**Intellectual Property: Ownership and UPPS No. 01.04.27**

**Use of Copyrighted Works Issue No. 3**

**Effective Date: 11/01/2021**

**Next Review Date: 10/01/2024 (E3Y)**

**Sr. Reviewer: Copyright Officer, University Libraries**

**POLICY STATEMENT**

*Texas State University is committed to fostering the creation and dissemination of knowledge, to provide certainty in individual and institutional rights associated with ownership, and with the distribution of benefits that may be derived from the creation of intellectual property.*

**01.** **SCOPE**

* 1. Creating, preserving, and disseminating knowledge are fundamental missions for Texas State University. In this policy, as elsewhere, the university reaffirms its commitment to the principles of academic freedom. This policy affirms the traditional freedoms of the Texas State faculty, staff, and students in matters of [copyrighted works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#copyrightedwork) (in all formats, including digital), through a fair and reasonable balance of rights and interests among creators, users, and the university.

01.02 Texas State recognizes that research and scholarship by its faculty, staff, and students will result in [scholarly](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#scholarly) publications, [instructional materials](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#im), and other works with potential societal benefit and market value. Examples include, but are not limited to, manuscripts, textbooks, electronic media, syllabi, recordings, tests, assignments, monographs, papers, models, scholarly articles, dissertations, theses, graphical designs, musical compositions, music recordings, research posters and presentations, works of art, and other artistic and literary works. This policy applies to all such works.

01.03 This policy applies to all persons employed by Texas State, to all students of Texas State, and to anyone using Texas State resources or under the supervision of Texas State personnel. All Texas State faculty, staff, and students are responsible for understanding and abiding by the university’s policies related to copyright and all other forms of intellectual property. Consult the [Copyright Research Guide](https://guides.library.txstate.edu/copyright) or contact the University Copyright Office with copyright questions.

01.04 Other forms of Intellectual Property – Except where otherwise specified herein, the [ownership](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#ownership) and usage related to inventions, discoveries, and patents are more fully addressed in [Chapter III, Section 12, of The Texas State University System (TSUS) Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html), and in [UPPS No. 01.04.26](https://policies.txstate.edu/university-policies/01-04-26.html), Intellectual Property: Inventions, Discoveries and Patents (IDP). The ownership and usage of university [trademarks](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#tm) and service marks are more fully addressed in [UPPS No. 01.04.10](http://www.txstate.edu/effective/upps/upps-01-04-10.html), Registration, Control, and Marketing of University Symbols.

**02. DEFINITIONS**

02.01 In this policy, words or phrases requiring definitions are hyperlinked to a web-based [glossary](http://www.library.txstate.edu/about/divisions/research-learning/copyright/copyright-glossary.html). By clicking on the hyperlinked word or phrase, the definition will appear in a separate browser window. Definitions in the glossary should be treated as authoritative.

**03. OWNERSHIP AND ROYALTIES**

03.01 Texas State’s copyright ownership policies are derived primarily from the [TSUS Copyright Policy](https://gato-docs.its.txstate.edu/jcr%3A68af5020-841f-40c6-9a03-b08369e0bbdf/TSUS%20Rules%20and%20Regs%20thru%2003.01.21.pdf), more specifically [Chapter III, Section 11, of The TSUS Rules and Regulations](https://gato-docs.its.txstate.edu/jcr%3A68af5020-841f-40c6-9a03-b08369e0bbdf/TSUS%20Rules%20and%20Regs%20thru%2003.01.21.pdf). The [TSUS Copyright Policy](https://gato-docs.its.txstate.edu/jcr%3A68af5020-841f-40c6-9a03-b08369e0bbdf/TSUS%20Rules%20and%20Regs%20thru%2003.01.21.pdf) shall govern if any provisions of this policy are found to be in conflict.

03.02 Ownership Rights – The owner of a copyright has exclusive rights to do and authorize any of the following:

a. reproduce the copyrighted work in any and all forms or media;

b. prepare [derivative works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#dw) based upon the copyrighted work;

c. distribute copies of the copyrighted work to the public;

d. perform the copyrighted work publicly;

e. display the copyrighted work publicly; and

f. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

The owner of a copyright can set the levels of permissions. For example, if they choose, the owner of a copyright can allow a person to copy a work but not to modify it.

03.03 Neither the medium (e.g., paper, digital, or analog recording, etc.) nor the delivery mechanism (e.g., over the internet at a distance, classroom face-to-face, etc.) are relevant in determining ownership rights. Copyright protection exists in original works fixed in any tangible medium.

The owner of the copyright determines whether to register the copyright and enforce ownership rights.

03.04 General Ownership Provisions – Copyright ownership claims are determined by the specifics of each case. Thus, ownership provisions of this policy should be supplemented with specific written and signed agreements, especially for [works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#work):

a. involving multiple or joint [creators](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#creator) or contributors;

b. involving [creators](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#creator) or contributors from outside the Texas State community;

c. that may result in significant revenue to the [creators](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#creator), contributors, or the university; and

d. having special, historical, or promotional significance to the university.

03.05 In the absence of separate written agreements, multiple factors interact to determine ownership of the work, including affiliation of the creator, nature of the work, and extent that university resources were used in creating the work (see Copyright Ownership Decision Table for a decision table that illustrates how these factors interact in determining ownership).

03.06 [Faculty and Staff Works](http://www.library.txstate.edu/about/divisions/research-learning/copyright/copyright-glossary.html#fsworks) – Nothing in this policy precludes creators (faculty, staff, or students) from entering into written agreements at any time, with each other (for joint works) and with the university, to define their respective rights in created works. Such agreements may define ownership, use, licensing, or sharing of licensing revenues. The creator of a work may not enter into written agreements with third parties concerning the work unless the creator is a copyright owner of the work. If the university owns the copyright in the work, only the university can enter into an agreement with third parties concerning the work. The vice president for Information Technology, or designee, will sign any agreements in which the university is a copyright owner on behalf of the university.

1. Faculty, Staff, and Student Employee Works – Texas State faculty and staff own the copyright of works they create on their own initiative and own time without the use of substantial [Texas State resources](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html%40tsresources).
2. Consistent with academic tradition, Texas State grants to its employees the copyright ownership of works they create within the scope of their employment in fulfillment of their teaching and scholarly responsibilities. Texas State retains a non-exclusive, non-transferable, perpetual, and royalty-free license to make educational uses of such works.
3. Texas State owns the copyright of works created by employees in response to a direct assignment or commission from a university authority. Such works are considered [works for hire](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#wfh). The general and ongoing obligation of faculty or staff to produce scholarly works does not constitute [directed work](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#Directed_Work). Any work created under that obligation is [non-directed work](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#Directed_Work), and its copyright is granted to the creator. Employees with concerns about ownership provisions should consider adoption of separate written agreements.

3) Student employees may consult with the [Attorney for Students](https://attorney.dos.txstate.edu/).

1. Student Works – Students own the copyright of their works created in their role as a student, including but not limited to research papers, essays, theses, dissertations, published articles, and recordings of performances. The student creator of a copyrighted work will determine whether to register the copyright or enforce their rights to the work. Except as provided elsewhere in this policy, faculty, staff, and other students must obtain permission from a student creator before using the student’s copyrightable work. Before students and faculty collaborate on work, they are encouraged to enter into written agreements defining their respective rights in the created work, including work not covered by copyright and patent, such as data sets. Students own their work whether it is a directed or nondirected work.
2. [Joint Works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#Directed_Work) – Two or more individuals create a joint work when their contributions are inseparable, interdependent, and intended to create a single work. The copyright to a joint work is jointly owned by the contributors. Each contributor may individually register, enforce, or commercially exploit the copyright with or without approval by all joint owners, provided the other joint owners receive an equal share of any proceeds, unless otherwise agreed in writing. There is never a joint work created with the university unless there is a separate agreement created to do so.

03.07 Separate [Sponsorship](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#sponsorship) Agreements – The university may contract with individual faculty, staff, students, or other individuals to create specific [directed works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#dw). All such agreements shall be in writing, approved, and signed by authorized university officials. The university shall own the copyright of such works unless the agreement specifies otherwise.

03.08 Ownership of works developed under or pursuant to a grant, contract, or other sponsored support agreement with a third party shall be determined by the terms of the agreement. In the absence of such an agreement, or if the agreement is silent as to copyright ownership, the university shall own the copyright. Creators shall work with the university to clearly document ownership of works. The agreement should grant the university a non-exclusive educational license that allows the university to use the work and share royalties paid by other parties that license the work.

03.09 Many sponsors require the university to license sponsored work with an open license. If the sponsoring agreement is silent about the choice of license, creators of university owned work may license this work with either of the following licenses, CC BY 4.0 or CC BY SA 4.0. Creators are free to choose between these licenses, or any other open license that operates with similar restrictions, at their discretion.

1. [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) – This license allows the user to:
2. Share — copy and redistribute the material in any medium or format; and
3. Adapt — remix, transform, and build upon the material for any purpose, even commercially.

The licensor cannot revoke these freedoms if the user follows the license terms. Those terms are:

1. Attribution — The user must give appropriate credit, provide a link to the license, and indicate if changes were made. The user may do so in any reasonable manner, but not in any way that suggests the licensor endorses the user or their use.
2. No additional restrictions — The user may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.
3. [CC BY SA 4.0](https://creativecommons.org/licenses/by-sa/4.0/) – This license allows the user to:
4. Share — copy and redistribute the material in any medium or format; and
5. Adapt — remix, transform, and build upon the material for any purpose, even commercially.

The licensor cannot revoke these freedoms if the user follows the license terms. Those terms are:

1. Attribution — The user must give appropriate credit, provide a link to the license, and indicate if changes were made. The user may do so in any reasonable manner, but not in any way that suggests the licensor endorses the user or their use.
2. No Additional Restrictions — The user may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.
3. ShareAlike — If the user remixes, transforms, or builds upon the material, the user must distribute contributions under the same license as the original.

03.10 Provisions Specific to Instructional Materials – Copyright ownership of instructional materials and courseware created by faculty and others conforms to the ownership provisions contained in Sections 03.04 and 03.07 of this policy and in [Chapter III, Section 12, of the TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html). Any deviation from the ownership rules in this section requires a separate written agreement with the university.

1. University Retains License to Use Instructional Materials – An employee creator or former employee creator shall take no action that limits the university’s right to use instructional materials. In the interest of preserving continuity of instruction, Texas State retains a non-exclusive, non-transferable, perpetual, and royalty-free license to reproduce and otherwise use the materials in teaching Texas State's courses on or off campus, regardless of medium or delivery mechanism.

b. Revision, Disposal, or Withdrawal of Instructional Materials – If Texas State has an ownership interest in instructional materials, the materials shall not be destroyed, withdrawn, or withheld without the prior consent of Texas State.

03.11 Creators have both the right and obligation to revise instructional materials to maintain academic standards. A creator who makes revisions in a timely and satisfactory manner consistent with academic standards retains full rights to royalties, as described in Section 03.12. If the creator declines the opportunity to make revisions required by Texas State or the revision does not maintain academic standards, the university may:

1. withdraw its support for and refuse to use or market the materials; or
2. employ another individual to make the necessary revisions and charge the cost to the original creator. The university retains the right to modify such materials and determine who may utilize the materials in instruction.

03.12 Materials owned by the university shall be withdrawn from use when the university, in consultation with the creator, deems such use to be obsolete or inappropriate. The university will not withdraw or discontinue use of any materials if that action would violate the terms of any licensing or other agreement relating to the materials.

03.13 [Royalties](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#dw) and Other Revenue – Texas State’s Copyright Advisory Committee will oversee the ownership provisions of this policy and ensure their equitable application university-wide. The Office of Research and Sponsored Programs (ORSP) will be responsible for the receipt and distribution of royalty income and provide the Copyright Advisory Committee with an annual report on the royalty income upon request. In the absence of a specific agreement, royalties and other revenue that accrue from the commercialization of a work will be distributed as specified in [Chapter III, Section 11.3, of The TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html). For any work solely or jointly owned by the university:

1. the university shall not pay any royalty, license fee, or other compensation to the creators of a work in return for use of the work;
2. revenue from the sale, license, lease, or use of the work will normally be shared by the creator and the university. The revenue received by the university will, in most instances, be distributed under a formula of 50 percent to the creators and 50 percent to the university. ORSP shall retain Texas State’s 50 percent for use in furthering commercialization activities. Any distribution that grants the creators more than 50 percent of revenue requires approval by the TSUS Board of Regents;

c. in instances of joint ownership among multiple, individual creators, and the university, the individual creators shall determine the division of the non-university share by written agreement; and

d. license agreements for university-owned works with outside entities shall be negotiated and administered by the ORSP in collaboration with the copyright officer.

03.14 The vice president for Information Technology, or designee, may release to the creator any copyrights owned by the university. Texas State shall reserve the right to share in any revenues derived from copyrighted material that has been released to the creator. The release letter shall state the university share, but it may never exceed three percent of net revenue. Texas State shall reserve the right to use copyrighted material previously released to the creator for educational purposes. In such cases, the creator shall be responsible for submitting an annual royalty income report to the Copyright Advisory Committee. The copyright officer shall be responsible for tracking released copyrights.

**04. PROCEDURES FOR USE OF COPYRIGHTED WORKS**

04.01 Appropriate Use – TexasState is committed to complying with all applicable copyright laws, including the responsible, good faith exercise of fair use rights by faculty, staff, and students. The intent behind any offending use is not factored into the enforcement of copyright law. As such, the person using materials is ultimately responsible to ensure its use is in compliance with relevant statutes and laws. Except as allowed by law, the reproduction, public distribution (including digital transmission), public display, public performance or creation of derivative works, without the consent of the copyright owner, is prohibited by the [Copyright Act (17 United States Code, Section 106)](https://www.copyright.gov/title17/92chap1.html#108).

04.02 Statutory Exceptions – Copyright law provides for certain limited uses that do not require permission. These include the library exception ([17 United States Code, Sections 108 and 109](http://www.copyright.gov/title17/92chap1.html#108)), the fair use exception ([17 United States Code, Section 107](http://www.copyright.gov/title17/92chap1.html#107)), and the TEACH Act exception ([17 United States Code, Section 110(2)](http://www.copyright.gov/title17/92chap1.html#110)).

a. Library Exception – [17 United States Code, Section 108](http://www.copyright.gov/title17/92chap1.html#108) allows libraries to make copies of many, but not all, types of works for the following three purposes:

1. for preservation purposes;
2. for private study by users; and

3) for interlibrary loan services.

[17 United States Code, Section 109](http://www.copyright.gov/title17/92chap1.html#109) codifies the “first sale doctrine,” which provides that when an individual or institution, such as a library, buys a legally produced copyrighted work, they may “sell or otherwise dispose” of the work, including lending or renting the work.

b. [Fair Use](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#fairuse) – The fair use doctrine is codified in [Section 107](http://www.copyright.gov/title17/92chap1.html#107) of the Copyright Act and is applied on a case-by-case basis using a four-factor analysis. To claim a fair use exception, Texas State faculty, staff, and students must complete and retain a copy of the Fair Use Checklist to document how they applied the following four factors:

1) purpose and character of use, including whether the purpose is commercial or nonprofit educational, and whether the character of the use is [transformative](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#transformative);

2) nature of the copyrighted work, including whether the work is creative or factual and whether the work is published or not;

1. amount of the work, including quantity and substantiality of portion used in relation to the copyrighted work as a whole; and

4) effect of the use on the potential market, including potential financial loss to the copyright owner or the marketability of the work.

More in-depth guidelines are available to help interpret fair use and establish a safe harbor by describing a minimal amount of usage that constitutes fair use. It is strongly encouraged that faculty, staff, and students consult with the copyright officer before relying on the fair use exception.

c. TEACH Act Exception – In 2002, the Copyright Act was amended to include a limited exemption for certain specific instructional uses of copyrighted works. The exception applies only to some digital distance education courses offered through accredited, nonprofit, educational institutions. Some uses that do not fall under the TEACH Act may be allowed as fair use. Due to the complexities of the TEACH Act, faculty are advised to complete the [TEACH Act Checklist](https://guides.lib.utexas.edu/copyright/teachactchecklist) in consultation with the [University Copyright Office](http://www.library.txstate.edu/about/divisions/research-learning/copyright.html) to determine whether the TEACH Act or fair use is an appropriate exception.

04.03 [Public Domain](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#pd) – Materials that are in the public domain can be freely used without permission since they are not protected by copyright (for more information, see the public domain section of the [Copyright Research Guide](https://guides.library.txstate.edu/copyright)).

04.04 License Agreement – Some copyrighted works are made available through license agreements, in which case the terms of the agreement supersede the copyright law. Any materials offered subject to a license may only be used in accordance with the terms of the license. Types of agreements include Terms of Use, [Creative Commons License](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#cc), click-through agreements, and university-wide agreements with providers of electronic resources (e.g., library research databases, campus-wide software licenses, etc.). When using materials licensed by Texas State, (e.g., licensed [software](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#software), streaming video, images, etc.), users are expected to comply with all provisions of the agreement.

04.05 Requesting [Permission](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#permission) – Permission from the copyright holder is required if none of the preceding exemptions or exceptions apply. Examples include the use of materials for commercial purposes or use of an entire work (for additional information, consult the permissions section of the [Copyright Research Guide](https://guides.library.txstate.edu/copyright)). Alternatively, the [Copyright Clearance Center](http://www.copyright.com/), a company that provides copyright licensing services for corporate and academic users of many copyrighted materials, will provide fee-based assistance with permission procurement. For works whose copyright is owned by the university, permission may be granted by the vice president for Information Technology, or designee.

04.06 Online Tools and Services – Rights afforded under copyright law are protected regardless of the format or location of the work. Faculty, staff, and students shall ensure that any content placed within learning, course, or content management systems whether located on Texas State information resources or on third-party operated information systems, adheres to copyright laws and the provisions of this policy.

04.07 Video – Purchasing, renting, or borrowing a video normally allows personal use of the copy as long as the use is consistent with the distributor’s (e.g., Netflix) terms of use. Other uses (e.g., distribution, display, streaming, duplication, creation of [derivative works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#dw)) are generally prohibited without permission or a license from the copyright owner. The following are a few examples of a [public performance](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#pubperform) (i.e., conditions when permission or a public performance license is required):

a. performances in lounges, recreation areas, auditoriums, and public areas of residence halls and apartments, the LBJ Student Center, and similar buildings;

b. showing a video after using publicity to invite the audience to the showing (e.g., mass emails, flyers, or web postings);

c. charging admission to the showing or to an event in conjunction with the showing; and

d. streaming.

The use of university-produced videos is also subject to copyright protection and requires prior permission.

04.08 The following are examples in which the showing of a legally obtained video does not require permission or a public performance license:

a. showing a video to a small group of family or personal friends;

b. showing a video during “face-to-face” teaching activities in a classroom or similar place devoted to instruction, viewed only by the instructor and registered members of the course, and materially-related to course needs (see [17 United States Code, Section 110(1)](http://www.copyright.gov/title17/92chap1.html#110));

c. showing a video that has an express license authorizing the particular manner of showing (some educational videos come with licenses to show them for certain noncommercial institutional purposes); and

d. showing a video that is in the public domain (see the public domain section of the [Copyright Research Guide](https://guides.library.txstate.edu/copyright)).

Options for procuring videos with public performance rights are listed in the [Copyright Research Guide](https://guides.library.txstate.edu/copyright).

04.09 Specific guidelines apply to the recording of programs for classroom instruction from television broadcast companies including: ABC, CBS, NBC, Fox, and PBS. These guidelines do not apply to the recording of cable television programs. Permission must be sought from the individual cable network or channel prior to using a recorded cable program for classroom instruction purposes (see the [Copyright Research Guide](https://guides.library.txstate.edu/copyright) for broadcasting guidelines).

04.10 Musical Performances – Similar to videos, the recording or performance of music may or may not require permission, depending on the intended use of the recording or the location of the presentation of the performance.

04.11 The doctrine of "fair use," as detailed in Section 04.02 b., also applies to performances of musical works, and the TEACH Act provides specific exemptions for certain [non-dramatic musical works](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#ndmw) (see Section 04.02 c. or the [Copyright Research Guide](https://guides.library.txstate.edu/copyright) for more information).

 The copyright law applies to live performances by musicians, as well as to video or audio recordings regardless of media, with the exception of the items listed below:

a. [private performances](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#privateperform); and

b. operating an ordinary radio or television in public.

04.12 The university has entered into agreements with licensing agencies (e.g., BMI, ASCAP, SESAC, and GMR) enabling public performances on [Texas State premises](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#tsup), of non-dramatic musical works in the portfolio of each agency. The agreements require the university to furnish these organizations with documentation of musical works performed by the university or by organizations under its control.

04.13 Administrative heads (e.g., director of the School of Music, dean of Students, director of Auxiliary Services, etc.) must fulfill the terms and conditions of applicable licensing agreements, including any recordkeeping or reporting requirements.

04.14 Reproduction Equipment – Equipment capable of reproducing copyrighted works is available to faculty, staff, and students in publicly-accessible areas throughout the university. A [notice of copyright](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#noc) must be posted in close proximity to all such self-service equipment or at the point of electronic access where reproduction takes place. The department responsible for the equipment is also responsible for posting the appropriate notice. This notice should also be posted where appropriate in an online environment. Examples of reproduction equipment include, but is not limited to, scanners, printers, microform printers, computers, analog and digital recorders (e.g., tape, CD, and DVD recorders).

04.15 [Computer Software](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#cs) – refers to the programs, routines, and symbolic languages that control the functioning of computer hardware and direct its operation. Faculty, staff, and students shall comply with the license agreements and usage terms of all university-provided software. Faculty, staff, and students shall not use Texas State resources to install, use, or distribute software in any manner that infringes the software owner’s copyright, terms of use, or licensing restrictions.

04.16 Information Technology Business Operations and the Texas State University Systems Office of Internal Audit at Texas State University may conduct audits of individual users, departments, and the university to document compliance with copyright law and software licensing agreements. Under federal law, violations can result in significant civil and criminal penalties.

04.17 Specific responsibilities of individual faculty, staff, and students regarding use of computer software are more fully described in [Appropriate Use of Computer Software](https://gato-docs.its.txstate.edu/jcr%3Abb7954bf-1923-4644-bf87-7a0444d6189a/Attachment%20IV%20Appropriate%20Use%20of%20Computer%20Software.pdf).

04.18 Copyright Law and Infringement – Copyright infringement is the act of exercising one or more of the exclusive rights granted to a copyright owner without legal authority, permission, or statutory exception (see Section 04.02). These rights include the rights listed in Section 03.02. Copyright infringement is a violation of federal law and university policy and can result in significant civil and criminal legal penalties.

Suspected infringements of copyrights owned by Texas State should be reported to the TSUS Office of General Counsel. Individuals who believe their own copyrights have been infringed should seek legal counsel. For additional help in determining if a particular use is infringing, see the [Copyright Research Guide](https://guides.library.txstate.edu/copyright).

04.19 Individuals who utilize the university’s network or other information resources to infringe the copyrights of others risk the loss of network access privileges. Repeat offenders are subject to additional disciplinary action up to and including expulsion or discharge. Unlawful unauthorized sharing of copyrighted digital materials (e.g., illegal peer-to-peer file sharing) violates the [Digital Millennium Copyright Act (](https://www.copyright.gov/legislation/dmca.pdf)DMCA) and exposes the perpetrator to serious civil and criminal penalties (see Section 05.01 of [UPPS No. 04.01.07](http://www.txstate.edu/effective/upps/upps-04-01-07.html), Appropriate Use of Information Resources, and the [Digital Copyright, P2P, and File Sharing](https://infosecurity.txstate.edu/work/law-policy/laws-copyright.html) website for additional information).

04.20 The chief information security officer is the university’s designated copyright agent (per the DMCA) and is the contact for any entity alleging copyright infringement via the university network. Upon receipt of a properly formed notice of infringement per the DMCA, the vice president of Information Technology, or designee, is empowered to block access to the alleged infringing material.

**05. GOVERNANCE**

05.01 [Copyright Office](http://www.library.txstate.edu/about/divisions/research-learning/copyright.htmll) – provides expertise and support to the campus community on interpretation of copyright law, best practices, copyright education, assistance obtaining copyright permissions, and copyright policy development. The copyright officer serves in a leadership role on the Copyright Advisory Committee.

05.02 [Copyright Advisory Committee](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#cac) – advises Texas State faculty, staff, and students on copyright ownership and use issues. Committee membership includes representation from:

a. College of Fine Arts and Communication;

b. Faculty Senate (one research faculty and one teaching faculty);

c. The Graduate College;

d. Office of the Vice President for Information Technology;

e. Information Technology Assistance Center;

f. TSUS Office of General Counsel (serving ex officio);

g. Office of Research and Sponsored Programs (ORSP);

h. Student Success (Campus Activities and Student Organizations);

i. University Libraries (including the copyright officer); and

j. Office of Distance and Extended Learning.

05.03 The committee will:

a. establish its operational procedures;

b. monitor trends in such areas as institutional copyright use policies, changes in copyright ownership models, and guidelines for fair use of information in all formats;

c. assist in identifying educational needs of the faculty, staff, and students related to compliance with copyright policies and guidelines, and advise on appropriate ways to address those needs through a copyright education program;

d. hear and recommend resolution of disputes involving copyright. All student-to-student disputes involving copyright will be resolved by the committee;

e. review the implementation of this policy and make recommendations for revisions when necessary; and

f. provide a forum for consideration of broader copyright issues and their impact on the university.

05.04 [Dispute Resolution](https://www.library.txst.edu/services/research-services/copyright-assistance/copyright-glossary.html#disputeresolution) – Disputes over copyright ownership or use are firsttaken to the Copyright Office for resolution. If the matter is not resolved to the satisfaction of either party, the issue may be referred to the Copyright Advisory Committee. If the matter is not resolved by the committee, it may be appealed to the vice president for Information Technology, who will make the final decision in consultation with appropriate vice presidents. All student-to-student disputes involving copyrights will be resolved by the Copyright Advisory Committee.

**06. REVIEWERS OF THIS UPPS**

06.01 Reviewers of this UPPS include the following:

Position Date

Copyright Officer, University October 1 E3Y

Libraries

Associate Vice President for October 1 E3Y

Information Technology Assistance

Center

Dean, College of Fine Arts October 1 E3Y

and Communication

Chair, Faculty Senate October 1 E3Y

Associate Vice President for October 1 E3Y

Research and Federal Relations

Associate Vice President for October 1 E3Y

Academic Affairs

Dean, Graduate College October 1 E3Y

Director, Office of Disability Services October 1 E3Y

Director, LBJ Student Center October 1, E3Y

**07. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their capacities and represents Texas State policy and procedure from the date of this document until superseded.

Copyright Officer, University Libraries; senior reviewer of this UPPS

Associate Vice President and University Librarian

Vice President for Information Technology

President