

## TECHNOLOGY-MEDIATED MATERIALS AND INSTRUCTION

*University Rule 17.02.02.C1—Approved December 22, 2003  
Supplements System Policy 17.02 and System Regulation 17.02.02*

### 1. INTRODUCTION

This rule addresses the creation, use, ownership, revision and distribution of Technology-Mediated Materials for distributed learning at Texas A&M University-Corpus Christi.

#### 1.1 Purpose

The purpose of this document is to protect the rights of both the faculty or staff member and the University and to encourage the offering of high-quality programs using the best available teaching and learning technologies. Texas A&M University-Corpus Christi recognizes the essential role intellectual creativity plays in furthering its interests. The University is dedicated to using distributed learning in support of its mission and goals. Therefore, the University encourages its faculty and staff to develop technology-mediated materials and instruction.

#### 1.2 Application

This rule is applicable only to copyrightable materials that are Technology-Mediated Materials developed to facilitate and support Technology-Mediated Instruction. System Regulation 17.02.01, Management of Intellectual Property, is applicable to all other copyrightable materials. This rule shall cover any faculty or staff member employed by Texas A&M University-Corpus Christi or with an appointment in any college, department or unit of the University, including the Texas A&M University-Corpus Christi portion of the appointment of the faculty members with joint appointments with the various other components of the Texas A&M University System.

### 2. DEFINITIONS

- 2.1 Technology-Mediated Instruction: Instructional activities that use technological innovation in the development and delivery of course content to students whether in a traditional setting or through distance education.
- 2.2 Technology-Mediated Materials: Materials and the intellectual property rights on such materials that are copyrightable works developed to facilitate and support the instructional delivery of course content through Technology-Mediated Instruction.
- 2.3 Copyrightable Work(s): An original work of authorship which has been fixed in any tangible medium of expression from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of a machine or device

(such as books, journals, software, computer programs, musical works, dramatic works, videos, multimedia products, sound recording, pictorial and graphical works, etc.) A copyrightable work may be the product of a single author or a group of authors who have collaborated on a project.

- 2.4 Institutional Works or Works for Hire: Copyrightable works created as institutional rather than personal efforts, that is, created for institutional purposes in the course of the creators' employment, including but not limited to simultaneous or sequential contributions over time by numerous faculty, staff or students.
- 2.5 Substantial Support for Copyrightable Works: The essential, integral or significant use of funds, space, hardware, or facilities of the University for the creation of copyrightable works that are not institutional works-for-hire. Incidental use of University resources is not considered to be substantial support. The University will not construe the provision of offices, personal computers and other computer equipment normally made available as a provision of the creator's office, or library facilities as constituting substantial use of University resources, except for those instances where the resources were furnished specifically to support the development of such copyrightable works. See section 5.2.2 of this rule for examples of substantial support.
- 2.6 Creator: The author of copyrightable work.

### 3. RELATED POLICIES, AND REGULATIONS, AND PROCEDURES

This rule should be read in conjunction with the following System policies and regulations:

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| 17.01    | Intellectual Properties  |
| 17.02    | Patents  |
| 17.02.01 | Management of Intellectual Property                                |
| 17.02.02 | Technology-Mediated Instruction                                    |
| 31.05.01 | Faculty Consulting, External Employment, and Conflicts of Interest |

Also relevant are the following university procedures:

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|----------------|--|
| 17.02.02.C1.01 | Procedures for Technology-Mediated Instructional Materials |
| 61.99.99.C2.01 | Web Procedure  |

#### 4. COPYRIGHT OWNERSHIP

- 4.1 University faculty and staff members own the copyright in Technology-Mediated Materials they create, except for certain limited exceptions.
- 4.2 Copyright ownership in works created as Institutional Works or Works for Hire resides with the University.
- 4.3 Copyright ownership in works created under contract with the faculty or staff member shall be determined pursuant to subparagraph 5.2.3.4, below.
- 4.4 Technology-Mediated Materials that are created jointly by faculty or staff authors and others whose contributions would be works for hire are jointly owned by the authors and the University. For more information, see section 5 below.
- 4.5 Any owner of copyright in Technology-Mediated Materials may secure copyright registration. Joint owners may agree to bear responsibility for enforcement of the copyright. However, joint owners are not required to bear such responsibility.
- 4.6 Students own copyright in their works. Faculty members must obtain the student author's permission to incorporate student work in a faculty-authored work.

#### 5. OWNERSHIP CLASSIFICATIONS

Described below are the three ownership classifications for Technology-Mediated Materials. In some circumstances the classification may change based on a modification in University support for the project. For information on the process for reaching an agreement with the University as to the appropriate classification, see University procedure 17.02.02.C1.01.

##### 5.1 CLASSIFICATION 1—Work Created by Faculty or Staff Member(s) with No Substantial University Resources

###### 5.1.1 Description of Individual and University Contribution

The work resulted from an individual's efforts without any direct support from or through the University and without the use of any University resources beyond those normally provided by the University.

###### 5.1.2 Ownership and Compensation

The creator(s) of works developed without the benefit of substantial support, without the constraints imposed by grants or sponsored research, and not as works-for-hire shall retain ownership of all intellectual property associated with any Technology-Mediated Materials product(s). The creator may receive compensation from an outside source for work and retains distribution rights.

5.2. CLASSIFICATION 2—Work Created with Use of University Resources

5.2.1 Description of Individual and University Contribution

The work resulted from the individual's efforts with resources above and beyond those normally provided. The degree of University resource use will be agreed upon by the faculty member, the department chair, and others, as defined in University Procedure 17.02.02.C1.01.

5.2.2 Examples of substantial support are:

- (1) Instances where University resources were furnished specifically to support the development of copyrightable works.
- (2) University equipment, materials, or staff services, from other than the home department or unit, used in the development of the copyrightable work at no expense to the author.
- (3) Support for the development of copyrightable works in the form of University supported salary in excess of normal teaching salary; reduced teaching load to less than is customarily given; or a grant of funds from a department, college, or any unit of the University for the purpose of developing copyrightable work, or
- (4) Copyrightable works developed in the course of, or resulting from, research or other sponsored activity supported by external funding (a grant or contract funded by an external sponsor such as a federal or state agency, a nonprofit, or for profit entity, or a private gift or grant to the University)

5.2.3 Ownership and Compensation

5.2.3.1 The individual owns intellectual property; however, compensation for non-university distribution will be determined based on the degree of University resource used and will be in accordance with System Regulation 17.02.01 Management of Intellectual Policy.

5.2.3.2 If substantial support was provided in the creation of copyrightable materials, Texas A&M University-Corpus Christi may, at its discretion, relinquish its rights to ownership all or in part. Any party may initiate a request to the University for release of University owned copyrights. Requests to relinquish University ownership should be routed through the creator's department head and through the appropriate dean or vice president.

5.2.3.3 In cases where TAMU-CC is part owner of copyrightable materials, any revisions or distribution of revised materials by the University, whether in part or whole, will include discussion with the copyright owners at the initial stages of proposed revision.

5.2.3.4 In cases where copyrightable works resulted from externally funded substantial support, ownership shall be determined in accordance with the terms of the sponsored grant, contract or gift.

5.2.4 TAMU-CC Access: In all cases where Technology-Mediated Materials are deemed owned by faculty, in whole or in part, the University shall retain a perpetual, non-exclusive royalty free license to use the Technology-Mediated Material for its own noncommercial educational purposes without payment of royalties.

### 5.3 CLASSIFICATION 3—Work Made for Hire – University Assigns Duty to Faculty or Staff Member to Develop a Work

#### 5.3.1 Description of Individual and University Contribution

An employee of the University was assigned to develop a specific product. The University provided substantially all resources for the work. The work was carried out as a part of the faculty or staff member's assigned workload.

#### 5.3.2 Ownership and Compensation

The University owns all intellectual property and has an exclusive educational and commercial ownership and license authority. The faculty or staff member is not entitled to receipt of royalty.

## 6. CONTRIBUTED MATERIALS

6.1 All faculty and staff must comply with relevant laws, including copyright and privacy laws; therefore, it is the responsibility of the creator of Technology-Mediated Materials (normally the faculty or staff member) to obtain all permissions and releases necessary to avoid infringing copyright or invading the personal rights of others.

6.1.1 When creating Technology-Mediated Materials, faculty and staff must exercise caution to avoid liability. Faculty, staff and students may incur personal liability by incorporating materials created by other persons or organizations into the course materials. Moreover, liability may be incurred if the authors include voices or images of persons in the Technology-Mediated Materials, including audience members and guest lecturers.

6.1.2 Students who create online course materials to fulfill course requirements must also take care to avoid liability.

6.2 Faculty and staff members who use academic web pages in direct support of course delivery should refer to University Procedure 61.99.99.C2.01, Web Procedure, for guidelines. As stated in the procedure, the course instructor is responsible for the content and maintenance of academic web pages used during the course, including those web pages created by students to fulfill course requirements. At the completion of the course, responsibility for a course's academic web pages transfers to the web pages' owners, who may choose to either remove them or maintain them as unofficial web pages.

## 7 USE OF UNIVERSITY'S NAME

Faculty, staff, and students must observe the same requirements that apply in other contexts with respect to the use of the University's name. The names, initials, seals, logos, and mascots associated with Texas A&M University-Corpus Christi are owned by the University. Any representation of University marks (art work or graphics) such as the University seal, Wave of the Future, or any other identity mark must adhere to the University Identification Guidelines and be approved by the Director of Publications.

## 8. OUTSIDE EMPLOYMENT

Technology-Mediated Instruction courseware and materials developed for an external vendor or contractor must be reported through the approval process for outside employment. (See University Rule 31.05.01.C1, Faculty Consulting, External Professional Employment, and Conflicts of Interest.)

## 9. APPEALS PROCESS

Any irresolvable disagreements associated with the determination of substantial support or any other aspect of the Technology-Mediated Materials development process will be resolved through the appeals process described in University Procedure 17.02.02.C1.01.

Contact for Interpretation: Provost and Vice President for Academic Affairs