

A Study on the Ownership of Copyright for Online Courses in Higher Education Institutions under New Circumstances

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Abstract

The existing regulatory framework, established through contractual agreements, institutional regulations, and statutory provisions, has effectively reduced the incidence of disputes over the ownership of copyright in online courses. However, university online courses have recently exhibited new characteristics, including platform diversification, varied formats, and expanded interactivity. These new educational trends have significantly disrupted the existing copyright order, and numerous emerging issues regarding copyright ownership require urgent resolution. The practical approach to resolving copyright ownership issues for online courses should involve clearly defining the subject matter of copyright, conducting legality reviews of contractual agreements and institutional regulations, and establishing criteria for determining works created within the scope of employment.

Keywords

Online courses; copyright; new educational landscape; rights attribution; higher education.

1. Introduction

With the advent of the Internet era, information technology has been progressively integrated into the education sector, giving rise to the "Internet Plus Education" model centered on online courses. Higher education institutions have generally established their own systems of high-quality online courses primarily in the form of MOOCs (Massive Open Online Courses) and SPOCs (Small Private Online Courses). This approach not only allows on-campus students to arrange their study schedules more flexibly and access high-quality instruction but also facilitates inter-institutional exchange, enabling the sharing of each institution's strengths and expanding academic influence. While enjoying the immense convenience brought by online courses, there is also a risk of disputes over copyright ownership. The primary parties involved in these disputes are faculty members and their institutions, as well as faculty members among themselves; at times, other parties such as course platforms and students may also be implicated. To promote the steady reform of China's higher education model and safeguard the legitimate rights and interests of institutions and faculty members, it is imperative to explore effective pathways for determining copyright ownership.

2. The Existing Framework for Copyright Attribution in Online Courses

Disputes between institutions and faculty over the ownership of copyright in educational works are not a new phenomenon. In 2005, the well-known case of Gao Liya v. Nan'an District Sigongli Primary School regarding copyright infringement occurred. The central issue in that case was whether a teacher held copyright over the lesson plans they had prepared. Ultimately, the court upheld Gao Liya's claims, ruling that the lesson plans constituted general works created within the scope of employment, and that the copyright belonged to the teacher.[1] In the field of university online courses, no major copyright disputes have arisen in recent years. This is

largely due to the previously relatively uniform format of such courses, which were subject to strict procedures for declaration, approval, development, and management. Consequently, under the protection of a well-established legal framework, the order of copyright attribution has remained relatively stable. Before analyzing the challenges of copyright attribution under new circumstances, it is necessary to review the current state of this order.

2.1. Attribution by Mutual Agreement

Copyright is, in essence, a type of civil right. Provided that it does not violate mandatory provisions of laws and regulations, civil entities are permitted to exercise autonomy of will. Clarifying the ownership of copyright through agreements is not only a common practice among universities in developing online courses but also a requirement of the Ministry of Education's regulations. In the presence of a valid agreement, the motivation and basis for parties to claim copyright rights beyond the scope of the agreement are reduced, and the risk of copyright ownership disputes is significantly lowered.

However, within China's current legal framework, the content of ownership agreements is not entirely unrestricted; the parties may mutually agree on the attribution of copyright in the following three aspects. First, instructors and universities may agree that online courses constitute special works made for hire, with the result that the instructor and their team retain only the right of attribution, while all other rights are held by the university. Since the consequences of designating a work as a work made for hire are fixed and lack flexibility, this restriction has drawn criticism from some scholars, who argue that "it constitutes excessive state intervention, which is unscientific and inefficient"[2]. Second, instructors and universities may agree that online courses constitute commissioned works, with copyright held solely by the instructor, solely by the university, or jointly by both parties. Third, the parties may enter into a copyright assignment agreement to transfer the copyright of works that would otherwise be the instructor's personal works, general works created in the course of employment, or special works created in the course of employment belonging to the university to the other party; however, the transferable copyright is limited to rights other than moral rights. It should be noted that the first two types of agreements directly establish the original ownership of copyright, whereas the third type involves the transfer of original copyright and constitutes a secondary acquisition of rights.

2.2. Attribution under University Regulations

As the organizers and administrators of online courses, many universities have also stipulated the ownership of online course copyrights by incorporating intellectual property provisions into their respective institutional regulations. Universities generally tend to assert more comprehensive ownership of online course copyrights, though practices vary. A small number of universities may share copyright with faculty members, while virtually no university completely cedes rights to faculty members or teaching teams.

As regulations that directly govern the rights and obligations of various parties within the university, institutional rules serve as the "quasi-law" with which the administration and faculty have the most direct interaction; in practice, they are generally observed and enforced. However, the awkward reality is that among the various norms and mechanisms designed to maintain the order of copyright ownership, the scope and enforceability of institutional rules are the most ambiguous. Copyright agreements are the result of mutual consent between the parties and possess inherent contractual validity. The Copyright Law and other relevant laws and regulations embody the will of the state; it goes without saying that they are strictly observed and backed by coercive force. Yet, the binding force of internal university regulations—which fall between these two extremes—is the most contentious. Some scholars argue that the formulation of university regulations constitutes a dual act of both state public authority and social public authority. Regulations established pursuant to authorization by

higher-level laws are considered legal sources and possess legal status, whereas autonomous regulations resulting from general authorization by higher-level laws or the consent of internal members to delegate authority can only be regarded as purely internal regulations with quasi-legal status.[3] Others contend that university regulations are, in fact, a means of providing essential safeguards for academic freedom—a fundamental right—and that their origin lies fundamentally in the nature of academic freedom itself, rather than in “state authorization” or “university autonomy.”[4] However, regardless of the source of authority for university regulations or whether a hierarchy of legal force is required, it is undeniable that such regulations possess both de facto and de jure normative binding force.

2.3. Attribution under the Copyright Law

The Copyright Law of the People’s Republic of China exerts the most significant influence on the establishment and consolidation of the existing order regarding copyright attribution; among the numerous regulations governing copyright attribution relationships, it holds the highest legal status. The Copyright Law’s provisions on the attribution of rights are predominantly mandatory norms, generally following the principle that “copyright belongs to the author as a general rule, supplemented by special provisions, with contractual agreements serving as exceptions.”[5] Therefore, a “three-step” approach is generally used to determine the ownership of copyright in online courses under the Copyright Law. First, the copyright in an online course generally belongs to the instructor, as the content of the course is created by the instructor or a teaching team composed of multiple instructors, incorporating the instructor’s individual ideas and modes of expression, making them the de facto creators. In accordance with the provision in the Copyright Law that “the citizen who creates a work is the author,” and in the absence of other statutory grounds, the copyright to online courses should rightfully belong to the instructor(s). Depending on whether the work was created by a single instructor or multiple instructors, it is classified as an individual work or a collaborative work. Second, when online courses meet specific conditions, their copyright may belong in part or in full to other organizations such as the university or the educational platform. These can be further categorized into works of a legal person, general works made for hire, and special works made for hire. Since corporate works require the legal entity to oversee and assume responsibility for them, and must represent the will of the legal entity, the vast majority of online courses at universities do not qualify as corporate works. Currently, the most common type of copyright ownership for university online courses is that of works made for hire. Among these, works created primarily using the university’s material and technical resources and for which the university assumes responsibility are classified as special works made for hire, or may be designated as such by agreement. For such works, the instructor retains only the right of attribution, while all other rights belong to the university. The remainder fall under general works created in the course of employment, where faculty members retain full copyright. However, the university retains the right of first use for the online courses, and any licensing of the courses to third parties for use in the same manner within two years must be approved by the university—a restriction on the rights of the copyright holder of general works created in the course of employment. Third, within the scope permitted by the Copyright Law, universities may negotiate copyright ownership with faculty members; as previously noted, such agreements are limited to special works created in the course of employment, commissioned works, and copyright transfers.

3. The Impact of New Developments in Online Courses on the Existing Order

With the advent of the post-pandemic era and the emergence and continuation of new trends in online courses, it is necessary to re-examine and address the issue of copyright ownership.

3.1. Platform Diversification

In the past, the development of online courses at universities served both as a “face-saving project” to enhance each institution’s domestic and international reputation and prestige, and as a “quality project.” “The massive scale of the educational community implies the massive scale of knowledge production, dissemination, and sharing at universities”[6]. Consequently, when selecting course platforms, institutions almost exclusively relied on their own self-built platforms or well-known public platforms with which they had established partnerships. The limited number of familiar teaching platforms made it “second nature” for universities to develop and manage online courses. Instructors relied on the university’s technical support for platform operations, and there were conditions for signing separate agreements for each online course between two or more parties. All of these factors provided both rationality and legitimacy for defining online courses as special works created in the course of employment. However, a new trend of platform diversification has emerged in university online courses. Online instruction is no longer confined to a single platform but can be tailored to the specific course, allowing instructors and students to freely choose based on convenience or preference. Overall, universities generally require the priority use of their own platforms or public platforms with which they have close partnerships, but they do not prohibit faculty from using other platforms; thus, online courses offered by the same university exhibit a diverse range of platforms. The impact of this trend on copyright attribution lies in reducing instructors’ dependence on the university’s technical resources. In the past, online courses required the university to undertake technical measures such as organizing, generating, uploading, and maintaining content; even without specific agreements, most of these tasks could not be completed by instructors or teaching teams alone. Consequently, there was little difficulty in classifying such works as special works created using the university’s “material and technical conditions.” However, an increasing number of instructors now opt for user-friendly public teaching platforms or social platforms for convenience. Since instructors can independently complete key tasks such as course recording and publication, it is questionable whether such works should still be classified as special works created within the scope of employment in the absence of an explicit agreement to that effect.

3.2. Diversification of Formats

In the past, online courses primarily took the form of pre-recorded lectures, resulting in highly polished works that fell under the category of “works created by a method similar to cinematography.” The subject matter of copyright protection was clear and singular. However, the development of online courses has shown a trend toward diversification in formats, moving beyond the stage of merely recording high-quality courses and entering a phase of blended online teaching tailored to specific courses, locations, and individuals. In addition to pre-recorded content, teaching formats now include live video streaming, live audio streaming, text-based discussions, and hybrid approaches. Consequently, the objects of copyright protection have become ambiguous and complex, making it difficult to apply existing legal frameworks to resolve related copyright issues.

First, are these various new forms of online courses considered works, and if so, what kind of works are they? Traditional copyright theory holds that works eligible for copyright protection must meet the following criteria: they must reflect certain ideas or emotions, be fixed, capable of reproduction, and possess originality.[7] For online courses, the transmission of knowledge and experience by instructors inevitably falls within the category of “reflecting ideas.” Moreover, with the development and maturation of contemporary information technology, there are no technical barriers to the fixation and reproduction of various forms of online courses. Therefore, new forms of online courses almost universally satisfy the first three requirements; however, it is difficult to determine whether they all possess “originality.” For

example, do instructors' guidance on key learning points and assignment assignments possess originality? Can they constitute "literary works"? Do they stand alone as works, or does the entire teaching process collectively constitute a work?

Second, do all new forms of online courses fall under the category of "performance of work duties"? "Performance of work duties" is the provision in the Copyright Law defining the conditions for general works made for hire. In the past, online courses were organized and developed under the leadership of universities, so there was no dispute regarding the fulfillment of this condition. Except for those with specific agreements or special works made for hire, all other online courses should be classified as general works made for hire.[8] However, among the various new forms of online courses, it can be observed that some instruction no longer falls under the narrow definition of "work duties," meaning it is not included in the university's course schedule for the instructor. Common examples include instructors organizing classes or providing individual guidance outside of scheduled class times. Furthermore, there are cases where the content of such extracurricular instruction does not fall within the scope of the online course taught by that instructor. Do these spontaneously formed courses all constitute part of the instructor's "work duties"?

Finally, how should we define "created primarily using the material and technical resources of a higher education institution"? "Created primarily using the material and technical resources of a legal person or other organization" is an essential element for constituting a special work-for-hire. In the past, online courses followed a "high-quality" development approach, with recording equipment, post-production, and separate compensation all provided by the university, making it uncontroversial to classify them as "created primarily using the university's material and technical resources." However, various new forms of online courses have seen a varying degree of reduced reliance on the university's material resources. On the one hand, most courses simply move in-person classes online without additional compensation or incentives. On the other hand, the utilization of university facilities is lower than before: some instructors conduct live-streamed classes from home using entirely personal equipment; others teach in-person in classrooms while simultaneously live-streaming online, using only the classroom space; and some may also utilize the classroom's multimedia teaching equipment. Thus, determining which of these online courses created under different formats can be classified as "created primarily using the university's material and technical resources" will be key to establishing the existence of special works created in the course of employment.

3.3. Expanded Interaction

Unlike the simple Q&A sessions of traditional in-person classes and pre-recorded online courses, thanks to technological advancements, new online courses are no longer merely a "solo performance" by the instructor; student participation has become increasingly active. Teacher-student interaction has also become the factor with the greatest impact on students' learning outcomes and satisfaction in online education.[9] Some interactions, like the traditional "raising a hand to ask a question," allow for immediate exchange; others involve questions and answers that do not interrupt the course's progress, with the instructor choosing how to handle them; still others take the form of post-class discussions and assignment submissions.

In scenarios where students participate in class, the content they post is both an independent expression of their thoughts and a product of the instructor's guidance, often followed by further responses; it constitutes an integral part of the online course teaching process. When interactive content meets the criteria for copyright protection, how should the ownership of the work be determined—as an independent work, a collaborative work, or as part of the overall online course? In the "XX University MOOC Operation and Management Regulations (Trial)" issued by a certain university in 2014, it is stipulated that "learning behavior data generated during course operation is owned by the university." Whether the term "behavior

data" here includes data that could constitute an independent work, and whether this provision can continue to be applied in new types of online courses, raises questions regarding both its rationality and legality. In today's educational landscape, which increasingly emphasizes a "student-centered" approach, the future trend is for "learners to engage in self-directed study of key knowledge points and concepts during their free time"[10]. Digital "feedback" behaviors exist in online teaching interactions, where students influence teachers and technologically advanced students support those with lower technical proficiency.[11] For courses where such "feedback" has particularly highlighted effectiveness, how to properly address the issue of copyright ownership regarding student-generated content will be one of the factors influencing the smooth transformation of educational models.

4. Practical Approaches to Determining Copyright Ownership

Compared to establishing new rules through legislative amendments, it is more urgent to explore a practical operational approach—one that aligns with legal principles and practical needs—within the existing legal framework, given the stability of current and future copyright attribution rules.

4.1. Analysis and Integration of the Subject Matter

Before determining copyright ownership, it is necessary to first define the specific scope and form of the protected subject matter—that is, which online courses require a determination of copyright ownership? Works are the objects of copyright protection, also known as copyright subject matter. Each subject matter corresponds to a specific owner, thereby forming a complete cycle of rights. Online courses are never a "monolithic entity." Precisely because their forms of expression are diverse, complex, and composite, we should not fall into the static mindset that "one course equals one object of copyright." This is a misunderstanding of copyright protection for online courses. The attribution of copyright should be determined based on the form of the object, with the overarching principle being that "complex objects can be decomposed, and composite objects can be integrated." The reason objects can be decomposed is that copyright does not protect isolated ideas themselves, but rather protects ideas by protecting their expression. The "distinction between idea and expression" and "originality" are the most important elements of copyright objects; the former emphasizes the scope or content of a work's protection, while the latter emphasizes the conditions for such protection.[12] Specifically, works within an online course that can independently express ideas without relying on other forms of collaboration can constitute independent objects of copyright, each with its own corresponding copyright ownership. For example, video courses do not depend on student interaction, and electronic lesson plans do not depend on video courses; both can be separated from the larger online course system to become independent objects, with ownership determined independently.

Innovative activities are continuous, and intellectual property rights are cumulative.[13] Sometimes, copyrighted works also need to be integrated. One scenario involves interdependent works that should be integrated; for example, when a teacher and several students engage in an online discussion via instant messaging, each contributing remarks with original insights. Because the contributions form a sequential relationship—such as questions, answers, and comments—although each individual audio or text segment constitutes an independent creative work, the whole is only complete when linked together; otherwise, the effectiveness of the expression of ideas would be compromised. In such cases, one subject matter must be integrated with others to form a unified whole, and its rights are generally treated as those of a collaborative work. Another scenario involves works that are unilaterally dependent and should be integrated. For example, in a video course that displays an electronic lesson plan, the lesson plan can fully convey ideas independently of the course and is an

independent literary work. However, removing the electronic lesson plan from the video would disrupt the continuity of the creative work, so integration is also required in this case. As mentioned earlier, in situations of unilateral dependence, integration and disaggregation can coexist; the author of the electronic lesson plan may retain independent copyright over it. (This coexistence of integration and disaggregation can be illustrated by Article 15, Paragraph 2 of the Copyright Law: Authors of works that can be used independently, such as scripts and music in cinematographic works and works created by methods similar to cinematography, have the right to exercise their copyright independently.)

4.2. Review of the Legality of Agreements and Institutional Regulations

Within the existing framework, universities sometimes use contractual agreements or institutional regulations to determine the ownership of copyright for online courses in order to mitigate copyright risks. As a civil right, copyright prioritizes contractual agreements, and resolving ownership issues through agreements has become a common practice among universities worldwide. However, the content of such agreements must not violate mandatory legal provisions; otherwise, the agreement is invalid. This is particularly true under the legislative framework of China's Copyright Law, which follows the principle of "statutory provisions as the rule, contractual agreements as the exception," making it essential to rigorously review the legality of contractual terms. For example, while the law permits agreements designating works as special works created in the course of employment, such agreements can only result in "the author retaining the right of attribution, while the institution retains other copyrights." Therefore, an agreement that merely states "the work belongs to the university" should be interpreted as not excluding the instructor's right of attribution. In foreign countries with a higher degree of contractual freedom, scholars have also noted that copyright agreements are not necessarily fair, "because although copyright may belong to the faculty member, the institution retains the 'right to develop the course for life.'" [14] Therefore, such agreements must also be subject to the principle of fairness; China's Contract Law stipulates that standard-form contracts may not "exclude the other party's principal rights." When, in practice, teaching platforms use pop-up windows requiring users to check a box to agree to exclusive copyright ownership, given that "copyright belongs to the author" is a fundamental principle of attribution explicitly stipulated in the Copyright Law and naturally constitutes a principal right of the author, such a provision is essentially an unfair term. In accordance with the principle of fairness and the rules governing standard-form contracts, such an attribution agreement should be deemed invalid.

Regarding institutional regulations, universities abroad generally have the authority to establish copyright policies, which "provide copyright guidance for university faculty creating MOOCs" [15]. The situation in China is somewhat different. Although institutional regulations possess legal or quasi-legal status, their legal standing is relatively low; when superior laws contain mandatory provisions, institutional regulations can only elaborate on those provisions. This is particularly evident in the context of copyright attribution. For example, the law only stipulates that copyright may not vest in the author under specific conditions—such as when there is an agreement in a commission contract, when the work meets the criteria for a work created in the course of employment, or when there is a specific agreement regarding such works. The provisions on works created in the course of employment authorize laws and administrative regulations to define other scenarios, but they do not authorize university regulations to establish additional scenarios for copyright attribution. Therefore, provisions in university regulations that are consistent with or elaborate upon the law are naturally valid. For example, provisions regarding the sharing of proceeds from works created in the course of employment with faculty members, as well as specific provisions on faculty rewards, constitute elaborations of the Copyright Law and do not violate mandatory provisions. In the absence of a

separate agreement, the provision in many university regulations stating that “copyright belongs to the university” applies only to works created in the course of employment that meet the statutory conditions, and it may not deprive faculty members of their right of attribution. However, for other works that do not constitute works created in the course of employment, this provision is invalid because it conflicts with higher-level laws. Similarly, regarding the aforementioned university’s provision that “data on student learning behavior generated during course operations belongs to the university,” two scenarios can be distinguished. In one scenario, if student learning data does not constitute a work and is not subject to copyright, it may be owned by the university in accordance with university regulations in the absence of provisions in higher-level laws. The second scenario is where student learning data constitutes a work and is subject to copyright; in this case, ownership should be attributed to the student in accordance with the provisions of the Copyright Law. Therefore, when school regulations are applied to resolve issues of copyright ownership, their legality must also be reviewed.

4.3. Methods for Determining Works Created in the Course of Employment

In the absence of an agreement or where the agreement is unclear, the logic of copyright attribution follows the principle that the creator—in this case, the teacher—holds the copyright. If the statutory conditions for a work made for hire are met, a further analysis is required to determine whether it is a general work made for hire or a special work made for hire; different conclusions have a decisive impact on copyright attribution. According to legal provisions, the condition for a work to be considered a work made for hire is that it be “created for the purpose of performing work duties.” This raises issues of legal interpretation. The “Regulations on the Implementation of the Copyright Law” promulgated by the State Council defines “work duties” as “the duties that a citizen is required to perform within that legal person or organization,” but this definition remains too broad and difficult to apply in practice. The most typical example of a work made for hire is an online course taught by a teacher according to a clearly scheduled curriculum. However, it is difficult to determine whether teaching that occurs without a clear schedule, exceeds the scope of the curriculum, or goes beyond the allotted time still falls within the scope of work duties.

The author believes that the era of online education has gone through three stages: the technological perspective, the teacher’s perspective, and the student’s perspective [16]. Online courses are increasingly moving toward a model where teachers’ instruction serves students’ learning needs; the flexibility of learning in terms of time and space determines the flexibility of teaching in those same dimensions, and specific times and places should no longer be prerequisites for teachers’ work tasks. Accordingly, teachers’ work tasks should be defined by two conditions: relational conditions and content-related conditions. Regarding relational conditions, some scholars argue that there must be an employment relationship between the creator of a work-for-hire and the legal entity [17], while others contend that a labor relationship is sufficient, though a formal labor contract is not strictly required—the actual receipt of salary is sufficient. [18] From the perspective of the legislative intent, the reason works for hire are defined as an exception to individual works is, in fact, to provide special protection for the interests of legal entities and other organizations. The legal personality of a legal entity, to a certain extent, supersedes that of an individual; therefore, there must be at least a subordinate relationship of management and subordination between the teacher and the university to justify the primacy of the legal entity’s personality. Specifically, a subordinate working relationship is established when a teacher is on the university’s staff roster, has signed a labor contract with the university, or is engaged in actual labor employment. Regarding substantive criteria, the scope should not be limited to courses with specific, explicit arrangements, nor should work duties be broadly equated with all teaching activities, as this risks infringing upon the teacher’s individual creative rights. “Dedication to one’s work” has

become a core value in contemporary China. Based on this, a practical interpretive approach is to use societal expectations of “dedication” as a benchmark for determining whether a particular act constitutes a work-related task. In short, if a particular action does not incur any negative evaluation, it generally does not constitute a work task. For example, although a teacher’s after-class guidance extends beyond the scheduled class time, it is a natural extension of the course’s objectives. If a teacher refuses to provide such guidance, it may negatively impact the assessment of whether the teacher has adequately fulfilled their teaching duties; therefore, after-class guidance generally falls within the scope of teaching duties. However, if a teacher instructs students on content outside the scope of their regular curriculum after class, and the teacher’s refusal to do so does not affect third-party evaluations of their teaching, then such instruction is not performed for the purpose of fulfilling work duties. This method of determination is both practically applicable and consistent with the legal doctrine of “creation for the purpose of fulfilling work duties.”

Work-for-hire works must be further classified as either general work-for-hire or special work-for-hire. For general work-for-hire, the copyright is held by the teacher; however, the law stipulates that “within two years of completion, the author may not, without the consent of the employer, authorize a third party to use the work in the same manner as the employer.” If the conditions for a special work-for-hire are met—that is, “created primarily by utilizing the material and technical resources of a legal person or other organization, and for which the legal person or other organization assumes responsibility”—all copyrights except the right of attribution, which belongs to the teacher, are held by the university. From the perspective of incentivizing teaching, the scope of “primarily utilizing the university’s material and technical resources” should not be overly broad; rather, the proportion of contribution made by such resources to the completion of the online course work should be assessed. For instance, the use of the university’s routine facilities and equipment is considered a matter of teaching convenience and does not constitute significant material and technical resources. Only when the absence of a particular resource would make it difficult to conduct the online course can it be deemed that the work primarily utilized the material and technical resources provided by the university.

5. Conclusion

In light of new developments in university online courses regarding platforms, formats, and interactivity, addressing the issue of copyright ownership should not rely solely on legislative amendments but should instead build upon the existing legal framework to explore practical and feasible solutions.

First, we must move beyond the static mindset that “a single course constitutes a single entity.” Instead, guided by the “distinction between ideas and expression” and the originality standard, complex online courses should be decomposed into independent textual, audiovisual, or graphic works, or integrated as collaborative works when interdependent, thereby precisely defining the subject matter of protection.

Second, strict legal reviews must be conducted on ownership clauses established by universities through contractual agreements or institutional regulations. Institutional regulations must not conflict with higher-level laws; for example, they cannot use standard form clauses to deprive faculty members of their right to attribution, nor can they broadly stipulate that all course data belongs to the university.

Finally, in the absence of explicit agreements, a method for determining works made for hire should be established with “work assignments” as the core criterion. By examining the subordinate relationship between the faculty member and the university, assessing whether the conduct meets societal standards of “professional diligence,” and considering the degree of

contribution derived from “primarily utilizing the university’s material and technical resources,” one can determine whether a work constitutes a general or special work made for hire, thereby clarifying the ownership of rights.

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