



# University of North Alabama

## Employee Policy Manual and Handbook

### Creation of Copyrighted Materials Policy

The University of North Alabama (UNA) encourages the creation and dissemination of scholarly work by members of the UNA community, including Copyrightable Works (Works). It is traditional at UNA that most such works are deemed the property of the creator, and the creator has the right to exercise the exclusive rights of the copyright holder and to receive any revenue generated from the exercise of such rights. Notwithstanding this tradition, there are times when UNA provides substantial contributions to the creation of certain works, and in those cases, UNA will be entitled to assert ownership rights in such works. This Policy Governing the Creation of Copyrighted Materials (Policy) is intended to clarify UNA's and the creator's ownership of and rights in all such Works.

### BACKGROUND

Federal Copyright Law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form. In the course of teaching, researching and conducting other intellectual and administrative activities at, for or on behalf of UNA, faculty, staff, doctoral fellows, students and others engaged by or on behalf of UNA may create works that are protected by copyright.

Copyrightable works of authorship include, among other categories: books, articles, instructional materials, and other written works; musical and dramatic works; pictures, films, videos, sculptures and other works of art; computer software; and electronic chip designs.

Copyright Law grants ownership of a Work created by a person in the course of their employment to the employer rather than to the individual creator. However, to encourage members of UNA to create academically relevant and significant Works, in most cases, UNA will allow the faculty, staff, doctoral fellow, student or other individual engaged by or on behalf of UNA to assert ownership of Works they create, except as set forth in this Policy.

This Policy applies to all UNA faculty, staff, doctoral fellows, students and other individuals engaged by or on behalf of UNA.

### **1. DEFINITIONS**

#### a) Rights of the Copyright Owner (17 USC § 105):

The owner of a copyright has the exclusive right to:

- i) To reproduce the work;
- ii) To prepare derivative works;
- iii) To distribute copies or phonorecords of the work to the public by sale, rental, lease, or lending;
- iv) In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the work publicly;
- v) In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
- vi) In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

b) **Copyrightable Works:** Copyrightable works of authorship are those that are fixed in a tangible medium and among other categories may include: books, articles, instructional materials, and other written works; musical and dramatic works; pictures, films, videos, sculptures and other works of art; computer software; and electronic chip designs.

c) **Fixed in a Tangible Medium (17 U.S.C. § 102):** A copyright interest arises in a Work once it is "fixed in a tangible medium" of expression. A tangible medium is one from which the Work can be perceived, reproduced, or otherwise communicated, directly or with the aid of a machine or device.

d) **Non-Copyrightable Material:** Copyright interest does not extend to and copyright law does not protect ideas, procedures, processes, systems, methods of operation, concepts, principles, facts or discoveries, regardless of the form in which they are described, explained, illustrated, or embodied in a Work.

e) **Categories of Works:** Works typically fall into one of the following categories:

- i) literary works;
- ii) musical works, including any accompanying words;
- iii) dramatic works, including any accompanying music;
- iv) pantomimes and choreographic works;
- v) pictorial, graphic, and sculptural works;
- vi) sound recordings; and
- vii) architectural works.

f) **Ordinary Use of Resources.** Ordinary use of UNA resources occurs when an author/creator uses UNA resources or facilities in a manner consistent with use expected for the day-to-day performance of the individual's obligations to UNA, such as ordinary use of library facilities, office space, office supplies or equipment including copiers, telephones, and fax machines, or UNA owned personal computers or other electronic devices.

g) **Substantial Commitment of Resources.** UNA makes a substantial commitment of resources to a Work if the author/creator makes use of UNA personnel, equipment and/or facilities beyond the Ordinary Use of Resources. A substantial Commitment of Resources by UNA may include, for example purposes, use of laboratory facilities, designated research equipment, equipment of any kind provided through a grant or corporate sponsorship, or work or materials the funding for which was otherwise subsidized by UNA.

h) **Work Made for Hire (17 U.S.C. § 101):**

- i) A "work made for hire" is: (i) a work prepared by an employee within the scope of their employment; or (ii) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a signed written agreement that the work shall be considered a work made for hire.
- ii) ***Supplementary Work.*** A "supplementary work" is a Work prepared for publication as an addition to or revision of the Work of another author for purposes of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, after words, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.
- iii) ***Instructional Text.*** An "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

- i) **Teaching Materials.** Teaching Materials include lecture notes, syllabi, course materials, handouts, teaching aides, regardless of the media, and other similar materials utilized for purposes of teaching a course to students. Video recordings of lectures taught to or for UNA students are not considered Teaching Materials and are Assigned Tasks as provided for in Section 3.

## **2. OWNERSHIP AND RIGHTS IN COPYRIGHTABLE WORKS**

UNA has and will assert its ownership interest in the following Works.

a) **Assigned Tasks.**

- i) Created by Faculty Members and Doctoral Fellows in the scope of their assigned duties, except for Teaching Materials. UNA will own the copyright in Works created by faculty and doctoral fellows in the course of their assigned duties of employment where documentation of the employee's assignment explicitly states in writing that the Work will be owned by UNA. Examples may include copyrights in materials designed to promote UNA, materials created for administrative use within UNA, and other similar Works.
- ii) Created by UNA Staff, Students, or other personnel in the scope of their assigned duties. UNA will own the copyright in Works created by UNA staff, students and other personnel in the scope of their assigned duties, including duties as teaching or research assistants.

b) **Sponsored Agreements.** Where a Work is developed by faculty, staff, doctoral fellows, students, or others engaged by or on behalf of the University in the course of sponsored research funded by an outside agency, company or other institution pursuant to a funding or sponsorship agreement approved by the appropriate university official(s), ownership of such Works will be determined by the applicable terms of the funding or sponsorship agreement.

c) **Patentable Works.** Where a Work is also patentable, the UNA Patent Policy will apply to it, notwithstanding any inconsistent provisions in this Policy.

d) **Works with Substantial Commitment of UNA Resources.** When UNA makes substantial commitment of resources to a project, UNA is entitled to at least partial ownership of the Work. The specific definition of substantial commitment of UNA resources may vary on a case-by-case basis and should be determined in cooperation with the Provost and Executive Vice President for Academic Affairs (PEVPAA) PEVPAA and relevant College Dean or supervisor prior to initiating the Work. If the determination of a substantial commitment of UNA resources is not made in advance of initiating the Work, or if circumstances change during creation of the Work such that a substantial commitment of UNA Resources was utilized, the creator will work together with the PEVPAA and the relevant College Dean or supervisor to determine the proper allocation of ownership and to document such determination in writing.

## **3. FINANCIAL BENEFITS FROM WORKS**

- a) **Teaching Materials.** Except for tuition and fees UNA receives from students, UNA will not assert any rights to financial benefits a creator may derive from commercialization of their teaching materials. Creators of teaching materials are not entitled to any portion of tuition or fees UNA receives from students that may be allocated to the courses utilizing the Teaching Materials, except for their standard compensation.
- b) **Assigned Tasks.** UNA shall be entitled to all financial revenue generated by Works developed as part of Assigned Tasks and owned by UNA.
- c) **Sponsored Agreements.** Any financial benefit from Works arising out of funding or sponsorship agreements shall be distributed as set forth in the funding or sponsorship agreement.

- d) Patentable Works. Any financial benefit from Works that also result in inventions addressed under the UNA Patent Policy shall be distributed as provided for in the Patent Policy.
- e) Works with Substantial Commitment of UNA Resources.
  - i) Where the creator(s) has relied on a Substantial Commitment of UNA Resources, in whole or in part, to create a Work, UNA shall be entitled to that portion of the financial benefit from the Work as specified in the written agreement between UNA and the creator. If there is not a written agreement, UNA shall be entitled to recover its Substantial Commitment of UNA Resources first, and thereafter, the financial benefit from the Work shall be divided 50/50 between UNA on the one hand and the creator(s) on the other hand.

#### **4. EXCLUSIVE RIGHTS OF OWNERSHIP.**

- a) In general, the exclusive rights of ownership in a Work may be exercised by the owner of the Work as defined by this Policy.
- b) When UNA has all or partial ownership in a Work, UNA reserves the right to assert exclusivity as to some or all of the exclusive rights of ownership, such as the right to copy or distribute the Work. Such reservation of rights shall be determined between UNA and the creator(s) in cooperation with the PEVPA and the relevant College Dean or supervisor.

*Approved through the Shared Governance Process and by President Kitts, 10/21/2024*