

Courseware Contracts

Starting with the Right Contract

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When faculty members create multimedia courseware products or a telecourse or distance learning materials of some kind for their classes at the University, another institution within the U.T. System, or for the U.T. TeleCampus (from now on, a "Work"), there are a number of important issues that the faculty author and the institution should address before the Work begins:

- Who will own this Work?
- Who has the right to make what use of it in the future?
- What resources will the institution allocate to the Work?
- Who will have the right to make or be responsible for updates?
- How long should the author and the institution work together to maintain the Work?
- If the Work has commercial potential, who should take the lead in marketing and licensing and how should the profits be shared?
- Who will stand behind the work and take responsibility if something in the content infringes a copyright or otherwise violates someone's rights?

This form helps create a contract that addresses each of these and other issues. If, however, your campus has a Master Agreement with the UT TeleCampus, rather than use this form, refer to the [Master Agreement and its attachments](#) for your starting point.

First, let's choose the right contract as a starting point.

- **Work-for-Hire?**
- **Joint Ownership?**
- **Faculty Sole Owner?**
- **Contribution to a Collective Work?**

We start with two facts to decide whether the institution, the faculty member, or both will own the Work:

1. Whether the faculty author was asked to create the Work; and
2. Who will be contributing what copyright law calls [copyrightable expression](#).

The first question is important because when an institution asks a faculty member to create a course, the work can be considered a work within the scope of the faculty member's employment and the institution would own the copyright as a Work-for-Hire.

The second question is important because only those persons who have contributed copyrightable expression can be authors/owners of copyright, except when the employer will be the author/owner under the Work-for-Hire doctrine.

Also, if there may be non-employee contributors whom no one wants to be owners under copyright law, we need to identify them and ask them to sign Work-for-Hire agreements.

Finally, some faculty authors may not wish to own their works, because they consider themselves to be employees working within the scope of their employment. In such a case, the faculty member need only

Who provided the initial impetus to create the Work?

- ☐ The University.
- ☐ UT TeleCampus.
- ☐ The faculty member.
- ☐ Both the institution **and** the faculty member.
- ☐ Both the UT Telecampus **and** the faculty member.

Who will contribute copyrightable expression?

- ☐ University non-faculty employees such as programmers, video crew, support staff, script writers, graphic artists, photographers.
- ☐ One or more faculty members.
- ☐ Others who have no employment relationship with U.T. System (including, but not limited to, students).

Will a faculty author choose not to own his/her contribution and instead be considered an employee working within the scope of employment?

- ☐ Faculty author elects to be considered an employee working within the scope of employment.

[Tell Me My Starting Point](#)

sign an acknowledgement of this unusual circumstance. This election shifts ownership of the affected contribution to the University and causes the [standard rules for liability for infringement](#) to control.

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