

# New York University

## University Policies

<b>Title:</b>	Statement of Policy on Computer Software Copyrights
<b>Effective Date:</b>	June 5, 1989
<b>Supersedes:</b>	N/A
<b>Issuing Authority:</b>	Office of the General Counsel
<b>Responsible Officer:</b>	Senior Vice President, General Counsel and Secretary

### **Purpose of this Policy:**

The purpose of this policy is to establish consistent guidelines for computer software copyrights.

### **Scope of this Policy:**

The purpose of this policy is to establish consistent guidelines for computer software copyrights.

### **Procedures for Implementation:**

While many kinds of scholarly work are produced on computers, this Policy's scope is limited to computer software, defined for purposes of this Policy as a set of computer programs and the manuals or documents associated with the programs. "Computer program" is defined in the copyright law as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result." Computer software includes, for example, programs, microcode, subroutines, operating systems, high level languages, and application programs in whatever form expressed or modified. Books, articles, and manuscripts written by a faculty member about computer software not subject to this Policy are not considered computer software for purposes of this Policy.

Copyright in computer software created by an individual member of the faculty will generally reside with that faculty member. This is consistent with the University's Statement of Policy on Copyrights, which, in accordance with established academic traditions, says that, with certain exceptions, faculty members are free to copyright their lecture notes, manuscripts, and other writings developed from their scholarly activities.

The traditions reflected in the Statement of Policy on Copyrights do not, however, necessarily apply to the special circumstances that sometimes characterize the creation by faculty of computer software. From time to time there arise cases where ownership by faculty members of copyright in computer software may not be consistent with certain of the University's basic commitments, such as protecting academic freedom through promoting the publication and distribution of research and scholarship; protecting the respective interests of participants in large, long term projects; protecting against undue commercial influences on academic priorities; ensuring proper use of the University's resources; and protecting the University's legitimate commercial interests.

As a result, the University holds that, as an exception to the general rule of faculty ownership, copyright in computer software created by faculty shall reside with the University in the following cases: (a) when the computer software has been developed pursuant to an agreement between the University and an outside sponsor and when the terms of such agreement require the University to convey rights to the sponsor; (b) when development has been by a team such that the identity of the project resides with the University rather than with particular individuals; (c) when there has been substantial use of University resources earmarked specifically for computer software development; or (d) when the computer software has been developed with the substantial assistance of other University personnel, including, for example, supported graduate or undergraduate students.

The bulk of faculty activities resulting in copyrightable computer software involve initiatives by individuals that do not constitute exceptions to the rule of faculty ownership. The precise determination of what usage of University resources or assistance of non-faculty personnel shall be considered substantial, or of when the identity of a project resides with the University rather than with particular individuals, involves the exercise of judgment based on the circumstances and on practices within the discipline. Since such judgments may vary from school to school, it is recommended that each school and institute of the University issue guidelines indicating, for purposes of determining copyright ownership under this Policy: (a) what usage of University resources shall be considered substantial; (b) what usage of non-faculty personnel shall be considered substantial; and (c) when the identity of a project undertaken by a team resides with the University rather than with particular individuals. As a basic principle for all schools and institutes, however, use of University resources or assistance from non-faculty personnel that is incidental and not essential to the development of the computer software does not constitute substantial use. Thus, for example, none of the following shall be considered substantial use: use of resources or personnel commonly available to all faculty, such as libraries, offices, or secretarial staff; use of a specialized facility for routine tasks; or payment of faculty salary from instructional accounts. School and institute guidelines shall be reviewed and approved by the Chancellor after consulting with a committee of faculty members appointed by the Faculty Council.

If under this Policy computer software copyright resides with the University, the relevant dean(s) or director(s) may choose to assign the copyright in that software to the faculty member(s) involved in the project that resulted in its creation, although the University may also choose to retain rights in the software, such as a royalty or other revenue interest, as a condition to this assignment.

Even where the University holds the copyright to computer software under this Policy, a faculty member who was involved in the project that resulted in its creation should have the right to publish and use that software for scholarly purposes at the University or elsewhere. Therefore, the University will grant any such faculty member who requests it a royalty-free license to publish and use that software for scholarly purposes.

Where the copyright in computer software resides with the University, net revenues from that software shall be allocated among the University, the relevant school(s) or institute(s), and the faculty members involved in the project that resulted in the creation of that software in such manner as the dean(s) or director(s) of the relevant school(s) or institute(s) shall determine.

Whenever possible, faculty who intend to create computer software and dean(s) or director(s) should reach agreement on copyright ownership and revenue allocation prior to the creation of the software. Agreements should be reviewed and revised over the course of a project, as circumstances dictate.

Whenever there is a dispute between a faculty member involved in a project that results in the creation of computer software and a dean or director regarding (a) the ownership of the copyright in

that software, (b) the assignment to the faculty member of the copyright in that software, (c) the publication or use of that software by the faculty member for scholarship purposes, or (d) the allocation of revenue from that software, the dispute shall be referred to the Chancellor, who shall consult with a committee of faculty members appointed by the Faculty Council. The decision of the Chancellor on the dispute shall be final and binding on the parties to the dispute.

### **Policy Definitions:**

“Computer program” is defined in the copyright law as “a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.”

### **Related Policies:**

N/A

### **Notes**

1. Dates of official enactment and amendments: Adopted by the University Senate May 12, 1988, approved by the Executive Committee of the Board of Trustees, June 5, 1989
2. History:
3. Cross References:

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