



University of Colorado

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BOARD OF REGENTS

1 **5. FACULTY**
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3 **Policy 5.K: Intellectual Property that is Educational Material**
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5 5.K.1 Introduction~~Rights of Ownership to Intellectual Property that is Educational Material~~
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7 Creating and disseminating knowledge are fundamental missions for the University of
8 Colorado. The broad creative environment of the University fosters the development of
9 intellectual property. In this policy, the University of Colorado reaffirms its commitment to
10 the principles of academic freedom (see Regent Law 5, Part B – Academic Freedom),
11 and also reaffirms its commitment to encouraging the development of intellectual
12 property. This policy functions in accord with other University of Colorado policies and
13 federal and state statutes and regulations.
14

15 The focus of this policy is specifically on intellectual property that is Educational
16 Material, the nature of which has evolved as instructional delivery, educational
17 accountability, and needs/expectations of students have changed. This policy also
18 recognizes~~describes~~addresses intellectual property associated with Scholarly and
19 Creative Works and the ownership thereof. A separate policy on intellectual property
20 applies to ownership of discoveries and patents, including certain software, and nothing
21 in this policy shall affect ownership of such intellectual property. See Regent Policy 5.J –
22 Intellectual Property on Discoveries and Patents for Their Protection and
23 Commercialization, and the corresponding APS 1013. Ownership of intellectual property
24 is held by its authors, creators, researchers or innovators, except under the special
25 circumstances as described in this policy and in the policy on discoveries, patents and
26 software. Ownership and copyrights in scholarly and artistic works-- including, but not
27 limited to, textbooks, electronic media, syllabi, tests, assignments, monographs, papers,
28 models, musical compositions, works of art, unpublished manuscripts, and the like--will
29 be the sole and exclusive property of the creator or author. Educational materials
30 created for classroom and learning programs, including electronic media, such as
31 syllabi, assignments, and tests, shall remain the property of the author, creator,
32 researcher and innovator. Exceptions are: (1) those cases in which the production of
33 such materials is a part of a sponsored program, (2) those cases in which the materials
34 are created under the specifically assigned duties of employees other than faculty, or (3)
35 those cases in which substantial university resources were used in creating educational
36 materials.
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39 5.K.2 Rights of Ownership to Intellectual Property that is Educational Material
40 Substantial Use of Resources
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42 "Substantial use of resources" means use of university resources that goes above and beyond
43 those that are customarily and currently provided to University employees. University resources
44 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. However, 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 certain 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.

This policy does not apply to works of authorship made by university employees where the development of the work is required as a part of a sponsored program or a funding agreement administered by the University of Colorado. Ownership of such works are governed by the terms of the associated contract/grant (which generally assign ownership to the University of Colorado or impose on the University of Colorado other obligations that necessitate ownership by the University of Colorado).

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 educational 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:

- 96 ▪ The course syllabus, including any lists of textbooks, books, readings, etc.
- 97 ▪ Course design and development materials, including templates and course maps
- 98 ▪ The course learning objectives and expected student learning outcomes
- 99 ▪ All significant course assessments, activities, and grading rubrics
- 100 ▪ Written content in the LMS (e.g., narrative content in course pages and
- 101 announcements)
- 102 ▪ All materials provided to the students including notes, slides, other written
- 103 materials, and/or links to said materials including material associated with
- 104 recorded lectures
- 105 ▪ Recorded lectures, including any written material/slides used in the lectures
- 106 ▪ Other forms of media created for teaching a CU course, including but not limited
- 107 to author-created images, diagrams, graphics, audio files (e.g. podcasts), videos,
- 108 and models
- 109 ▪ Software, whether in source code, executable code, or other machine-readable
- 110 form, developed specifically for use in specific-course settings

111
 112 Educational Materials also include materials developed by authors pursuant to the
 113 course and scope of their employment for non-credit courses, co-curricular offerings,
 114 and alternative credentials, as well as materials developed for professional and other
 115 University of Colorado learning offerings except as these are covered by separate
 116 agreements.

117
 118 Educational Materials do not include:

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

128
 129 The University of Colorado shall be permitted to use educational materials for administrative
 130 purposes, such as satisfying requests of accreditation agencies for faculty-authored syllabi,
 131 assessments and course descriptions.

132
 133 5.K.5 Copyright of Professional Journals and Books Scholarly and Creative Works

134
 135 Distinct from Educational Materials, Scholarly and Creative Works are those
 136 works of authorship made by university employees in the course and scope of their
 137 employment, and in furtherance of the employees' scholarly responsibilities such as, but
 138 not limited to, monographs, papers, models, musical compositions, works of art,
 139 textbooks, and unpublished manuscripts.

140
 141 Consistent with historic practice, the University of Colorado, through this policy, assigns
 142 the copyright it has in Scholarly and Creative Works to the authors of the works,
 143 unless otherwise addressed in Regent Policy 5.J, APS 1013, and any related policies.

144
 145 Ownership and use of Scholarly/Creative Works that are developed as a part of
 146 sponsored programs are subject to the terms of the associated contract/grant. Similarly,

147 ownership and use of Scholarly and Creative Works that are specifically commissioned
148 by university contract are subject to the terms of the contract.

149
150 Copyright of Publication of research and/or other Sscholarly materials and activities
151 Gcreative Wworks typically occurs in professional/academic journals, books, and other
152 professional resources and traditionally requires that the author(s) sign over the
153 copyright to the publisher. Nothing in this policy shall be construed to restrict or constrain
154 these traditions, except as may be required by contracts or grants with third-party
155 sponsors.

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157 ~~5.K.6—Written Agreements~~

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

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164 ~~5.K.7—Reporting Requirements~~

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

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172 **History:**

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