Regulations for Establishing a Copyright Use and Ownership Policy

During 1999-2000, a University-wide task force, with the active leadership of the Faculty Assembly, worked with the Academic Affairs and Legal Affairs divisions of the Office of the President to develop a policy framework for the administration of copyright within the University of North Carolina. This was a collaborative effort, one that included a University-wide colloquium and extensive review of relevant law and copyright policies now in force at other U.S. colleges and universities. The product of that effort is a copyright policy adopted by the Board of Governors on November 10, 2000. Attached is a checklist to guide each University institution in implementing the policy.

It is expected that in the coming months the Office of the President will provide further resources to the institutions to help administer the copyright policy, notably a statute-based primer on copyright ownership and a statute-based primer on copyright use. For the present, issues of copyright may be addressed either to David Edwards, Senior Associate Counsel, or Betsy Bunting, Associate Vice President for Legal Affairs.

At this time institutions are requested to commence administration of the copyright policy by addressing the attached "Checklist" with proposed institutional responses. The draft of each institution's responses should be forwarded to the Office of the President for review and approval.

[This is a rewrite of Administrative Memorandum #409.]

Checklist to Guide Campuses in Developing Copyright Use and Ownership Policies

1. Designation by the chief executive officer of the Institution of an institutional office, body, or officer to interpret and administer the policy (Administration[1]), specifically, to include:

a. Education of faculty, staff, and students about the law of "fair use." (Copyright Use, 1.)

b. Provision to faculty, staff, and students of resources and guidance in the making of fair use determinations. (Copyright Use, 2. and 3.)

c. Establishment of a policy concerning portability of "shop rights" beyond the Institution. (Copyrightable Works, 1.a., 1.b., 1.c., 1.d., and 3.)

d. Definition of "exceptional use of institutional resources" at the Institution. (Copyrightable Works, 1.b.)

e. Contracting for the terms of transfer, shared ownership, and/or commercialization of copyrighted works at the Institution. (Copyrightable Works, 1.a., 1.b., 1.c., 1.d., 2., and 4.)

f. Determining the applicability of "work for hire" doctrine and the suitability of waiving that doctrine in individual cases. (Copyrightable Works, 1.a., 1.c., 2., and 4.)

g. Specifying a policy to identify those instances in which there shall be disclosure to the Institution by the creator of a sponsored or externally contracted work created under an agreement that does not expressly require copyright ownership by the Institution or a third party. (Copyrightable Works, 2.d.)

2. Establishment by the chief executive officer of a copyright dispute resolution mechanism at the Institution, including the determination whether or not there is to be recourse at the Institution beyond the initial dispute forum, such as to the chief executive officer. (Dispute Resolution)

[1] Parenthetical references are to sections of the "Copyright Use and Ownership Policy," embodied in Section XII of 500.2 of this *Policy Manual*.