



Ohio Administrative Code

Rule 3342-5-10.1 Administrative policy regarding copyrights.

Effective: [March 1, 2015](#)

(A) Purpose. It is the policy of the university to encourage appropriate scholarly and creative activity by faculty, staff and students. Foremost among these activities is the production of works disseminating the results of academic research or scholarly study.

(1) Authors of copyrightable works are free to register the copyrights and publish these works as their own except where the work is a "work made for hire."

(2) University resources are to be used solely for university purposes and not for personal gain or personal commercial advantage, nor for any other non-university purposes.

(B) Definitions.

(1) Work made for hire. A "work made for hire" is a legal term defined in the copyright act as "a work prepared by an employee within the scope of his or her employment," or certain works "specially ordered or commissioned" if the parties so agree in writing. This definition is taken to include works prepared by employees as a result of sponsored agreements between the university and outside agencies. For copyright purposes, the employer by law is the author, and hence the owner, of works made for hire. The creator of a work is therefore not the copyright owner in the following instances:

(a) The work is created within the scope of employment. This definition includes:

(i) Any copyrightable work created as a specific responsibility of the position for which the employee is hired;

(ii) Any copyrightable work, other than the results of academic research or scholarly studies, created by a non-faculty employee during working hours or as a result of use of university resources which are available only by virtue of employment status; or



(iii) Any copyrightable work created through a direct and significant allocation of university resources to a specified project.

(a) University resources include, but are not limited to, staff time, equipment, funds, release time from assigned duties, and computer usage.

(b) A "direct and significant allocation of resources" is defined as a requested and approved allocation of resources not normally available to all members of an employee's unit, or significant utilization of specialized distributed learning facilities and equipment.

(b) The work has been specifically commissioned or ordered by the university, and a written agreement specifying copyright ownership has been executed prior to the completion of the work; or

(c) The work is created under a sponsorship/contractual agreement with copyright provisions defining the ownership of copyrights.

(C) Scope of copyright law.

(1) Tangible medium. Copyright protects the original works of authors as expressed in a tangible medium. Literary works (including computer software); 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 audio-visual works; and sound recordings are the major categories of works that are included within the protection of the copyright law. Copyright protection does not extend to any idea, process, concept, discovery, system, program logic, algorithm or the like. It is the expression which is protected. Neither the idea nor the object in which the expression is embodied is protected by copyright (U.S.C. Title 17, section 102). For example, a written description of a manufacturing process is copyrightable, but the copyright prevents only unauthorized copying of the description; the process described can be freely used unless it enjoys some other protection, such as a patent.

(2) The copyright owner has the exclusive right to produce copies of the work, prepare derivative works, distribute copies by sale or otherwise, and display or perform the work publicly (U.S.C. Title



17, section 106). The above-mentioned rights may be sold or licensed separately.

(D) Procedures.

(1) Copyright ownership - personal copyrights.

(a) Personal works. Works made by university authors, but not made for hire nor made within the scope of employment, are the property of the authors. This category includes the results of research and scholarship, and artistic and creative works such as novels, poems, compositions, paintings, computer software and audio-visual materials (not developed with significant utilization of specialized distributed learning facilities and equipment). Confirmation that a work was not made within the scope of employment can be requested from vice provost and dean of research and graduate studies.

(b) Contributed works. At the request of the authors, the vice provost and dean of research and graduate studies may accept for the university ownership of personal works donated by university authors. These works may then be registered in the name of the university at its option. The authors must execute a written copyright agreement confirming that the contribution has been made at their request.

(2) Copyright ownership - university copyrights.

(a) Works made for hire. University copyright ownership in a work made for hire may be relinquished only by an official of the university specifically authorized to do so, in which case the university will retain non-exclusive royalty-free license to such works.

(b) Works made within the scope of employment.

(i) The copyrights for all works which are created within the scope of the author's university employment as defined in paragraph (B)(1)(a) of this rule, are the property of the university unless an appropriate copyright agreement form has been executed and approved releasing the work. Copyright agreement forms releasing university works are submitted to the office of research and graduate studies for execution by the university.



(ii) The vice provost and dean of research and graduate studies, acting as agent for the university, is responsible for determining and then informing the authors of the work, whether the copyright of a work which is eligible to be registered in the name of the university will either be:

(a) Released to the authors by the execution of appropriate copyright agreement forms;

(b) Retained by the university for university purposes; or

(c) Placed in the public domain with or without registration

(iii) The general policy of the university is to register in the name of the university only those of its works which have potential for royalty return.

(iv) In the absence of a written agreement to the contrary, all income from such works within the scope of employment is retained by the university.

(c) Commissioned or specially ordered works. Under the law, the copyrights for all works in this category are the property of the author unless an agreement has been executed releasing the work. Therefore, a written copyright agreement shall be executed and approved prior to commencement of the work. The disposition of copyrights and royalties of works which are made after the execution of a written copyright agreement between the university and the authors shall be governed by that agreement. Ordered or commissioned works can be:

(i) Author-initiated. Authors who request and receive direct and significant university support for the creation of their works, must enter into a written copyright agreement with the university.

(ii) University-initiated. The university may specially order or commission the creation of works and will negotiate a written copyright agreement with the authors. University-initiated ordering or commissioning of works shall require the approval of the appropriate vice president.

(d) Sponsored works. The disposition of the copyrights of works created by authors as an assigned university duty with support from an outside sponsor shall be governed by the sponsorship



agreement provisions covering those copyrights. In the absence of a sponsorship agreement, sponsored works created by university employees shall be treated as works within the scope of employment. (See paragraph (B)(1)(a) of this rule.)

(e) Compensation to the author. Compensation to the author may be made through one of several methods or a combination of them by means of an executed agreement under the authorization of the appropriate vice president or designee. Typical methods are as follows:

(i) By released time of a specified number of semester hours of teaching for a specified period of time.

(ii) By additional compensation in a specified amount chargeable to the unit which is sponsoring the material either from the standpoint of their use or production;

(iii) By compensation for a specified time and amount during a period when the author is not regularly employed, such as summer sessions; and

(iv) By a share of the royalties, if any, which accrue from the use and sale of the work in accord with the university's guideline for distribution of license and royalty income.

(f) All publishing agreements and royalty-bearing licenses relating to university copyrights must be executed by the office of research and sponsored programs.

(E) Appeal. This policy and standard copyright agreement forms cover the normal author-university relationships. In case of a disagreement, the author can appeal to the provost.