

Advice Memo: Copyright of Works Created by Independent Contractors

Every contract between East Carolina University and an independent contractor must include a copyright assignment if there is any possibility that the independent contractor's services will involve creation of copyrighted work. Examples of copyrighted work include software, graphics, text, audio, video, artwork, music, choreography, etc.

A form assignment clause is set out below. In addition, the contract should include as an attachment, or reference in the contract, a list of all Works and Contributions that are to be created by the contractor.

The contract and any attachment should be retained by the University unit that is working with the independent contractor.

Exceptions may be granted only by a Vice Chancellor for Research and Graduate Studies (or designee).

The copyright in all works of authorship created pursuant to this agreement shall be owned by East Carolina University. All such works or portions of works created by the Contractor are hereby agreed to be "works made for hire" within the meaning of 17 U.S.C. 201. However, if the University is not able to obtain copyright ownership under the statutory provisions for "works made for hire," then Contractor hereby assigns to East Carolina University all right, title, and interest in:

- a. the copyright to Contractor's work of authorship ("Work") and contribution to any such Work ("Contribution");
- b. any registrations and copyright applications, along with any renewals and extensions thereof, relating to the Contribution or the Work;
- c. all works based upon, derived from, or incorporating the Contribution or the Work;
- d. all income, royalties, damages, claims and payments now or hereafter due or payable with respect to the Contribution or the Work;
- e. all causes of action, either in law or in equity, for past, present, or future infringement of copyright related to the Contribution or the Work, and all rights corresponding to any of the foregoing, throughout the world.

In addition, to the extent any applicable law or treaty prohibits the transfer or assignment of any moral rights or rights of restraint the Contractor has in the Contribution or the Work, the Contractor waives those rights as to East Carolina University, its successors, licensees and assigns.
