Hawaii Pacific University
Intellectual Property Rights for On-Line Course Materials

This agreement incorporates the spirit and much of the language of suggested guidelines on intellectual property developed by the American Association of University Professors (AAUP).

1. The parties to this agreement believe that the public interest is best served by creating an intellectual environment wherein creative efforts and innovations can be encouraged and rewarded, while still retaining for the university and its learning communities reasonable access to, and use of, the intellectual property for whose creation the university has provided assistance. The university encourages the development, production, and dissemination of intellectual property by its faculty members.

2. Whether their primary purpose is use on the main campuses, on the military campuses, or for electronic delivery to distant sites, on-line course materials are “works of authorship” protected under the Copyright Act. On-line course materials consist of, but are not limited to, the following: web sites, lecture notes, background readings, surveys, data sets, bibliographies, images, graphs and other illustrations, lists of network address links, quizzes and examinations, discussion questions, video, and interactive software interfaces. These works of authorship shall be the exclusive property of the faculty author(s) unless the faculty author(s) and an authorized agent of the university agree in writing before any development, production, or dissemination of these works, that one or more of the following conditions apply:

a. The university has expressly contracted with a faculty member to create the on-line course materials, or the on-line course materials are created as a specific requirement of employment or an assigned institutional duty (i.e., a “work made for hire” under the Copyright Act) specifically referenced in a position description or equivalent document. Currently, faculty contracts do not specifically state that the faculty member(s) are expressly contracted to teach on-line courses or develop on-line course materials. The assigned normal institutional duty for faculty members as described in the Faculty Handbook does not include requirements to teach on-line courses or develop on-line course materials.

b. The faculty author in a signed written statement has voluntarily transferred the copyright, in whole or in part, to the university.

c. The university is considered a “joint author” under the Copyright Act because, for example, it has provided special resources, facilities or materials not commonly made available to faculty members in the preparation of on-line course materials. All special resources, facilities, or materials used by a faculty author, and the nature of the joint ownership shared with the university, must be specified in writing and approved by the faculty author(s) and an
authorized agent of the university.

3. In the absence of any of the conditions described in item 2.a, b, or c, on-line course materials originated by the faculty author(s) shall remain the exclusive property of the faculty author(s). As owner(s) the faculty author(s) retain sole control of the on-line course materials except for the following:

a. The university shall be permitted to use such materials for internal administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions, and offering limited or “trial” access as part of marketing and/or recruitment initiatives.

b. The university shall be permitted to use such materials for instructional or other educational purposes only with explicit written consent of the faculty author(s), and without interfering with the faculty author's right to make use of the work elsewhere.

c. In an agreement transferring copyright for such works to a publisher, faculty authors are urged to seek to provide rights for the university to use such works for internal administrative and/or other purposes.

4. The use of traditional library resources, desktop computers and peripherals, network access, software, faculty accounts and normal allocations of server space in the creation of on-line course materials shall not be considered “significant use” of university resources for the purposes of section 2.c.

a. Just as a faculty member’s use of a file cabinet owned by the university does not grant the university ownership of the contents of the file cabinet, the use of desktop computers, servers, associated networks, and other resources listed above as “electronic file cabinets” does not grant the university any ownership rights over works of authorship stored electronically on the university’s hardware.

b. Likewise, this agreement encourages the comparison between faculty files on university servers and faculty-authored textbooks in the university library stacks, and between the use of on-line information resources and the use of traditional library resources and services.

5. Funds received by faculty author(s) from the sale or other use of on-line course materials owned by the faculty author(s) shall be allocated and expended as determined solely by the faculty author(s). Funds received by the university from the sale or use of works owned by the university shall be allocated and expended as determined solely by the university. Funds received by faculty author(s) and the university from the sale or use of such works owned jointly by the faculty author(s) and the university shall be allocated and expended in accordance with the specific agreement executed in advance of creation of such works.
6. Faculty author(s) who have developed on-line course materials prior to the ratification of this agreement and have no special contract with the university for the development of these materials shall retain complete ownership of these materials. Such materials shall be the exclusive property of the faculty author(s) and under sole control of the faculty author(s).

7. This agreement shall be disseminated to all academic and administrative personnel at Hawai‘i Pacific University and become part of the Faculty Handbook.

8. This agreement may be modified and/or amended as agreed upon by the Faculty Assembly and the President.