



University of Colorado

Boulder | Colorado Springs | Denver | Anschutz Medical Campus

BOARD OF REGENTS

5. FACULTY

Policy 5.K: Intellectual Property that is Educational Material

5.K.1 Introduction~~Rights of Ownership to Intellectual Property that is Educational Material~~

Creating and disseminating knowledge are fundamental missions for the University of Colorado. The broad creative environment of the University fosters the development of intellectual property. In this policy, the University of Colorado reaffirms its commitment to the principles of academic freedom (see Regent Law 5, Part B – Academic Freedom), and also reaffirms its commitment to encouraging the development of intellectual property. This policy functions in accord with other University of Colorado policies and federal and state statutes and regulations.

The focus of this policy is specifically on intellectual property that is Educational Material, the nature of which has evolved as instructional delivery, educational accountability, and needs/expectations of students have changed. A separate policy on intellectual property applies to ownership of discoveries and patents, including software, and nothing in this policy shall affect ownership of such intellectual property. See Regent Policy 5.J – Intellectual Property on Discoveries and Patents for Their Protection and Commercialization, and the corresponding APS 1013. Finally, this policy recognizes intellectual property associated with Scholarly and Creative Works and the ownership thereof. Ownership of intellectual property is held by its authors, creators, researchers or innovators, except under the special circumstances as described in this policy and in the policy on discoveries, patents and software. Ownership and copyrights in scholarly and artistic works-- including, but not limited to, textbooks, electronic media, syllabi, tests, assignments, monographs, papers, models, musical compositions, works of art, unpublished manuscripts, and the like-- will be the sole and exclusive property of the creator or author. Educational materials created for classroom and learning programs, including electronic media, such as syllabi, assignments, and tests, shall remain the property of the author, creator, researcher and innovator. Exceptions are: (1) those cases in which the production of such materials is a part of a sponsored program, (2) those cases in which the materials are created under the specifically assigned duties of employees other than faculty, or (3) those cases in which substantial university resources were used in creating educational materials.

5.K.2 Rights of Ownership to Intellectual Property that is Educational Material Substantial Use of Resources

"Substantial use of resources" means use of university resources that goes above and beyond those that are customarily and currently provided to University employees. University resources include such things as equipment, staff support, supplemental pay, and offloading from regular

~~duties. Substantial use of University resources gives the University of Colorado a claim to ownership, in part or in whole, of the intellectual property created by University employees. Under United States Federal copyright law, the University, as an employer, owns the copyrighted materials made by its employees pursuant to the course and scope of their employment. Consistent with historic practice, the University of Colorado, through this policy, assigns the copyright it has in Educational Materials to the Author(s) of the works. While the Author(s) shall own the rights to all Educational Materials, the University of Colorado retains the rights to administrative and instructional use of Educational Materials as set forth in the corresponding APS 1014.~~

5.K.3 Work for Hire

~~Works specifically commissioned by university contract (also known as "work for hire") or undertaken as part of an explicitly designated job assignment, other than standard teaching responsibilities, shall be the property of the University.~~

5.K.4 Scope of Policy

~~This policy is applicable to all units of the University including its colleges, schools, departments, centers, and institutes, and hospitals, and to all University employees including faculty, instructors, and staff, and student employees. Employees receiving salaries or other remuneration from the University, including part time employees, University employees on sabbatical who receive remuneration from the University, and employees on a leave of absence who are using substantial University resources are bound by this policy. Students are covered in this policy if employed by the University or if they have used substantial University resources to develop educational materials. Students will own the materials they create, unless their work is part of a larger work over which the University has rights and intends to exercise them.~~

~~This policy does not apply to works of authorship made by university employees in the course and scope of their employment in the furtherance of administrative responsibilities associated with a position, such as university staff, department head, dean, provost, and chancellor, and president, whose works are owned by the University of Colorado as works made for hire.~~

5.K.4 Educational Materials

~~Educational Materials are those works of authorship eligible for copyright protection made by university employees pursuant to the course and scope of their employment, and in furtherance of the employees' teaching responsibilities. For the purposes of this policy, regardless of a course's instruction mode, learning management system (LMS) support, or use of digital technologies, Educational Materials include, but are not limited to:~~

- ~~▪ The course syllabus, including any lists of textbooks, books, readings, etc.~~
- ~~▪ Course design and development materials, including templates and course maps~~
- ~~▪ The course learning objectives and expected student learning outcomes~~
- ~~▪ All significant course assessments, activities, and grading rubrics~~
- ~~▪ Written content in the LMS (e.g., narrative content in course pages and announcements)~~

- All materials provided to the students including notes, slides, other written materials, and/or links to said materials including material associated with recorded lectures
- Recorded lectures, including any written material/slides used in the lectures
- Other forms of media created for teaching a CU course, including but not limited to author-created images, diagrams, graphics, audio files (e.g. podcasts), videos, and models
- Software, whether in source code, executable code, or other machine-readable form, developed for use in specific course settings

Educational Materials also include materials developed by Authors pursuant to the course and scope of their employment for non-credit courses, co-curricular offerings, and alternative credentials, as well as materials developed for professional and other University of Colorado learning offerings except as these are covered by separate agreements.

Educational Materials do not include:

- Student identifiable information
- Email, chat, and other messaging between the faculty and students, or between/among students
- Software, whether in source code, executable code, or other machine-readable form, and other discoveries, which are Scholarly or Creative Works whose ownership and administration are governed by Regent Policy 5.J, APS 1013, and any related campus policies
- The course taken as a whole, which, because of a student and student-faculty interactions can never be replicated

~~The University of Colorado shall be permitted to use educational materials for administrative purposes, such as satisfying requests of accreditation agencies for faculty-authored syllabi, assessments and course descriptions.~~

5.K.5 Copyright of Professional Journals and BooksScholarly and Creative Works

Distinct from Educational Materials, Scholarly and Creative Works are those works of authorship made by university employees in the course and scope of their employment such as, but not limited to, monographs, papers, models, musical compositions, works of art, textbooks, and unpublished manuscripts.

Consistent with historic practice, the University of Colorado, through this policy, assigns the copyright it has in Scholarly and Creative Works to the Authors of the works, unless otherwise addressed in Regent Policy 5.J, APS 1013, and any related policies.

~~Copyright of Publication of research and/or other S~~Scholarly materials and activities
Creative Works typically occurs in professional/academic journals, books, and other professional resources and traditionally requires that the Aauthor(s) sign over the copyright to the publisher. Nothing in this policy shall be construed to restrict or constrain these traditions.

5.K.6 ~~Written Agreements~~

~~If substantial resources are used, or their use is anticipated, at any point in the creation of educational materials, then a negotiated written agreement must be signed by the creator(s) and a designated representative from the campus where the educational materials shall be created.~~

~~5.K.7~~ Reporting Requirements

Any person formally affiliated with the University shall be obligated to report in a timely manner any efforts to create ~~E~~educational ~~M~~materials that might fall under the authority of this Regent policy and other University policies, such as the conflict of interest policy, the conflict of commitment policy, and the policy on the use of the University name.

History:

- Source: Regent Action of January 16, 2003;
- Last revised January 16, 2003.