

CAROLINAS COLLEGE OF HEALTH SCIENCES POLICY

ADMINISTRATIVE

SUBJECT: INTELLECTUAL PROPERTY AND COPYRIGHT

REVIEWERS: Provost*
Teaching and Learning Committee Chair (TLC)

POLICY:

A. Intellectual Property Creation and Ownership

Creation of intellectual property is important to the educational community and Carolinas College of Health Sciences (the "College") maintains the highest standards for communication of institutional policy and procedure regarding ownership, compensation, copyrights, and use of the revenue derived from intellectual property. Additionally, the College seeks to model the best current practices in delineating the legal rights to products of the mind and the intended or unintended access to and use of intellectual property. For all situations related to the creation, ownership, governance, and dissemination of intellectual property, the College has chosen to default to the Atrium Health's equivalent policy: Ownership and Commercialization of Intellectual Property (ADM 240.07). This policy will apply to all college team members and students.

B. Use of Intellectual Property Created by Others

The following sections of this policy address access to and use of intellectual property created by others. The College can best serve the public interest by creating an intellectual environment whereby college team members and students have reasonable access to, and use of, the intellectual property created by others. College team members recognize and respect the intellectual property rights of others and are committed to fulfilling their moral and legal obligations with respect to the use of copyright-protected works.

1. Scope, Coverage and Administration

This policy applies to all team members and students of the College. Compliance with the terms of this policy is a condition of employment for team members, and of student enrollment. Responsibility for administration of this policy resides with the College provost in consultation with Atrium Health General Counsel. The provost may seek recommendations from appropriate college committees, other administrative team members, or non-college team members in implementing the provisions of this policy.

2. Overview of Copyright Law

The federal Copyright Act of 1976 provides protection to "original works of authorship." Copyrighted works include materials such as textbooks, printed articles from publications, television and radio programs, videotapes, Internet websites, music performances, photographs, training materials, conference presentation materials, manuals, and software programs. In general, the laws that apply to printed materials are also applicable to visual and electronic media. Copyright law generally gives authors, artists, composers, and other such creators the exclusive right to copy, distribute, modify, and display their works or authorize other people to do so.

Original works are protected by copyright law from the very moment that they are created regardless of whether they are registered with the copyright office and regardless of whether they are marked with a copyright notice. While copyright law does not generally protect generic information such as ideas, data, or facts, college team members and students are encouraged to seek guidance for these areas as well, particularly if any trade secret, data misappropriation, rights of publicity or privacy, patent, or trademark rights or defamation (libel and slander) concerns exist.

It is illegal to violate the rights of copyright holders or to direct others to do so. Liability for copyright infringement can include damages up to \$150,000 for each unauthorized use, as well as criminal penalties.

3. Permissible Photocopying

Only the owner of a copyright has the right to reproduce or authorize others to reproduce the original work. This right is subject to certain limitations found in sections 107 through 118 of the United States Copyright Law (Title 17, U. S. Code). One of the more important limitations of this law is the Doctrine of Fair Use. The Doctrine of Fair Use has been developed through a substantial number of court decisions over the years and has been codified in section 107 of the copyright law.

a. Doctrine of Fair Use

Four factors must be weighed and considered to determine whether a proposed use of copyrighted material is within the spirit of fair use, including:

1. The purpose and character of the use, including whether such use is of a commercial nature or if it is for a nonprofit educational purpose.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion of the work used in relation to the copyrighted work as a whole; and,
4. The effect of the use upon the potential market for or value of the copyrighted work.

b. Guidelines for Classroom Reproduction of Copyrighted Materials

In addition to the fair use considerations outlined above, college team members must consider the minimum standards for fair use for the classroom or education setting that are outlined in the guidelines provided by the United State Copyright Office. These guidelines aid in determining appropriate use of copyrighted material in the classroom or other educational settings. Because of the uncertain and complicated nature of intellectual property laws, college team members and students must use caution and discretion in copying and should seek advice from the provost in consultation with Atrium Health General Counsel when uncertain about a particular circumstance or to request prior written permission directly from the copyright owner.

4. Compliance with Rules and Procedures

Compliance with federal copyright law is expected of all enrolled students and team members at the College. Except as allowed by law, it is a violation of this policy and law for college team members, or students to reproduce, distribute, display, publicly perform, digitally transmit or prepare derivative works based upon a copyrighted work without documented permission of the copyright owner. The ultimate determination whether a specific use of a copyrighted work may constitute infringement shall be made by the provost in consultation with Atrium Health General Counsel.

No college team member or student may make, store, transmit, or make available unauthorized copies of copyrighted material using college computers, networks, or storage media. The College reserves the right to monitor its computer systems, networks, learning management system, and storage media for compliance with this policy at any time without notice and with or without cause. The use of college computing resources is also subject to the college's Community Standards policy, including academic integrity, and all other generally applicable college policies. Those who illegally duplicate copyrighted works may be subject to disciplinary action up to and including termination and expulsion.

Questions regarding copyright law compliance by college team members or by enrolled students should be directed to program chairs, supervisors, or faculty members, respectively. The College designates the provost in consultation with Atrium Health General Counsel as the college's copyright compliance officer to administer this copyright policy.

The College encourages all college team members and enrolled students to educate peers on copyright compliance. Observed instances of copyright infringement should be brought to the attention of the individual at fault, as well as to the college's compliance officer.

C. The Intellectual Property and Copyright policy and procedure will be reviewed bi-annually.

REFERENCES

Related policies to consult

Atrium Health:

ADM 240.07 Ownership and Commercialization of Intellectual Property

IS.PHI 600.01 Communications Environment Acceptable Use Policy

Additional policy references:

United States Copyright Office (2014). Circular 21: Reproduction of Copyrighted Works by Educators and Librarians. Retrieved March 2018 from <https://www.copyright.gov/circs/circ21.pdf>

United States Copyright Office (2016). Circular 92: Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code. Retrieved March 2018 from <https://www.copyright.gov/title17/>