

AAUP Works for You

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Who Owns Coursework on Blackboard? You Do!

Some faculty members may be reluctant to develop online course materials for regular and distance learning classes because of uncertainty about whether the university claims ownership and might provide their work to a graduate assistant or adjunct offering the same class.

The University's Copyright Policy (<http://www.uc.edu/trustees/rules/RuleDetail.asp?ID=84>) does not change the traditional relationship between the University and authors of textbooks and other scholarly and artistic works. Unless the production of such materials is subject to paragraphs (B)(2) to (B)(4) of this rule, the university disclaims ownership of copyrights in textbooks, monographs, papers, articles, musical compositions, works of art and artistic imagination, unpublished manuscripts, dissertations, theses, popular nonfiction, novels, poems and the like that are created by its faculty, staff and students.

Course materials have never been considered "works for hire" owned by the university. When a professor does make "significant use of university resources" or receives extra compensation for the creation of materials, such "University sponsored works" (B)(3) belong to UC unless the creator has an advance, written agreement—especially important when the work may generate income that might be shared. For materials expected to generate revenue, a prior written copyright agreement should clarify ownership rights to future use and income.

When questions arise, the U.C. Vice President for Research is responsible for determining whether a written copyright agreement is needed. In response to a recent inquiry that was considered by the

Office of General Counsel, Fred Hamilton, affirmed "the importance of the general principle of faculty ownership to traditional works of scholarship" noting:

The final exception, contained in section (B)(4) of the Rule, provides for University ownership when "significant University resources" are involved in the creation of the copyrighted work. In my view, the applicability of this exception ... must be read in light of the language of (B)(3), which clearly indicates that such things as 'office and library facilities,' 'clerical support,' 'data [processing],' and 'word processing' are not viewed as constituting 'significant resources.' ... electronic resources are, in my view, analogous to the use of clerical, data processing, and word processing support.

With the aid of Doug Nienaber in the Office of General Counsel, Associate Provost Wayne Hall has organized an administration task force, and Professor BJ Zirger is working with a Faculty Senate committee to consider needed changes to UC's copyright policy and procedures. The administration's reaffirmation of the right of faculty to ownership of their course materials and curricular designs supports a crucial and long-standing AAUP principle described in Donna Euben's "Distance Learning and Intellectual Property: Ownership and Related Faculty Rights and Responsibilities" (see AAUP website at <http://www.aaup.org/Legal/info%20outlines/legdl.htm>). Individual faculty unable to resolve concerns in the department or college should consult Dave Rubin or Deborah Herman at the AAUP office.

— Howard Tolley, PhD, JD
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