

Hope College Copyright and Intellectual Property Policy
8 February 2022

Adapted from the Grinnell College Copyright Policy and Whitman College Intellectual Property Policy

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I. **Purpose and Scope**

As a community of teachers and scholars, Hope College (hereafter referred to as “Hope”) is committed to excellence in the classroom and the creation of new works, ideas, and forms of creative and scholarly expression. Hope adheres to the long standing academic tradition that creators of works own the copyrights in works resulting from their scholarly, pedagogical, and creative activities. Hope also is committed to fostering an environment of respect for and responsible use of the intellectual property of others. Therefore, it is the policy of Hope that fair and appropriate use of copyrighted materials is both a legal and ethical obligation of all members of the Hope community. Hope expects that all faculty, staff, and students make a reasonable effort in good faith to comply with copyright laws in their use of copyrighted materials.

Because of the complexity of copyrighted law and, in particular, Fair Use and other exemptions, Hope will provide resources to educate faculty, staff, and students and help them make informed, careful, and situation-sensitive decisions about the lawful and fair use of works created by others.

This policy affirms the College’s commitment to:

- Comply with United States law pertaining to copyright as expressed in article I, Section 8 of the U.S. Constitution and codified in various laws;
- Faithfully respect the property rights of authors and their assignees;
- Educate members of the campus community about copyright law and rights available under that law; and
- Exercise our rights and responsibilities as teachers, scholars, authors, and creators in educating students, creating new works of pedagogy, scholarship, and art, and sharing those works with a wider community.

This policy affirms that intellectual works eligible for copyright protection created by the faculty, staff, and students of Hope in the course of their academic pursuits belong to the creator(s) and that any revenue derived from their work likewise belongs to the creator(s). In most cases this includes, but is not limited to, courses, course materials, and syllabi, as well as published materials, artistic works and performances, data, procedures and computer programs. However, unless otherwise agreed in writing between the creator(s) and Hope, Hope’s use of this material shall be royalty-free. In general, non-academic work created by faculty, staff, or students in fulfillment of their paid responsibilities -- known as “work for hire” -- is owned by Hope. In the case of faculty published scholarly articles, Hope retains a limited license in order to deposit the author’s version in Hope’s institutional repository, unless the faculty author opts out of the policy in writing.

Faculty, staff, and students are responsible for understanding this policy and shall be accountable for actions that willfully disregard it. Hope will provide resources for helping the community understand copyright law, and in the event of a lawsuit, will defend members of the community who have demonstrated a good faith effort to comply with the law.

II. **Terminology**

The following terms are used throughout the Policy and are defined in Appendix A:

- a) Copyright
- b) Patent
- c) Trademark and Service Mark

- d) Hope Employee
- e) Students
- f) Work
- g) Sponsored Work
- h) Student Work
- i) Commissioned Work
- j) Work Made for Hire
- k) Independent Academic Effort or Creative Activity
- l) Exceptional Use of Hope Resources

III. Intellectual Property and Copyright Ownership

The Policy adheres to the long-standing academic tradition that creators of works own the copyrights in works resulting from their scholarly, pedagogical, and creative activities. It also underscores the commitment of Hope to fostering an environment of respect for and responsible use of the intellectual property of others. Hope is committed to helping members of the community comply with copyright laws by providing resources to help individuals make informed, careful, and situation-sensitive decisions about the lawful and fair use of work created by others. Many of these resources are available on the [library's website](#).

A. Faculty and Staff Work

As a general rule, Hope does not claim copyrights in journal articles, books, lectures, musical compositions, creative works, or other copyrightable works that are created through independent or collaborative academic effort or creative activity and that are intended to disseminate the results of academic research and scholarship, and/or to exhibit forms of artistic expression on the part of faculty, staff, and students.

Hope does have an Open Access Policy, which requires that members of the faculty grant a nonexclusive, irrevocable, non-commercial, paid-up, worldwide license to Hope and permission to make their scholarly work openly accessible in the institutional repository. This policy applies to all peer-reviewed, published scholarly journal articles and conference proceedings written while the author is a member of the faculty of Hope. Faculty members shall submit all such scholarly articles for addition to the College's Institutional Repository. A faculty member may formally designate that a specific scholarly work is not to be disseminated by requesting a waiver. This policy is outlined in detail in the Faculty Handbook.

Exceptions to this rule include works that are sponsored works, commissioned works, or works involving the Exceptional Use of Hope Resources (see Section VI and Appendix A), or works made for hire. (See Section V and Appendix A for Hope College's ownership rights and rights of use.) Hope does not claim copyrights to syllabi created by faculty during their employment while at Hope. However, Hope retains the right to use and reproduce syllabi in the unlikely event a faculty member cannot complete a course or as needed for administrative purposes. For practical purposes, course and program descriptions are deemed to be works made for hire. To maintain our responsibilities with various compliance and accreditation requirements, a copy of each course syllabus must be deposited with the Provost's Office.

In terms of commissioned or sponsored works that are deemed works made for hire, the commissioning party is legally the author and thus owner of any such works. If a

work made for hire is developed jointly by faculty, staff, and/or students of Hope and a non-Hope party, the copyright of the resulting work will be jointly owned by Hope and that party, unless modified in a written agreement.

In the case of Exceptional Use of Hope Resources, the authorizing parties within Hope will develop a written agreement with the user of those resources to determine possible reimbursements, sharing of royalties, or other systems of compensation back to Hope.

B. Student Work

Hope makes no claim of copyright ownership in works created by full-time, part-time, exchange, and “special status students” working on their own, or developed in the context of a course (i.e., without the Exceptional Use of Hope Resources), and outside any employment by Hope. Hope also makes no claim of copyright ownership in works that are not sponsored, contracted, or commissioned by Hope and do not make Exceptional Use of Hope Resources. Note the following principles:

- a) Students working on a project governed by an existing intellectual property rights agreement to which Hope is a party are bound by all terms of that agreement.
- b) Students hired to carry out specific tasks that contribute to a copyrighted or patented work of Hope retain no rights of ownership in the whole or in part to that work or to the student’s contribution to that work.
- c) Students working collaboratively with faculty on projects that might result in copyrighted or patentable works are granted the same rights and subject to the same limitations of ownership as the faculty working on their own.
- d) In the case of Exceptional Use of Hope Resources, the authorizing parties within Hope will develop a written agreement with the user of those resources to determine possible reimbursements, sharing of royalties, or other systems of compensation back to Hope.

C. Independent Contractor Work

As a general rule, Hope College will retain the copyright in a work that is created by an independent contractor if the College has specifically ordered or commissioned the work and if a written agreement designating the work as a “work made for hire” and/or agreement requiring assignment of the copyright in their work has been signed by both parties.

All Hope faculty and staff who are participating in approved independent consulting activities will retain rights to works created during the course of activity that bears no relation to their employment as defined by their job description and/or employment contract and/or if they do not receive additional compensation from Hope beyond that specified in their employment contract or appointment letter, and/or have not made Exceptional Use of Hope Resources. Similarly, all Hope students will retain rights to works if the work carried out bears no relation to existing student employment and/or if they do not receive additional payment for the work from Hope and/or have not made Exceptional Use of Hope Resources.

IV. Patentable Work

This Policy administers claims to patent ownership according to the principles and procedures outlined below.

A. General Principles

- a) A patentable invention or discovery, if created within the scope of employment as defined by the employment contract and/or job description, or if it is the result of Exceptional Use of Hope Resources, may be deemed the property of Hope.
- b) All patentable work undertaken as a sponsored or commissioned work shall be deemed the property of Hope unless otherwise provided for in a separate written agreement. Please note that while Hope is generally assigned the rights to intellectual property generated during the course of federally-sponsored research activities, the government retains the option to claim ownership under certain circumstances. In the event that the government does not exercise its option and regardless of ownership, the government retains a non-exclusive, non-transferrable, irrevocable, royalty-free, worldwide license to the invention produced under government sponsorship.
- c) Patentable work by students developed in the context of a course may be deemed the property of Hope if it is the result of Exceptional Use of Hope Resources.
- d) Upon becoming aware of the potential patentability of an invention or discovery that may be deemed the property of Hope, a faculty, staff, or student must either publish the work in furtherance of the educational mission of Hope or report the finding to the Office of Sponsored Research and Programs using the Invention Disclosure Form (see Appendix B).

B. Reporting

- a) Upon the report of a potentially patentable work using the Invention Disclosure Form (see Appendix B), Hope may decide to pursue an investigation into the patentability of the specific invention or discovery through the appropriate legal and technical counsel. All costs for such an investigation will be borne by Hope. If the investigation reveals the invention or discovery may be patentable, Hope will decide whether to commence the patent application process, again bearing all fees and costs.
- b) In the case of inventions or discoveries that are the subject of applications filed by Hope, all right, title, and interest to the inventions or discoveries, including the applications and any patents issuing therefrom vests with Hope, and all faculty, staff, and students subject to this clause do hereby assign and agree to assign all such right, title, and interest to Hope and to sign all documents considered necessary by Hope to perfect and/or record the ownership rights of Hope set forth herein.

C. Ownership and Royalties

- a) If Hope does not pursue an initial patentability investigation with respect to an invention or discovery, or if Hope decides upon investigation not to pursue a patent, or if Hope discontinues pursuit of a patent at some point in the patent application process, Hope may, in its sole discretion, reassign ownership to the inventor within a reasonable amount of time. At the inventor's request, Hope will provide written notification of Hope's intent not to pursue a patent and a statement allowing the inventor to pursue the patent. The inventor shall grant Hope a royalty-free, non-exclusive worldwide license to employ the invention for the sole use of Hope for the life of the patent, unless Hope specifically waives its rights to such a license, in writing.
- b) If a patent is obtained by Hope and after a reasonable amount of time and reasonable amount of effort there has been no successful commercialization of the patent, the inventor(s) may petition Hope to have the patent reassigned to

them. Reassignment shall be at the sole discretion of Hope. In the event of such reassignment, the inventor shall grant to Hope a royalty-free, non-exclusive, worldwide license to employ the invention for the sole use of Hope for the life of the patent, unless Hope specifically waives its rights to such a license in writing.

- c) In those cases where Hope secures a patent, Hope will implement the appropriate licensing arrangements. All costs for patent development will be borne by Hope, but will be recovered by Hope from net income prior to any inventor or Hope distributions. Subsequent to securing the patent, the accumulated net income, including gross royalties and licensing fees from the patented discovery, device, or system, less all related direct expenses, will be divided as follows, unless the parties agree otherwise in writing:

Net Income	Inventor(s)	Hope College
Up to \$100,000	67%	33%
\$100,001 - \$999,999	50%	50%
Over \$1,000,000	33%	67%

- d) In the event of multiple inventors, the inventors will be expected to agree among themselves on the fractional distribution of each inventor's share of any net income. The inventors shall sign a written agreement specifying the fractional distribution of their share of net income. The inventor's share of net income will continue even if the inventor leaves Hope.
- e) In the event of multiple inventors from multiple departments or divisions, the departments and divisions will be expected to agree among themselves on the fractional distribution of each inventor's share of any net income. The departments or divisions will sign a written agreement specifying the distribution of their share of net income.

V. College Ownership Rights and Rights Use Trademark

Hope is the owner of the registered trademark HOPE COLLEGE. Hope claims ownership and exclusive right to this and any other trademark or service mark developed by Hope for use with sale of goods in commerce. Hope's marks include any and all names, logos, insignias, and related words, phrases, and images used by Hope and its related entities. Hope claims exclusive use of all relevant marks, and no Hope mark may be used without the prior, written authorization of the appropriate authorities at Hope. This Policy is designed to protect the reputation of Hope and related entities, and to prevent income from being generated through illegal or unapproved use of Hope's marks.

All requests for use of Hope's marks must be submitted in writing to Public Affairs and Marketing. Public Affairs and Marketing retains information concerning what names, logos, insignias, and related words, phrases, and images currently comprise Hope's marks.

Faculty, staff, and students may reasonably use Hope's marks for professional identification or affiliation. All use of Hope's marks by faculty, staff, and students must be

made in accordance with the Brand Identity standards as set forth by Public Affairs and Marketing (and outlined at <https://hope.edu/offices/public-affairs-marketing/brand-identity/>).

VI. Exceptional Use of Hope Resources

Although “Exceptional Use of Hope Resources” is defined in Appendix A, it is acknowledged that such resources and their use may change over time, with changes in technology, the physical infrastructure of Hope, modes of employment, etc. Therefore, this Policy allows Hope to review and revise the definition of “Exceptional Use” in order to establish an appropriate standard. At the same time, faculty may appeal these standards through the established [Grievance Process outlined in the Faculty Handbook](#).

VII. Use of Copyrighted Works for Education and Research

The Copyright and Intellectual Property Policy of Hope affirms Hope’s commitment to comply with the United States law pertaining to copyright; to respect faithfully the property rights of authors and their assignees; to educate members of the campus community about copyright law; and to exercise vigorously the rights and responsibilities granted under this law.

It is the responsibility of members of the Hope community to determine if their intended use of copyrighted materials is considered Fair Use (or another exemption) and to seek permission from the appropriate copyright owner(s) when necessary.

A. Compliance with Copyright Laws

Hope expects all faculty, staff, and students to make a reasonable effort in good faith to comply with copyright laws in their use of copyrighted materials.

B. Assistance with Copyright Compliance

Because of the complexity of copyright law and, in particular the Fair Use exception, Hope provides resources to educate faculty, staff, and students and help them make informed, careful, and situation-sensitive decisions about the lawful and fair use of works created by others. These resources are located on the [Hope Library website](#).

C. Fair Use of Copyrighted Works

Hope encourages faculty, staff and students to take full advantage of the Fair Use exception to the exclusive rights of copyright owners. However, an educational purpose of the use does not automatically make the use “fair.” Reasonable people can and will differ in their understanding of the doctrine. The copyright law itself does not provide a definitive meaning of fair use for any specific application.

Before relying on the Fair Use exception, faculty, staff and students should educate themselves regarding the limits of fair use and should, in each instance, perform a careful, good-faith fair use analysis based on the four factors identified in [Section 107 of the Federal Copyright Act](#), including:

- a) The purpose and character of the use;
- b) The nature of the copyrighted work;
- c) The amount and substantiality of the portion used in relation to the work as a whole; and
- d) The effect of the use upon the potential market.

Faculty, staff, and students are strongly encouraged to document and retain their Fair Use analysis as a defense against claims of copyright infringement. An interactive [Fair Use Check-list](#), available on the Hope Library website, should be printed and retained.

D. Course Reserve and Course Management System Materials

In compliance with copyright law, the Library supports the rights of copyright holders as well as the rights of students and faculty to use copyrighted materials under certain exemptions in the laws including fair use, the first sale doctrine, the TEACH Act, and the Digital Millennium Copyright Act. The Hope Library subscribes to the principles in the [Code of Best Practices in Fair Use for Academic and Research Libraries](#). Exemptions can vary depending on the type of material (text vs. media), format of the material (print or electronic) and how materials will be accessed (physical reserves, electronic reserves, a course management system or digital streaming).

E. Violation of Copyright Laws

Upon obtaining knowledge that material residing on its systems or networks is infringing or that its systems or networks are being used for infringing activities (or upon becoming aware of circumstances from which infringing activity is apparent), Hope will act expeditiously to remove or disable access to the infringing materials and may deny the individuals responsible further access to its systems or networks. In addition, members of the faculty or staff, or students, or other employed persons who violate copyright laws may be subject to disciplinary action in accordance with established procedures. These procedures are described: for faculty, in the [Hope Faculty Handbook](#); for staff, in the [Hope Staff Handbooks](#) and for students, in the [Hope Student Handbook](#).

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense. For more information, please see the website of the [U.S. Copyright Office](#).

F. Institutional Policies and Penalties

The [Hope Technology Usage Policy](#) prohibits the use of institutional technology resources (as defined in the policy) for activities that violate copyright law, including but not limited to unauthorized peer-to-peer file sharing. Nonobservance of this policy may result in the immediate and permanent revocation of Hope technology

privileges, even those not directly relating to the activity in violation. Additional penalties up to and including termination (faculty and staff), dismissal from Hope (students), and banishment from Hope property are also possible.

If preventative efforts are not effective and Hope is notified of an infringement by a copyright holder, the notice will be referred to:

- a) The Dean of Students for a potential violation by a student. The student judicial process as described in the [Student Handbook](#) will be utilized.
- b) Human Resources, for a potential violation by a faculty or staff member. The applicable [employee handbook](#) will be utilized.

VIII. Resolution of Conflicts Over Ownership and Use Rights

Following an investigation of the issues by the Office of the Provost with input from the faculty committee assigned to oversee copyright, IP, and patent concerns, conflicts over ownership and use rights will be jointly adjudicated by the [Appeals and Grievances Panel](#).

IX. Reservation of Rights

Hope reserves the right at any time in its sole discretion to modify and/or make changes to this Policy as advisable or appropriate. Hope agrees that it will endeavor to notify the entire campus community of its intention to make modifications and/or changes to this Policy at least 30 working days prior to their enactment.

X. Effective Date

This policy is effective from 8 February 2022 and will remain in effect until modified or revoked by Hope.

XI. Jurisdiction

Hope shall have the right to determine the most appropriate forum for any litigation. In addition to applicable Federal laws, the laws of the State of Michigan unless stipulated in an approved sponsored project agreement, shall also apply in interpreting any contract or property issues raised by this Policy.

Appendix A: Definitions of Terms Used in Policy

A. Copyright

Copyright is the intangible property right granted for a limited period of time by Federal statute (Title 17 of the U.S. Code) for an original work of authorship fixed in any tangible form of expression. Copyright provides the owner of a “work” (defined in F.(a) below) with a number of exclusive rights including the exclusive right to reproduce the work, to prepare derivative works based on the work, to distribute the work by sale or otherwise, to display the work publicly, and to perform the work publicly (if relevant).

B. Patent

A United States patent is a property right granted by Federal statute that permits the owner to exclude others from engaging in a number of activities including the making, using, selling, or importing of a claimed invention throughout the United States for a set period of time. In the United States, an invention must be useful, novel, and non-obvious to be eligible for patent protection. Similar rights are granted in other countries, but the discussion of Patents in this Policy focuses specifically on United States patent rights.

C. Trademark and Service Mark

A trademark or service mark is a distinct word or phrase, name, symbol, device, picture, graphic, or some combination of these elements that is used in trade to identify goods or services. A trademark/service mark (hereinafter collectively, a “mark”) serves both to identify the source of goods/services and to distinguish those goods and services from the goods and services of others. A mark owner can prevent other entities from using the same or a similar mark in a manner that dilutes famous marks of others, or to identify overlapping or related goods or services.

D. Hope Employee

An employee is a full-time or part-time faculty member, lecturer, visiting faculty, artist, scholar, or fellow (as defined by the [Faculty Handbook](#)) or a full-time or part-time staff member (as defined by the current [Staff Handbook](#)), or student, who is employed by Hope or is working under a Hope contract, either expressed or implied.

E. Students

A student is a regularly registered, full- or part-time, undergraduate at Hope. It includes students attending Hope as “special status students” (e.g., as participants in exchange programs or through special grants or fellowships, etc.).

F. Work

A Work in this Policy is defined as any intellectual property that may be:

- a) A copyrightable expression, including literary works; musical works (including any accompanying words); dramatic works (including any accompanying music); pantomimes and choreographic works; pictorial, graphic, and sculpture works; motion pictures and other audio-visual works; sound recordings; and architectural works. These categories should be viewed broadly. For example, computer programs and most “compilations” may be registered as “literary works,” maps and architectural plans may be registered as “pictorial, graphic, and sculptural works.”
- b) A patentable composition, method, device, article, or other technology, or system, as defined by United States Federal statute.
- c) Goods or services that merit a trademark or service mark.

G. Sponsored Work

A sponsored work is a Work (as defined above) that is produced or created pursuant to a written agreement between Hope and a sponsor. Sponsored works do not include works created through independent academic effort or creative activity, even when based on the findings of the sponsored project, so long as the agreement does not state otherwise.

H. Student Work

A student work is a Work that is produced or created by a registered full-time or part-time undergraduate or “special status students” of Hope without the Exceptional Use of Hope facilities or equipment or the direct use of Hope funds (where student financial aid and/or scholarships would not be considered “Hope funds”), that is produced or created outside of any employment by Hope, and that is not sponsored, contracted, or commissioned by Hope.

I. Commissioned Work

A commissioned work is defined as a Work that is produced or created pursuant to a written agreement with Hope and for Hope purposes by:

- a) Individuals not under the employ of Hope; and/or
- b) Hope employees acting outside the scope of their regular Hope employment, as determined by their existing Hope employment contract or job description.

J. Work Made for Hire

A “work made for hire” is defined by the United States Copyright Act (Section 101) to be a copyrightable work “prepared by an employee within the scope of their employment.” **Pedagogical, scholarly, and artistic works are typically NOT considered by Hope to be “works made for hire.”** Pedagogical and scholarly works include but are not limited to books, scholarly articles and papers written for publication in journals, computer programs developed for or through instructional practices or research and scholarly activities, presentations and scholarly papers prepared for seminars and conferences, and teaching materials, including classroom lectures, seminars, presentations, and online media. Artistic works include, but are not limited to, photography, film, audio-visual works, sculpture, painting, choreography, and the like. Course and program descriptions are deemed to be works made for hire.

The Copyright Act also notes that a work made for hire includes “a work specially ordered or commissioned for use as a contribution to a collective work, as part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, an answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.”

Examples of works made for hire include software programs created within the scope of an employee’s duties by a staff programmer for a computer company, a newspaper article written by a staff journalist for the newspaper that employs them, and a musical arrangement or ditty written for a music company by a salaried arranger on its staff.

K. Independent Academic Effort or Creative Activity

Independent academic effort or creative activity is defined as the inquiry, investigation, research, or creative activity that is carried out by faculty, staff, and students of Hope that advances knowledge or the development of the arts, sciences, humanities or

technology where the specific direction, methodology, and content of the pursuit is determined by the faculty, staff member(s), or student(s) without the direct assignment, supervision, or involvement of Hope.

L. Exceptional Use of Hope Resources

“Exceptional use of Hope Resources” for faculty, staff, or student work means that Hope has provided funding, facilities, or staff support to a degree of nature not typically made available. Ordinary use of desktop computers, Van Wylen Library, routine support from Computing Information & Technology staff, or the use of Hope College office space does not constitute Exceptional Use of Hope Resources. In addition, Hope’s provision of standard labs and studios, start-up funds, funding of sabbatical leaves, and research funding through normal internal mechanisms (e.g., Jacob E. Nyenhuis Faculty Development Grants, Professional Development Funds, etc.) are typically not considered to be Exceptional Use of Hope Resources.

Resources not considered “commonly provided” include specially procured equipment or space, additional staffing or personnel, significant use of personnel not to the benefit of the educational mission of Hope, utilization beyond normal work hours of Hope personnel, and monetary expenditures that require additional budgetary support. Faculty may use basic facilities unless use infringes on student use of those facilities for coursework.

Appendix B: Invention Disclosure Form

The Invention Disclosure Form is available online at
https://docs.google.com/forms/d/e/1FAIpQLSfthHoDE_LX0GjT0BVnDD3HrYGF8rFogkvftZjV4uKtzcP7Bg/viewform