

Appendix A

HOPE COLLEGE COPYRIGHT OWNERSHIP POLICY

Purpose

Hope College (hereafter “the college”) is committed to providing an environment that supports the research and teaching activities of all members of the college community, including faculty, students and staff. The college encourages all members of its academic community to publish without restriction their papers, books, and other forms of communication and to engage in artistic expression in order to share openly and fully their findings and knowledge with colleagues and the public. The policy is intended to:

1. Encourage faculty, staff, and students to engage in scholarship and creative performance leading to dissemination of the work,
2. Define ownership of faculty, staff, and student copyrighted work,
3. Protect the financial, legal, and intellectual interests of the college and its personnel, including students,
4. Codify the contributions to and benefits from copyrightable works produced by members of the college community, including, but not limited to published articles, published books, institutional works (including works for hire), copyrighted software, and music and other works of art; and
5. Complement the college treatment of intellectual property as addressed in the college's [invention and patent policy](#).

Copyright is a form of protection provided by the laws of the United States (Title 17, U.S. Code) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works.

This policy is not intended to address the use of copyrighted material by faculty in their courses. Readers are encouraged to visit the following sites for guidance on these issues:

<http://www.hope.edu/lib/reserves/reserves-copyright.html>

<http://www.hope.edu/cit/policies/copyright.html>

Policy Statement

In accord with academic tradition, except to the extent set forth in this policy, the college does not claim ownership to scholarship or artistic works of its employees, regardless of their form of expression. Such works include those of students created in the course of their education, such as projects, papers and articles. The college claims no ownership of popular non-fiction, novels, text books, poems, musical compositions, un-patentable software, video, audio, choreographed or pantomimed work, dramatic works, or other works of art unless these works are institutional

works, commissioned or sponsored works, rely to a significant extent on the use of college facilities or are courses and course ware. In accordance with the [*Hope College Open Access Policy*](#), members of the Hope College faculty grant a nonexclusive license to the college for all peer-reviewed, published scholarly journal articles and conference proceedings written while the author is a member of the faculty of Hope College. The college is permitted to exercise any and all rights under United States copyright law related to the scholarly work designated above provided that (a) the works are neither sold for a profit nor used for any commercial purposes and (b) the faculty member has not formally designated that a specific scholarly work is not to be so disseminated. The permission also allows Hope College to authorize others to do the same. Faculty members shall submit all such scholarly articles for addition to the college's institutional repository. A faculty member may formally designate that a specific scholarly work is not to be disseminated by requesting a waiver.

Where such works are both copyrightable and patentable, the work shall be subject to the provisions of the *Hope Invention and Patent Policy*. (Stanford, Scranton).

Institutional Works

The college shall retain ownership of work created as institutional works. Institutional works include works that are supported by a specific allocation of college funds (except internal grants) or that are created at the direction of the college for a specific college purpose. Institutional works also include works whose authorship cannot be attributed to one or a discrete number of authors but rather result from simultaneous or sequential contributions, over time by multiple faculty and students. For example, software tools developed and improved overtime by multiple faculty and students where authorship is not appropriately attributed to a single or defined group of authors would constitute an institutional work. The mere fact that multiple individuals have contributed to the creation of a work shall not cause the work to constitute an institutional work. Works that result from internal college grants (e.g. Nyenhuis Summer Faculty Development grants, Frost Center grants, etc.) are not considered institutional works unless they meet the standard contained in this section.

Sponsored or Commissioned Works

This area includes work prepared by employees in satisfaction of sponsored agreements between the college and outside agencies. Certain commissioned works also are works for hire if the parties so agree in writing.

The employer (in this case, the college) by law is the "author," and hence the owner, of works for hire for copyright purposes. Works for hire subject to this principle include works that are developed, in whole or in part, by college employees at the specific direction of the college. For example, significant use of staff or student employee programmers or college film production personnel will typically result in college ownership of the copyright in the resulting work. Where a work is jointly developed by college faculty, or student employees and a non-college third-party, the copyright in the resulting work typically will be jointly owned by the college and

the third party. In such instances, both the college and the other party would have nonexclusive right to exploit the work, subject to the duty to account to each other. College ownership in a work for hire may be relinquished only by the President or his/her designated. (Stanford)

Use of College Facilities

College resources are to be used solely for college purposes and not for personal gain or personal commercial advantage, nor for any other non-college purposes. Therefore, if the creator of a copyrightable work makes significant use of the services of college staff or college resources (including video/media production facilities) to create the work, he or she shall disclose the work to his or her dean and assign title to the college. Examples of non-significant use include ordinary use of desktop computers, college libraries and limited secretarial or administrative resources. Questions about what constitutes significant use should be directed to the appropriate divisional dean.

Courses and Courseware

Courses taught and developed for teaching at the college – including on-line and other forms of distance learning courses – belong to the college. Any courses that are videotaped or recorded using any other media are college property, and may not be distributed outside the college without permission from the appropriate academic dean. Professors who wish to use these courses for anything other than the instruction of Hope College students must request written permission from the appropriate academic dean. Blanket permission is provided for use with Hope College students, or for other college purposes. If a faculty member leaves the college, he or she may continue to use at another academic or non-for-profit research institution for teaching, research and other noncommercial purposes, all course content he or she created or taught at Hope College, provided the Hope College name is not used in connection with the course content. A former faculty member may not commercialize any institutional course developed for use at Hope College without permission of the appropriate academic dean. (Stanford, Columbia)

Administration of the Policy

1. ***Faculty or Student Works***
For those works for which faculty members or students own the copyright, the creators are free to register the copyright and are wholly responsible for protecting the works from infringement.
2. ***Institutional Works or Work-for-Hire***
For those works for which the college owns the copyright, whether because the works were created as institutional works or at the specific direction of the college, the creator shall disclose the creative works to the college as soon as possible after

creation. The Director of the Office of Sponsored Research will register the copyright if appropriate and protect the work from infringement if necessary.

3. ***Jointly Owned Works***

For those works that are jointly owned by the college and one or more full-time faculty members or students, the Director of the Office of Sponsored Research will register the copyright, if appropriate, and will protect the work from infringement if necessary.

4. ***Works Created as Sponsored Research or Sponsored Projects***

For those works created as a result of research or projects sponsored by a third party, administration of the works and ownership of the copyright will be determined by the terms of the sponsorship agreement.

5. ***Student-Faculty Collaborative Works***

Any copyrightable works resulting from student participation in faculty research projects will be owned by the faculty. All student participation shall be credited. (Scranton)

Distribution of Income

1. ***Works Owned by the College***

In the absence of other written agreements, the income from those faculty, staff, or student-created works owned by the college shall accrue to the college. One-half of the royalties will normally be deposited in the dean's discretionary fund of the creator's academic division. Generally, the other half of the royalties will be used to stimulate further research, if the royalties result from research; royalties resulting from course-related works will normally be used to fund further course development. The college reserves the right, at its discretion, to deduct from the royalty income, prior to any such distribution, expenses properly attributable to the development or protection of the material, including litigation, which may be incurred in enforcing or defending the copyright or in licensing the copyrightable material.

2. ***Works Jointly Owned with the College***

- (a) In the absence of other written agreements, for those faculty, staff, or student-created works jointly owned by the college, the creator will receive fifty percent of the net royalties. The remaining fifty percent of net royalties shall accrue to the college. The college portion of such net royalties will be administered by the Business Services Office. One-half of the college royalties will normally be deposited in the dean's discretionary fund of the creator's academic division. Generally, the other half of the college's share of royalties will be used to stimulate further research, if the royalties result from research; royalties resulting from course-related works will normally be used to fund further course development. The college reserves the right,

at its discretion, to deduct from the royalty income, prior to any such distribution, expenses properly attributable to the development or protection of the material, including litigation, which may be incurred in enforcing or defending the copyright or in licensing the copyrightable material.

- (b) For those works that are jointly owned by the college and one full-time faculty member, staff member, or student, fifty percent of the net royalties will be attributed to the college share and divided as described in paragraph 2(a) above. The other fifty percent will go in its entirety to the creator. For those joint works with two or more creators, the creators' share of the net royalties will be divided according to a predetermined formula to which all parties shall agree in writing.

3. ***Works Created as Sponsored Research or Sponsored Projects***

Income from copyrightable works created through third -party sponsorship shall be disposed of in accordance with the terms of the underlying contract or grant. In the absence of such terms, the works created shall be the property of the creator(s), unless the work is considered an institutional work or a work for hire, in which case royalties shall be distributed as described in paragraph 2(a) or 2(b) above, whichever is appropriate. (Scranton)

Dispute Resolution

Disputes regarding the application of this policy shall be referred to a committee comprised of the chairperson of the Professional Interests Committee, a faculty member appointed by the Provost, and a faculty member jointly agreed to by the creator of the work and the Provost. Each member of the committee shall be a non-attorney full-time member of the faculty. Judgments of the committee may be appealed to the President, whose decision will be final.

Review

This policy shall be reviewed annually by the Administrative Affairs Board.

Frequently Asked Questions

The following FAQs are intended to address common applications of this policy. Readers are encouraged to suggest other FAQs that the Administrative Affairs Board can consider in its annual review of the policy.

1. *I am a faculty member. Will articles or books I write that are published by journals, academic, or mass-market presses be subject to college ownership? Will I have to share royalties from my writing with the college?*

Usually not. The vast majority of traditional faculty scholarship will be treated just as it always has been - owned by the faculty member with all royalty income

belonging to the faculty member. Scholarly articles are subject to the Open Access Policy which grants the college a limited license.

2. *I am a faculty member. If I receive a Nyenhuis Faculty Development Grant, Frost Center Grant, or similar college-funded grant will the college claim ownership of the products that result from such a grant?*

Usually not. The intent of this policy is that copyrightable works substantially produced with the support of one of several college-sponsored internal grant programs should belong to the creator. Exceptions may include those projects that rely on the use of college facilities beyond desktop computers, college libraries and limited secretarial or administrative resources.

3. *I am a student. Will copyrightable work that I produce belong to me? What if I produced the work in partnership with a professor?*

The intent of this policy is that student work is owned by the student unless the work was commissioned by the college or created as part of a student's employment by the college. However, works created by faculty-student partnerships belong to the professor in the absence a pre-existing written agreement. Your contribution to work created in partnership with a professor should always be acknowledged in writing by the professor.

4. *I am an hourly or salaried staff member. If I write a computer program or technical manual as part of my job will I own the copyright if they are published? What about if I write a novel on my own time?*

The college will own the copyright (and any royalties) from the computer program and technical manual since these were the products of work the college paid you to perform as part of your normal duties. Since the novel was written on your own time and is not part of your college responsibilities, you will own any copyright and royalties that flow from its publication (subject to any agreements you make with the publisher).

5. *I am a faculty member. Can I copyright and sell an on-line course developed for my work at Hope College? Can I videotape my classes and post them on the Internet? Can I sell the videotaped classes to a third party?*

You may not copyright or distribute the on-line courses. They belong to the college. You may use the course at another university if you leave Hope College. Any recordings you make to capture all or part of your courses also belong to the college. However, you may be able disseminate recordings of your courses if you receive written permission from your dean.

6. *I am a faculty member. If I write a monograph commissioned by a foundation or a government agency for which I receive a grant, will I own the copyright and the royalties that result from sale of the work?*

The ownership of the monograph will be subject to the written agreement you negotiated with the foundation or the agency. If you did not sign a formal written agreement, the copyright and royalties would likely belong to you assuming the college had no role in the work (e.g. provided released time, paid you a stipend, etc.).

Forms

References

1. CORNELL UNIVERSITY COPYRIGHT POLICY FOR THE MEDICAL COLLEGE AND GRADUATE SCHOOL OF MEDICAL SCIENCES (weill.cornell.edu/research/form/copyright.pdf).
2. Stanford University Research Policy Handbook Copyright Policy (<http://rph.stanford.edu/5-2.html>).
3. University of Scranton Copyright Policy ([http://academic.scranton.edu/organization/fac/handbook/Faculty Handbook.htm#Toc191180280](http://academic.scranton.edu/organization/fac/handbook/Faculty%20Handbook.htm#Toc191180280)).
4. Kromrey, J. (2005). *Intellectual property and online courses: Policies at major research universities*. Presented at the National Educational Computing Conference, June 27-30, 2005, Philadelphia, Pennsylvania.
5. Columbia University Copyright Policy (<http://www.columbia.edu/cu/provost/docs/copyright.html>).