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Santa Clara University

Office of the Provost

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Copyright Policy

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THE UNIVERSITY POLICY ON COPYRIGHTS APPEARS SECTION 3.7.6 OF THE FACULTY HANDBOOK AND IS LISTED BELOW.

General Description

Copyright is a form of protection provided by federal law to the owners of "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device."

Copyright protection does not extend to an idea or concept. It extends only to the work in which it is embodied.

Subject to various exceptions and limitations, a copyright owner has the exclusive right to reproduce the work, prepare derivative works, distribute copies, and display or perform the work publicly. It is illegal to violate any of the rights provided by law to the owner of copyright.

Fair Use of Copyrighted Works

Making copies of copyrighted materials is permitted only when written permission is obtained from the copyright holder or the copying falls within the doctrine of "fair use," which allows for the limited use of copyrighted materials for personal use or educational purposes without prior permission.

The University interprets fair use in accordance with the guidelines presented in the American Library Association's "Model Policy Concerning College and University Photocopying for Classroom, Research, and Library Reserve Use," which is reprinted in Appendix G of the Faculty Handbook.

Software Copying

No University employee or student shall make or use illegal copies or adaptations of computer software.

Purchasers of copyrighted computer software may make archival copies to back up the software and protect their investment from loss. The generally accepted rule of thumb is that the software may be used by any number of people and may be moved from one location to another so long as there is no possibility that it will be used by two different people in two different places at the same time.

All license agreements for software acquired by the University shall be signed by the Chief Information Officer or his delegate. All reasonable precautions shall be taken to secure software from illegal copying or theft. All software acquired by the University shall meet one or more of the following conditions:

- 1. It is in the public domain.
- 2. The Chief Information Officer or his delegate has signed a proper licensing agreement for it.
- 3. It has been donated to the University and a bona fide written record of contribution exists.
- 4. It has been purchased by the University and a bona fide record of purchase exists.
- 5. It has been purchased by a user and a bona fide record of purchase exists which can be produced by the user upon demand.
- 6. It is being reviewed or demonstrated by users in order to reach a decision about future purchase, request for contribution, or licensing.
- 7. It has been written or developed by the University for use in University equipment.

Violations of this policy may result in loss of computer privileges and in other disciplinary action. Copyright Ownership

When a University employee is the creator of a copyrightable work, all rights in copyright shall remain with the creator except in the following circumstances:

- 1. The work is a work-for-hire by the University. A work-for-hire is defined as a work prepared by an employee within the scope of his or her employment. Works of scholarship and works prepared for classroom use shall not be included in this category. The University shall own all rights in a work-for-hire unless the Provost or cognizant Vice President has relinquished them in writing.
- 2. The work has been commissioned by the University. The University shall own all rights in a work it has commissioned provided that the parties so agree in writing.
- 3. The work has been developed in the course of or pursuant to a sponsored project or other agreement between the University and a third party. The terms of the applicable third-party agreement shall govern the disposition of rights in copyright.
- 4. The work is covered by other terms specified in a written agreement between the author and the University. In cases where the work has been developed with monetary support from the University but is not covered by points 1 through 3 above, the University may require a written agreement specifying the disposition of rights in copyright.

A copyright notice is necessary to protect the rights of the owner. The following notice should be placed on copyrightable materials if they are owned by the University under this policy:

Copyright (or (c)) (year) The President and Board of Trustees of Santa Clara College

Owners of computer software developed through the use of University resources shall grant the University a royalty-free license in perpetuity to use such software. Any creator who wishes to request an exception to this policy or to challenge a copyright decision by the University may appeal to the Provost. The Provost will appoint an ad hoc committee of three members mutually acceptable to the creator and the Provost, including at least one faculty member and one member of the administration. The committee will prepare a report of its findings and make a recommendation to the Provost. The decision of the Provost, which is to be explained in writing, will be final.

University employees who are engaged in consulting work are responsible for ensuring that clauses in their agreements are not in conflict with this copyright policy or with the rights of other parties.

Author's Rights

When submitting a manuscript for publication, authors can request to retain rights that allow for the published work to be more publicly available. Resources on Authors rights are available below:

Author's Addendum

<u>SCU Publication Agreement</u> - Use the form to grant SCU the non-exclusive right to publish, reproduce and disseminate your work.

Scholarly Communications (Library resources)

Scholarly Publishing and Academic Resources Coalition Research Sections Research

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