At the February 2001 meeting, Professor William Arms, Computer Science, and chair of the Provost’s Advisory Committee on Distance Learning, said one of the things the committee found themselves looking at was copyright. In particular, copyrighting course materials. The current policy does not address technology use.

On a vote call, the resolution was adopted unanimously.

WHEREAS, the University Copyright Policy adopted in 1990 does not reflect the changes in academic use of technology during the past decade, the Faculty Senate requests the Dean of the Faculty to work with the Provost in initiating a comprehensive review of the University Copyright Policy.

As a basis for this review, the Faculty Senate endorses four general principles:

1. The university policies on intellectual property should be independent of the media in which ideas are expressed. For example, the same policies should apply to lecture notes printed on paper and to lecture notes mounted on a website.

2. The university should retain the long-standing academic tradition that creators of works have control over the intellectual output resulting from their research, teaching, and writing.

3. When there are multiple creators of an individual work, the control should be shared among the creators.

4. When the university contributes substantial resources to the development of specific materials, it has a right to share in the control and returns. To be considered substantial, the contribution should be significantly beyond the normal level of support provided to all faculty members.

In February 2003, Professor John Hopcroft, Computer Science, and Chair, Committee on Intellectual Property, said the purpose of his update is really to ask for input. The charge to the Committee [See Committee on Intellectual Property, p. 5637] was to cover intellectual property, and that is both patents and copyright. The Committee decided to
focus on copyright and so their first tentative recommendation is that the introductory language to the Copyright Policy is right on. He read one sentence which gives the tone of it: “The long-standing academic tradition that creators of works own the copyright resulting from their research, teaching and writing is the foundation of the University’s Copyright Policy.” The Committee felt very good about the introductory language, so no recommendations will be made there. Once into the details, then there are a lot of areas where the Committee believes things could be improved:

- The University’s policies should be independent of the media.
- The language of what “substantial use” is says “ordinarily used by or available to all members of the faculty.” A number of illustrated examples should be put into the policy, because concerns come about because people don’t have a clear understanding of what is or isn’t “substantial use.”
- The Committee thinks the University ought to include a list of rights reserved by the University in materials that are generated by the faculty, because quite often if you are doing course materials or something like that where you would have the copyright to it in some sense, there are certain rights that the University has to have in order to continue to offer courses and things of that nature.
- Students should be better integrated into the Copyright Policy.
- The dispute resolution mechanism ought to be updated. It is the Committee’s understanding that nobody has ever gone to the dispute resolution, but it ought to be fixed up a little just in the even that sometimes there is a dispute.
- There should be clarification of ownership of course materials, and under “works developed with substantial use of University resources,” the Committee would eliminate the distinction between encoded works and traditional works.

Professor Hopcroft concluded his remarks with the hope that his report would get faculty to think about these items, and he would be pleased to receive any input, which he would share with all members of the Committee.

At the May 2003 meeting, Professor William Arms, Computer Science, moved a resolution to revise the Copyright Policy.

Professor Hopcroft, as Chair of the Committee on Intellectual Property, spoke to the resolution, saying the Committee endorses the introductory language of the existing Copyright Policy:

Cornell University is committed to providing an environment that supports the research and teaching activities of its faculty, students and staff. As a matter of principle and practice, the University encourages all members of the Cornell community to publish without restriction their papers, books, and other forms of communication in order to share openly and fully their findings and knowledge with colleagues and the
Copyright ownership and the rights thereof are concepts defined by federal law. University policy is structured within the context of the federal copyright law. The long-standing academic tradition that creators of works own the copyright resulting from their research, teaching, and writing is the foundation of the University's Copyright Policy. Exceptions to this rule may result from contractual obligations, from employment obligations, from certain uses of University facilities, or by agreement governing access to certain University resources. This Policy addresses these exceptions.

The major changes the Committee is suggesting include:

Policy independent of media

Clarify substantial use
Ownership
Nonacademic within scope of employment - property of university
   unless written agreement to contrary
   Academic - copyright normally owned by academic
Resolution of disputes
Rights reserved by university in instructional material
Copyright management

Discussion and questions followed Professor Hopcroft's presentation. On a vote call, the resolution was adopted as follows:

Whereas, the Faculty Senate passed a resolution at its meeting of February 14, 2001 requesting that the Dean of the Faculty work with the Provost to review the University Copyright Policy; and

Whereas, the Provost in consultation with the Dean of the Faculty appointed a committee to review the University's Copyright Policy; and

Whereas, the committee has widely circulated a draft of its report, reviewed the comments received, and finalized the report;

COPYRIGHT POLICY
Be it resolved, that the Faculty Senate accepts the report, and requests that the University revise its Copyright Policy in line with the report, as follows:

DEFINITIONS

Change the subtitle from “Definitions of Copyrightable Material” to “Definitions”.

Delete from the Copyright Policy the definitions of "traditional work" and "encoded work" as well as the paragraph leading into those definitions.

Add to the policy the following definitions:

"works of authorship": material that is copyrightable; may include lecture notes, textbooks, articles, works of fiction, visual arts, software and musical compositions regardless of the media in which the works are produced or the forms of dissemination e.g. print or electronic.

"substantial use of University resources": the use of University resources such as funding, space or facilities not ordinarily provided to or available to all, or virtually all, members of the faculty of that department or field. For example, contributions of instructional and/or technical support to create digital course materials and/or to transform existing materials into digital format can constitute "substantial use" of University resources where such contributions exceed the level of support available to faculty in that department or field. For any given department, unit or individual, what constitutes a usual resource will depend upon the functions and responsibilities of that department, unit, or individual. For example, access to a chemistry laboratory may be a usual resource in chemistry, but would probably be considered an unusual resource in English literature. A further elaboration of this concept can be found in the "Elaboration of Definition of Substantial Use" included as an Appendix to this Policy. Questions about whether use of a particular resource constitutes substantial use should be directed to the individual with administrative responsibility for the resource.

"work for hire": the Copyright Act. provides that "a work prepared by an employee within the scope of his or her employment" is a work for hire. The employer (i.e., the University) is the "author," and hence the owner, of works for hire. There is a long-established tradition within academia exempting scholarly publications by faculty from the "work for hire" doctrine.

OWNERSHIP AND DISPOSITION OF COPYRIGHTABLE MATERIAL

Revise the existing language under II. Work for Hire to read:

The copyright to material that is created by a non-academic employee within the scope of University employment shall be the property of the University unless there is a written agreement to the contrary. Such agreements may be appropriate where a staff member is creating an academic work such as a scholarly article or conference presentation with the permission of, but little guidance from, his or her supervisor.
The copyright of material that is created by an academic employee pursuant to a specific direction or assigned duty from the University or any of its units shall be the property of the University. Such specific duties may include requests that a faculty member develop labs, case studies or other curricular material to be used by members of the department or college other than or in addition to the faculty author. Other examples include course descriptions written for the course catalog and works created in the course of an administrative assignment, e.g. committee reports. A teaching assignment shall not constitute a specific direction or assigned duty conferring on the University copyright ownership in lecture notes and other instructional materials.

**Revise** the existing language in the first sentence of III. Use of University Resources to read:

Copyright ownership of works of authorship that are created with substantial use of University resources shall reside with the University.

**Substitute** "Faculty Senate" for "FCR" in the last sentence of this section.

**RESOLUTION OF DISPUTES**

**Replace** the first sentence with:

Disputes arising out of the application of this policy and the ownership of copyrights shall be brought to the Provost. The Provost will appoint an ad hoc committee and designate a chair. The committee will consist of a combination of administrators, faculty, staff and/or students as appropriate given the nature of the complaint and the respective roles of the parties involved.

**Insert** the following new sections into the policy:

**COLLABORATIVE WORKS**

Unless the contributions are made under circumstances that bring them within one of the exceptions delineated in OWNERSHIP AND DISPOSITION OF COPYRIGHTABLE MATERIAL above, the allocation of rights among multiple authors is largely a matter for them to resolve, ideally through an explicit agreement about these matters.

**RIGHTS RESERVED BY THE UNIVERSITY IN INSTRUCTIONAL MATERIALS**

In order to carry out its mission, the University retains a non-exclusive, no-cost license to use, re-use, reproduce, display and distribute and make derivative works (such as compilations, archives or composite works) of instructional materials for the education of Cornell students.
Instructional materials may include syllabi, course descriptions, reading lists, assignments, slides, lecture notes, lab exercises, tools, simulations, multimedia, web-based pages, exams, student assignments, and recorded discussions. In accordance with academic custom, the University will acknowledge the authors of these works unless the authors request otherwise.

**COPYRIGHT MANAGEMENT**

Authors are expected to manage their copyrights in support of the mission of the University. When entering into publishing agreement, Cornell authors should, whenever possible, reserve certain rights to the University by including the following provision: "The author retains the right to make copies of the work for internal distribution within Cornell University." The Copyright Information Center (at [http://www.copyright.cornell.edu](http://www.copyright.cornell.edu)) has more information and suggested language that can help authors develop a publishing license. Sample language for author’s rights is also available at the SPARC (Scholarly Publishing and Academic Resources Coalition) Create Change website, [http://www.createchange.org/faculty/issues/controlling.html](http://www.createchange.org/faculty/issues/controlling.html). Authors may also wish to develop a license using the tools available through Creative Commons [http://www.creativecommons.org](http://www.creativecommons.org).

**COPYRIGHT NOTICE AND REGISTRATION**

In those cases where the University is the owner of copyright, the following notice should be included:

> Copyright © [year] Cornell University. All Rights Reserved.

The date in the notice should be the year in which the work is first published, i.e. distributed to the public or any sizable audience.

Within the University, the individual colleges or administrative units in which works are created have responsibility for the administration of copyrights and responding to requests for permission to use the copyrighted material for nonprofit educational purposes. It is therefore recommended that the name and address of the department to which readers can direct permission requests be included in the notice:

> Requests for permission to reproduce this work should be referred to the Department of __________________________ at __________________________. The Office of University Counsel and the Cornell Research Foundation are available to assist with commercial sales or licenses.

Departments may opt to register the copyright with the United States Copyright Office. Forms to do so may be obtained from the Copyright Office web site, [http://www.copyright.gov](http://www.copyright.gov). Questions concerning copyright notices and registration should be addressed to the Office of University Counsel.
WORKS BY NON-EMPLOYEES AND INDEPENDENT CONTRACTORS

Whenever possible, the University should acquire copyright ownership, as well as ownership of the physical work, with respect to works created for the University by independent contractors such as consultants, photographers and web page designers. A written agreement is needed to achieve this result. The Office of University Counsel is available to assist in the preparation of such agreements.

COPYRIGHT INFRINGEMENT

Respect for intellectual property is essential in an academic community. The University supports full utilization of the rights of fair use and the rights granted to educational institutions and libraries under copyright law. Where uses of copyright material will exceed those permitted by fair use and other statutory exceptions, permission to use the copyrighted material should be obtained from the copyright owner. Information on copyright and obtaining permissions can be found at http://www.copyright.cornell.edu. Copyright infringement is a violation under the Campus Code of Conduct, the Code of Academic Integrity and the Policy on Responsible Use of Electronic Communications.