

**Applies to:** (examples; Faculty, Staff, Students, etc)

Faculty , Staff , Students , Contractors\_Vendors

**Policy Overview:**

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Frequency of Review: Annually

Copyright law protects the tangible expression of original works of authorship. Ideas are not protected under copyright but may be protected under patent law if they meet the criteria for a patent. Copyright owners have certain exclusive rights to reproduce works, make derivative works, and disseminate works through performance, display, distribution, sales and licensing. These rights are limited by some exceptions, including "fair use" of insubstantial portions of copyrighted materials for teaching and other academic purposes. This policy sets forth the rights and responsibilities of University of Health Sciences and Pharmacy in St. Louis ("UHSP"), its faculty, students, and employees in their roles as members of the UHSP community in creating and using copyrighted works. The copyright policy is subject to UHSP policies addressing conflicts of interest, conflicts of commitment, and patents.

This policy applies to all faculty, staff, students and third-parties who use the University's facilities or resources.

**Details:****Introduction**

UHSP encourages faculty, staff, and students to be creative in their teaching, research, scholarly and artistic endeavors, patient care, and work activities to advance their careers and reputations and contribute to the reputation and prestige of UHSP. UHSP's policy on copyright ownership establishes guidelines on copyright ownership, use, and revenue sharing that are reasonable and appropriate to compensate Creators and support copyrightable works by UHSP.

**Scope**

This policy shall apply as a condition of employment or study to all UHSP faculty, staff, and students including without limitation, members of the faculty and staff holding appointments at or employed by UHSP. Additionally, this policy is also applicable to all persons, including research collaborators, visiting researchers, consultants, and contractors who are not employed by or affiliated with UHSP whose copyrighted works result, in whole or in part, from the use of UHSP facilities or resources.

**Scholarly Works**

UHSP supports faculty use and dissemination of works of original authorship by recognizing faculty copyright ownership of scholarly and artistic works such as books, monographs, journal articles, abstracts, musical compositions, and artwork, in whatever format they are created, print or electronic, regardless of any UHSP resources used in whole or in part to create them.

Faculty, teaching assistants, and graduate assistants also own copyright to pedagogical materials, including materials in electronic format or posted to a website, that they develop in the regular course of their teaching duties using resources ordinarily available to all or most faculty members (as described in the section of this policy concerning Use of Substantial UHSP Resources), with the exception of the following: (1) course syllabi; (2) course proposals; and (3) lectures and related original materials created pursuant to an express, written work for hire agreement between UHSP and the faculty member. Copyright to works created by a teaching assistant or graduate assistant at the direction of a faculty member or UHSP typically will be owned by the faculty member or UHSP.

Students typically will own the copyright to works created as a requirement of their coursework or degree program. As a condition of matriculation, students grant UHSP an irrevocable license, at no cost to UHSP, to use student works for pedagogical, scholarly, and administrative purposes.

The faculty and the administration recognize that technology and innovation will continue to impact future modalities and methods of instruction and learning. As technologies change, the norms for delivering educational content and materials will also change. UHSP and the faculty member will enter into a specific written agreement regarding compensation and copyright ownership of any copyrightable materials developed in connection with courses that are delivered through emerging technologies adopted at UHSP.

All persons covered by this policy grant UHSP an irrevocable license, at no cost to UHSP, to use copyrightable materials that they have created and used as part of their UHSP activities whenever they are unable to perform their duties and for other non-commercial and administrative uses such as accreditation, assessment, and emergency or humanitarian purposes. Additionally, any person who voluntarily separates from employment with UHSP grants UHSP a limited license to use such copyrighted materials for the purpose of education and research, at no cost to UHSP, for the lesser of the following period: (1) the remainder of the academic year in which the person departs UHSP plus the following academic year and interim summer sessions, or (2) eighteen (18) months from the date of

UHSP's receipt of a written notice of resignation. UHSP will provide appropriate attribution and notice that Copyright ownership in the materials is held by the Creator.

Subject to the traditional freedom to publish scholarly and artistic works, UHSP owns the copyright to works created by faculty, students, staff, and visitors as follows:

- # Works created at UHSP's direction, unless UHSP enters into a written agreement or establishes a written policy that provides otherwise
- # Works created by staff within the scope of their employment
- # Works created by students in their capacity as employees of UHSP
- # Works created as a result of external funding where the terms of the funding require that copyright be in the name of UHSP

With the exception of traditional scholarly and artistic works as noted above, UHSP also may elect to own the copyright to works created using substantial UHSP resources (as described in the section of this policy concerning Use of Substantial UHSP Resources).

Copyrightable works that also qualify for protection under patent laws as inventions or discoveries or that arise from matters that also are covered by UHSP's patent policy, shall be owned by UHSP and governed by UHSP's patent policy, unless UHSP elects not to file a patent application or otherwise commercialize information that has been disclosed to it, or unless UHSP assigns its rights in the invention or discovery to the creator. UHSP claims no ownership of copyright to un-patentable software unless the software was created at UHSP's direction, made use of substantial UHSP resources, or was created by non-faculty employees working within the scope of their employment.

Rights pertaining to copyright ownership may be allocated or shared with others. Works created collaboratively by students, staff, faculty, and/or others may be owned in whole or in part by UHSP if they fall within one of the categories described above. When works are created collaboratively with other entities or institutions, UHSP's interests and rights in such works shall be recognized and protected consistent with this policy.

Individuals who are not regular employees are routinely engaged by various UHSP units to prepare specific works which support the functions of the unit and UHSP. For the unit and UHSP to retain control of such a work for all purposes, copyright law requires that the individual execute both a written agreement known as a work for hire agreement and an assignment of copyright with respect to the work. Accordingly, when consultants or contractors are retained the consultant or contractor should execute an agreement which includes the required assignment prior to the work being performed. Consult with the General Counsel for assistance.

In cases where UHSP owns the copyright, UHSP ordinarily will recognize that faculty Creators have: recognition of their contribution as Creators; the first opportunity to make revisions of the work (subject to reasonable deadlines and peer review); the right to request a revision or update; the right to have their names removed from a work; and the right to use the work in professional contexts, such as expert witness testimony and consulting, provided the use of such work does not result in a conflict of interest.

UHSP also will consider written requests by the Creators of works to which UHSP may assert copyright ownership by virtue of this policy to transfer copyright of the work to the Creator. A non-exclusive, royalty-free license will be extended to the Creator if UHSP has not taken affirmative steps to use the works within one (1) year after receiving notice of creation of the works from the Creator. Creator will not use the works covered by the license in any manner that competes with UHSP without UHSP's written approval and a written agreement covering mutually agreed upon financial terms. UHSP may also require the Creator to reimburse UHSP for all or a portion of the University's resources expended to support the creation of the works. UHSP will act expeditiously in considering such requests.

In cases where the creator owns the copyright, the creator is encouraged to acknowledge, in a form appropriate to the nature of the work, UHSP's support in the creation of the work. UHSP retains exclusive rights to determine whether UHSP's name or logos, including those of any unit of UHSP, may be used in the provenance of the work, although the name of UHSP or unit may be used to identify the affiliation of the creator. UHSP's name shall not be used in a manner that suggests endorsement or commercial association.

In the interest of the broadest dissemination of new knowledge for the public good, UHSP supports and encourages creators who assign their copyright to retain the right to use their work within UHSP for educational, research, and public service, and to retain the right to make their work available in publicly accessible electronic archives.

### **Use of Substantial UHSP Resources**

The use of substantial UHSP resources refers to the use of UHSP funds, facilities, equipment, or other resources not ordinarily available for all or most faculty members. Use of substantial UHSP resources may include research funding, payment of salary from restricted funds, paid or release time awarded to support the creation of the copyrightable work, use of UHSP laboratories, computers for modeling or special instrumentation, and dedicated assistance by UHSP employees. This is a listing of examples which in particular circumstances may constitute the use of substantial resources; the list is not intended to be exhaustive nor would use of resources in these categories always constitute use of substantial UHSP resources.

Exceptions may occur in situations where creators use UHSP facilities and resources in the creation of works of artistic imagination.

Use of any or all of the following resources ordinarily available to all or most faculty are not considered "use of substantial UHSP resources:" academic year salary and benefits, salary received on sabbatical, office space, library resources, personal computers and UHSP's computer infrastructure, normal use of secretarial staff and supplies, use of instructional support services, teaching excellence centers, and small awards to faculty from internal grant programs.

If a faculty member embarks on creating a work that may make use of substantial UHSP resources, the faculty member may consult with his or her department chair/director or dean for advice on copyright to the created work. When a substantial use of UHSP resources is expected in the creation of a copyrightable work, the dean will consult with the President and make this determination before the work is created. The deans shall promptly inform the faculty member(s) of the President's determination.

### **Commercialization**

It is the mission of UHSP to further education and research. UHSP resources are to be used solely for UHSP purposes and not for personal nor for any other non-UHSP purposes. Any commercialization of intellectual property should be consistent with these overriding principles.

Before commercializing any work to which it owns the copyright, UHSP shall consult with the principal creator. Where there are commercial opportunities for a copyrightable work in which UHSP may have an ownership interest, the creator shall promptly disclose the work to UHSP. In cases of commercialization where direct competition with UHSP might exist, the creator shall consult with his or her dean prior to commercializing a work to which he/she owns the copyright. When the creator owns the copyright, he/she will provide UHSP with the first opportunity to commercialize a work.

If the creator/copyright owner commercializes a work, the creator/copyright owner shall endeavor to retain for UHSP a non-exclusive, non-transferable royalty-free right to use the work within UHSP for educational, research, and public service purposes.

In cases where UHSP commercializes a work, any revenue sharing with the faculty creator shall be determined by a negotiated written agreement.

### **Copyright Notice and Administration**

Copyright to all UHSP-owned works shall be held in the name of the University of Health Sciences and Pharmacy in St. Louis.

The individual decanal or administrative unit and area in which the work was created will ordinarily have primary responsibilities for the administration of copyrights and permissions for those works. Any commercial sale or licensing of UHSP-owned, copyrightable works shall follow UHSP procedures and policies including the Contracts Administration and Signature Authority Policy.

If UHSP retains or receives an assignment of copyright ownership, the appropriate dean or chief administrator for the affected division will consult with the General Counsel regarding filing an application to register the copyright.

### **Fair Use**

The fair use provision of the copyright law is an important exemption to the exclusive rights of copyright owners. Because there is no blanket exemption in copyright laws for educational or scholarly use of copyrighted works, each use must meet the fair use test. UHSP encourages members of the UHSP community to exercise fair use rights appropriately in their teaching, research, and service activities.

Fair use guidelines developed between representatives of publishers and higher education, describe "safe harbors" for uses of copyrighted works. UHSP encourages individuals anticipating the use of a copyrighted work to consult the guidelines before using the work. If the use of a copyrighted work does not fall clearly within the guidelines, an individual anticipating the use of a copyrighted work is encouraged to conduct a good faith fair use analysis for each such use. Permission shall be obtained for each use of a copyrighted work that does not fall clearly within the guidelines or when a clear and convincing finding of fair use cannot be made. Faculty seeking assistance may submit a request through the appropriate Dean to the General Counsel.

### **Administration of the Policy**

Any individual covered by this policy shall disclose a copyrightable work other than traditional scholarly works to the appropriate Dean or chief administrator. The creator should include a statement of copyright ownership and the basis for the creator's position along with any request for UHSP to release its ownership rights in the copyright at the time of disclosure. The appropriate dean or chief administrator will consult with the General Counsel and respond to the creator in writing regarding copyright ownership within thirty (30) days of the disclosure.

### **Advisory Committee**

The President will establish a Copyright Policy Advisory Committee comprised of faculty to advise the President and the Deans on the resolution of disputes on copyright matters arising under this policy including ownership. The committee shall consist of five (5) voting members jointly appointed by the Deans and the President of the Faculty Senate. Committee membership shall consist of one (1) faculty representative from the College of Arts & Sciences, one (1) faculty representative from the College of Pharmacy, and three (3) at-large tenured members of the faculty. A majority of members shall constitute a quorum. The committee will annually elect a chair from among the members. Either the creator(s) or the administration may submit a written request to resolve a dispute to the Chair of the committee. Copies of the request will be provided to the affected parties and areas including the Creator(s), appropriate Dean or chief administrator, the President of the Faculty Senate, and the General Counsel. Within ten (10) business days of receiving the request, the Chair will convene the committee to review the request and develop a plan for collecting information from the Creator(s) and the appropriate administrator(s). The committee will review the information collected and make written recommendations by a majority vote. In the case of faculty or student related disputes, the Committee will send its recommendations to the appropriate Dean. Recommendations involving staff related disputes will be sent to the chief administrator. The Dean or chief administrator will issue a written decision including a summary of the findings and supporting evidence within ten (10) business days after receipt of the Committee's recommendation. Either the Creator(s) or the administration may appeal the decision to the President by submitting a written statement outlining the issues and the reasons why the decision should be modified or reversed within ten (10) days after receipt of the Dean's or chief administrator's decision. Upon receipt of the appeal, the President will review the Dean's or chief administrator's decision and the statement of appeal. The President may seek additional clarifying information from the parties and discuss the initial recommendations and subsequent decision with the Copyright Policy Advisory Committee and the appropriate Dean or chief administrator. Within thirty (30) days after receipt of the appeal, the President will issue a written decision including a summary of the findings and supporting evidence. The President shall have final and binding authority to interpret, enforce, and resolve any disputes arising under this policy.

### **Timeliness of Decisions**

UHSP shall make every reasonable effort to act expeditiously under the circumstances in arriving at all decisions under this policy. From the time of disclosure, Creator(s) will work in close collaboration with the General Counsel who will monitor progress through the UHSP process. Under normal circumstances a Creator can expect an initial response to a disclosure from the appropriate Dean or

chief administrator for the division within thirty (30) days. Creator(s) may seek assistance with issues relating to timeliness by filing a grievance with the Copyright Policy Advisory Committee.

#### Responsibilities:

Position/Office/Department	Responsibility
Chief unit administrator, Deans College of Pharmacy/ College of Arts & Sciences	Review copyright disclosures, copyright assignment and license agreements, make recommendations on copyright ownership; provide consultation on commercialization; and decide copyright related disputes
President	Approve copyright registration filings for University owned copyrights, copyright assignments, and license agreements; decide appeals of copyright related disputes; and oversee administration of this policy on behalf of the Board of Trustees
General Counsel	Provide legal advice and manage copyright related matters including without limitation copyright disclosures/filings, copyright prosecution, fair use, copyright assignments, license agreements, and enforcement actions
Vice President Finance, Chief Financial Officer	Financial accounting and reporting

#### Resources:

University of Health Sciences & Pharmacy Contracts Administration and Signature Authority Policy

University of Health Sciences & Pharmacy Conflicts of Interest Policy

University of Health Sciences & Pharmacy Fair Use Guidelines Policy

University of Health Sciences & Pharmacy Patent Policy

United States Copyright Office, <http://www.uspto.gov>

#### Policy Contacts:

Name	Contact Information
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