

UNIVERSITY RULE

17.02.02.M1 Technology Mediated Materials and Instruction

Approved January 8, 2001

Supplements [System Policy 17.02](#) and [System Regulation 17.02.02](#)

1. GENERAL

1.1. Texas A&M University recognizes the essential role intellectual creativity plays in furthering its interests. With rapidly changing technologies in telecommunications, visualization, and pedagogy, the higher education community as a whole is moving into distance learning and all forms of technology mediated instruction. Texas A&M University is dedicated to supporting the creation, health, and continued growth of distance education in a meaningful, effective way. Texas A&M University encourages its faculty and staff to develop Technology Mediated Instruction and Technology Mediated Materials.

2. APPLICATION

2.1. 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](#) shall be applicable to copyrightable materials. This regulation shall be interpreted in conjunction with [System Policy 07.01: Ethics Policy](#), TAMUS Employees, and with [System Regulation 31.05.01: Faculty Consulting, External Employment, and Conflicts of Interest](#), which relate to participation in private consulting and professional employment by faculty members and their counterparts in the research and extension agencies. [System Regulation 17.02.01: Management of Intellectual Property](#), and [System Regulation 33.04.01: Use of System Resources for External Employment](#) shall not be construed to prohibit the use of University resources to create TMI, regardless of the level of University resources utilized.

3. COVERAGE

3.1. This Rule shall cover any faculty or staff member employed by TAMU or with an appointment in any college, department or unit of Texas A&M University, including the TAMU portion of the appointment of the faculty members with joint appointments with the various other components of the Texas A&M University System.

4. DEFINITIONS

4.1. 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. ([See System Policy 17.02.01: subsection 1.2, Management of Intellectual Property](#)).

4.2. Substantial Support for Copyrightable Works (Substantial Support):

4.2.1. For the purposes of this Rule substantial support is defined as: 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. Examples of substantial support are:

4.2.1.1 Instances where University resources were furnished specifically to support the development of copyrightable works,

4.2.1.2 University equipment, materials, or staff services, from other than the home department or unit (or the Faculty Learning Technology Support Facility), used in the development of the copyrightable work at no expense to the author,

4.2.1.3 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

4.2.1.4 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 non-profit or for-profit entity, or a private gift or grant to the University).

4.3. Creator: The author of copyrightable work.

4.4. Technology-Mediated Instruction (TMI): The use of technological innovation for the development or delivery of course content to students whether in a traditional setting or through distance education.

4.5. Technology-Mediated Materials (TMM): Copyrightable materials developed to facilitate and support the instructional delivery of course content through Technology-Mediated Instruction. Examples of Technology-Mediated Materials may include, but are not limited to:

- 4.5.1. video or audio recordings
- 4.5.2. Motion pictures
- 4.5.3. Programmed instructional materials
- 4.5.4. Live video and audio transmissions
- 4.5.5. Computer programs
- 4.5.6. Combinations of the items listed in sections 4.5.1 thru 4.5.5, multimedia, and other types of materials or instructional packages.
- 4.6. Institutional Works-For-Hire: Copyrightable Works created as a part of an employee's job for the institution's use. (Example: An employee hired to specifically develop an electronic version of a laboratory manual for use by the University.)
- 4.7. Parties: The creator of TMI, the creator's department head, dean, and The Office of the Vice President for Research are jointly referred to as "Parties".

5. GUIDELINES

- 5.1. Technology Mediated Material (TMM): Technology Mediated Material development falls into two classes: That developed with the benefit of substantial support from Texas A&M University, and TMM created without substantial support.
- 5.2. Ownership:
 - 5.2.1 If substantial support was provided in the creation of copyrightable materials, Texas A&M University 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 in accordance with Section 9 of [System Regulation 17.02.01](#). Requests to relinquish University ownership should be routed through the creator's department head, through the appropriate dean, to the Vice President for Research for approval.
 - 5.2.2 In cases where copyrightable works resulted from externally funded substantial support (see section 4.2.1.4 of this Rule) ownership shall be determined in accordance with the terms of the sponsored grant, contract or gift.
 - 5.2.3 The creator(s) of works developed without the benefit of substantial support, without the constraints imposed by grants or sponsored research, or not as works-for-hire shall retain ownership of all intellectual property associated with any TMM product.

- 5.2.4 In cases where TAMU is part owner of copyrightable materials any revisions or distribution of revised materials by the University, either in part or whole, will include discussion with the author at the initial stages of proposed revision.
- 5.3. TAMU 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 educational purposes.
- 5.4 Income Distribution: When substantial support has not contributed to the creation of copyrightable work all income derived from the sale of a TMI product shall go to the creator(s). When substantial support has been provided, income distribution will be in accordance with a distribution scheme negotiated by the Parties. While the distribution of income will vary with the level of TAMU commitment, the creator is to receive no less than 50% of the income received at the University level. The remainder of the income will be returned to TAMU for distribution in accordance with Section 6 of [System Regulation 17.02.01: Management of Intellectual Property](#). Income shall include license fees, royalties, equity interests, and dividends or any other tangible income received for the sale of TMI, less cost of obtaining legal protection.
- 5.5 Appeals Process: Any irresolvable disagreements associated with the determination of substantial support, the division of income or any other aspect of the TMM development process will be resolved through an appeals process coordinated by the Executive Vice President and Provost or designee.
- 5.6 Third Party Participation: When third party organizations support the development of TMI, it is the creator's responsibility to ensure that outside employment rules are followed or a contract is negotiated through the Office of Sponsored Programs.
- 5.7 Exceptions: Exceptions to this rule must be included in a memorandum of agreement signed by both the creator(s) and the participating organizations within TAMU.
6. CONFLICT OF INTEREST
- 6.1 It is the responsibility of the creator to notify the University of any conflicts of interest that may arise after the standard TMM agreement has been signed.
- 6.2 The release of the University's claims to ownership rights does not preclude the parties from disclosing existing or potential conflicts of interest in accord with System policies or regulations, and University rules.

OFFICE OF RESPONSIBILITY: [Vice President for Research](#)