns the copyright under this Policy.

COPYRIGHT AGREEMENTS

The policies set forth above constitute an understanding that is binding on the University, and on its academic and non-academic employees, students and others as a condition of their participating in University research programs or their use of University resources. The University may require formal copyright agreements to implement the policy as appropriate, but the absence of such executed agreements shall not invalidate the applicability of this Policy.

1 For the purposes of this Policy, "Author" shall refer to the creator of the work.

2 For the purposes of this Policy, "academic" shall apply to those positions so designated in the Medical College Academic Staff Handbook.

Appendix to Copyright Policy

Elaboration of Definition of Substantial Use

May, 1990

The Copyright Policy uses the term "Substantial Use" in determining when the University claims ownership to the copyright of "Encoded Works" developed by members of the University Community. The purpose of this Appendix is to amplify the definition of "Substantial Use"

For purposes of this Policy, "Substantial Use" is the use of resources other than those "ordinarily available" to most or all faculty members.

As of the date of this Appendix, such ordinarily available resources include office space and personal office equipment, office computer workstations, library and other general use information resources, and the means of network access to such resources. Incidental involvement of students receiving funds from the University is also excluded from the definition of "Substantial Use".

The symbiotic nature of the relationship between the University and its faculty produces benefits to both in the nature of enhanced prestige and increased grant support. The University, therefore, wishes to encourage teaching, scholarship, and research activities on the part of its faculty and makes its facilities available to aid in the achievement of these ends.

Nevertheless, the University does have a legitimate right to participate in the management, protection and marketing of intellectual property rights where substantial use has been made of its resources.

The above definition of Substantial Use may be changed from time to time by the University or the Provost for Medical Affairs to reflect changes in technological paradigms.

Finally, it is important to recognize that where the Author's intent is to generate private revenues, that is, commercial development, such activity may constitute a conflict of interest and should be reviewed under the standards contained in that policy* as well.

* The Conflicts Policy was adopted by the Board of Trustees in May, 1986.