



POLICY APC
Responsible Executive:
General Counsel
Responsible Office:
Office of General Counsel
Issued:7.1.21
Revised:n/a

1. PURPOSE

The University of Dallas is committed to maximizing the creative potential of its faculty and affirms that support for and ownership of creative works should be retained by the creators of those works, subject to the University retaining rights for internal educational use in accordance with this Policy, applicable law, and negotiated agreements. Ownership of copyright by the University is reserved for those works created at the direction of the University or pursuant to negotiated agreements. This Policy is intended as part of the University's compliance with 34 C.F.R. § [668.43\(a\)\(1.0\)](#)

2. USE OF COPYRIGHTED WORKS

Members of the University community may not reproduce, distribute, display publicly, perform, digitally transmit or prepare derivative works based upon a copyrighted work without permission of the copyright owner except as set forth below. Where use of copyrighted works will otherwise be permitted by fair use and other statutory exceptions, permission to use the copyrighted work should be obtained from the copyright owner.

- 2.1. Fair Use. The University supports the responsible, good faith exercise of full fair use rights as set forth in United States Copyright law by faculty, librarians and staff in furtherance of teaching, research and service activities. University faculty or staff who propose to make fair use of copyrighted works must consider the following factors to make a good faith, reasonable fair use determination before using a copyrighted work without permission:
 - 2.1.1. The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
 - 2.1.2. The nature of the copyrighted work;
 - 2.1.3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 - 2.1.4. The effect of the use upon the potential market for or value of the copyrighted work.
- 2.2. Unauthorized Distribution. Unauthorized distribution by members of the University community, including students, of copyrighted material, including unauthorized peer file sharing, may subject the individual to civil and criminal liability.
- 2.3. Legal Penalties. Members of the University community, including students, who violate Federal copyright laws may be subject to various penalties, including, but not limited to,

- 2.3.1. Payment of the actual dollar amount of damages and profits;
 - 2.3.2. Statutory damages up to \$150,000 for each work infringed;
 - 2.3.3. Payment of all attorney fees and cost
 - 2.3.4. An injunction to stop the infringing acts;
 - 2.3.5. Impounding by the court of illegal works; and/or
 - 2.3.6. Imprisonment.
- 2.4. Disciplinary Action. Members of the University community, including students, who engage in illegal downloading or unauthorized distribution of copyrighted materials, especially when committed using the University sponsored systems, are subject to disciplinary action by the University, including, but not limited to, reprimands, fines, probation, and/or separation from the University.

3. COPYRIGHT OWNERSHIP

Ownership of copyrighted works by faculty, staff or students depends primarily on the category of work and on the status of its creator(s).

- 3.1. Faculty Scholarly, Professional and Creative Work Unless otherwise specified as an exception in University policy, the University presumes, in accordance with academic tradition, that copyright ownership of Scholarly, Professional and Creative Work vests with the faculty member who created the work. When multiple faculty members create a Scholarly, Professional or Creative Work, the faculty members are presumed to be joint copyright owners of the work unless determined otherwise.

- 3.2. Use of University sponsored systems The inclusion of Scholarly, Professional and Creative Work or Instructional Materials by faculty in University sponsored systems (such as the University's learning management system and Google drives provided by the University) does not transfer ownership of such Scholarly, Professional and Creative Work or Instructional Materials to the University.
- 3.2.1. The inclusion of Scholarly, Professional and Creative Work or Instructional Materials by faculty in University sponsored systems grants the University a limited license regarding such Scholarly, Professional and Creative Work to reov20(0 rU(d936Tw4 (c)43325a6-2 a)-6,)go(l

- 3.5. Work by Staff. Work produced by staff members within the scope of employment is considered work for hire and the University owns the copyright to work produced, unless there is a written

- 4.3. Limitations on Use of the Course Use of individual copyrighted work as a component of an online course must comply with all applicable copyright law, contracts and licenses. Faculty must seek and receive specific permission to include individual copyrighted work unless such use qualifies within the definition of “fair use” or the material is within the public domain. Permissions to use copyrighted work should include permission for use of the copyrighted work in subsequent semesters.
- 4.4. Rights Reserved by the University. As the holder of copyright in an online course, the University retains the following rights:
- 4.4.1. The right to use the online course for credit and noncredit instruction without payment of any royalties, fees or residuals to the course creator, nor payment to any third parties holding copyright to elements used in the course except as provided by negotiated license or contract.
 - 4.4.2. The right to maintain continuity beyond the original creation by creating derivative works to keep the content current and relevant and to maintain the usefulness and quality of the course materials as a University instructional offering.
 - 4.4.3. The right to use the course beyond the involvement of the original creator, and after the original creator has left the University.
 - 4.4.4. The right to prohibit the use of the course as designed, and its subsequent derivative design at another institution during the useful life of the course at the University of Dallas.
 - 4.4.5. The right to control the distribution and future use of the online course without an obligation to consult with the original creator.
- 4.5. Rights Reserved for Faculty.
- 4.5.1. The faculty creator and any third party creator(s) whose preexisting work is incorporated into the online course retain all rights of ownership in those materials.
 - 4.5.2. A faculty creator who includes his or her own preexisting and copyrighted works into an online course owned by the University grants the University an exclusive, royalty-free right to use the materials as part of the course (including subsequent derivative works) during its useful life. In such cases, the faculty creator retains all other rights of ownership to the work and will be credited and acknowledged in all University uses of the work.
 - 4.5.3. The faculty creator is granted the right to use the substantive content of the course materials, without further consent or approval of the University, in any Scholarly, Professional or Creative Works that do not compete with the University’s actual or intended use of the course materials. In particular, the author retains the right to use the content in textbooks, journal articles, conference presentations, consulting projects, and other scholarly or professional activities.
 - 4.5.4. The faculty creator retains the right to request permission from the University to use parts of an online course or the entire course at another university or setting. Granting of permission

will be at the exclusive and sole prerogative of the University. Such permission shall not be granted in situations deemed to create competition or conflict with the Uni

- 7.4. “Fair Use” means the noninfringing, legally authorized, use of a copyrighted work, including reproductions, for purposes such as criticism, comment, news reporting, teaching, scholarship, research, without obtaining permission of, or payment to, the copyright holder.
- 7.5. “Scholarly, Professional and Creative Works” refers to a pedagogical, scholarly, literary, or artistic work created by University faculty (including fulltime, affiliate or adjunct faculty) as part of traditional academic activity. Such works may include, but are not limited to: textbooks, journals, articles, reviews, manuscripts, scholarly works, fixed lecture notes, course syllabi, tests, course assignments, online course materials not falling into another category, works of art or design, musical scores, poems, films, videos, audio recordings or other works of the kind that have historically been deemed in academic communities to be the property of their creator.
- 7.6. “Directed Works” refers to works that are specifically funded by or created at the direction of the University.
- 7.7. “Sponsored or Externally Contracted Works” refers to any type of work developed using funds supplied under a contract, grant or other arrangement between the University and third parties including sponsored research agreements.
- 7.8. “Work Made for Hire” is either (a) a work prepared by University faculty, staff or student within the scope of his or her employment; or (b) work specifically ordered or commissioned from an independent contractor if the parties expressly agree in a written instrument signed by them that the work shall be considered a “work made for hire.”
- 7.9. “Student works” refers to papers, computer programs, theses, dissertations, artistic and musical works and other creative works made by students.
- 7.10. “On-Line Course” is an organized collection of articles, notes, readings, assignments, online communications, tests and similar materials, some of which may have been previously authored as copyrighted works and some which may have been specifically developed for the course with University support. The course exists as a specific configuration or collection of teaching artifacts.
- 7.11. “Instructional Materials” are those materials used to support the education of students which may include syllabi, course descriptions, reading lists, assignments, slides, lecture notes, lab exercises, tools, simulations, multimedia, web pages, exams, student assignments and discussions.
- 7.12. “COVID- 19 Course” is a series of lectures or other matter dealing with a particular subject, taught during Academic Year 2020-21 employing a hybrid (in-class and online) or entirely online delivery method. It may make use of Scholarly, Professional and Creative Works (as defined herein at §7.5) and Instructional Materials (as defined herein at §7.11).
- 7.13. “University” and “the University” mean the University of Dallas.
- 7.14. “University sponsored systems” means such servers, shared drives, learning management systems and cloud service providers (e.g., Google Drive, Gmail) that are approved by University Information Technology Services for storage or transmission of confidential information.

