



1.1.040

Copyright Ownership and Intellectual Property Policy

Date of last board of trustees review: April 17, 2024

The originator of this policy is the associate provost of Learning Advancement. Questions regarding this policy may be directed to the originator by calling 801-957-4280.

1. Policy

It is the policy of Salt Lake Community College to establish procedures to clarify the ownership of works created by College faculty, staff, and students and to encourage them to produce and distribute the fruits of their expertise for the benefit of the College and the wider world.

2. References

- A. United States Code Title 17, Copyright Act of 1976, as amended.
- B. Utah State Board of Higher Ed. Policy R-401.
- C. D.O.C., Patents, Trademarks, and Copyrights, 37 CFR §401 (1987)

1.1.040

Copyright Ownership and Intellectual Property Procedure

Date of last executive cabinet review: February 20, 2024

The originator of this procedure is the associate provost of Learning Advancement. Questions regarding this procedure may be directed to the originator by calling 801-957-4280.

3. Definitions

- A. **College Resources:** College-funded time, facilities, or equipment used to create materials.
- B. **Condition of Work Statement:** a written explanation describing the work employees produce in a specific College division over which the College exerts sole copyright ownership.
- C. **Copyright Ownership Agreement:** a contract between the College and the employee defining copyright permissions and ownership.
- D. **Incidental Use:** the use imposes no significant wear and tear, use of consumables, additional cost, or loss to the College as outlined in the [Employee Conduct Policy](#) section IV.B.12.
- E. **Independent Effort:** research, writing, or other professional enrichment activities performed by an employee to advance their knowledge where the choice, content, and direction of the effort is determined by the employee without direct assignment or supervision by the College and for which no significant College resources are used.
- F. **Instructional Material:** includes, but is not limited to, syllabi, assignments, slide decks, course shells, textbooks, workbooks, quizzes, assignments, exercises, prompts, and multimedia elements.
- G. **Open Educational Resources (OER):** OERs are teaching, learning, and research resources that reside in the public domain or have been released under an open license that permits their free use and re-purposing by others.
- H. **Open Licensing:** an alternative form of copyright licensing in which the creator determines which elements of copyright protection apply to the work.

- I. **Open Pedagogy:** a teaching practice that engages students in creating, editing, or improving openly licensed materials to contribute to the knowledge commons or develop learning objects for other students.
- J. **Professional Development Material:** includes, but is not limited to, slide decks, exercises, prompts, multimedia elements, and demonstration instructional materials.
- K. **Publication:** occurs when copies of a copyrighted work are distributed by or with the authority of the copyright owner(s). See the Copyright Office's [Definitions FAQ](#) for further information.
- L. **Scope of Employment:** the combination of tasks, activities, projects, or other work for which the employee was hired, whether or not explicitly listed in the employee's job description.
- M. **Work:** a creation that is capable of copyright protection.

4. Procedures

A. General Principles for Copyright

1. U.S. Copyright

- a. Copyright grants a set of exclusive rights to copyright owners, which means that no one else can copy, distribute, publicly perform, or adapt a work without permission of the copyright holder.
- b. Copyright is automatic when an original work is captured in a fixed form, such as a written document or a song recording.
- c. See the Copyright Office's [Copyright Basics circular](#) for additional information.

2. Open Licensing

- a. Open Licenses, such as Creative Commons ("CC") licenses, are copyright licenses and depend on the existence of copyrighted works.
- b. These are legal tools that creators and other rights holders can use to offer certain usage rights to the public while reserving other rights.
- c. Creators who want to make their work available to the public for limited kinds of uses while preserving their copyright may want to consider using CC licenses.
- d. Creators who want to reserve all of their rights under copyright law should not use open licenses.

3. Artificial Intelligence ("AI")

- a. Works created with AI may not be copyrightable.

- b. Some works with AI elements could be copyrightable, depending on how AI is utilized.
- c. See the Copyright Office's [Guide on AI and Copyright](#) for further clarification.
- d. Employees should not upload works into AI generators that could violate applicable state or federal privacy laws.

B. Ownership of Works Created with Traditional Copyright Ownership

1. Joint Ownership of Instructional and Professional Development Material

- a. Copyrighted instructional material and professional development material created by SLCC employees using College resources shall be jointly owned by the College and the creator.
- b. If the employee subsequently leaves the College, they and the College may continue to use the work, and the employee must make the work available to their department or office before separation from the College.
- c. Work fitting into this category includes, but is not limited to, instructional and professional development material.
- d. Unless a court order is obtained, one joint owner cannot prevent the other joint owner from using the copyrighted work in the manner desired.

2. Exceptions to Joint Ownership

- a. The College will not assert an ownership interest in the copyright of scholarly works or the products of independent effort related to the author's academic or professional field, regardless of the medium of expression, so long as the use of College resources is incidental.
- b. Employee work commissioned explicitly by the College over which the College wishes to retain sole ownership.
 - (1) Examples of this kind of work include, but are not limited to, reports, proposals, analyses, conclusions, recommendations, courses, or instructional materials.
 - (2) In such cases, the relevant College department or committee will initiate a copyright ownership agreement or a blanket condition of work statement that will take precedence over other parts of this policy.
 - (3) The relevant vice president or provost must approve the copyright ownership agreement or condition of work statement, which may include the following among other possible provisions:

- (a) Copyright ownership.
 - (b) College resources used to create, distribute, and/or market the work.
 - (c) Revenue distribution if the work generates revenue.
 - (d) The stipend or reassigned time, if any, due to the employee for the creation of the work.
- c. The College retains sole ownership over work produced by staff and administrators in the scope of their employment.
 - (1) Examples of this kind of work include, but are not limited to, reports, proposals, analyses, conclusions, and recommendations.
 - (2) No copyright ownership agreement is required in these cases, and all copyrightable material is considered work for hire.
 - (3) Employees may produce openly licensed works as part of the scope of their employment, in which cases the procedures outlined in section 4.D of this policy for openly licensed work apply.
- 3. Substantial Use of College Resources for Scholarly, Scientific, Creative, or Artistic Work for Publication or Public Display
 - a. If the use of College resources is substantial, the employee must obtain prior approval from their vice president to produce anything subject to copyright.
 - b. The following conditions apply to this work:
 - (1) The employee may be compensated for their work by the publisher, the exhibition venue, a commercial venture, or another external user.
 - (2) The College does not claim financial benefit from the work unless otherwise agreed to in writing by the employee and the appropriate College vice president.
 - (a) Employees wishing to make substantial use of College resources to engage in work that will produce commercially valuable publications, patents, or other intellectual property may do so only with a copyright ownership agreement previously approved by both the applicable vice president and employee.
 - (b) It is incumbent on the employee to disclose that work to their supervisor and vice president before commencing it.
 - (3) Employees may not use any College resources to engage in illegal activity or regular commercial activity, including the operation of any form of business,

even if it produces copyrightable content. See the [Acceptable Use of College Computing Resources](#) and [Conflict of Interest, External Employment, and Consultation](#) policies.

4. Faculty who want to require students in a course they are teaching to purchase a commercialized book or other work from which the faculty will receive royalties must obtain prior approval from the provost, whose decision is informed by a committee appointed by the provost. The committee will be primarily comprised of disinterested faculty and academic administrators and may also include subject experts.
 - a. Absent such approval, the employee must forego the financial benefit from SLCC students.
 - b. If the provost approves the arrangement, that approval expires after two years, and a new committee must review the arrangement again.

C. Miscellaneous Copyright Considerations

1. For works created by more than one employee, copyright ownership will be equally allotted unless otherwise agreed to in writing by all the creators.
2. Students hold sole copyright ownership over work they submit to satisfy assignments and may claim joint copyright ownership over work they collaboratively create with SLCC employees.
3. Any works or intellectual property materials created with funding from a grant, sub-award, or other project overseen by the Office of Sponsored Projects (“OSP”) must be disclosed to OSP. Ownership and licensing of these works and materials must follow the Proposal & Award Policies & Procedures Guide (PAPPG) or Grants Policy Statement for the project.
4. The College will not assert an ownership interest in the copyright of scholarly works or the products of independent effort related to the author's academic or professional field, regardless of the medium of expression, created during an employee's sabbatical.
5. The Office of General Counsel will create templates for copyright ownership agreements and condition of work statements.
6. Questions regarding copyright or licensing should be directed to the relevant office at the College as follows:
 - a. OSP for copyrightable material and IP works created or developed under federally funded grants, sub-awards from other Institutions of Higher Education, or other grants;

- b. OER Office for open licensing;
- c. Office of General Counsel for copyright agreements and intellectual property;
and
- d. Library Services for other general copyright concerns.

D. Openly Licensed Works

1. The College does not assert joint ownership for openly licensed works.
2. Employees may license their work under an open license, and they do not need their department's approval to do so if the work is one of the following:
 - a. Scholarly or professional development work.
 - b. Instructional material.
 - c. Products of independent effort related to the employee's academic or professional field, regardless of the medium of expression.
3. Employees wishing to create Open Educational Resources (OERs) under the auspices of SLCC must:
 - a. License the work under an open license approved by the OER office.
 - b. Contract with the OER office if they seek compensation for creating or updating the work. Such contracts are subject to the following provisions:
 - (1) Compensation approval must be given before the start of the work.
 - (2) Approval must come from the OER office and the employee's supervisor.
 - (3) Compensation is subject to available funds.
 - (4) The licensee may later decide to commercialize the work, but in such cases, the College must continue to be given free and open access to updated versions of the work.
 - c. Reviews of copyright concerns in OERs are the purview of the OER Office.
4. Employees engaging in open pedagogy must obtain prior agreement from each student participating in creating, editing, or improving openly licensed work. Employees may use [the Open Pedagogy form](#) created by the OER Office.
5. Marketing materials that are openly licensed should be developed in conjunction with Institutional Marketing.