

## DRAFT PROPOSAL AND REQUEST FOR COMMENTS

May 8, 2013

The Senate Council's ad-hoc Committee on Best Practices in Distance Learning (CBPDL) sees a need to clarify and update the existing administrative regulation on intellectual property related to excepted scholarly activities. The current regulation (AR 7:6.IV) was last updated 20 years ago in 1993. Since that time, the instructional products developed by faculty and staff in the course of their usual scholarly, pedagogical, and service activities have expanded to include digital and web-based products, course materials, etc. The CBPDL proposes the following changes in the language of AR 7:6.IV paragraphs A and B.

Please send comments/feedback to Dr. Roger Brown ([rogerbrown@uky.edu](mailto:rogerbrown@uky.edu)) by August 1, 2013.

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### **Existing Administrative Regulation (AR 7:6.IV.A)**

Intellectual Property Disposition and Administrative Regulation (effective 6/22/1993)

A. Traditional products of scholarly activity which have customarily been considered to be the unrestricted property of the author or originator are excepted from the general policy. Such traditional products include journal articles; textbooks; reviews; works of art including paintings, sculpture, and musical compositions; and course materials such as syllabi, workbooks, and laboratory manuals. The University has not and will not claim any ownership rights to such traditional works and also specifically disclaims any potential rights to do so under the "work for hire" provisions of the U.S. Copyright Act.

For full text, see: <http://www.uky.edu/regs/files/ar/ar7-6.pdf>

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### **Draft Changes (in red) to Existing Administrative Regulation (AR 7:6.IV.A)**

Intellectual Property Disposition and Administrative Regulation

A. Traditional products of scholarly activity which have customarily been considered to be the unrestricted property of the author or originator are excepted from the general policy. Such traditional products include journal articles; textbooks; reviews; works of art including paintings, sculpture, and musical compositions; and course materials such as syllabi, workbooks, and laboratory manuals. **Also included are instructional software, webpages, distance-learning course materials, and internet-based instructional products developed by faculty and staff in the course of their usual scholarly, pedagogical, and service activities. The latter include products developed during sabbatical leaves, faculty fellowships, and other special assignment periods intended for such activities. This exemption is also understood to encompass works produced by students, either alone or with the assistance of faculty or staff, if they fall under the foregoing description.** The University has not and will not claim any ownership rights to such traditional works and also specifically disclaims any potential rights to do so under the "work **made** for hire" provisions of the U.S. Copyright Act. **Income from the use of such excepted works shall be considered income to the author or originator of said work.**

## Existing Administrative Regulation (AR 7:6.IV.B)

Intellectual Property Disposition and Administrative Regulation (effective 6/22/1993)

- B. Works produced in certain University units whose specific mission includes the production of works for instructional, public service, or administrative use, and who employ staff and faculty for the purpose of producing such works are deemed to be “works made for hire” and, therefore, the property of the University. The Computing Center, the Office of Instructional Resources, and Medical Center Division of Educational and Biomedical Resources are examples of such units. Works produced by such units include instructional films and videotapes, telecourses, drawings, slides, models, computer programs, etc. The University shall own and control all such works produced in such units. Income from the use of such works in University educational activities shall be considered income to the unit, subject to University resource management and budgeting policy. Arrangements with “talent” from other units or from outside the University may include payments based on sales or usage of such works. Such payments are considered to be part of the costs of production. Commercialization of such works outside the University must be through assignment to UKRF which shall be responsible for the commercial development as defined in Section VI. However, in recognition of the differences between these units and regular academic departments, different and unique revenue sharing arrangements may be made with the approval of the appropriate chancellor. Nothing in this paragraph shall limit the rights of the employees of such units to works produced or developed outside the scope of their employment and not involving the use of University facilities or other resources.

For full text, see: <http://www.uky.edu/regs/files/ar/ar7-6.pdf>

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## Draft Changes (in red) to Existing Administrative Regulation (AR 7:6.IV.B)

Intellectual Property Disposition and Administrative Regulation

- B. Works produced **wholly by staff or faculty assigned to non-academic support** ~~in certain University~~ units of **the University** whose specific mission includes the production of works for instructional, public service, or administrative use, ~~and who employ staff and faculty for the purpose of producing such works shall not qualify for exclusion under AR 7:6.IV.A above~~ **are deemed to be “works made for hire”** and, therefore, **shall be** the property of the University. ~~The Computing Center, the Office of Instructional Resources, and Medical Center Division of Educational and Biomedical Resources~~ **UK Information Technology, Distance Learning Programs, and Agricultural Communication Services** are examples of such **non-academic support** units. Works produced by such units include instructional films and videotapes, telecourses, drawings, slides, models, computer programs, etc. ~~The University shall own and control all such works produced in such units.~~ Income from the use of such works in University educational activities shall be considered income to the unit, subject to University resource management and budgeting policy. Arrangements with **faculty, staff, or students** ~~“talent”~~ from other units or ~~from~~ **with personnel** outside the University **shall require support unit directors to specify clearly in advance and in writing who controls such jointly-produced works, how such works shall be used, and how potential** ~~may include~~ payments based on sales or usage of such works **shall be shared.** ~~Such payments are considered to be part of the costs of production. Commercialization of such works outside the University must be through assignment to UKRF which shall be responsible for the commercial development as defined in Section VI. However, in recognition of the differences between these units and regular academic departments, different and unique revenue sharing arrangements may be made with the approval of the appropriate chancellor.~~ Nothing in this paragraph shall limit the rights of the employees of such units to works produced or developed outside the scope of their employment and not involving the use of University facilities or other resources.