

## ***Copyright Protection Policy***

1. Purpose. This policy outlines the statutes and regulations regarding faculty copyrights, describes those materials that are works of the government and cannot be copyrighted, and describes the ability of staff, faculty, and students to secure copyrights of materials regarding intellectual property that are not works of the government.

2. Background.

a. As noted in Title 17, United States Code, Copyright Act of 1976, Section 102, "Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression . . . [to] include . . . literary works."

b. However, Section 105 of Title 17 limits the broad grant of protection and states, "Copyright protection under this title is not available for any work of the United States Government." Section 101 defines a "work of the United States Government" as "work prepared by an officer or employee of the United States Government as part of that person's official duties."

3. Works Owned by the Government.

a. Any materials prepared as part of official duties are a work of the government. Materials originally produced as part of official duties cannot simply be "re-packaged" or "re-merchandised." Title 17, Section 105 indicates such works will still be treated as works of the government.

b. No copyright can exist for such material for purposes of either use of the author or assignment to a publisher.

c. Neither an author nor the government may receive compensation for the right to reproduce or publish materials classified as works of the government.

d. The following general criteria may assist when determining if works are prepared as part of official duties:

e. Preparation of the work was within the employee's position, job, or billet description. This includes a work properly self-assigned by the employee who was in a position to do so.

f. Preparation of the work was properly assigned by the employee's supervisor.

#### 4. Works Owned by the Author.

a. Any materials prepared by a government employee not as a part of that person's official duties belong to the author, and the author can receive copyright protection and usually reap any associated revenues for such material.

b. A book or article written on a subject that the author is currently teaching or researching may receive copyright protection as long as the book or article is not the product of official duties (assigned or implied). Marine Corps University hires educators for their subject matter expertise, and they may use that expertise for their own benefit, as well as that of the government, in accordance with established guidelines and Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R., Section 2635.807.a.

5. Works Owned by External Authors/Entities. MCU faculty, staff, and students will obtain permission to use copyrighted material in printed or digital course-packs, as handouts in class, or to post or link to them within the MCU learning management system. Detailed policy and procedures about the use and proper acquisition of copyrighted materials for educational purposes at MCU are enumerated in University administrative and business operations policies. U.S. copyright law contains many gray areas, and the goal of all MCU copyright policies is to provide MCU administrators, faculty, librarians, students, employees, and others with a standard approach for addressing complex copyright issues and ensuring compliance with applicable copyright laws.

6. Responsibilities. The production of articles and manuscripts is fully supported and encouraged by MCU. Potential authors must take all reasonable measures to avoid any circumstances that could detract from this central mission. All MCU staff, faculty, and students must adhere to the guidance in this academic policy and other applicable MCU copyright policies when making copyright determinations for materials included in the curricula or when seeking copyright protection and before submitting articles or materials for copyrighted publication. Questions related to specific copyright determinations will be addressed by the MCCDC legal office via the chain of command.

Promulgated: 1 Jul 2016