

**ADMINISTRATIVE POLICY STATEMENT**

Policy Title: Intellectual Property That is Educational Material: Administrative and Instructional Use

APS Number: APS 1014

APS Functional Area: **ACADEMIC**

Brief Description: This policy provides definition, structure, and detail for implementation of Regent Policy 5.HK on Intellectual Property that is Educational Material.

Effective: TBD (Pending)

Approved by: President Todd Saliman (Pending)

Responsible University Officer: Vice President of Academic Affairs

Responsible Office: Office of the Academic Affairs

Policy Contact: Office of Academic Affairs

Supersedes: Intellectual Property that is Educational Material, July 1, 2013

Last Reviewed/Updated: TBD (Pending)

Applies to: All University employees

Reason for Policy: Through its policies on intellectual property (IP), the University of Colorado reaffirms its commitment to encouraging and rewarding authors, creators, researchers and inventors who are developing IP. Regent Policy 5.HK defines educational material and scholarly/creative works and assigns ownership of both forms of intellectual property to the author(s) who created the works. With educational material, the university retains the rights to administrative use of the materials in certain cases, and for limited use as part of the instructional mission of the primary unit. APS 1014 provides implementation details for administrative and instructional use of educational material.

I. POLICY FRAMEWORK

~~Intellectual Property (IP) associated with educational materials is both very simple—ownership, and potentially daunting in its complexity—administrative and instructional use of the material. Before providing policy language we want to address this dichotomy.~~

~~Ownership is straightforward, Regent Policy 5.K gives ownership of IP associated with educational materials to the author(s) who have broad rights in their subsequent use of the material both in and outside the university.~~

~~Use by the university is complicated for several reasons:~~

- ~~1. Across our campuses and academic units, the culture of use varies from no instructional use beyond the author(s) to materials being generally and widely shared.~~
- ~~2. Concern exists among faculty that certain instructional use can either be unfair, or lead to unfair treatment of the author(s).~~

3. Many courses have been developed through primary unit curricular processes to have specified syllabi, learning goals/outcomes, and use common infrastructure such as labs or software with common instructional materials. In other words, they have common or shared educational materials.
4. The modern use of closed learning management systems (LMS) for both the communication of course educational materials and also as containers for student work and student communications with faculty and others in the class.
5. The use in courses of copyrighted materials not owned by the faculty member.

Other issues, such as derivative work, might also be cited as a complication, but these will suffice.

Developing a policy to address all of these concerns is a massive undertaking with potentially minimal return. Therefore, this policy provides a framework, responding to faculty and administrative concerns to address the most common concerns, vest important decisions beyond the policy with the primary unit, and, importantly, allows the author(s) and administration to enter into singular agreements to address the myriad of possibilities not covered.

The implementation of this policy, taken literally, is again a significant burden with minimal return. Individuals working in good faith should be able to resolve many singular situations, however, rather than mandating separate appeal/grievance procedures, the policy uses author ownership as the final determinant. The exception is claims of plagiarism or unauthorized use of IP, which are handled with currently existing procedures.

Finally, we note that for educational material developed for asynchronous delivery (e.g., Coursera) or specifically for ongoing offerings across multiple faculty (e.g., certain non-degree certificates), while the IP is still owned by the author(s) and available for administrative use as described in this policy, there may be instructional usage negotiated and approved in separate documents that are not meant to be captured in this APS.

In providing the following policy statements we are working within the framework just described, with exceptions handled as described.

II. INTRODUCTION

Regent Policy 5.HK defines educational material and scholarly/creative works and assigns ownership of both forms of IP to the author(s) who created the works. Through this APS, and with further detail in campus and primary unit policies, the university distinguishes ownership rights to educational material, which are assigned to author(s) without exception in Regent Policy 5.HK, from usage rights, which permit specific and limited conditions for use of educational materials by the university.

With respect to administrative and instructional use of educational materials, the university has the following goals including but not limited to:

- To collect as needed, educational material for courses to support the requirements of accreditors, including tracking student learning outcomes and tracking continuous improvement
- To support faculty and primary units in their efforts to advance professional development
- To support the continuity of the teaching and learning-focused missions within primary units
- To protect the privacy of students and student data
- To ensure appropriate acknowledgement of the intellectual contribution of faculty and staff in creating educational materials and promote appropriate use of copyrighted materials

III. POLICY STATEMENT

A. Administrative Use of Educational Material

Administrative use of educational materials is use of the materials outside of instructional settings to support administrative requirements of the university, campus, and primary unit, as applicable. This type of use is primarily focused on accreditation and educational improvement activities.

1. Administrative Use: Accreditation

a. Institutional – All course related materials, including educational materials, as determined by the requirements of the institutional accreditor, shall be stored by the primary unit at the end of each course, in a manner determined by the campus, for the duration required by the institutional accreditor.

b. Professional - All course related materials including educational materials, as determined by the requirements of the professional accreditor, shall be stored by the primary unit at the end of each course, in a manner determined by the primary unit/school/college, for the duration required by the professional accreditor.

c. In both cases, any student-related information will be protected as required by FERPA and other applicable laws. Further, any educational materials used in accreditation reports will be appropriately credited to the author(s).

2. Administrative Use: Educational Improvement Activities

Each campus, school/college, and primary unit may use educational material for the purposes of educational improvement activities, such as, but not limited to, individual faculty evaluation and mentoring support, activities that are part of any regular curricular development and continuous improvement process, as examples of best practices, and in support of award nominations.

B. Instructional Use of Educational Material

1. Instructional Use by Author(s)

The author(s) of educational material own the educational material they create and therefore may use it for instructional purposes and similarly, may permit others within the university to use their educational material for instructional purposes. Author(s) may also use their educational material outside of the university, for example, making the educational material available as Open Educational Resources (OER) and for other professional purposes. In any case, author(s) must follow the principles for use of their educational material set forth in Section III.C of this policy.

2. Instructional Use within the Primary Unit

With certain limits, educational material may be used within the instructional mission of the primary unit in which the material was developed. The following principles are applicable for such use by the primary unit:

- a. Shared Use: Some educational materials are created with the intent to be used across multiple instances of a course or across different courses (e.g., training or support instructional materials for hardware or software use, lab manuals, syllabi, course learning objectives etc.). These shared use materials are owned by the author(s) (where clearly identifiable), and their continued use is subject to the regular curricular development and approval processes of the primary unit.

- i. Educational materials in a course which that were not created for shared use purposes, may only become shared use educational materials with permission of the author(s).

- ii. Author(s) may not revoke the status of their educational materials as shared use and, once granted, may not restrict use by the primary unit.

iii. Shared use educational materials should be clearly identified as such.

b. Single Course Use: By default, unless otherwise modified by the primary unit through its shared governance process, Educational materials associated with a single course, which may have multiple sections in the same term, may be used for one future instance of the course in the primary unit, which may include multiple sections, whenever that term occurs within one year of the initial use of the educational material in a course. Note that any single course instance may have multiple sections, and the educational materials may be used across all such sections.

i. The primary unit, through its shared governance process, may modify (extend or limit) the default use of ~~choose to allow~~ educational materials associated with a single course to be used in additional instances of the course.

ii. Primary unit modifications may apply to all courses offered by the primary unit, or on a course-by-course basis.

iii. The primary unit may not prevent the use of educational materials in a single future instance of the course.

iv. The number of additional instances of use may vary by course, as determined by the primary unit.

c. Responsibility:

i. It is the responsibility of the primary unit to have mechanisms for tracking the use of educational materials and maintaining compliance with this policy and primary unit rules.

ii. It is the responsibility of the primary unit to clearly identify shared use materials and have a mechanism to maintain appropriate agreements with the shared use material.

iii. It is the responsibility of the primary unit to have mechanisms for tracking the use of educational materials and maintaining compliance with this policy and primary unit rules. Faculty have the responsibility to follow the usage rules of the primary unit and cannot opt out of the primary unit rules. However, the author(s), as owners of the IP, may approve use beyond the primary unit rules.

iv. ii. As referenced in section II.B.1, author(s) create and own their educational materials, and may use their materials within and outside of the primary unit. As a member of a primary unit, author(s) may not circumvent overarching primary unit rules for shared or single course use of educational material within their primary unit (see section II.B.2), where exceptions should be handled in accordance with primary unit policy, rules, or practice.

v. i. Just as faculty have legal requirements/responsibilities in the use of copyrighted material in their teaching and scholarship, educational material is viewed as copyrighted material and should be treated accordingly. Violation of copyright laws is subject to existing processes and penalties.

3. Individual Agreements regarding Instructional Use

Instructional use circumstances Other instructional uses of educational materials by the primary unit not covered by this policy are to be negotiated between the author(s) and the head of the primary unit. If an agreement is not reached, the educational material cannot be used by the primary unit.

4. Violation of Policy

This APS defines ~~usage rights~~ rights related to the usage of educational materials, which and permits specific and limited conditions for use of educational materials by the university. Perceived violation of this

policy ~~regarding in terms of the number of instances of~~ use of educational material may be grieved ~~according to the dean campus policy~~. Perceived violation of the copyright of educational ~~IP materials~~ will be treated as plagiarism and subject to the associated university policies.

C. Principles Applicable to Both Administrative and Instructional Use of Educational Materials

1. Reference to Author(s)

~~_____~~ ~~Violation of copyright laws is subject to existing processes and penalties.~~

In either administrative or instructional use of educational materials, the author(s) must be clearly identified in or on the material.

- a. It is the responsibility of the primary unit, in concert with the author(s), and in compliance with university branding guidelines, to establish processes for author(s) identification.
- b. Any unattributed educational materials may be used without restriction but must be noted as unattributed and always remain unattributed.
- c. Falsely attributing the work of others to oneself or others will be treated as plagiarism and subject to associated university policies.

2. License Requirements at Different Institutions

When an author(s) intends to use materials ~~at the University of Colorado~~ that they developed at another institution ~~in teaching a course at the University of Colorado~~ and ~~which that~~ are subject to license restrictions by that ~~other~~ institution ~~as educational materials~~, the author(s) must inform their primary unit of these restrictions. Regardless of limitations for instructional use ~~beyond use by the author(s), if the educational material is used in the teaching of a course at the University of Colorado,~~ the ~~educational~~ material must be available for administrative use by the University of Colorado.

3. Use of University's Trademarks, Name, and Branding

While the author(s) who owns the copyright to specific educational material may use it outside of the university, any such use that includes reference to the University of Colorado name, word mark, logo, etc., must comply with university trademarks and branding guidelines. There are no restrictions on the use of material that does not contain reference to the University of Colorado name, word mark, logo, etc.

For additional guidance, see [Article 14, part A of the Regent Laws of the Regents, and Regent Policy 14.A and 14.B](#), and [APS 2025: University Brand Identity and Logo Usage](#).

5. Conflict of Interest and Commitment

[Regent Policy 8.A.3](#) requires members of the university community to avoid actual and perceived conflicts of interest related to their work and position, and to appropriately disclose actual and potential conflicts of interest. With respect to educational materials, each campus shall have a process for reporting and assessing potential conflicts of interest. See [APS 5012: Conflicts of Interest and Commitment in Research and Teaching](#) (sections II and section III.B).

IV.III. UNIVERSITY RESPONSIBILITIES

A. Designation of Responsible Authority

The campus chancellor shall be responsible for campus policies and procedures related to this APS, including designating a campus official(s) who will be responsible for administering the policy.

B. Communications and Training

Reference to this APS shall be part of [each](#) appropriate employment agreement and referenced on all primary unit websites along with primary unit rules relative to this APS. Additionally, the provisions of this APS shall be part of all faculty orientation programs.

C. Review of Policy

This policy shall be reviewed [with faculty shared governance input](#) according to the usual APS review cycle. Any proposed changes that impact Regent Policy 5.~~HK~~ shall be brought to the Regent Governance Committee in the form of proposed revisions to Policy 5.~~HK~~, and when approved shall be incorporated into APS 1014. Changes to this APS that do not impact Regent Policy 5.~~HK~~ shall be approved by the chancellors and president.

V.IV. SCOPE AND APPLICABILITY

As set forth in Regent Policy 5.~~HK~~:

- A. Regent Policy 5.~~HK~~ and APS 1014 are applicable to all units of the university, including its colleges, schools, departments, centers, and institutes, and to all university faculty, staff, and student employees.
- B. This policy does not apply to works of authorship made by university employees in the course and scope of their employment in the furtherance of administrative responsibilities associated with a position, such as university staff, department chair, dean, provost, [and](#) chancellor, and president, whose works are owned by the university as works made for hire.
- C. This policy does not apply to works of authorship made by university employees where the development of the work is required as a part of a sponsored program or a funding agreement administered by the university. Ownership of such works are governed by the terms of the associated contract/grant, which generally assign ownership to the University of Colorado or impose on the University of Colorado other obligations that necessitate ownership by the University of Colorado.

VI. DEFINITIONS

A. Scholarly and Creative Works – See definition in Regent Policy 5.~~HK~~5.

B. Educational Material – See definition in Regent Policy 5.~~HK~~.4. As further clarification, educational materials do not include:

1. Student identifiable information.
2. Email, chat, and other messaging between the faculty and students, or between/among students.
3. Software, whether in source code, executable code, or other machine-readable form, and other discoveries, which are ~~Scholarly or Creative Works discoveries~~ whose ownership and administration are governed by Regent Policy 5.~~IF~~, [APS 1013: Intellectual Property Policy on Discoveries and Patents for Their Protection and Commercialization](#), and any related campus policies.
4. The course taken as a whole, which, because of a student and student-faculty interactions can never be replicated.

In cases where it is not clear whether a particular work is an educational material, a scholarly or creative work, or a material owned by the university, author(s) are strongly encouraged to seek clarification from the campus official designated by their campus chancellor as required by Section [IVIII.A](#) of this APS.

- C. Author(s)** - For the purposes of this policy, the university defines “author” as employees who, as part of the course and scope of their employment, develop or co-develop scholarly and creative works or educational materials. University employees who engage learners in an educational setting at the university are not necessarily the author(s) who developed the educational materials being used in that setting. To be clear about the difference, these non-author individuals are referred to generically as "faculty" in this policy.

~~VII.~~ [VI.](#) **RELATED POLICIES**

A. Regent Laws and Policies

1. [Regent Law 5, Part B](#) – Academic Freedom
2. [Regent Policy 5.H – Intellectual Property that is Educational Material or Scholarly/Creative Work](#)
3. [Regent Policy 5.IJ](#) – Intellectual Property on Discoveries and Patents for Their Protection and Commercialization
- ~~3. [Regent Policy 5.K – Intellectual Property that is Educational Material or Scholarly/Creative Work](#)~~
4. [Regent Policy 8.A.3](#) – Conflicts of Interest
5. [Regent Law 14, Part A.1 – Official Seal/Property](#)
6. [Regent Policy 14.A – Use of the University Seal](#) ~~[Law 14, Part A.2 – Commercial Seal](#)~~
7. [Regent Policy 14.B](#) - Use of University’s Name and Marks in Advertising and Marketing by External Entities

B. Administrative Policy Statements

1. [APS 1013](#) – Intellectual Property on Discoveries and Patents for Their Protection and Commercialization
2. [APS 2025](#) – University Brand Identity and Logo Usage
3. [APS 5012](#) – Conflicts of Interest and Commitment in Research and Teaching

~~VII.~~ [VII.](#) **HISTORY**

- Initial policy approved January 16, 2003
- Revised June 1, 2006
- Revised July 1, 2013