

Attachment DL8

80.06 Attachment DL-8
Intellectual Property Rights -Technology Mediated Materials

Issued: August 16, 2001

1. General

Prairie View A&M University (PVAMU) recognizes the essential role intellectual creativity plays in furthering its interests in supporting Technology Mediated Instruction. PVAMU is dedicated to supporting the creation, health, and continued growth of distance education in a meaningful and effective way. PVAMU encourages its faculty and staff to develop Technology Mediated Materials and provide Technology Mediated Instruction.

2. Governing Regulations

These procedures are applicable to copyrighted materials that are classified under The Texas A&M University System (TAMUS) Regulation 17.02.02 as Technology Mediated Materials or Technology Mediated Instruction. This rule shall be interpreted in conjunction with:

TAMUS Policy 07.01;
TAMUS Regulation 31.05.01; and
TAMUS Regulation 17.02.02.

TAMUS Regulation 33.04.01 shall not be construed to prohibit the use of PVAMU's resources in creating Technology Mediated Materials, provided the creation of Technology Mediated Materials is approved by the dean of the college in which the faculty or staff member is employed.

3. Applicability

These procedures apply to each member of the faculty and staff of PVAMU.

4. Definitions

4.1 The terms copyrighted work and copyrighted works shall mean an original work of authorship protected by the copyright law of the United States, 17 U.S.C. '101 et seq.

4.2 As used in this procedure, PVAMU's support is substantial when the creation of a copyrighted work required significant use of PVAMU's funds, space, hardware, support staff, or facilities, but only if such use was essential and substantial. Use of library facilities or personal computers and other computer equipment normally made available in the creator's office does not constitute substantial use of resources.

4.3 The term creator shall refer to a member of PVAMU's faculty or staff that creates Technology Mediated Materials or Technology Mediated Instruction.

4.4 The terms Technology Mediated Instruction and Technology Mediated Materials shall have the meaning specified in paragraphs 3.1 and 3.2 of TAMUS Regulation 17.02.02.

4.5 The term work for hire shall have the meaning specified in paragraph 5.1.2 of TAMUS Regulation 17.02.01.

4.6 The term plan shall mean a written outline prepared by a creator that specifies the Technology Mediated Materials the creator proposes to develop and how they will be used in Technology Mediated Instruction. The plan shall specify the time the creator plans to devote to creating the Technology Mediated Materials. The plan shall also specify the extent PVAMU's funds, space, hardware, support staff, or facilities will be utilized in the development of the Technology Mediated Materials. The plan shall also contain a method to divide any income that may be earned by licensing or sale of the Technology Mediated Materials that are proposed to be developed. The creator shall disclose any conflicts of interest the creator may have in the development of the Technology Mediated Materials at the time the plan is submitted for approval.

5. Creation, Use, and Ownership

5.1 The creator shall, prior to creating Technology Mediated Materials, submit a plan to the dean of the college where the creator is employed. The dean shall review the plan and determine if the proposed Technology Mediated Materials are consistent with the mission of PVAMU and if it is feasible to allow the creator to have the time away from the creator's normal duties to develop the Technology Mediated Materials. If the dean approves the plan, the dean and the creator shall jointly determine whether or not PVAMU's support of the plan is substantial.

5.2 In all cases where the dean and the creator jointly determine that PVAMU's support of the Technology Mediated Materials is not substantial, the creator shall own the copyrighted work. In such cases, PVAMU shall have a fully paid license to use the Technology Mediated Material and to make a reasonable number of copies of such materials for educational purposes.

5.3 In all cases where the dean and the creator jointly determine that PVAMU's support of the Technology Mediated Materials is substantial, PVAMU shall own the copyrighted work. In all cases where the Technology Mediated Materials are developed without obtaining approval of a plan, PVAMU shall own the copyrighted work. If substantial support was provided or if a plan was not approved prior to the time the Technology-Mediated Materials were created, PVAMU may, at its discretion, relinquish its rights, in whole or part, to ownership of or income received by licensing the Technology-Mediated Materials. Any request by the creator for PVAMU to relinquish its rights, in whole or part, to Technology Mediated Materials covered by this paragraph shall be approved by the dean of the college where the creator is employed and by the Provost and Vice President for Academic Affairs.

5.4 In all cases where the Technology Mediated Materials are works for hire, PVAMU shall own the copyrighted work and all income that is derived from the Technology Mediated Materials.

5.5 Ownership of copyrighted works that record performances by one or more members of PVAMU's faculty or staff delivering Technology Mediated Instruction ("performer") that are not a work for hire, shall vest in each performer. In cases where one or more members of PVAMU's faculty or staff delivered a performance in a copyrighted work that is a work for hire, the copyright in such work shall be owned by PVAMU. In cases where the copyrighted work is owned by a performer or multiple performers, PVAMU shall have a fully paid license to display, distribute, copy, broadcast or perform the Technology Mediated Instruction for five years from the date the Technology Mediated Instruction is created and shall not account to any performer for income PVAMU may receive from the use of such Technology Mediated Instruction.

5.6 When PVAMU has provided substantial support for the creation of Technology Mediated Materials that are not works for hire, income distribution will be in accordance with the distribution scheme contained in the plan. While the distribution of income will vary with the level of PVAMU commitment, generally the creator should receive one-half of the income received by PVAMU after deducting its expenses. Income shall include license fees, royalties, equity interests and dividends less PVAMU's expense for marketing, licensing, legal protection, and other direct expenses associated with the Technology Mediated Materials. All income PVAMU receives from the use or marketing of Technology Mediated Materials that are works for hire shall belong solely to PVAMU.

5.7 Any disagreements associated with the determination of substantial support, the division of income or any other aspect of this rule will be resolved through an appeals process coordinated by the Provost and Vice President for Academic Affairs.

5.8 Exceptions may exist to the rules outlined above, but they must be included in the plan and approved by the Provost and Vice President for Academic Affairs.

6. Conflict of Interest

6.1 It is the responsibility of the creator to notify PVAMU of any conflicts of interest that may arise after the plan has been approved.

6.2 Even if substantial PVAMU resources are not expended in the creation of Technology Mediated Materials, the creator must disclose each existing or potential conflict of interest in accordance with TAMUS' policy and PVAMU's procedures.

Point of Contact: Provost and Vice President for Academic Affairs