



**OFFICE OF THE DIRECTOR  
LEGAL & PROTOCOL**



12<sup>th</sup> December, 2014.

The Registrar,

**RE: NATIONAL OPEN UNIVERSITY OF NIGERIA COPYRIGHT POLICY**

Pursuant to the directive of the Senate, we have perused the proposed National Open University of Nigeria copyright policy and made modifications therein.

We now attach a copy of the copyright policy for presentation to the Senate for approval.

Thank you.

Yours Faithfully,

**Obinna Uche**  
**Principal Legal Officer**

*DR (A)  
Syl x na pls  
19/12/14*



# **NATIONAL OPEN UNIVERSITY OF NIGERIA NOUN COPYRIGHT POLICY**

## **PREAMBLE**

The National Open University of Nigeria was established under law by the Federal Government of Nigeria as an open and distance learning institution to provide functional, cost effective and flexible learning to all who desire enhanced quality of education. The vision of the University founding fathers is to make the University the foremost citadel of learning providing the most conducive atmosphere for diligent and dedicated pursuit and dissemination of knowledge.

By its very nature as a single mode institution the instructors and students are separated in time and space, face to face contact between the instructors and the students are reduced or in most cases completely absent. Instead the University employs a wide range of instructional delivery methods from print to the electronic means.

Course content is reduced to instructional materials which are disseminated through print and other electronic media such as CD ROM, radio, television, and internet.

The University supports and encourages its staff and engages other academicians and experts in relevant fields to prepare course materials for the programs on offer by the University. The preservation and protection of the interests of the University, staff and others in their intellectual works is the focus of this copyright policy.

## **1.0 INTRODUCTION**

1.1 This copyright policy sets out the rights and responsibilities of the University, its staff and authors contracted to write or create intellectual works for the University.

## **1.2 WHAT IS COPYRIGHT?**

Copyright is the exclusive right of the owner to control the production, reproduction, publication, broadcast, translation, sale and distribution of intellectual works to members of the public. Any person who desires to use or do any of the acts mentioned above in respect of any work in which copyright exists must first obtain permission from the owner of such copyright, this would also enable the authors or owners of copyright receive adequate reward for their efforts.

### **1.3 SUBJECT MATTER OF COPYRIGHT**

According to the Copyright Act of 2004 the categories of copyrightable works include Literary works, musical works, artistic works, cinematograph films, sound recordings, broadcast.

Copyright can only exist in a work where sufficient effort has been expended in making the work to give it an original character and it is fixed in any definite medium of expression from which it can be perceived, reproduced or communicated to members of the public

Copyright protection does not extend to ideas, procedures, or processes. While ideas are not protectable, the original manner in which those ideas are expressed in a fixed and tangible form is copyrightable.

### **1.4 OWNERSHIP OF COPYRIGHT**

This policy recognizes that ownership of intellectual property ordinarily resides with the author or creators of such intellectual property. However where the author is under employment and the work is created in the normal course of his employment, copyright in the work will belong to the employers. Also the employers acquires copyright in works where the author is contracted, commissioned to create such work or the employers has expended substantial financial, human, and material resources in the creation of such works. Copyright may also belong to more than one author as in the case of joint authorship of a work or where the author in an agreement has agreed to share his copyright with third parties.

### **1.5 DURATION OF COPYRIGHT**

In Nigeria the duration of copyright in literary, musical or artistic works other than photograph is 70 years after the end of the year in which the author dies and in the case of joint authorship 70 years after the end of the year the last author dies. Where copyright resides with a government or corporate body copyright will endure for 70 years after the end of the year when the work was first published

In the case of other categories of work [cinematography, sound recording and broadcast] the duration of copyright is 50 years after the end of the year when the work was first made.

## **2.0 CATEGORIES OF WORK**

### **2.1. Copy right in course materials**



- a. The copyright in any course material produced by a member of staff of the University or in conjunction with other members of staff, in the normal course of their employment, shall belong to the University.
- b. Course material shall include Literary academic works, recordings, broadcasts and computer Programs produced to be used for or in connection with a course offered or to be offered by the university.
- c. Members of staff, who are authors of such course materials, shall do whatever is necessary from time to time, including the execution of documents, to enable the university exercise its rights over such works
- d. The copyright in course materials produced by any person, other than a member of staff who has received payment for the production from the university, shall belong to the university. Notwithstanding, the provisions in the paragraph above the university may enter into agreement with any person other than a member of staff to jointly own the copyright in any course materials produced by such person, under terms mutually beneficial to both parties.
- e. The University may pay a token allowance to the members of staff who author or co-author course materials for the university. The amount to be paid shall be determined by the university copyright standing committee.
- f. The university shall pay any person, not a member of staff of the university, who authors or co-authors a course material to be used in a course program being offered or to be offered by the university. The amount to be paid to the author shall be as specified by the University copyright standing committee.
- g. Any person including a member of staff or non member of staff who is the identifiable author or part author of a course material shall be entitled to make extraction from the course materials which he or she produced for the university, subject to the prior written consent from the University.
- h. Copyright in course materials produced by a member of staff, but not at the instruction of the University or which are not accepted for inclusion as part of the course materials to be used in an academic course program, belongs to the author or joint authors.

- i. A member of staff where he or she is identifiable as the author of a course material may apply to acquire the copyright in his or her course material from the University, after the life of the course or any extension as approved by the Senate or its nominee. The release of such copyright shall be at the discretion of the University

## **2.2 Copyright in Books**

- a. The copyright in books [other than books included in the definition of course materials] written or edited by a member of staff (as a general or advisory editor to a series) during his or her employment with the university, in his or her own time and other than in the normal course of his or her duty, shall belong to the author.
- b. Notwithstanding the provisions of 2[a] above, where a member of staff writes a book at the suggestion of, or in anticipation of a need by a course team, if the book is subsequently designated as a set book (distinct from recommended reading book), such member will in consultation with the university, publish it or arrange for its publication, in such manner as it will meet the needs of students of the university and such university regulations as are then in force. Where a course team wishes to prescribe a book as set book written solely (or partly) by a member of staff, this shall only be done with the approval of the vice chancellor in accordance with the procedures approved by the senate. In any arrangement made for the production of such set books the aim will be to secure the legitimate interest of the member as author and of the university as promoter.

## **2.3. Copyright in other works produced by members of staff**

- a. The copyright in any other work including drama, stage shows, musical and artistic works, cinematograph films and sound recordings produced by a member of staff in the normal course of his or her employment belongs to the University. However the copyright in such other works listed above produced by members of staff but not in the normal course of their employment shall belong to the staff. Furthermore copyright in this category of work will belong to the University where the University has commissioned or sponsored the creation of the work
- b. The copy right in electronic works, computer software produced by a member of staff in the course of his or her employment shall belong to the university.



### **3.0 Legal action arising from works produced for the University**

- a. Any person including members of staff and non member of staff shall take all care to ensure that all works produced by them for the university (whether in course materials, text books, written broadcast, recorded or other form) is not defamatory and does not infringe the rights of any third party. The University shall take steps to defend any person against any claim for defamation or breach of copyright, in respect of a work authored by the person for and on behalf of the University. Provided the person is able to prove that he or she has exercised all reasonable care to ascertain that the material complained of did not infringe another party copyright and was not defamatory.
- b. Upon receipt by any person of any claim in respect of work produced by him or her for the university the person concerned shall immediately notify the University of the claim and shall not make any admission or take any step in connection with such claim without the prior written consent of the university. The university shall have absolute authority to conduct and control all negotiations and proceedings in respect of the claim.

The person shall give such assistance as the university may require in the conduct of all negotiations and proceedings and if, after due considerations the university is of the opinion that the claim should not or cannot be contested due to the low probability of success. The person shall tender such apology or make such amends as the university may require and in so far as he or she is able he or she shall agree to the withdrawal of the offending matter or the publication of any amendment or alteration necessary to secure the withdrawal of the complain or objection

### **4.0 Dispute over Copyright**

- a. In the event of any dispute over copyright between a member of staff and the university, either party may refer the dispute for determination to the copyright standing committee.
- b. Any dispute relating to copyright on any material or academic work between the university and any person not a member of staff shall be resolved by arbitrators who shall be selected as follows:

- i. Each party shall select one Arbitrator each and the Chartered Institute of Arbitrators Nigeria shall select the 3<sup>rd</sup> who shall be the Chairman.
- ii. The Arbitration and Conciliation Act, Laws of the Federation of Nigeria, 2004 shall govern the proceedings of the arbitration.

## 5.0 Inventions

- a. The Patent right in an invention made by a member of staff during the course of his/her employment shall belong to the University in accordance with the Patents and design Act of 1990. Provided [a] It was made in the normal course of duties of the member of staff or in the course of duties falling outside his or her normal duties, but specially assigned to him or her and the circumstances in either case where such that an invention might reasonably be expected to result from the carrying out of his or her duties he or she has a special obligation to further the interest of the university.
- b. The patent right in other inventions including electronic works, computer software produced by a member of staff in the course of his her employment shall belong to the university.
- c. Where any invention is made by a member of staff in any other situation, the patent right thereof shall be taken to belong to the member of staff.
- d. The patent right in any invention including computer software developed and produced by any person other than a member of staff, who has received payment for the development and production of such works, shall belong to the university.
- e. In the case of an invention falling under clause (1) above, the university may compensate the member of staff who is the inventor, by way of a fair share in any benefit that may accrue from the patent, where the patent is of material benefit to the university. The amount of the compensation will depend upon factors such as;
  - i. The nature of duty of the member of staff,
  - ii. The effort and skill used
  - iii. The involvement of university resources which is equipment and or personnel and the arrangement for patenting, exploitation and marketing of the invention.

## 6.0 DISPUTE OVER PATENT RIGHTS



- a. In the event of any dispute over Patent rights in an invention between a member of Staff and the university, either party may refer the dispute for determination by the copyright standing committee
- b. Any dispute relating to patent right on any invention between the university and any person not a member of staff shall be resolved by arbitrators who shall be selected as follows:
  - i. Each party shall select one Arbitrator each and the Chartered Institute of Arbitrators Nigeria shall select the 3<sup>rd</sup> who shall be the Chairman.
  - ii. The Arbitration and Conciliation Act, Laws of the Federation of Nigeria, 2004 shall govern the proceedings of the arbitration.

## **7.0 COPYRIGHT IN THE UNIVERSITY'S NAME**

- a. This policy is also intended to protect the reputation of the University. The University's name deserves careful protection. As a general principle, the name of the University is not the property of any individual, department, or School. The University must exercise quality control with respect to the use of its name. This is particularly true when intellectual property is created by or in collaboration with other educational institutions or other organizations. The University community who enter into any collaborative agreements involving the use of the University's name with other organizations should be certain that all such agreements receive the prior approval of the University's Vice Chancellor.
- b. Use of the University's name can affect the reputation and academic standing of the institution.
- c. Use of the University's name in connection with a work, other than by way of identification of the creator as a staff of the University, is itself use of a significant University resource, thus triggering an interest on the part of the University. Similarly the University staff must not participate in the creation or use of works that might give the impression of University sponsorship where there is none.
- d. Any use of the University name (other than to identify the creator by his or her title at the University must be approved in advance by the Vice Chancellor.



## **8.0 COPYRIGHT AGREEMENT**

This Policy constitutes an understanding that is binding on the University, its employees and other covered individuals as a condition of their employment or participating in University educational projects, research or other programs or their use of University facilities or resources. The University may require formal copyright agreements to implement the Policy as appropriate, but the absence of such executed agreements shall not invalidate the applicability of the Policy. Nothing in this Policy shall constitute a waiver by the University of any rights that the University has under any other University policy, including the Patent Policy.

## **9.0 TRANSFER OF INTELLECTUAL RIGHTS TO THE INVENTOR OR CREATOR**

If the University has determined that a work subject to University copyright ownership under this Policy has no likely commercial value, and subject to the terms of any applicable agreements with third parties under which the work was created, the University will consider a request by the creator to transfer copyright ownership in the work to the creator, subject to an irrevocable royalty-free license to the University to use the work for its own non-commercial purposes. Such a request must be approved by the Vice Chancellor, and will be conditioned upon reimbursement of the University by the creator for out-of-pocket expenses the University has incurred in connection with the work.

## **10.0 COPYRIGHT POLICY STANDING COMMITTEE**

- 10.1 A Copyright Policy Standing Committee shall be formed by the Vice Chancellor of the University. The committee shall be responsible for addressing any issues concerning the proper interpretation of this Policy and resolving any disputes that may arise between the University and its staff concerning ownership of works and what constitutes substantial use of University resources. Members of the University community may obtain advice from this Committee.
- 10.2 The committee shall be headed by a Deputy Vice Chancellor and shall consist of five members of the Senate. A Legal Practitioner from the Legal Unit of the University shall serve as an ex officio member of the Committee.
- 10.3 The creator of a work may appeal the decision of the Committee to the Vice Chancellor. The decision of the Vice Chancellor will be final.

## **11.0 REVIEW OF COPYRIGHT POLICY**

This copyright policy shall endure for a period of five [5] years. Upon expiration of this term the Vice Chancellor shall appoint a committee consisting of a broad representative of the various schools and departments of the University, to review the Policy and its implementation. The review committee shall have powers to recommend revisions to the Policy.