

## Who Holds Copyright at or in Affiliation with the University of Michigan

601.28

This policy promotes the University of Michigan’s scholarly, academic, and service missions by establishing a framework for who holds copyright at the University. Because the University is committed to academic freedom, it strives—despite the legal default—to place copyright with the creators of scholarly, academic, and artistic works. Moreover, this policy encourages and does not limit the rights and abilities of people to make “fair uses” or other lawful uses of copyrighted works.

*[Words appearing in SMALL CAPS are to be read as defined in Section H of this policy.]*

- A. **The Default:** Under U.S. copyright law, the University holds the copyright (as “works made for hire”) in copyrighted works authored by its EMPLOYEES who are acting within the scope of their employment. Otherwise, the University does not hold copyright in a work, unless the copyright has been transferred legally to it by written assignment or other process of law.
- B. **Transfer of SCHOLARLY WORKS:** In light of the default, the University, hereby, transfers any copyright it holds in SCHOLARLY WORKS to the FACULTY who authored those works—with the following conditions and exceptions.
  1. **Conditions**—When the University transfers copyright in SCHOLARLY WORKS to FACULTY, under this policy, it reserves the nonexclusive right to:
    - a. use SCHOLARLY WORKS for educational or administrative purposes consistent with its educational mission and academic norms and
    - b. preserve, archive, and host SCHOLARLY WORKS in its institutional repositories, such as Deep Blue, where FACULTY can control the timing and scope of access to their copyrighted works.
  2. **Exceptions**—The University does not, under this policy, transfer its copyright in SCHOLARLY WORKS:
    - a. that are authored as required DELIVERABLES under a sponsored activity agreement;
    - b. when that would put the University in violation of or conflict with an applicable contract or law;
    - c. that are specifically commissioned by the University or are created as part of an administrative assignment to, for, or on behalf of the University;
    - d. that are software under Regents Bylaw 3.10; or
    - e. that are or have been transferred to the University in a writing (other than the Regents Bylaw 3.10 acknowledgment, which FACULTY sign as a condition of employment).
- C. **Students:** Students hold the copyright in works they author, unless they have authored works as EMPLOYEES or transferred their copyright in writing to the University or other entity.
- D. **INDEPENDENT CONTRACTORS:** It is the general practice of the University to have INDEPENDENT CONTRACTORS transfer to the University, in writing, the copyright in works they create for, in conjunction with, or on behalf of the University.
- E. **Collaborative and Joint Works:** When people collaborate to author a copyrighted work, it often results in a “joint work” in which all the rights holders jointly hold nonexclusive rights to use the work. EMPLOYEES and students who collaborate with each other or with non-University third-parties (e.g., volunteers, visitors, and collaborators) are encouraged to describe or determine, in writing, the disposition of copyright prior to authoring the work.
- F. **University Held Works:** Officially, the Regents of the University of Michigan hold the copyright to all copyrighted works held by the University.
  1. **Disposition:** Ordinarily, the University units most closely associated with the creation of specific University held works may authorize uses of those works (e.g., they may authorize a third-party to copy, adapt, or distribute a University held work). The disposition of the following University held works, however, shall be managed by the Office of Technology Transfer: software intended to be revenue generating; software funded under a sponsored activity agreement; and any DELIVERABLES funded under a sponsored activity agreement.

2. Notice and Registration: University held works that are registered with the U.S. Copyright Office or that include a copyright notice should identify the “Regents of the University of Michigan” as the copyright holder.
3. Freedom to Contract: The University is free to contract with EMPLOYEES, students, or others to license uses of or to transfer or acquire the copyright in works.

**G. Policy Interpretation and Dispute Resolution:** This policy and its implementation may require interpretation and review. University constituents should make every attempt to resolve disputes informally with the assistance of one or more of the following: the Office of the Provost on each campus (for policy clarification), the Office of the General Counsel (for legal clarification), the Office of Technology Transfer (for matters regarding computer programs, patents, and commercialization of intellectual property), or the Division of Research Development and Administration (for matters regarding sponsored activity). If informal procedures and consultation do not provide resolution of a dispute or policy issue, University constituents may file a request for formal dispute resolution or policy interpretation with the Office of the Provost at any campus.

**H. Definitions:**

DELIVERABLES means copyrighted works that must be authored and delivered in order to comply with the obligations of a sponsored activity agreement.

EMPLOYEES means any people employed by the University of Michigan in any capacity, whether they are faculty, staff, administration, or students and whether they are employed full-time, part-time, or in a temporary capacity.

FACULTY means full-time and part-time tenured, tenure-track, research, lecturer, clinical, and adjunct faculty, as well as librarians, archivists, and curators.

INDEPENDENT CONTRACTORS means non-EMPLOYEES retained by the University to provide goods or services.

SCHOLARLY WORKS means works authored by FACULTY within the scope of their employment as part of or in connection with their teaching, research, or scholarship. Common examples of SCHOLARLY WORKS include: lecture notes, case examples, course materials, textbooks, works of nonfiction, novels, lyrics, musical compositions/arrangements and recordings, journal articles, scholarly papers, poems, architectural drawings, software, visual works of art, sculpture, and other artistic creations, among others, regardless of the medium in which those works are fixed or disseminated.

SPG number:	Applies to:
601.28	All Faculty and Staff
Date issued:	Owner:
September 21, 2011	Office of the Provost and Executive Vice President for Academic Affairs
Next review date:	Primary Contact:
September 21, 2016	Office of the Provost and Executive Vice President for Academic Affairs

**Hard copies of this document are considered uncontrolled. If you have a printed version, please refer to the University SPG website ([spg.umich.edu](http://spg.umich.edu)) for the official, most recent version.**