



PERMANENT MEMORANDUM 15 COPYRIGHT GUIDELINES REGARDING ELECTRONIC LEARNING

POLICY DIGEST

Monitoring Unit: Office of Academic Affairs
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I. GENERAL INFORMATION

These Copyright Guidelines Regarding Electronic Learning ("the Guidelines") apply to the underlying educational materials and/or course content used in teaching a course, including without limitation any portions, subsets, drafts, revisions, updates, versions and/or other instructional components (collectively referred to as the "Course Materials") that is offered partially or entirely as Internet-based, CD/DVD-based, audio or video-based, digitally-based, or some combination thereof. These Guidelines are intended to supplement the provisions set forth in Article VII regarding "Intellectual Property" of the Rules & Regulations of the Board of Supervisors of Louisiana State University (the "Rules & Regulations"). In the event of any ambiguity or conflict between these Guidelines and Article VII of the Rules & Regulations, the applicable provisions set forth in the Bylaws and Rules & Regulations shall control and take precedence over the conflicting provisions of these Guidelines.

These Guidelines of the Louisiana State University System ("University") apply to University Faculty, Staff, Research Associates, Postdoctoral Fellows, Instructors and Graduate Students, whether part-time or full-time (hereinafter collectively referred to as "Instructor Faculty").

II. DEFINITIONS

"Distance Education" is a formal educational process in which the majority of the instruction occurs when students and instructors are not in the same place. Instruction may be synchronous or asynchronous.

"Electronic Learning" (e-Learning) is a set of applications and processes such as Web-- based learning, computer-based learning, virtual classrooms, and digital collaboration. It includes the delivery of content via Internet, intranet/extranet (LAN/WAN), audio- and video-tape, satellite broadcast, interactive TV and CD-ROM.

Other terms in these Guidelines shall have the same meaning as defined in Article VII of the Rules & Regulations.

III. DEVELOPMENT OF ELECTRONIC LEARNING

Consistent with Article VII of the Rules & Regulations, the University recognizes the longstanding custom that faculty should, in most cases, own and possess certain exclusive rights of copyright to the scholarly, pedagogical, and educational works that they create while employed with the University. Such works generally include books, articles, lectures, theses, dissertations, other literary works, works of art or musical compositions and are thus treated as a limited exception to the work

made for hire doctrine.

For purposes of these Guidelines, the University specifically declares that as to any Course Materials prepared and/or adapted for use in Distance Learning for which copyright would otherwise originate in favor of the University pursuant to the work made for hire doctrine, the Instructor Faculty member(s) that is or are the creator(s) of any such Course Materials shall, pursuant to the "scholarly work exception," exclusively own any copyrights associated with the Course Materials, subject to the University's reserved rights as specifically provided in Article VII of the Rules & Regulations. The release of rights to Course Materials only applies to the extent that the Instructor Faculty member(s) uses said Course Materials in the *bona fide* teaching or instruction of a regularly scheduled course for credit at the University, and does not extend to rights that are derived from a co-author who is not involved in the teaching or instruction of a regularly scheduled course for credit at the University.

For purposes of these Guidelines, the "scholarly work exception" is considered as a limited exception to the "work made for hire" doctrine that otherwise applies to such copyrightable works. It reflects a custom that has arisen with respect to certain scholarly and academic endeavors in which faculty engage. As a result, the exception is unlikely to apply to non-faculty university employees and does not apply in the absence of a written agreement entered into between the University and a non-faculty employee, prior to the creation of the copyrightable work, in which such rights are therein assigned to the non-faculty employee.

As the sole owner(s) of such works, the Instructor Faculty member(s) that create any such Course Materials developed for use in Distance Education shall assume sole responsibility and liability for any claims of infringement that may be asserted in connection with the Electronic Learning materials and shall indemnify the University from any lawsuit for copyright infringement or other related liability arising out of the Electronic Learning materials owned by the creator(s).

In connection with any such Course Materials developed by Instructor Faculty members for use in Electronic Learning and/or any form of Distance Education offered other than through the University, all Instructor Faculty members are expressly prohibited from using any LSU Mark or incorporating any other forms of designation or reference to the University or making any other forms of representation that the Course Materials are associated with or affiliated with the University in any way.