

# Statement on Online Instruction Intellectual Property Rights

(Updated 7/09 by Boise State University General Counsel)

This statement is intended to supplement the Boise State University Policy on Intellectual Property as that policy relates to online instruction.

## *1.0 Nature of an Online Course*

An online course implemented in the Blackboard course-management system at Boise State University, or similar educational technologies, is an organized collection of articles, notes, media, assignments, online communications, tests, and similar materials. Some of the materials posted and used in the course may be previously authored and copyrighted work. Some learning resources may exist as links to other copyrighted materials existing on the Internet. Some materials may have been specifically developed for this course with university support. Thus, the course exists as a specific configuration or collection of teaching artifacts, some of which are separately copyrighted and some of which originate from university supported development.

## *2.0 Copyright Ownership*

A course (as a designed collection of assembled and authored material) **produced under University sponsorship, where the University provides the specific authorization or supervision for the preparation of the course**, is a work made for hire (as defined by law and BSU policy). A course specially ordered or commissioned by the University and for which the University has agreed to specially compensate or provide other support (such as release time) to the creator(s) is a commissioned work, (as defined by BSU policy). In either case, the copyright to the course will be held and exercised by the university.

## *3.0 Named Credit and Acknowledgment*

- 3.1 The faculty authors who develop the course will be acknowledged as author(s) in all current and future uses of the course.
- 3.2 Other copyright holders contributing to the substantive course content or materials will receive acknowledgment and named credit.

## *4.0 Limitations on Use of the Course*

Because the course is a collection of copyrighted works, some originating from university supported development and others predating the development, or existing apart from the university sponsored development, the following limitations on use exist.

- The course cannot be leased, sold, or transferred to a third party without written permission or license from each author of copyrighted works contained in the course.
- All use of each individual item of copyrighted work must comply with all applicable law, contracts, and licenses. For example, faculty must seek permission to include an illustration, article, or similar copyrighted work in the course. Such permission should include permission for use in subsequent semesters.

## *5.0 Rights Reserved by Boise State University*

As holder of the copyright for the course, the university retains the following rights; however, this list should not be considered to include all of the rights reserved to the university.

- the right to use the course for credit and non-credit instruction without payment of any royalties, fees, or residuals to the course authors/developers, nor payment to any third parties holding copyright to elements used in the course except as provided by negotiated license or contract
- the right to maintain continuity beyond the original creation by creating derivative works to keep the content current and relevant and to maintain the usefulness and quality of the course materials as a University instructional offering

- the right to use the course beyond the involvement of the original author/developers
- the right to prohibit the use of the course as designed, and its subsequent derivative designs, at another institution during the useful life of the course at Boise State University
- the right to control the distribution and use of all intellectual property to which the university holds copyright and named ownership

### ***6.0 Faculty Reserved Rights***

- 6.1 The faculty author/developers and any third- party authors/producers whose preexisting work is incorporated into the course retain all rights of ownership in these materials.
- 6.2 The faculty author/developer who includes his or her own preexisting and copyrighted works into a university-supported course development grants to the university a non-exclusive, royalty-free right to use the material as part of the course (including subsequent derivative works) during its useful life. In such cases, the author/developer retains all other rights of ownership to the work and will be credited and acknowledged in all university uses of the work.
- 6.3 The faculty author/developer is granted the right to use the substantive content of the course materials, without further consent or approval of Boise State, in any scholarly or creative works that do not compete with Boise State's actual or intended use of the course material. In particular, the author retains the right to use the content in textbooks, journal articles, conference presentations, consulting projects, and other scholarly works or professional activities.
- 6.4 The faculty author/developer retains the right to request permission from the university to use parts of the course or the course in its entirety at another institution or setting. Granting of permission will be at the exclusive and sole prerogative of the university.

### ***7.0 Quality, Clarity and Currency Assurance***

- 7.1 Through the administration of the host academic department, the faculty shall have full responsibility for the substantive and intellectual content of the course materials, both at the time of their production and in subsequent uses; faculty shall be expected to deliver accurate and current information and content using current best practices in online teaching and education.
- 7.2 Through the administration of the host academic department, the faculty shall have full responsibility for maintaining the content for accuracy, currency, and clarity of presentation throughout its use at Boise State.

### ***8.0 General Statement of Intent***

- 8.1 It is the intent of the university to train faculty, develop online courses in its curriculum, and develop the capacity of the host academic department to assist the University in sustaining the developed course(s).
- 8.2 The university does not seek to create a copyrighted work for the purpose of leasing, selling, or licensing the work to third parties, except as permitted by the parties..
- 8.3 The university seeks no copyright ownership of Academic Works (as defined by policy) of substantive and scholarly intellectual content created by faculty authors/developers. The university retains the right to use the materials that have been incorporated into the course design without payment of royalty, fee, or license in all current and future uses of the course.
- 8.4 The university seeks the right to prevent the use of the course, as developed, at any competing institution or organization.
- 8.5 The university will not prohibit faculty authors from using the substantive content or scholarly works created as a part this project in other scholarly and professional endeavors.

## **Resources**

Idaho State Board of Education, Governing Policies and Procedures, [Section V. Financial Affairs](#), Subsection: M. Intellectual Policy (requires [Adobe Acrobat](#)).

BSU Intellectual Property Policy, #1090 ([http://www.boisestate.edu/policy/l\\_governance\\_legal.shtml](http://www.boisestate.edu/policy/l_governance_legal.shtml))

["Who Owns Online Courses and Course Materials? Intellectual Property Policies for a New Learning Environment"](#) by Carol Twigg, Center for Academic Transformation, Pew Learning and Technology Program, 2000.

["Ownership of New Works at the University: Unbundling of Rights and the Pursuit of Higher Learning"](#)  
Consortium of Educational Technology for University Systems, Trustees of the California State University, 1997 (requires [Adobe Acrobat](#)).