Use of Copyrighted Material Policy

I. Purpose
The purpose of this Policy is to outline Albert Einstein College of Medicine’s (Einstein’s) requirements for the use of copyrighted material.

II. Scope
Applies to all Einstein faculty, staff, employees, students, post-doctoral fellows, researchers, consultants, and visiting faculty and researchers.

III. Policy

III.A. General
All faculty, staff, employees, students, post-doctoral fellows, researchers, consultants, and visiting faculty and researchers of Einstein must fully comply with all restrictions on the use of copyrighted material in any activity related to his or her engagement with Einstein, or while using Einstein-owned or furnished computer equipment and/or computer network. This requirement applies to every type of usage of such material including publishing and reproduction by traditional means and including but not limited to the use of the Internet and the World Wide Web.

Copyright law protects expressions in works of authorship such as books, articles, texts, computer programs, musical works, dramatic works, pictorial, sculptural, and graphic works, motion pictures, and sound recordings. While copyrighted material may sometimes be used without permission, such circumstances are very limited. The most common method of compliance is to request and obtain permission of the copyright owner to use the copyrighted material. The penalties for unauthorized use of copyrighted material (“infringement”) can be substantial and may result in personal liability to the unauthorized user.

Any questions regarding the use of copyrighted material should be directed to the Office of the General Counsel before the material is used.

III.B. Use of Works
Independently of copyright ownership, a faculty member has the right to use all course content and course materials that he or she develops or creates in the normal course of teaching or research at Einstein (“Course Works”), including the right to make changes to such Course Works and the right to distribute such Course Works to Einstein students, faculty, and other Einstein personnel for teaching, research, and other non-commercial Einstein purposes.

Course Works and other course materials are either owned by Einstein or by the author and can only be used by students who have been given the authorization, e.g., those who are enrolled in the course to view the materials on servers associated with Einstein. This includes all materials in the designated learning management system and on the lecture capture system.
Students may not share Course Works or any other course materials with any other party, including medical students from other schools or Einstein students in subsequent class years. None of these materials can be posted on outside servers or otherwise shared publicly, including via social media (such as Facebook, YouTube, or Twitter).

III.C. Ownership

Copyright ownership of all works of authorship by individuals with academic or non-academic Einstein appointments and students, vests in the author, except under circumstances described below and those covered by Einstein’s Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001.

III.D. Subordination to Other Agreements

If the terms of sponsored research or other agreement to which Einstein is a party confer copyright ownership on Einstein or impose on Einstein other obligations that necessitate such ownership, Einstein will own copyrights in all such works of authorship that are developed in the course of or pursuant to such agreement. The individuals who author such works will assign the copyright ownership to Einstein by written agreement. Delay or omission of such written agreement shall not be considered Einstein’s waiver of its ownership rights in such works.

III.E. Work for Hire

The copyright to a work of authorship that is created by a nonacademic appointee within the scope of his or her Einstein appointment is the property of Einstein. Works of authorship created by academic appointees acting within the scope of responsibilities associated with an administrative position (e.g., department heads, deans, etc.) are works for hire, and Einstein owns such works.

The copyright of works of authorship created by an academic appointee pursuant to a specific direction or assigned duty from Einstein is the property of Einstein. 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 Einstein community 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. Courses taught and courseware developed for teaching at Einstein belongs to Einstein. Any Einstein courses that are videotaped or recorded are Einstein property.

Einstein claims ownership of works prepared for Einstein by non-employees, such as consultants or independent contractors retained by Einstein. Under the Copyright Act, works of non-employees are generally owned by the creator absent a written agreement to the contrary. Einstein generally requires that there be signed agreements from contractors and consultants working on projects that may result in copyrightable works addressing assignment of copyright ownership to Einstein. Delay or omission of such written agreement shall not be considered Einstein’s waiver of its ownership rights in such works.

III.F. Substantial Use of Einstein Resources

Copyright ownership of works of authorship that are created with substantial use of Einstein resources resides with Einstein. Substantial use of Einstein resources is the use of resources such as direct allocation of Einstein funds, grants, contracts, and awards made by sponsors that are not ordinarily used by, or available to, most or all members of the faculty. Substantial use of Einstein resources also includes
financial or logistical support from Einstein beyond the level of common resources provided to faculty, or significant use of the services of non-faculty Einstein personnel. Ordinarily available resources include office space and personal office equipment and supplies, office computer workstations, Einstein libraries, and the means of network access to such resources.

Some copyrightable works embody or constitute tools necessary for the implementation of inventions. For example, a business process or computer software may embody an invention. Works of authorship that may constitute inventions are governed by Einstein’s Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001. In the event of a conflict, Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001, takes precedence over this policy.

III.G. Intellectual Control

When Einstein takes title to a work of authorship under this policy, it will acknowledge creators who have made a substantial creative contribution to the work if the creators request such acknowledgement. Where there are multiple co-authors, Einstein will endeavor to accommodate the views of all co-authors. Where Einstein owns a copyright under this policy or Einstein’s Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001, each author will be permitted to continue to use his or her work for his or her own noncommercial academic purposes. Distribution, if any, to academic colleagues outside of Einstein will be permitted only under approved, written agreements.

III.H. Collaborative Works

Einstein owns works for which authorship cannot be attributed to one or a discrete number of authors but rather result from simultaneous or sequential contributions over time by multiple faculty, students, or other individuals covered within the scope of this policy. Allocation of rights among a discrete number of multiple authors is a matter that should be resolved through an explicit written agreement among all relevant parties.

III.I. Works Created by Students

In addition to being covered by Einstein’s Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001, works created by students are subject to the following rules:

- Students performing work compensated by Einstein are subject to the provisions governing nonacademic appointees above.
- Students working collaboratively with academic appointees on projects that result in copyrightable work may be granted the same rights and obligations of copyright ownership as would another academic appointee working collaboratively on the project. Students and academic appointees must establish these rights at the outset of their collaboration.
- Students are also subject to the rules and restrictions of their respective academic departments. Students who copyright their theses or dissertations must grant Einstein rights to reproduce and distribute copies of such works.

III.J. Penalties

Violations of this policy will be treated as violations of professionalism and will be reported to Human Resources or the Office of Student Affairs. See Einstein’s Accessibility Policy, IT-POL-2018-003. Such actions may result in a variety of sanctions including appearance before the Committee on Student Promotions and Professional Standards or may be subject to other applicable disciplinary proceedings.
III.K. References

The Einstein Office of Biotechnology and Business Development manages the marketing and licensing of copyrighted works owned by Einstein. For information concerning reporting of copyrightable works and ownership of intellectual property, see Einstein’s Official Policy on Intellectual Property and Licensing Agreements, BIOT-POL-2018-001.

IV. Definitions

None.

V. Effective Date

Effective as of: 1 March 2018

VI. Policy Management and Responsibilities

The Responsible Office under this policy is the Office of General Counsel. The Responsible Executive and the Responsible Officer under this policy are respectively, the College’s Executive Dean and the Senior Counsel.

VII. Approved (or Revised)

[Signature]

[Date: 5/9/2019]

Responsible Executive  Date