

# **SPRINGFIELD COLLEGE**

## **COPYRIGHT OWNERSHIP POLICY**

### **I. Purpose:**

The purpose of this Copyright Ownership Policy (the “Policy”) is to delineate the rights and responsibilities of all members of the Springfield College (“College”) community with respect to the copyright ownership of certain created works as well as to promote open access, encourage innovation among faculty, staff, and students, and allow development of materials for educational purposes. All College faculty, staff, and students, and those independent contractors retained by the College, have the responsibility to properly use copyrighted material and protect intellectual property rights.

### **II. Scope:**

This Policy applies to all employees and students of the College and independent contractors retained by the College to perform services on behalf of the College. This Policy does not address the use by the College or members of the College community of copyrightable materials owned by third parties which is governed by applicable law, including the doctrine of fair use. Furthermore, this Policy does not govern inventions created by members of the College community that may be patentable.

### **III. Policy – Copyrightable Works:**

#### **1. Works by Faculty Members**

##### **a. Scholarly, Professional and Creative Work by Faculty**

A “Scholarly, Professional and Creative Work” includes a pedagogical, scholarly, literary, or artistic work created by a faculty member (including full-time, part-time, and adjunct faculty members) as part of traditional academic activity. Such Scholarly, Professional and Creative Works include, but are not limited to, books, journal articles, reviews, course syllabi, tests, course assignments, monographs, scholarly papers, musical compositions, works of art, computer programs, unpublished manuscripts, and recordings or transcriptions of lectures or performances.

In accordance with academic tradition, and unless specified by this Policy, the College does not claim ownership to Scholarly, Professional and Creative Works, and copyright ownership of the Scholarly, Professional and Creative Work will vest with the faculty member who created the work.

When multiple faculty members create a Scholarly, Professional and Creative Work, the faculty members will be joint copyright owners of the work unless there is a written agreement.

In consideration of the College not claiming ownership (unless specified by this Policy) to Scholarly, Professional and Creative Works, faculty members grant the College a non-exclusive, perpetual royalty-free license to use work created for ordinary teaching use in the classroom (including but not limited to syllabi, tests, assignments, reading lists, course description) for educational, research, internal, archival, or any other purpose consistent with the mission of the

College. Appropriate attribution should be made in uses of substantial intellectual contributions, where it is reasonable and appropriate as determined by the College official authorizing the usage. The College, where practicable, shall notify the faculty member in the event the College elects to utilize a faculty member's Scholarly, Professional and Creative Works in a classroom setting.

Faculty members are also encouraged to disseminate their work for the public good and to promote the College.

## **b. Online Courses**

An online course implemented in the Moodle course-management system at the College, or similar educational technologies, is an organized collection of articles, notes, media, assignments, online communications, tests, and similar materials. Materials posted and used in the course may be previously authored and copyrighted work while other materials may exist as links to other copyrighted materials existing elsewhere or may have been specifically developed for the course with College support. Thus, an online course exists as a specific configuration or collection of teaching artifacts, some of which are separately copyrighted and some of which originate from College supported development. An "online course" for purposes of this Policy includes: i) the entire course if it is solely delivered via an online format; and, ii) the online content of a course if the course is deemed a web-enhanced course.

An online course (as a designed collection of assembled and authored material) produced under College sponsorship, where the College provides the specific authorization or supervision for the preparation of the course, or a course specially ordered or commissioned by the College and for which the College has agreed to specially compensate or provide other support (such as release time) to the creator(s), are deemed works made for hire/commissioned works. In each instance, the copyright to the course will be held and exercised by the College. Faculty members who develop the course will be acknowledged as author(s) in all current and future uses of the course and other copyright holders contributing to the substantive course content or materials will receive acknowledgement and named credit.

### *Limitations on Usage*

Because the online course is a collection of copyrighted works, some originating from College supported development and others predating the development, or existing apart from the College sponsored development, the following limitations on use exist:

- The course cannot be leased, sold, or transferred to a third party without written permission or license from each author of copyrighted works contained in the course.
- All use of each individual item of copyrighted work must comply with all applicable law, contracts, and licenses. For example, absent applicable law, such as the doctrine of fair use, permitting such usage without obtaining consent, faculty must seek permission to include an illustration, article, or similar copyrighted work in the course. Such permission should include permission for use in subsequent semesters.

### *College Retained Rights*

As holder of the copyright for the course, the College retains the following rights; however, this list should not be considered to include all of the rights reserved to the College:

- The right to use the course for credit and non-credit instruction without payment of any royalties, fees, or residuals to the course authors/developers, nor payment to any third

parties holding copyright to elements used in the course except as provided by negotiated license or contract;

- 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 College instructional offering;
- The right to use the course beyond the involvement of the original author/developers;
- the right to prohibit the use of the course as designed, and its subsequent derivative designs, at another institution during the useful life of the course at Springfield College; and
- The right to control the distribution and use of all intellectual property to which the College holds copyright and named ownership.

#### *Rights of Authors*

A faculty member who authors the course:

- Retains all rights of ownership in preexisting work that is incorporated into the course;
- Grants to the College a non-exclusive, royalty-free right to use the material as part of the course (including subsequent derivative works) during its useful life. In such instances, the author/developer retains all other rights of ownership to the work and will be credited and acknowledged in all College uses of the work;
- Is granted the right to use the substantive content of the course materials, without further consent or approval of the College, in any scholarly or creative works that do not compete with the College's actual or intended use of the course material. In particular, the author retains the right to use the content in textbooks, journal articles, conference presentations, consulting projects, and other scholarly works or professional activities; and
- Retains the right to request permission from the College to use parts of the course or the course in its entirety at another institution or setting. Granting of permission will be at the exclusive and sole prerogative of the College.

#### **c. Administrative Works by Faculty**

“Administrative Work” is any work by faculty, excluding Scholarly, Professional and Creative Work, that is made at the express direction of a supervisor, prepared pursuant to the specific provisions incorporated within a position description, or prepared in the performance of any administrative duty. Copyright of ownership of Administrative Work shall belong to the College.

#### **d. Competitive Use of Works**

Faculty with full-time appointments, during their employment at the College, should not use (or permit others to use) their works in ways that compete with the College's courses; or is to the disadvantage of the College and its legitimate interests; or create a situation that would put the College at a competitive disadvantage unless prior written permission is obtained from the Provost or his/her designee. This provision does not apply to works created in conjunction with professional activities in conformance with College norms such as, but not limited to: sharing syllabi or other course materials with colleagues at other non-profit educational institutions; ordinary outside consulting; participation in professional or scholarly organizations; scholarly presentations and publications; pursuit of future employment opportunities; and public service.

#### **e. Recordings in the Classroom**

Unless required as part of an approved reasonable accommodation through the appropriate learning/disability support services office, faculty have the discretion to grant permission to students to make audio recordings in the classroom for personal use or for ordinary learning purposes pertaining to that class. Faculty may make audio or video recordings in the classroom for any educational purpose consistent with the mission of the College. For commercial purposes, classroom recordings must be approved in advance by the Provost or his/her designee.

## **2. Works by Staff**

Works by staff shall follow the same guidelines as those for faculty noted above. Unless otherwise specified by written agreement or developed through the exceptional use of College resources as noted below, the College shall not claim ownership to “Scholarly, Professional and Creative Work” but shall receive a corresponding non-exclusive, perpetual royalty free license to use such work. Copyright of ownership of Administrative Work prepared by a staff member shall belong to the College.

When multiple staff members, or a combination of a faculty member and staff member, create a Scholarly, Professional and Creative Work, the staff/faculty members will be joint copyright owners of the work unless there is a written agreement.

## **3. Exceptions to Faculty and Staff Ownership of Scholarly, Professional and Creative Work**

The following are two separate exceptions to faculty and staff ownership of Scholarly, Professional and Creative Work:

### **a. Written Agreement**

When Scholarly, Professional and Creative Work is produced pursuant to the terms of a written agreement, the agreement shall specify ownership in the work. A written agreement, for example, may be an agreement between a faculty or staff member and the College to create a particular work for the use by the College or a sponsored program agreement governing work developed using funds supplied under a contract, grant, or other arrangement between the College and third parties.

### **b. Exceptional Use of College Resources**

Copyright ownership of Scholarly, Professional and Creative Works produced with exceptional use of College resources shall belong to the College unless there is a written agreement. Exceptional use of College resources occurs when the College has provided substantial support specifically for production of the work with resources of a degree or nature not routinely made available to faculty or staff. This may include unusual reduction of teaching service or similar College activities, and other significant institutional funding in support of the work’s creation; or free use of specialized College facilities outside of classroom settings. Routine use of office space, office equipment, library materials or materials stored on a server is not considered exceptional use of College resources. Works created on faculty sabbaticals are considered routine and do not in and of themselves fall under exceptional use of College resources. Whether an

individual work has been created through exceptional use of College resources shall be determined by the Provost.

#### **4. Works by Students**

Students own the copyright to the academic work they produce unless there are exceptional circumstances. In such cases, a written agreement is required. Academic work includes class papers, theses, dissertations, artistic and musical works, and other creative works made by students.

Works produced by students as College employees, either as a work study or regular employee, as part of their assigned duties are owned by the College.

If a graduate research assistant is involved in assisting faculty or staff with producing Scholarly, Professional and Creative Work as a part of their assistantship, then the faculty/staff member should have a written agreement with the student that clearly states the copyright interest of the student in the work. If the student is a significant contributor to the work then the assumption is that they should be considered as a co-author / co-creator and share appropriately in rights to the work.

#### **5. Works by Independent Contractors**

Works produced for the College by independent contractors, excluding work produced as part of a sponsored program, shall be considered work-for-hire and shall be owned by the College. No unit or department shall enter into arrangements for work to be produced by an independent contractor without a written contract, signed by an authorized College official that includes a provision that the College shall own copyrighted works produced by the independent contractor.

#### **IV. Responsible Party/Contact:**

Questions regarding this Policy should be directed to:

For Faculty Matters – Office of the Provost and Vice President for Academic Affairs  
All Other Matters – Office of the General Counsel

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Approved by:           President & President’s Cabinet  
Date Adopted:        April 15, 2016  
Date Effective:        April 15, 2016

This Policy has been modeled after the American University “Policy on Ownership of Copyright” and the Boise State University “Statement on Online Instruction Intellectual Property Rights” and is used with the permission of those institutions.