

COPYRIGHT OWNERSHIP AND INTELLECTUAL PROPERTY

I. POLICY

It is the policy of Salt Lake Community College to establish procedures to clarify the ownership of copyright protected works of the college, its faculty, staff, and students, and to outline the prospective use rights individuals have during the course of affiliation with the college.

II. REFERENCES

- A. Copyright, 17 U.S.C. §§ 101-810.
- B. Approval of New Programs, Program Changes, Discontinued Programs, and Program Reports, Utah State Bd. of Regents r. 401.
- C. Salt Lake Community College *Curriculum Handbook*.

III. DEFINITIONS

- A. Copyright Ownership Contract: A standard agreement between the college and the employee defining ownership of a specific copyright protected work. Where the copyright protected work has commercial value, the agreement also clarifies matters of revenue. College contract review processes must be followed.
- B. Copyright Protected Work: A work that is the product of original creation fixed in tangible forms of expression. The types of materials subject to copyright protection include, but are not limited to:
 - 1. literary works (which includes but is not limited to books, periodicals, manuscripts, advertising copy and other works that can be expressed in words, numbers, or other verbal or numerical symbols);
 - 2. musical works (including any accompanying words);
 - 3. dramatic works (including any accompanying music);
 - 4. pantomimes and choreographic works;
 - 5. pictorial, graphic, and sculptural works;
 - 6. motion pictures and other audiovisual works;
 - 7. architectural works;

8. electronic course materials and software used in on-line or tele-courses;
 9. core elements of curriculum;
 10. computer programs or databases and associated documentation; or
 11. other Works of authorship, as defined in the U.S.C. Title 17 fixed in a tangible medium of expression.
- C. Core Elements Of Curriculum: The foundational elements of curricula, such as the Program Curriculum Outline (PCO), Course Curriculum Outline (CCO), documents associated with Utah State Board of Regence rule 401, and any other formal documents and their contents associated with the development or approval of a program or course, including but not limited to:
1. sample syllabus;
 2. course content;
 3. learning outcomes;
 4. web links to supplementary content;
 5. tests, test questions, and answer keys;
 6. reading lists;
 7. bibliographies; or
 8. standardized materials developed by departments for use with specific courses.
- D. Course Individualization: The use by faculty members of materials designed to complement, accompany, and enhance the core elements of curriculum listed above. Such materials specifically include supplemental materials designed to enrich a course that are developed by faculty members for their use in teaching a course, such as class or lecture notes, PowerPoint presentations, or other similar enhancements. They include the tools or technologies used to present course content.
- E. Independent Effort: Research, writing, or other professional enrichment activities performed by an employee to advance his or her knowledge where the choice, content, and direction of the effort is determined by the employee without direct assignment or supervision by the college and for which no significant college resources are used.

- F. Scholarly Works: Copyright protected works of nonfiction, novels or other works of fiction, articles, presentations for professional organizations, or other copyright protected works, such as poems, musical compositions and visual works of art, regardless of the medium of expression. Scholarly works includes the products of independent effort.
- G. Scope of Employment: The combination of tasks, activities, projects, or other work for which the employee was hired, whether or not specifically listed on the employee's job description.
- H. Significant college Resources: The use of college administered funds or college funded time, facilities, or equipment. The incidental use of office or library facilities or college computers commonly made available to similarly situated employees will not be considered as such use. The incidental use of other equipment that imposes no significant wear and tear, use of consumables, additional cost, or loss to the college will not be considered as such use. The use of time or salary provided by the college to the employee while on sabbatical will not be considered as such use.
- I. Use Rights: As related to the college, its employees, contractors, and students, the non-exclusive, royalty-free, perpetual, and irrevocable rights of a party to make defined uses of a copyright protected work, with appropriate attribution, when the specified party does not hold the intellectual property rights to that work.
- J. Work Made for Hire: Any work prepared by an employee within the scope of his or her employment. It includes, but is not limited to, all work produced in fulfilling job responsibilities, such as data, reports, core elements of curriculum, tests (and test answers), institutional projects, software developed for college computing systems, or work created or produced by the employee primarily for use at or by the college. It also includes work specially ordered or commissioned by the college through a written agreement, such as on-line courses, tele-courses, computer programs, contributions to departmental or collective work, audiovisual works, translations, or other such projects.

IV. PROCEDURES

A. College Rights

1. College Ownership of Copyrights

- a. The college retains sole ownership of all core elements of curriculum used in, or specifically developed for, curriculum taught currently or historically in college instructional offerings.

- b. The college considers all such work to be created within a faculty member's scope of employment and to be a work made for hire.
- c. The college also retains sole ownership of all work made for hire by non-faculty employees of the institution, as well as work performed by contractors on behalf of the college.

2. College Right to Assign Copyrights

The college reserves the right to assign, at its sole discretion, any ownership rights it has to copyright protected works upon such terms as it deems beneficial and fair to all parties.

3. College Use Rights

- a. The college retains the right to use materials developed by employees for use in college programs and courses as outlined in this procedure when no written ownership agreement exists to otherwise define college and employee rights.
- b. Such use rights do not extend to course individualization scholarly works, or the products of independent effort.

B. Employee Rights

1. Employee Ownership of Copyrights

- a. The college will not assert an ownership interest in the copyright of scholarly works or the products of independent effort related to the author's academic or professional field, regardless of the medium of expression.
- b. The original creator of the copyright protected work retains ownership rights to the copyright of such work, unless:
 - (1) the work is a work made for hire;
 - (2) the work is commissioned by the college as a work made for hire under a signed copyright ownership agreement;
 - (3) the work is created as a result of an agreement between the college and a third party that assigns copyright ownership to either the college or the third party (this includes grant funded projects);
 - (4) the work is considered a core element of curriculum; or
 - (5) the work is created using significant college resources.

2. Employee Use Rights

- a. Employees have the right to use, for the same official college purposes for which a work was created, works created by similarly situated employees when no written ownership agreement exists to otherwise define college and employee rights. For example, materials created by one faculty member for use in a particular course may be used by other faculty members teaching the same or related courses; a spreadsheet format created by one employee may be used by another employee to document the same type of data.
- b. Such use rights do not extend to course individualization, scholarly works, or the products of independent effort.

C. Use of Significant College Resources.

Unless otherwise approved in advance by the college president, the use of significant college resources shall be limited to those purposes that promote the college's mission and shall not be used for personal gain or personal commercial advantage.

D. Copyright Ownership Agreement

1. Where copyright protected works are created under a specific written agreement between the college and its employee and the agreement defines the obligations and ownership rights of each party, the agreement shall take precedence over any parts of this procedure that may be inconsistent with that agreement.
2. The employee and the college must enter into a copyright ownership agreement:
 - a. before work begins on creation of a work when significant college resources will be used to create, distribute, or market the work;
 - b. when the college specifically assigns or commissions the work from the employee;
 - c. when it may be unclear that the contemplated work (or work already in progress) falls within the definition of a scholarly work or as being the result of independent effort; or
 - d. when the contemplated work will have commercial value.

E. Student Rights

1. Unless a specific written agreement between the college and the student or a third party defines other ownership arrangements, students hold the ownership rights to their copyright protected works for which academic credit is received, including the contents of e-portfolios, artistic works, literary works, musical works, or other creative works or materials created as part of their educational experience at the college.
2. Works created by a student within the scope of college employment as an employee, work study student, or volunteer at the college are considered to be works made for hire and ownership and all other legal rights in the copyright protected work are owned by the college.

Date of last cabinet review: May 14, 2013

The originator of this policy & procedure is the assistant director of Content Services. Questions regarding this policy may be directed to the originator by calling 801-957-4019