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### Intellectual Ownership Policy

#### I. Introduction

Since the demand for distance learning appears to be increasing and the continuing development of electronically published course materials in various media seems likely, it is important to address the issues raised by the creation, use and distribution of various forms of electronically published course materials and clarify the rights and responsibilities of each of the parties involved. This policy is a supplement to the Patent and Copyright policies promulgated by the [Board of Regents of the Regional University System of Oklahoma \(RUSO\)](#) and found in Chapter 5, ' 5.13 of the RUSO General Policies, page 5-104. Furthermore, this policy only addresses distance learning. To the extent this policy conflicts with the general RUSO patent/copyright policy on issues involving distance learning, the RUSO policy prevails.

#### I-A. Definitions:

Distance learning is a pedagogy whereby students are instructed via electronic transmissions, often utilizing electronically published course materials.

Electronically published course materials are materials utilizing electronic transmissions to teach students at sites distant from the faculty member's University campus.

Licensure is the right to use or market the electronically developed course materials for educational purposes.

Substantial Use as it relates to the use of University resources is that use of University laboratory, studio, audio, audiovisual, video, television, broadcast, computer, computational or other facilities, resources and Staff or Students which: (a) falls outside the scope of the Faculty member's or Librarian's normal job responsibilities or the Student's academic program or (ii) entails a Faculty member's or Librarian's use of such resources that are not ordinarily available to all or virtually all Faculty members with comparable status in the same College or Department or to all or virtually all similarly situated Faculty or Librarians. The term "substantial use" does not include the use of personal office space, local telephone, library resources and personal computer equipment incidental to teaching in the traditional classroom with electronic enhancements or additions.

Work for Hire is (a) a work prepared by a Staff member or Student employed at the University within the scope of employment; or (b) a specially-commissioned work created by a Faculty member or Librarian within the scope of employment, as set forth in a specific written agreement between the Faculty member or Librarian and the University. A work for hire situation, as contemplated by this policy, arises where any compensation is paid by the University for the purpose of authoring and developing the electronically published course material(s).

"Faculty" includes individuals receiving a letter of appointment from the Provost/Vice President for Academic Affairs or his or her designee to a teaching position, with or without compensation from the University, and whether full-time, research, part-time, visiting, or other status.

"Staff" includes all those individuals, in graded or ungraded positions, or on wage account status, whether full-time, part-time, or other status, receiving compensation from the University as employees, other than Faculty and Librarians.

"Librarian(s)" includes all individuals receiving a letter of appointment from the Provost/Vice President for Academic Affairs or his or her designee to a professional librarian position, with or without compensation from the University, and whether full-time, research, part-time, visiting, or other status.

"Author" as used herein, refers to and includes those individuals responsible for content and conceptual design and development of the electronically published material. The term "author" as used in its singular form herein shall be

construed to include its plural form where appropriate.

"Work" as used herein shall refer to any electronically published material prepared for use in distance learning.

## **II. Ownership**

Unless a specific written agreement between the author(s) of a distance learning project and the University is negotiated, patent/copyright ownership in the project shall vest according to the categories stated below.

### **II-A. Works Generated At the Initiative of Faculty, Librarians or Staff**

Ownership interest, and all rights associated therewith, of any work resulting from an individual's efforts on his or her own personal time without any direct support from or through the University and without the use of any University resources beyond those normally provided by the University vests completely in the author(s) of the work.

### **II-B. Works Generated at the Initiative of Faculty, Librarians or Staff Using Minimal University Resources**

Ownership interest, and all rights associated therewith, of any work resulting from an individual's efforts with the use of minimal university resources above and beyond those normally provided to other faculty, librarians or staff similarly situated vests completely in the author(s) of the work. The University possesses a non-exclusive educational license to use the work as part of its course delivery. The use of this license encompasses the situation where the author of the work is not responsible for teaching the course containing his or her electronically published materials.

### **II-C. Works Generated at the Initiative of Faculty, Librarians or Staff Using Substantial University Resources**

Ownership interest, and all rights associated therewith, of any work resulting from an individual's efforts with the use of substantial university resources as defined herein vests completely in the individual authoring the work. The University possesses a non-exclusive educational license to use the work as part of its course delivery. The use of this license encompasses the situation where the author of the work is not responsible for teaching the course containing his or her electronically published materials. The University also possesses a non-exclusive commercial license to market the course containing the author's work outside the University. If licensed for commercial purposes, either by the University or the author(s), the University and the author(s) will each receive a percentage of the royalties as specified in the RUSO General Patent/Copyright Policy unless a different percentage is agreed to by the parties involved and memorialized in writing.

### **II-D. Works Generated as a Work Made for Hire**

Ownership interest, and all rights associated therewith, of any distance learning project meeting the definition of a "work made for hire", as defined herein, vests completely in the University. The University possesses exclusive educational and commercial ownership and license authority. The author is not entitled to payment of royalty.

## **III. Revision Rights and Obligations**

The author of a distance learning project retain the right to update, edit or otherwise revise electronically developed course materials that become out of date. In certain circumstances, the author of a distance learning project retains right to place a time limit upon the use of electronically developed course materials that are particularly time sensitive, regardless of who owns any copyright interest in the electronically developed course materials. These rights and limitations may be negotiated in advance of the creation of the electronically developed course materials and may be reduced to writing. Absent a written agreement, each author is under an academic duty to revise his or her work on an annual basis in order to maintain academic standards. If an author revises the work and such revision is done in a satisfactory manner, the author retains the rights to full royalties as stated above for another year. If the University believes a revision is necessary and no timely revision is made or if the revision made, in the University's opinion, does not maintain academic standards, the University may refuse to market the product, or the University may employ another individual to update the work and charge the cost of updating against any royalties paid to the original author. The duty to revise a distance learning project is continuing for the life of the project regardless of the author's employment status with the University.

## **IV. Patent/Copyright Administration and Enforcement**

The Patent/Copyright Officer and Patent/Copyright Committee shall be responsible for the administration of this policy and applying the policy equitably across the campus. The author of any electronically developed course materials should submit a proposal to the Patent/Copyright Officer describing the work and the institutional resources that will be used or consumed in its creation and production. The Patent/Copyright Officer shall review the submitted material and make an initial recommendation regarding the appropriate category of ownership to which the work should be assigned. The Patent/Copyright Officer shall forward the author's proposal along with his or her recommendation to the Patent/Copyright Committee. The Committee shall review the submitted materials and make a final recommendation regarding the appropriate category of ownership to which the work should be assigned. The author of the work shall

enjoy the right to be present at all Committee meetings and may negotiate with the Committee as an agent of the University. The Committee's final recommendation shall then be forwarded to the Provost/Vice President for Academic Affairs for final approval.

The Patent/Copyright Officer shall be responsible for registering the copyright for works in which the University possess an ownership interest. The University shall be responsible for enforcing its copyright or patent interests. Authors of electronically published materials for use in distance learning may make such decisions and take such steps to protect works they own. Any one of the authors of a joint work may register and enforce the copyright in the names of all owners, provided they account for the same to all joint authors.

Liabilities may be incurred with respect to the inclusion of materials in electronically published course materials other than materials created by the author(s). It is the policy of Northeastern State University that all faculty, staff and librarians comply with the law, including copyright and privacy laws; therefore, it is the responsibility of the author of electronically published course materials to obtain all permissions and releases necessary to avoid infringing copyright or invading the personal rights of others. The Patent/Copyright Officer shall assist the author in obtaining copyright clearance.