

POLICY GOVERNING THE CREATION OF COPYRIGHTED MATERIAL

I. Policy Statement Auburn University encourages the wide dissemination of scholarly work produced by members of the Auburn community, including copyrightable works. It is traditional at Auburn that this work be deemed the property of the author, who may determine how the works are to be disseminated and may keep any income they produce.

II. Policy Principles In the course of teaching, research and other intellectual and administrative activity at Auburn University, faculty, staff, doctoral fellows, students and others may create works that are protected by copyright. Federal Copyright Law provides that most original works of authorship are protected by copyright automatically when they are fixed in tangible form.

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.

Under the Copyright Law, the copyright to a work created by a person in the course of his or her employment belongs to the employer rather than to the individual creator. However, to encourage members of the Auburn community to create what they wish and disseminate it in the most advantageous fashion, Auburn University disclaims ownership of works by faculty, staff, doctoral fellows and students, except as defined in the **Policy Procedures** below.

III. Effective Date March 23, 2017.

IV. Applicability This policy applies to all faculty, staff, doctoral fellows and students of Auburn University.

V. Policy Management

Responsible Offices: The Office of Innovation Advancement and Commercialization

Responsible Executive: The Vice President for Research

Responsible Officer: Director, Office of Innovation Advancement and Commercialization

VI. Definitions

1. Exclusive Rights of the Copyright Owner (section 106, title 17, U.S. Code):

- a. To reproduce the work;
- b. To prepare derivative works;
- c. To distribute copies or phonorecords of the work to the public by sale, rental, lease, or lending;
- d. In the case of literary, musical, dramatic, and choreographic works, pantomines, and motion pictures and other audiovisual works, to perform the work publicly;
- e. 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
- f. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

2. Fixed in Tangible Form (Section 102, title 17, U.S. Code): Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or

otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

- a. literary works;
- b. musical works, including any accompanying words;
- c. dramatic works, including any accompanying music;
- d. pantomimes and choreographic works;
- e. pictorial, graphic, and sculptural works;
- f. sound recordings; and
- g. architectural works.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

3. **Substantial Commitment of Resources:** The term "substantial" does not include the ordinary use of Auburn University libraries, offices, departmental office equipment or Auburn University owned personal computers. It does include the use of Auburn University personnel, equipment and/or facilities beyond the ordinary use described above. The specific definition of "substantial resources," may vary on a case by case basis and should be determined in cooperation with the Office of Innovation Advancement and Commercialization (IAC) within the Office of the Vice President for Research before the work is published or otherwise distributed.
4. **Work Made for Hire (Section 101, title 17, U.S. Code):** A "work made for hire" is:
 - a. a work prepared by an employee within the scope of his or her employment; or
 - b. 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 written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.
5. **Policy Procedures:**
 - a. As stated above, to encourage members of the Auburn community to create what they wish and disseminate it in the most advantageous fashion, Auburn University disclaims ownership of works by faculty, staff, doctoral fellows and students, except in the following cases:
 - i. **Assigned Tasks.** Auburn University will own the copyright to works created by (a) faculty and staff members or doctoral fellows in the course of their assigned duties of employment where the assignment explicitly states in writing that the work will be owned by the Auburn University, and (b) student employees in the course of their assigned duties of employment, including duties as teaching or research assistants.

Absent an explicit written statement of work for hire, the work is presumed to be the property of the author.

- ii. **Sponsored Agreements.** Where copyrighted material is developed by an investigator in the course of sponsored research funded by an outside agency pursuant to an agreement approved by the Vice President for Research, ownership of the copyright will be determined by the applicable terms of the funding agreement.
 - iii. **Patentable Works.** Where a copyrighted work is also patentable, the University Patent Policy will apply to it, notwithstanding any inconsistent provisions in this policy.
 - iv. **With Commitment of Auburn University Resources.** When Auburn University makes substantial commitment of resources to, or expenditures of resources for a project, Auburn University may be entitled to some recompense and/or an ownership share of any works created. A specific determination of "substantial resources," as well as the contractual details pertaining to the specific rights of the work and of the relationship between the author(s) and Auburn University should be determined in cooperation with the Vice President for Research and the Office of Innovation Advancement and Commercialization. This agreement should be in place before the work is published or otherwise distributed. In any case in which there is a question about Auburn University's ownership of a work and that question cannot be resolved between the authors and representatives from the Vice President for Research and the Office of Innovation Advancement and Commercialization, the issues will be resolved by the Auburn University Copyright Committee.
- b. Royalties.**
- i. Where the author(s) have produced the work without substantial university involvement, they have no obligation to reimburse Auburn University.
 - ii. Where the author(s) have relied on substantial Auburn University resources, in whole or in part, to create copyrighted material, Auburn University reserves the right to collect some percentage of its investment before royalties are distributed to the authors. As above, the details of the contractual relationship between the author(s) and Auburn University, as well as the specifics of the royalty distribution schedule should be determined in cooperation with the Vice President for Research and the Office of Innovation Advancement and Commercialization before the work is published or otherwise distributed. If such a relationship is not defined before the work is published or otherwise distributed, it shall be assumed that Auburn University is a co-copyright holder and entitled to recoup its contribution to the work before any distribution of royalties. It is further assumed that 50% of all rents and royalties (net of distribution fees and costs) will belong to Auburn University. The remainder shall be distributed to the author(s).
 - iii. Where the copyrighted work is owned by Auburn University, payment of royalties to the author(s) will be at Auburn University's discretion.
- c. Other Rights.**
- i. Where Auburn University has no ownership of and/or investment in the work, the University makes no claim on the Exclusive Rights of the Copyright Owner.
 - ii. Where Auburn University has made an investment in the project (as outlined above) and/or shares ownership in the copyright, the University may request the reservation

of certain exclusive rights or income sharing. The contractual relationship defining the rights of the Auburn University and the author(s) shall be determined in cooperation with the Vice President for Research and the Office of Innovation Advancement and Commercialization before the work is published or otherwise distributed.

VII. Interpretation Disputes about interpretations of the policy and procedures to be addressed to the Vice President for Research by the aggrieved party for resolution, with a provision to appeal his/her decision to the Auburn University President.