

**FREQUENTLY ASKED QUESTIONS (FAQs)
ABOUT THE NEW UNIVERSITY OF SOUTH CAROLINA
COPYRIGHT POLICY (ACAF 1.35)**

WHY DOES THE UNIVERSITY NEED A COPYRIGHT POLICY?

Under federal copyright law, a work created as part of an individual's job is generally considered a "work for hire," with the copyright owned by the employer. This is contrary to the academic tradition, in which university employees including instructional staff generally retain the copyright to their academic work.

In order to implement this academic tradition here at the university, we must adopt a copyright policy in which the university disavows the default federal policy and implements its own.

HOW CAN THE UNIVERSITY DISAVOW FEDERAL COPYRIGHT POLICY?

Federal law sets the basic ground rules for copyright, such as that the copyright in a work created as part of an individual's job is generally owned by the employer. But it also allows for the owner of a copyright to sell or assign that copyright to others. By adopting the proposed copyright policy, the university will be assigning the copyright in most works to the work's creator(s).

WHO OWNS COURSE MATERIALS UNDER THE NEW POLICY?

Course materials are generally "Academic Works" under the new policy. Thus the instructor owns the copyright to the content, including any pedagogical or instructional materials of any course, in any medium, that the instructor creates. The university, academic unit or other administrator cannot transfer use or ownership of such course content to another instructor without written permission of the author.

Exceptions:

1. Course materials created for a course that is offered on a regular basis by an academic unit, with the expectation and understanding that the university will regularly offer the course but that it will be taught by various instructors who share and/or reuse a common set of materials. These are considered "Institutional Works" under the Policy.
2. Works that are deliverables under a sponsored contract or grant, unless the contract or grant provides that the faculty author(s) shall hold the copyrights to the deliverables. These are considered "Sponsored or Contracted Works" under the Policy.
3. Works that are specifically commissioned by the university or are created as part of an administrative assignment for or on behalf of the university. These are considered "Directed Works" under the Policy.
4. Works that are software under university policy, unless the faculty author(s) hold the copyrights to the software pursuant to university policy;
5. Works that are or have been transferred to the university in writing; or
6. Works for which the transfer of copyright to the creator would cause the university to breach a contract or violate a law.

WHO WROTE THE PROPOSED POLICY?

The proposed policy was initially drafted by the faculty Intellectual Property Committee. After feedback from the Faculty Advisory Committee, the faculty Intellectual Property Committee passed a final draft on April 25, 2019. The draft policy was then sent to the Faculty Advisory Committee, which led to robust debate among some members of the faculty over some of the provisions of the proposed policy, particularly regarding copyright in digital course materials.

During the summer of 2020, the draft policy was reviewed by the General Counsel's Office, the Provost's Office, and others. This has led to several proposed changes to the draft policy. An ad-hoc committee with representation from a variety of stakeholders was then established under the auspices of the Provost's Office to address the various concerns arose in discussions of the draft.

The draft was revised in light of these concerns to create this proposed policy. It was approved in its current, final form by the Intellectual Property Committee and the Faculty Advisory Committee (FAC), and reviewed by the Policy Advisory Committee (PAC) before being open for public comment and then final approval by the University President.

NOTE: In the event of an inadvertent conflict between the Policy and this FAQ, then the Policy controls.