



Provost's

Policy Statement
University Policy Library
June 16, 2020

Operational Area:	Academics and Research
Responsible Executive:	Chief Academic Officer
Responsible Office:	Academic Affairs
Effective:	June 16, 2020

Online and Digital Course Materials

Academics and Research

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I. **Introduction**

- A. **Authority:** Colorado Revised Statutes (C.R.S.) § 23-54-102, *et seq.* (2020) authorizes the Trustees of Metropolitan State University of Denver ("MSU Denver" or "University") to establish rules and regulations to govern and operate the University and its programs. The MSU Denver Trustees authorize the MSU Denver President, who subsequently authorizes the MSU Denver Provost, to approve, administer, and interpret policies pertaining to the academic functions of the University.
- B. **Purpose:** This policy outlines the rights of the University and University faculty members to create, own, reproduce, and distribute online and distance course materials created during the course of University employment in accordance with federal copyright and patent laws.
- C. **Scope:** This policy applies to faculty members and University employees, including student employees, in so far as they are assisting in or facilitating the creation of an Online University Course and/or Online and Digital Course



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Materials.¹ This policy does not apply to students who are enrolled in an Online University Course and create materials that are distributed via the Digital Delivery Infrastructure as part of their participation in the course.²

II. Roles and Responsibilities

- A. **Responsible Executive:** Provost and Executive Vice President for Academic Affairs
- B. **Responsible Administrator:** Associate Vice President for Online Learning
- C. **Responsible Office:** Office of Academic Affairs
- D. **Policy Contact:** Associate Vice President for Online Learning, 608-609-6033

III. Policy Statement

- A. **Encouragement and Support for the Development of Online and Digital Course Materials.** The University recognizes that accelerating development and deployment of digital learning technologies makes possible new approaches to teaching traditional, on-campus students and opens opportunities to reach new cohorts of nontraditional students. These students may interact with the University partially or exclusively through digital means. The development and management of sophisticated, online and

¹ Online and Digital Course Materials are defined as works created for or used in the teaching of an MSU Denver Online University Course.

² Ownership of materials created by students as part of their participation in a University course is articulated in the MSU Denver Board of Trustees' Intellectual Property Policy.



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distance course materials requires the use of significant University resources, as well as substantial time and effort by faculty. In adopting this policy, the University seeks to promote the creation of online and digital course materials for the public good, to affirm the rights of faculty to their scholarly and creative works delivered through Online University Courses, to provide incentives through financial and design resources to develop Online University Courses in line with best practices, and to define the University's ownership and control of its digital, educational offerings.

- B. **Affected Courses and Instructional Methods.** Online collaboration tools and learning management systems are useful tools for traditional, face-to-face courses, and this policy is not meant to address all course materials made available online by faculty. The policy applies to existing instructional methods "Online," "Hybrid," and "Self-Paced Online." This policy does not apply to courses and instructional methods that use digital platforms for the sole purpose of sharing course materials. All courses not governed by this policy are governed by the Intellectual Property Policy.
- C. **Ownership.** Faculty members are the creator for online and digital course materials they create own the intellectual property in accordance with copyright law and standards of academic integrity.³ Materials that are jointly created are fully owned by each creator. The Board of Trustees authorizes the President to establish University

³ Faculty ownership of course materials is further articulated in the MSU Denver Board of Trustees' Policy on Intellectual Property.



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contract terms with faculty who create Online University Courses that may be, in the President's judgment, financially prudent and consistent with University commitments and objectives.

D. Substantial Use of University Resources.

- a. When substantial University resources are used to develop online and digital course materials, the faculty member owns intellectual property rights throughout their employment at the University, and the University does not retain rights to usage of those materials during employment of the faculty member.⁴ The faculty member may elect to allow other members of the faculty or staff to use their course materials at the faculty member's discretion.⁵ When the faculty member concludes employment at the University, the University maintains a three-year, nonexclusive, royalty-free license to all course materials in order to continue offering the course.
- b. When substantial University resources are not used to develop online and digital course materials, the faculty member's intellectual property rights are as outlined in the University's Intellectual Property Policy, and the University does not retain a nonexclusive, royalty-free license to use the online and digital

⁴ If Substantial University Resources are used to produce a course jointly created by multiple faculty members, the licensure agreement should address the division of ownership.

⁵ However, the faculty member or staff who receives these materials may only further share the materials created by the original faculty member or members with the permission of the creator.



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course materials. The University does not retain the rights to use course materials created by the faculty member or members in the case of jointly created course materials. The University does retain the rights to use the digital delivery infrastructure, the course construct,⁶ and third-party materials utilized within the online course.

- E. **New Online Course Development and Course Improvement Agreements.** Prior to the development of any new Online University Course that uses Substantial University Resources,⁷ the University and faculty member or members must execute a course development agreement. Similarly, the University and faculty member or members must execute a course development agreement prior to the revision or enhancement of any existing online University course when Substantial University Resources are used. Agreements will include but not be limited to, development timelines, faculty and instructional design development expectations, the course’s impact on the online University portfolio or program pathways, materials ownership, allowable use of online and digital course materials, substantial use of University resources, and faculty compensation. Agreements include department chair, dean, online learning administrator, and faculty member or members signatures to determine the deployment of University resources to develop online and digital materials.

⁶ As defined in the definitions portion of this policy.

⁷ As defined in the definitions portion of this policy.



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- F. **Rights of Faculty.** Regardless of the substantial use of University resources, faculty who create online and digital materials as set forth in this policy maintain the right to make derivative works; to be identified as the author of the materials, including the right to decide whether to allow their name to be displayed in association with the materials; to use the materials for teaching, scholarship, research and service; and to utilize those materials after leaving the University. After developing or enhancing an online course using University resources, a faculty member has the right to teach one section per semester when the course is offered as long as it is offered; however, the department chair may also place parameters on the mix of instructional methods faculty members are allowed to teach within a semester or academic year. Final authority for the assignment of courses remains with the appropriate Department Chair.
- G. **Rights of the University.** The University shall make no claim of ownership of online and digital course materials created without substantial use of University resources. When the University does not have a non-exclusive, royalty-free license to use the online and digital course materials but is obligated to offer additional sections of the course, the University may develop an additional version to meet student demand. The department chair maintains the right to assign instruction responsibilities for the first or subsequent sections to different faculty if the faculty member who developed the course using Substantial University Resources is unavailable or unable to teach those sections based on their teaching load and other contractual responsibilities. When the faculty member leaves the University and when Substantial University Resources were used in the development of online and digital course materials, the University three-



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year, non-exclusive license to use, update, and market materials begins.⁸ This license allows the University to continue to offer the course while it creates a new, online version before the three-year license lapses. The University maintains the right to archive Online University Courses to which it does not have a non-exclusive license to allow access to accreditors and future faculty who may use the course construct for other legitimate, educational uses.

IV. Definitions

- A. An **“Online University Course”** is a course in which instruction and interaction occurs via electronic transmission, correspondence, or within the University-licensed learning management system. An online course always includes online and digital course materials, the digital delivery infrastructure, the course construct, and may include third-party materials. This definition applies to a course, but does not apply to individual sections. This definition does not apply to courses that use digital platforms for the sole purpose of sharing course materials.
- B. **“Online and Digital Course Materials”** are electronically developed and published course materials for an MSU Denver course including a faculty-adapted syllabus and

⁸ If the Online University Course made using Substantial University Resources was created by multiple faculty members, the licensure agreement should address the initiation of the license if one but not all creators leaves the University.



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- other course policy documents, lecture notes, discussion questions, topic notes, presentations, screencasts, videos, assignments, assessment tools, grade feedback or images used in the course.⁹ In accordance with copyright law, Online and Digital Course Materials do not include materials created by a third party, including but not limited to materials produced by a textbook company or materials available for use under Creative Commons.
- C. **“Creator”** means the creator of intellectual property. Creator includes an inventor of a patentable invention, and an Author of a copyrightable work. For Intellectual Property, such as data, which may be neither copyrightable nor patentable, Creator includes those persons who make a significant intellectual contribution to creation of the intellectual property.
 - D. **“Digital Delivery Infrastructure”** is defined as the software platform produced or procured by University staff for offering online University courses, the graphical interface, audio and video delivery systems, enhancement of visual content, and other delivery components.
 - E. **“Course Construct”** is defined as the University software platform produced or procured by University staff for offering online University courses, the graphical

⁹ Online and Digital Course Materials do not include items such as training materials, even if the materials are distributed and accessed via the University Digital Delivery Infrastructure. These materials are defined as “Works-Made-For-Hire” as defined in the University Intellectual Property policy.

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- interface, audio and video delivery systems, enhancement of visual content, and other delivery components.
- F. **“Third-Party Materials”** is defined as academic content owned by third parties, including but not limited to publishers, used in an online University course by agreement with the third party.
 - G. **“Substantial Use of University Resources”** is defined as the use of MSU Denver instructional design team expertise and financial compensation beyond salary and benefits for the development of new or existing digital materials. Substantial Use of University Resources does not apply to trainings or compensation provided to all faculty, such as preparation to use a new learning management system, and is only applicable when a course development agreement between the University and the Creator has been finalized.

V. Related Information

- A. MSU Denver Board of Trustees’ Intellectual Property Policy
- B. MSU Denver Board of Trustees’ Academic Freedom Policy
- C. AAUP Statement on Online and Distance Education
[<https://www.aaup.org/report/statement-online-and-distance-education>]
- D. AAUP Statement on Faculty Rights and Responsibilities in Distance Learning
[<https://www.aaup.org/faculty-rights-and-responsibilities-distance-learning-2000>]

VI. Policy History

- A. **Effective:** June 16, 2020
- B. **Enacted:** March 18, 2020



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- C. **Review:** This policy will be reviewed every three years or as deemed necessary by University leadership.

VII. Policy Approval

A handwritten signature in black ink, appearing to read "Vicki L. Golich".

Vicki L. Golich, Ph.D.
Provost, Metropolitan State University of Denver