

451 North LaSalle Street  
Chicago, Illinois 60654  
312-755-2250 t 312-755-0928 f  
[www.erikson.edu](http://www.erikson.edu)

Founded by Irving B. Harris

# memo

**To** Erikson Students  
**From** Erikson Institute  
**Date** April 13, 2009  
**RE** Intellectual Property Policy

Erikson has developed the following Intellectual Property Policy to guide the Erikson community in the lawful use of intellectual property created by others. The policy also clarifies the rights and responsibilities surrounding the creation of original works by Erikson faculty, staff and students.

As an Erikson student, you have a responsibility to familiarize yourself with sections of this policy that are particularly relevant to students. Please take time to review Part I, "Use of Copyrighted Material of Others" (pages 1-11) to ensure that you use such materials correctly. The policy covers "fair use" in many different situations, as well as proper attribution and compliance with our academic integrity policy (see the *Bulletin*, "Academic Policies and Procedures"). Under Part II, "Ownership of Intellectual Property," you will want to look at "Ownership Interests in Work Created by Students," page 17, particularly if you are assisting with an Erikson research project.

Library staff take responsibility for seeking copyright permission for all materials distributed in course packs and used for classroom instruction. They are also your best resource if you have questions about use of copyrighted materials. Thank your for taking time to review this important document.



## **Erikson Institute Intellectual Property Policy**

**Approved by the Board of Trustees on January 15, 2009**

**ERIKSON INSTITUTE INTELLECTUAL PROPERTY POLICY**

- I. USE OF COPYRIGHTED MATERIAL OF OTHERS.....1**
  - A. Material Unprotected by Copyright Laws.....1**
    - 1. Works in the “Public Domain”.....2**
    - 2. U.S. Government Works.....2**
    - 3. Facts, Ideas, Processes, Methods, and Systems described in Copyrighted Works.....2**
    - 4. Works that Lack Originality.....2**
    - 5. Links to Websites.....2**
  - B. Uses of Copyrighted Works that Do Not Require Obtaining the Owner’s Permission (“Fair Use”) .....3**
    - 1. General Principles of “Fair Use”.....3**
    - 2. Fair Use of Copyrighted Material in Coursepacks.....4**
    - 3. Fair Use of Research Copies .....5**
    - 4. Displaying and Performing Copyrighted Works in “Face-to-Face” Classroom Activities; Audio-Visual Works; Academic Conferences.....5**
    - 5. Fair Use of Copyrighted Works at Educational or Academic Conferences.....6**
    - 6. Fair Use of Copyrighted Material in Distance Education.....6**
    - 7. Fair Use of Material Online or in Electronic Reserves.....7**
    - 8. Fair Use of Material Downloaded from the Internet.....8**
    - 9. Digitizing and Using Copyrighted Analog Images for Educational Purposes.....9**
    - 10. Fair Use of Copyrighted Works in Multimedia Materials.....10**
    - 11. Fair Use of Music .....10**
  - C. Obtaining the Owner’s Permission.....11**
  - D. Erikson’s Compliance with Commercial Software Licenses and Other Licenses. ....11**
  - E. Additional Sources of Legal Protection .....11**
  - F. Proper Attribution and Compliance with Academic Integrity Policy.....11**
- II. OWNERSHIP OF INTELLECTUAL PROPERTY.....13**
  - A. OWNERSHIP INTERESTS OF FACULTY MEMBERS.....13**
    - 1. General Principle.....13**
    - 2. Limitations upon Faculty Ownership Rights.....13**

<b>B.</b>	<b>OWNERSHIP INTERESTS OF OTHER ERIKSON REPRESENTATIVES.....</b>	<b>15</b>
1.	Work Created by Research Scientists and Research Associates.....	15
2.	Work Created By Staff .....	15
3.	Work Created By Independent Contractors .....	16
4.	Work Created by Students.....	17
<b>C.</b>	<b>ALLOCATION OF REVENUE AMONG FACULTY AND ERIKSON.....</b>	<b>18</b>
1.	Definition of “Revenue” for Purposes of this Policy.....	18
2.	Revenue from Traditional Scholarly Work.....	18
3.	Revenue from Non-Traditional Work.....	18
4.	Revenue from Sponsored or Commissioned Work.....	19
5.	Recovery of Costs Where Erikson Assists in Commercializing Scholarly Work.....	19
6.	Revenue-Sharing in the Commercialization of Erikson Programs and Services.....	19
7.	Recovery of Costs Where Erikson Expend Extraordinary Resources.....	20
8.	Authority to Execute Agreement Assigning Rights, Recouping Costs, or Sharing Revenues.....	20
<b>D.</b>	<b>ERIKSON'S INTEREST IN WORK CREATED BY FACULTY.....</b>	<b>20</b>
1.	General Principle.....	20
2.	License to Use Intellectual Property.....	21
3.	Use of Sponsored Work.....	21
<b>E.</b>	<b>USE OF ERIKSON’S NAME OR TRADEMARKS.....</b>	<b>22</b>
1.	General Principle.....	22
2.	Attribution of Work to Erikson and Faculty.....	22
3.	Erikson Trademarks.....	22
4.	Unauthorized Use or Attribution.....	22
5.	Responsibilities of Erikson and Employees.....	23
<b>F.</b>	<b>DISPUTE RESOLUTION.....</b>	<b>23</b>
1.	Informal Resolution.....	23
2.	Formal Resolution.....	23
3.	Procedure for Resolution in Cases of Potential Conflict.....	24
	<b><u>EXHIBIT A</u>.....</b>	<b>24</b>
	<b><u>EXHIBIT B</u>.....</b>	<b>25</b>
	<b><u>EXHIBIT C</u>.....</b>	<b>25</b>

<b><u>EXHIBIT D</u></b> .....	<b>26</b>
1. <b>Collective Rights Organizations</b> .....	<b>26</b>
2. <b>Contacting copyright owners directly</b> .....	<b>29</b>
3. <b>Authorization to give permission</b> .....	<b>29</b>
4. <b>Written evidence of scope of permission</b> .....	<b>29</b>
5. <b>Difficulty Identifying Owner</b> .....	<b>30</b>
6. <b>Avoid Taking Risks</b> .....	<b>30</b>

## **INTELLECTUAL PROPERTY POLICY**

Erikson Institute (“Erikson”) educates child development professionals and prepares them for leadership. Through its academic programs, applied research, and community service and engagement, Erikson advances the ability of practitioners, researchers, and decision makers to improve life for children and their families. Central to this mission is the creation and dissemination of original works of scholarship and the proper, lawful use of intellectual property created by others. This Policy clarifies the rights and responsibilities that arise from the creation of original works by Erikson faculty, staff and students, and guides the Erikson community in the lawful use of intellectual property created by others.

### **SCOPE, COVERAGE, AND COMPLIANCE**

This Policy applies to the faculty, staff, and students of Erikson Institute. Compliance with the terms of this Policy is a condition of employment for Erikson employees and a condition of continued enrollment for Erikson students. Use of copyrighted material in violation of this Policy has serious legal and professional repercussions. Erikson representatives who engage in such conduct risk civil or criminal penalties, and they may also be subject to discipline by Erikson, up to and including termination of employees and dismissal of students.

This Policy is subject to any applicable laws and regulations and to specific provisions in grants, contracts, or licenses that govern rights in copyrighted works.

#### **I. USE OF COPYRIGHTED MATERIAL OF OTHERS**

A “copyright” grants certain exclusive rights to the creator of an original work of authorship. The creator of a copyrighted work has the exclusive right to make and distribute copies of the work, to prepare derivative works based upon the original work, and to perform or display the work in the case of musical, dramatic, audiovisual and other works.<sup>1</sup>

Erikson is committed to complying with all applicable laws regarding copyright and respecting the original work of others. The provisions that follow in Section I are meant to guide Erikson faculty, staff and students in the lawful use of material that has been copyrighted by individuals outside the Erikson academic community.

##### **A. Material Unprotected by Copyright Laws**

The law does not extend copyright protection to certain types of works. Erikson representatives may therefore use the following categories of works without any

---

<sup>1</sup> Under current law, a work enjoys copyright protection from the moment of its creation, regardless of whether the copyright is registered with the United States Copyright Office. Although copyright registration is no longer required, it brings certain advantages and is therefore recommended by the Copyright Office. (*See* <http://www.copyright.gov/help/faq/faq-general.html#automatic>.) Registered works, particularly older works, frequently bear the mark “©” as a symbol of copyright registration.

concerns about copyright infringement (although proper attribution of quoted materials is still essential; *see* section I (E) below):

**1. Works in the “Public Domain”**

A work in the “public domain” is a work whose copyright protection has either expired or was never attached. The rules for determining whether a formerly copyrighted work is in the public domain are complicated and have changed many times during the 20th century. These rules are summarized in Exhibit A to this Policy. Upon the written request of any Erikson faculty member, staff member, or student, Erikson’s librarian will search or assist in searching the records of the U.S. Copyright Office to determine the copyright status of a work. Instructions for performing such searches are set forth in Exhibit B to this Policy.

**2. U.S. Government Works**

By statute, U.S. Government works are not protected by copyright.

**3. Facts, Ideas, Processes, Methods, and Systems described in Copyrighted Works**

Copyright laws protect only the expression of an idea, fact, or method in a tangible medium (*e.g.*, a written article, a website, or a drawing). They do not protect the idea, fact, or method itself. For example, an idea for a board game would not be protected by copyright, but the expression of this idea in the form of written rules and playing instructions would be. Similarly, an idea for a research methodology would not be protected, but an explanation or description of the methodology in a journal article or a textbook would be. Factual information, such as historical or scientific facts and news, is considered part of the public domain and is everyone's property. However, the expression or explanation of factual information (in the form of a journal article or written material posted on the Internet, for example) would be protected by copyright.

**4. Works that Lack Originality**

Pure compilations of data or information (such as a phone book) or reprints of public domain works are not copyrighted because they lack originality.

**5. Links to Websites**

Finally, anyone may freely reproduce the address of a web site to which readers may “hyperlink.” However, when doing so, it is considered appropriate to cite the website and to notify the web provider. If possible, links should be provided only to the “home page” of another website. And it is important to remember that the written material posted on a website will almost certainly be copyrighted and should not be used without proper attribution and, if necessary, permission of the copyright holder. Such material might also be trademarked. (See Sections I(B)(8),

I(D), and III of this Policy for guidance regarding the use of potentially trademarked material.)

**B. Uses of Copyrighted Works that Do Not Require Obtaining the Owner’s Permission (“Fair Use”)**

The copyright laws grant a copyright holder the exclusive right to use, duplicate, display, transmit or perform her copyrighted works. Usually, one must obtain permission from the copyright holder before using the copyrighted work in any of these ways.

However, the law recognizes an exception to this rule for certain limited uses that the law considers “fair use.” The copyright laws list “criticism, comment, teaching, scholarship and research” as examples of fair use. However, not all educational or scholarly uses of copyrighted material are deemed fair use under the law. Even when a use of copyrighted material is clearly educational, the law often limits the amount of material that may be used and the manner in which such material may be used.

**1. General Principles of “Fair Use”**

In determining whether a particular use of copyrighted material is a “fair use,” courts consider the following four factors:

- a. *The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;***

Most uses at Erikson can be characterized as nonprofit educational uses. However, courts must consider all four factors and weigh them against each other in each case.

- b. *The nature of the copyrighted work;***

This second factor will generally weigh in favor of fair use if the work to be used is factual in nature (scholarly, technical, scientific, etc.) as opposed to works involving more creative expression, such as plays, poems, fictional works, photographs and paintings. Some works that are designed and marketed for educational use (e.g., standardized tests and workbooks) can never be lawfully used without permission of the copyright holder.

- c. *The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and***

Under this third factor, the larger the amount of a work that one uses, the less likely that this use will be considered a fair use. This factor also takes into consideration the quality of the portion taken in addition to quantity. Thus, even if only a small amount



of a work is taken, this factor can weigh against fair use if the portion taken is the “heart” of the work.

**d. *The effect of the use upon the potential market for or value of the copyrighted work.***

The fourth factor examines the effect of the use on the publisher’s market. If the proposed use were to become widespread and would negatively impact the market for or value of the copyrighted work, this factor would weigh against fair use. This factor is often cited as the most important of the four, although all of the four factors interrelate and must be evaluated in conjunction with each other.

Clearly, these four factors are imprecise, and how they “balance out” will depend on the particular facts in any given use. Nevertheless, some common educational uses of copyrighted works would clearly qualify as “fair use” under the four-factor test, and they are summarized below.

Stated simply, the following guidelines give Erikson personnel a “comfort zone”: Erikson faculty, staff and students may use, duplicate, display, transmit or perform copyrighted works of others consistent with the guidelines that follow without needing to consult any Erikson representative. Because the parameters of permissible “fair use” are so unclear, however, Erikson community members should consult with Erikson’s librarian before using copyrighted material without permission unless the proposed use conforms strictly to the guidelines that follow.

**2. Fair Use of Copyrighted Material in Coursepacks**

Faculty or instructors should include only small portions of a given copyrighted work in a coursepack or when distributing copies of copyrighted materials to students for educational purposes. Faculty should limit such materials to a complete article, story or essay if less than 2,500 words, or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less; one chart, graph or illustration per book or per periodical issue; or other similarly small parts of a work. Materials should include any copyright notice on the original source, as well as appropriate citations and attributions to the source. Faculty and instructors using copyrighted materials in coursepacks should obtain permission from the copyright holder when they plan to use those same materials repeatedly for the same class. (*See* Section I (C) and Exhibit D, below.)

Faculty and instructors may include their own authored materials in coursepacks, including but not limited to scholarly articles or drafts thereof, lecture notes, syllabi, tests, exercises, problem sets, and assessment products. However, faculty and instructors should bear in mind that if material they authored has already been published (*e.g.*, in a journal), they may have transferred the copyright to the publisher. In that case, it will be necessary either to obtain prior permission from the

publisher or to follow the “fair use” guidelines provided in the preceding paragraph.

**3. Fair Use of Research Copies**

When copying others’ works for research purposes, a researcher should limit copying to single chapters from multi-chapter books; single articles from a journal issue; several charts, graphs, illustrations; or similarly small parts of a work.

**4. Displaying and Performing Copyrighted Works in “Face-to-Face” Classroom Activities; Audio-Visual Works; Academic Conferences**

**a. General Rule.** Erikson faculty or instructors may read from, perform, or display a copyrighted work in the course of face-to-face teaching activities in a classroom or similar place devoted to instruction. However, the right to display or perform copyrighted works in the classroom does not include an unlimited right to make copies of such works for classroom use or to distribute such copies to students. Accordingly, faculty members should make no more copies than are necessary to achieve their legitimate educational needs, and they should observe the guidelines regarding Coursepacks established in Section I(B)(1) of this Policy, above.

**b. Special Limitations for Classroom Display of Audio-Visual Works**

**i. Use of a Legal Copy.** Motion pictures, television programs, and other audio-visual works may be displayed in the course of face-to-face teaching in the classroom only if the copy of the audio-visual work displayed was legally obtained by Erikson or the faculty member or instructor (*i.e.*, by purchase, license, interlibrary loan, or fair use).

**ii. Classroom display of television programs taped off the air.** A network or cable television program videotaped or recorded off the air by an Erikson faculty member or instructor may be displayed in the course of face to face teaching activities only if: (1) access to the display is limited to students enrolled in the class and present in the classroom or similar place of instruction during the display; (2) the program is displayed in the classroom only once and is erased shortly thereafter; and (3) the program is not altered from its original content (*e.g.*, it is not physically or electronically combined or merged with other programs or audio-visual content to constitute a teaching anthology or compilation).

- iii. **Limited number of copies.** Faculty or instructors should make no more copies than are necessary to meet their legitimate teaching needs, and should display as little of the program as is necessary to achieve their educational purpose.
- iv. **Display of Notice.** Any copyright notices broadcast during the program should be legibly displayed.

**5. Fair Use of Copyrighted Works at Educational or Academic Conferences**

Faculty, instructors, or students may display copyrighted audio-visual works at an educational or academic conference if they observe the rules outlined in paragraph I(B)(3)(ii) above and if the conference has purely an academic or educational purpose, not a commercial purpose.

**6. Fair Use of Copyrighted Material in Distance Education**

Copyrighted works of others may be performed or displayed in live interactive distance learning classes or in delayed transmission of faculty instruction, subject to the following six limitations:

- a. The copy of the work displayed is legally obtained by Erikson or the faculty member or instructor (*i.e.* by purchase, license, interlibrary loan, or fair use);
- b. Only a small portion of the work is performed or displayed;
- c. Access to the performance or display is limited to students enrolled in the class and such access is terminated at the end of the class term;
- d. Permission is obtained from the copyright holder to show the work repeatedly in the same class (*i.e.*, during a subsequent class term);
- e. Any copyright notices on the original work or attributions to the source are legibly displayed; and
- f. A notice is legibly displayed stating that making a copy or recording of the display may violate copyright laws.

Faculty or instructors should check any licenses acquired with materials specifically purchased for distance learning to determine whether the licenses authorize display and performance of the materials free of the restrictions listed above.

Faculty and instructors may use their own authored materials in distance learning activities, including but not limited to scholarly articles or drafts thereof, lecture notes, syllabi, tests, exercises, problem sets, assessment

products, and PowerPoint presentations. However, if a faculty member has transferred the copyright in a published work to a publisher, she must either obtain permission from the publisher or follow the guidelines provided in the preceding paragraph before using that work.

## **7. Fair Use of Material Online or in Electronic Reserves**

Erikson faculty members, instructors, librarians, and other staff may place material copyrighted by others on course websites or on electronic reserve according to the following guidelines:

Material placed on reserve should be limited to:

- a.** a small part of the readings required for the course;
- b.** a complete article, story or essay if less than 2,500 words, or excerpts from any prose work of not more than 1,000 words or 10% or the work, whichever is less; one chart, graph or illustration per book or per periodical issue; or other similarly small parts of a work.
- c.** copies of works that a faculty member or the library already possesses legally (*e.g.*, through purchase, license, interlibrary loan, or fair use).

In addition:

- d.** any copyright notice on the materials used must be included, along with appropriate attribution and a notice that copying of the reserve material is prohibited;
- e.** access to the material should be limited to students enrolled in the class and administrative staff as needed, and such access should be terminated at the end of the class term;
- f.** permission must be obtained from the copyright holder for materials that will be used repeatedly by the same instructor for the same class (*i.e.*, during a subsequent class term);
- g.** before placing material on electronic reserve or in a course website, Erikson faculty members should check with Erikson's librarian to determine whether the material is currently owned or licensed by Erikson. If so, Erikson personnel must adhere to the conditions set forth in the governing license agreement(s) when downloading and posting such materials. Unless a governing license agreement provides otherwise, materials drawn from Erikson-licensed collections may be included in course websites and electronic reserves without obtaining any further permission from the copyright holder.

Faculty and instructors may post their own authored materials on course websites or electronic reserves, including but not limited to scholarly articles or drafts thereof, lecture notes, syllabi, tests, exercises, problem sets, assessment products, and PowerPoint presentations. However, if a faculty member has transferred the copyright in a published work to a publisher, she must either obtain permission from the publisher or follow the guidelines provided in the preceding paragraph before posting the work on electronic reserves or a course website.

Materials that do not enjoy copyright protection, such as unoriginal works, public domain works, government works, or links to websites may be placed on electronic reserves or on course websites without restriction or limitation. However, faculty or instructors posting such works must follow proper attribution procedures.

## **8. Fair Use of Material Downloaded from the Internet**

Works placed on the internet qualify for copyright protection. A work is not considered to be in the public domain simply because it is available on the internet for anyone to download and copy. Just as with other copyrighted works, one needs permission from the copyright holder to re-publish or use any materials, including text, photographs, music.

Nevertheless, consistent with principles governing the fair use of copyrighted works in other media, faculty members, instructors and students may download and use images, audio files, or textual material from the internet for educational purposes according to the following guidelines:

- a.** credit the source of the image, audio file, or textual information;
- b.** include any copyright notice on the materials used, along with a notice that copying of the materials is prohibited;
- c.** follow any guidelines provided by the author regarding the use of the material;
- d.** even if there is no copyrighted notice, always assume that material downloaded from the internet is copyrighted. When feasible, ask the owner of the copyright for permission. Keep a copy of your request for permission and the permission received;
- e.** limit the portion of the material copied or used to a complete online article, story or essay if less than 2,500 words, or an excerpt from any online prose work of not more than 1,000 words or 10% of the work, whichever is less; one chart, graph or illustration per work; or other similarly small parts of a work;
- f.** Some written material posted on a website (e.g., corporate logos) might be trademarked. Erikson personnel should avoid

reproducing trademarked material without permission. (See Sections I(D) and III of this Policy for further guidance.)

In addition, Erikson faculty members and instructors should limit access to the material to students enrolled in the class, terminate students' access to the material at the end of the class term, and obtain permission from the copyright holder to use the material repeatedly for the same class (i.e., during a subsequent class term);

**9. Digitizing and Using Copyrighted Analog<sup>2</sup> Images for Educational Purposes**

Erikson's librarian may digitize analog images obtained legally by Erikson (*i.e.* by purchase, license, interlibrary loan or fair use), subject to the following guidelines:

- a. Determining the image's availability for sale or license.** Before digitizing an image, Erikson's librarian must conduct a reasonable inquiry to determine whether the image is available in usable digital form for sale or license at a fair price. This inquiry should be conducted using the procedures outlined in Exhibit C to this Policy.
- b. Digitizing images that are available for sale or license.** If the image is available in usable digital form for sale or license, Erikson's librarian should not digitize the image unless Erikson has bought or licensed the image or is in the process of negotiating a license for the image. If Erikson has a "contract pending" on the image, the librarian may digitize the image in accordance with these rules until the license is finalized. Erikson faculty members and instructors may use images owned or licensed by Erikson and all images digitized by Erikson's librarian according to these rules for educational purposes.
- c. Digitizing images that are not available for sale or license.** If the image is not available in usable digital form for sale or license, or if Erikson's librarian is unable to determine the image's source or digital availability after a reasonable inquiry, the image may still be digitized by Erikson's librarian and used by Erikson faculty members and instructors for educational purposes, but only in accordance with the following limitations:
  - i.** only small, low resolution "thumbnail" images may be used;

---

<sup>2</sup> An "analog" image is an image that records or represents visual information in a non-digital manner, such as a traditional film-based photograph. This Section governs digitizing and using analog images for educational purposes. The rules for copying and using images obtained from the Internet are covered in Section I(B)(8), above.

- ii. access to such images must be limited to students enrolled in the class and administrative staff as needed; and
- iii. such access must be terminated at the end of the class term.

**Students.** Students may download, transmit, and print out legally-obtained, digitized images for personal study and for use in the preparation of academic course assignments and other requirements for degrees; may use such images in works prepared for course assignments even if such use involves the display of such images to students enrolled in the same class; and may keep works containing such images in their portfolios.

#### **10. Fair Use of Copyrighted Works in Multimedia Materials**

Educational multimedia projects incorporate a faculty member's or an instructor's original material (such as course notes or commentary), together with various copyrighted media formats (such as motion picture clips, digital images, and other graphic illustrations, music, or text material).

Faculty, staff, and students may incorporate copyrighted works into a multimedia work and may display and perform such a multimedia work in connection with, or creation of, class assignments, curriculum materials, remote instruction, examinations, student portfolios, and professional symposia, subject to the following guidelines: (a) only a small amount of material is incorporated from each copyrighted work; and (b) copies of the multimedia work are limited to those required to achieve the educational purpose involved.

If possible, a multimedia work incorporating copyrighted material should be used for no longer than two years. Faculty members and instructors should not retain or use copyrighted material in a multimedia work for longer than two years unless they have obtained permission to do so from the copyright holder.

#### **11. Fair Use of Music**

For academic purposes other than performances, excerpts of musical works may be copied, provided that the number shall not exceed one copy per student and that no more than 10% of the entire work is contained in the excerpt. Moreover, a single copy of an entire performable unit (*e.g.*, a song, a movement of a longer piece of music, or an aria from an opera) may be made by a teacher for the purpose of scholarly research or class preparation provided that the unit is either confirmed by the copyright owner to be out of print or unavailable except in a larger work. One copy of a sound recording of a musical work may be made for classroom or reserve room use.

**C. Obtaining the Owner's Permission**

If a faculty member, instructor, student or other employee seeks to use the copyrighted work of another in a way that exceeds the fair use limitations outlined above, permission must be obtained from the owner of the copyright. Erikson's librarian is responsible for securing such permissions on behalf of interested Erikson personnel. Instructions for obtaining permission through traditional methods are provided in Exhibit D to this Policy.

**D. Erikson's Compliance with Commercial Software Licenses and Other Licenses.**

Erikson complies fully with the terms of all licenses that it obtains from copyright holders, including all software licenses obtained from commercial suppliers. Erikson makes copies of licensed software only to the extent that such copying is expressly authorized by the governing license. Under no circumstances will Erikson faculty members, employees or students exceed the copying or use restrictions set forth in a software license.

**E. Additional Sources of Legal Protection**

Even if all or part of a work is not protected by copyright law, it may be protected by other laws. Brand names, trade dress, and corporate logos, slogans or symbols (*e.g.*, Mickey Mouse's ears, McDonald's "golden arches," and McDonald's slogan "I'm lovin' it!") might be protected by trademarks or service marks. Trademarked intellectual property frequently bears a visible symbol of its trademarked status such as "TM" or ®.

Moreover, original processes, systems or other inventions might be patented, and confidential business practices, methods, devices, designs, formulas, data compilations, or other confidential information that has commercial value might be protected under state laws relating to unfair competition and misappropriation of trade secrets.

In addition, the likeness of a famous individual or fictional character might be protected by state laws governing rights of publicity. The likeness of a private individual may be protected by state privacy laws. Before reproducing a photograph of any person, Erikson personnel should contact Erikson's Chief Marketing and Communications Officer and obtain an appropriate release form.

A full discussion of such laws is beyond the scope of this Policy. However, to avoid exposing themselves or Erikson to any potential liability, Erikson faculty, instructors, staff and students should consult with Erikson's Chief Marketing and Communications Officer before using any likeness, logo, image, brand name, invention, system, or process that may have potential commercial value or that may impact some individual's privacy rights.

**F. Proper Attribution and Compliance with Academic Integrity Policy**

Finally, it is important to remember that the use of others' original scholarly work raises issues not just of compliance with law but of academic integrity.



Even material that is not copyrighted, or that can be used without permission as a matter of “fair use,” must not be appropriated without proper attribution.

Erikson personnel and students are advised to review Erikson’s policies regarding academic integrity and plagiarism for more information regarding this obligation.

## **II. OWNERSHIP OF INTELLECTUAL PROPERTY**

Erikson Institute’s intellectual property policy is intended to align the interests of the faculty, staff, students, and the Institute in a manner that best promotes the educational and research mission of the Institute. Specifically, this policy seeks to encourage the (a) creation of original scholarship, including online work and electronic media, (b) development of educational materials, applications and products, and (c) dissemination of Erikson’s work throughout the profession and the academic community, with such work identified with Erikson Institute.

Consistent with academic tradition, faculty members of Erikson Institute generally own and control scholarly works and instructional materials that they create, subject to the responsibilities and limited exceptions set forth below. Staff, independent contractors, students, other Erikson representatives, and the Institute itself enjoy certain rights and responsibilities as more fully set forth below. This policy applies to all faculty, staff, students, and other representatives or agents of Erikson Institute.

### **A. OWNERSHIP INTERESTS OF FACULTY MEMBERS**

#### **1. General Principle**

Subject to the limitations set forth in Section II-A-2 below and compliance with this policy, Erikson faculty members own and control the scholarly work that they create while at Erikson Institute. For purposes of this provision, “faculty” members include all full-time, part-time, adjunct, clinical, and emeritus faculty, as well as research scientists, associate research scientists, and assistant research scientists (as set forth in Section II-B-1 below).

The faculty’s ownership rights encompass both traditional scholarly work (such as books, textbooks, articles, and monographs) and non-traditional scholarly work (such as tools or applications created by faculty for use by practitioners or clinicians), regardless of the medium in which the work is produced or the form in which the work is disseminated.

#### **2. Limitations upon Faculty Ownership Rights**

##### **a. Sponsored Work**

- i. Nature of Agreement.** A sponsored or externally contracted work (“sponsored work”) is any work developed using funds supplied under a contract, grant, or other arrangement between Erikson and a third party, including a sponsored research agreement. The governing contract, grant, or research agreement usually determines who owns work(s) resulting from the project. Sponsoring agreements may require that copyright ownership reside with the granting authority, with Erikson Institute, or with a third party.

- ii. **Faculty Rights in Sponsored Work.** Unless the relevant agreement expressly requires copyright ownership to remain with the sponsoring entity or to be conveyed to a third party, Erikson shall consider the faculty creator of a sponsored work to be the ultimate owner of the work. Subject to other provisions in this policy, under which a sponsoring agreement requires Erikson to own the copyright in the first instance, Erikson shall use reasonable efforts to transfer its ownership rights to the faculty creator. In certain circumstances, sponsored works owned by Erikson may not be available for release to their creator(s) (for instance, where the release conflicts with the terms of the relevant sponsoring agreement or where a joint owner under the terms of that agreement declines to agree to the release).
- iii. **Related scholarly works.** Only works created as required outcomes of sponsored projects shall be deemed “sponsored works.” Subject to the sponsoring agreement and applicable law, related scholarly works that build upon research or findings from sponsored projects should be owned by the faculty creator.

**b. Administrative Work**

Erikson owns all work created by faculty in the course of any administrative assignment. This includes, without limitation, personnel manuals, written policies, committee reports, grant applications, administrative handbooks, public relations materials, and official Institute WebPages. All work prepared by administrators in the course of performing their administrative tasks remains the property of Erikson, but administrators who also serve as faculty members will own any scholarly work that they create in their capacities as faculty members.

**c. Commissioned Work**

- i. **Definition of "Faculty Commissioned Work."** A work is a “Faculty Commissioned Work” if it is specifically funded by or created at the direction of Erikson, pursuant to a written agreement with the applicable faculty member designating the work as commissioned work. Such commissions may, but need not, be supported by a specific allocation of Erikson funds.
- ii. **Execution of Governing Agreement.** When Erikson commissions a Faculty Commissioned Work, it will execute an agreement (“Governing Agreement”) with participating faculty members at the outset of the project,

identifying the project as commissioned work, detailing the work to be performed, and specifying the terms and conditions under which the faculty will create the work (including special compensation for participating faculty, such as additional compensation or release time).

- iii. **Ownership of Commissioned Work.** Faculty members shall retain ownership of Faculty Commissioned Work unless otherwise agreed between the faculty member and Erikson Institute in the Governing Agreement.

## **B. OWNERSHIP INTERESTS OF OTHER ERIKSON REPRESENTATIVES**

### **1. Work Created by Research Scientists and Research Associates**

#### **a. Research Scientists**

Individuals employed by Erikson Institute as Research Scientists (as well as those employed as Associate or Assistant Research Scientists) shall enjoy the same ownership and revenue allocation rights, as well as the same responsibilities, as Erikson faculty members with respect to scholarly work created while at Erikson Institute. The ownership and allocation interests of Research Scientists, Associate Research Scientists, and Assistant Research Scientists are therefore governed by the provisions of Section II-A above, as well as by any provisions of Sections II-C through II-F below that apply to Erikson faculty members.

#### **b. Research or Program Associates**

Individuals employed by Erikson Institute as Research or Program Associates (including Senior Research or Senior Program Associates) constitute staff members for purposes of this policy, and their ownership interests in work created while at Erikson is governed by Section II-B-2 below, as well as by any other provisions of this policy applicable to Erikson staff.

### **2. Work Created By Staff**

#### **a. General Principle**

Erikson owns any "work for hire" created by a non-faculty employee. "Work for hire" is (i) any work created by a non-faculty employee within the scope of his or her employment; or (ii) work specially ordered or commissioned from anyone other than current faculty for use as a contribution to a collective work, as part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, if the

parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

**b. "Scope of Employment"**

A work will be deemed to be within the scope of a staff member's employment—even if the staff member was not specifically hired to create the work—if it is the kind of work the staff member is employed to do or the employee prepares the work for use by the Institute or fellow Erikson employees or students.

Works are considered to be “outside the scope of” a staff member's employment when they are entirely unrelated to the staff member's job responsibilities and they are not performed for Erikson or using Erikson facilities.

**c. Agreement to Assign Rights to Staff**

Notwithstanding the provisions of this section, the Institute may, in its sole discretion, decide not to claim ownership of intellectual property created within the scope of a staff member's employment or to assign the Institute's rights, in whole or in part, back to the staff/creator of a particular work. Such a determination shall be effective if and only if the Institute, in its sole discretion, executes a written assignment that expressly transfers such rights.

Likewise, to encourage commercialization of Erikson programs and services, the Institute may, in its sole discretion, enter into written revenue-sharing agreements or assignments with staff members who take the initiative to develop commercial uses for an Erikson program or service, collaborate with the Institute about commercialization, or offer significant assistance in the development and commercialization of an Erikson program or service.

**3. Work Created By Independent Contractors**

Unless otherwise agreed, it is the policy of Erikson to own all work created by independent contractors or outside consultants who are retained by Erikson to help produce independent or collaborative works (such as public relations materials, course materials, software, or distance learning modules). To confirm ownership of such a work, Erikson will generally execute a written agreement with an independent contractor or outside consultant, clarifying that Erikson owns the work. In appropriate instances, Erikson may agree not to claim ownership of work created by independent contractors (*e.g.*, in contracts with artists or photographers, who typically retain ownership of their work while giving Erikson rights to its use); these exceptions will be documented in the relevant contracts.

#### **4. Work Created by Students**

##### **a. General Principle**

Erikson students shall own copyrights in the papers, theses, dissertations, and other scholarly works that they produce while at Erikson, except in the following circumstances:

- i.** It is the policy of Erikson Institute that scholarly work authored by a faculty member with assistance from a student is solely owned by the Erikson faculty member unless the faculty member decides, in his or her sole discretion, to designate the student contributor as a co-author and executes a written agreement with the student to this effect at the outset of a scholarly project. In that event, the student contributor shall be treated as a joint creator of the work for the sole and limited purpose of assigning ownership and revenue allocation rights as between the faculty member and the student. Designation of a student as a co-creator of scholarly work shall not affect the Institute's rights to share revenues or to recover costs relating to creation of the work (as set forth in Section II-C below).
- ii.** It is the policy of Erikson Institute that Erikson owns any student work that constitutes or is part of a sponsored work as defined in Section II-A-2(a) above, subject to any rights of faculty members or sponsoring entities under the specific circumstances.
- iii.** Erikson owns any work for which Erikson has obtained a written transfer of copyright from the student; and
- iv.** Erikson owns any student works created as part of the student's employment at Erikson.

##### **b. Erikson Rights regarding Student-Owned Work**

- i.** Erikson has an interest in using certain student-owned works for academic purposes (*e.g.*, grading), and in maintaining copies of student work for administrative and disciplinary purposes. As a condition of enrollment, Erikson students grant Erikson the irrevocable, perpetual right to use and retain all copies of student work for these purposes.
- ii.** Student works that constitute notes of classroom lectures or exercises shall not be used by the student for commercial purposes.

## **C. ALLOCATION OF REVENUE AMONG FACULTY AND ERIKSON**

### **1. Definition of “Revenue” for Purposes of this Policy**

- a.** “Revenue” as used in this Policy (and, specifically, in Sections II-C -2 through C-6 below) means proceeds from the sale, licensing, or other use of scholarly work created by the faculty. This includes royalties, fees, charges for consulting and technical assistance, fees for licensing or other agreements, and other remuneration that may be derived from the sale, licensing, or use of faculty-owned intellectual property.
- b.** For purposes of this policy, the term “revenue” defined above does *not* include the following earnings and proceeds, which are retained by Erikson: (a) tuition and fees paid by anyone attending Erikson’s academic or professional development programs; or (b) any fees, royalties, or other remuneration derived from the sale or licensing of clinical services, clinical programs, academic programs, program models, curricula, or other Erikson programs or services offered under the Erikson name or brand or a name or brand owned or controlled by the Institute.
- c.** For purposes of this section, the term “faculty creator/s” or “faculty” shall include all full-time, part-time, adjunct, clinical, and emeritus faculty, as well as research scientists, associate research scientists, and assistant research scientists (as set forth in Section II-B-1 above).

### **2. Revenue from Traditional Scholarly Work**

Revenue from traditional scholarly work (defined in Section II-A-1 above as books, textbooks, monographs, or articles) is owned by the faculty creator/s of the work (subject to the exceptions noted in Sections II-C-4 through C-6 below).

### **3. Revenue from Non-Traditional Work**

Revenue from non-traditional work (defined in Section II-A-1 above for purposes of this policy as tools or applications created by faculty for use by practitioners or clinicians) shall be shared by the faculty creator/s and by the Institute, with the first \$25,000 of revenue being reserved to (and distributed among) the faculty creator/s and any sums above \$25,000 being allocated 50% among the faculty creator/s and 50% to the Institute. This allocation formula shall continue to apply even after the faculty creator ceases to work at Erikson. Student rights to revenue sharing under this section must be supported by a written agreement, as required in Section II-B-4(a)(i) above, and shall be deducted from the faculty share of revenues.

Faculty members are encouraged to copyright, commercialize, and promote any such scholarly work and to seek assistance from the Institute in order to do so (*see* Section II-C-5 below). Both the Institute and the faculty creator of non-traditional work shall share with each other information about any revenue generated and to cooperate in allocating revenue among each other as set forth above.

Where a faculty member engages in consulting or offers technical assistance outside the Institute in connection with the faculty member's non-traditional scholarly work, the faculty member shall be entitled to retain 100% of the fee paid for any such consulting or technical assistance. Revenues from any product sold or licensed in conjunction with such consultations or technical assistance shall, however, be allocated as set forth in this section.

**4. Revenue from Sponsored or Commissioned Work**

**a. Sponsored Work**

Revenue from sponsored work shall be allocated as set forth in the sponsoring agreement. To the extent that the agreement does not reserve to the sponsoring entity the right to revenues from commercialization of the research, any such revenues shall be allocated as set forth in Sections II-C-2 & 3 above, depending upon the nature of the sponsored work.

**b. Work Commissioned By Erikson Institute**

Where a work has been commissioned at the specific direction of Erikson Institute pursuant to Section II-A-2(c) above, the Institute shall be entitled to recoup its costs from the initial revenue generated by the work. Once those costs have been recouped, any revenue generated thereafter shall then be allocated as set forth in Section II-C-2 & 3 above, depending upon the nature of the commissioned work.

**5. Recovery of Costs Where Erikson Assists in Commercializing Scholarly Work**

A faculty member may seek assistance from the Institute in copyrighting, marketing, or otherwise commercializing scholarly work. Where the Institute determines in its discretion to so assist a faculty member, the Institute is entitled to recover, from the initial revenue generated by such work, the Institute's reasonable costs expended in working with the faculty member to commercialize the work.

**6. Revenue-Sharing in the Commercialization of Erikson Programs and Services**

The Institute encourages faculty members to develop commercial applications not only for scholarly work but also for the programs and



clinical services of Erikson Institute. Specifically, faculty members are encouraged to take the initiative to develop commercial uses for an Erikson program or service, collaborate with the Institute about commercialization, and offer significant assistance in the development and commercialization of an Erikson program or service. To encourage commercialization, and in its sole discretion, the Institute may enter into written revenue-sharing agreements with faculty members to share fees, costs, or remuneration that otherwise would be reserved to the Institute under the definition of “revenue” set forth in Section II- C-1(a) & (b) above.

**7. Recovery of Costs Where Erikson Expends Extraordinary Resources**

Where a faculty member seeks from the Institute extraordinary resources or support for the creation of scholarly work, the Institute may grant those resources upon the condition that the work at issue be treated as "commissioned work," with the faculty member retaining ownership rights but the Institute retaining the right to recoup costs set forth in Section II-C-4 above.

"Extraordinary resources" are those benefits going beyond the support or resources customarily granted by the Institute to faculty members to create the scholarly work of the faculty. The term “extraordinary resources” does not include salary, standard benefits, routine clerical or administrative assistance, standard sabbatical leaves, or release time afforded to new faculty. Nor does the funding of scholarly work through external grants or sponsorship (such as the Pritzker Faculty Innovation Fund) constitute a grant of “extraordinary resources.” Any grant of “extraordinary resources” by Erikson Institute shall be memorialized in a written agreement between the faculty member and Erikson Institute prior to the commencement of the work.

**8. Authority to Execute Agreement Assigning Rights, Recouping Costs, or Sharing Revenues**

Agreements on behalf of Erikson Institute to assign ownership, recoup costs, or share revenues as set forth in Sections II-A through II-C above may only be authorized and executed by the President or Senior Vice President and Dean of Faculty.

**D. ERIKSON'S INTEREST IN WORK CREATED BY FACULTY**

**1. General Principle**

Although individual faculty members or Erikson may own certain intellectual property described above, the Erikson community as a whole has an interest in being able to use such works for educational, instructional, administrative, promotional, programmatic, or research purposes. Faculty members are encouraged to share their instruction materials and courseware with their Erikson colleagues for these same

purposes, consistent with Erikson's educational mission and academic norms.

## **2. License to Use Intellectual Property**

The faculty-creator of scholarly work shall be deemed to have granted Erikson a non-exclusive, non-transferable, worldwide, royalty-free license to use the work for Erikson's own educational, instructional, clinical, commercial, administrative, promotional, programmatic or research purposes (unless such a license violates an existing publishing or sponsoring agreement). Any such license is irrevocable and perpetual, continuing even after the faculty creator ceases to work at Erikson. When negotiating to publish scholarly work, the faculty-creator shall, at the outset of negotiations, inform the publisher about Erikson's license granted under this section, and the faculty-creator shall consult with Erikson prior to entering into any agreement that purports to limit Erikson's rights to use such work. Faculty members shall make every effort to negotiate publication agreements that allow for appropriate attribution to Erikson and recognition of Erikson's rights consistent with the terms of this policy. If Erikson combines with another entity or otherwise reorganizes, the rights conferred in this paragraph shall inure to the benefit of and pass to such entity.

Pursuant to this policy, work created by the Erikson faculty for ordinary teaching use and for departmental use (such as syllabi, assignments, and tests) may be used by the Erikson community for educational, instructional, administrative, or research purposes, including responses to requests by accreditation agencies for faculty-authored syllabi and course descriptions. At any time, however, a faculty/creator of scholarly work being used at Erikson has the right to request that such materials be withdrawn from use in Institute activities or research if, in the opinion of the faculty/creator, the materials have become obsolete or inappropriate for further educational use. The Institute retains the discretion to decide whether to honor such a request; if the request is not honored, however, the faculty/creator has an absolute right to have his or her name removed, within a reasonable period of time, from such work used henceforth.

## **3. Use of Sponsored Work**

Where work is created pursuant to a sponsored research agreement reserving ownership to the sponsoring entity, the Institute and faculty member shall endeavor during negotiation of the agreement to secure a license allowing use of the work by Erikson for educational, instructional, administrative, or research purposes. Any faculty/creator of sponsored work who is granted such a license by the terms of the sponsoring agreement hereby agrees to grant Erikson a parallel license (which shall be non-exclusive, non-transferable, and royalty-free license) to use that same work for Erikson's own educational, instructional, administrative, or research purposes (except to the extent that the sponsoring agreement limits or prohibits such license).

## **E. USE OF ERIKSON'S NAME OR TRADEMARKS**

### **1. General Principle**

The entire Erikson community has an interest in the public's identification of scholarly work created by Erikson faculty members with Erikson Institute. Proper use of Erikson's name, seal, or trademarks can elevate the reputation and academic standing of the faculty and the Institute as a whole, which in turn promotes the Institute's educational and research mission. Conversely, improper use of Erikson's name or trademarks, or the failure to attribute works to Erikson where appropriate, may undermine the reputation of the Institute and detract from its ability to fulfill its educational mission.

### **2. Attribution of Work to Erikson and Faculty**

All work created during a faculty member's affiliation with Erikson will include attribution to the Institute, as appropriate to the nature of the scholarly work and the extent of Erikson's contribution. As a general matter, traditional scholarly work that is not funded by grant or commissioned by Erikson shall include a notation indicating that the author is a faculty member at Erikson Institute; traditional scholarly work that is commissioned by Erikson or funded externally, as well as all non-traditional work, shall bear an appropriate and reasonably prominent attribution to the Institute and sponsoring entity. The Institute and faculty will work together to develop appropriate attribution protocols for different types of scholarly work.

### **3. Erikson Trademarks**

In addition, Erikson retains the right to trademark names and phrases closely associated with Institute programs and services, in order to strengthen the public's identification of such programs and services with Erikson. The Institute, as it may deem appropriate, confer with the faculty to (a) identify names, phrases, services, or programs that may appropriately be trademarked; and (b) develop a protocol for appropriate attribution of work to the Institute.

### **4. Unauthorized Use or Attribution**

Any use of the Erikson name or trademarks (other than to identify creators by their titles or affiliations with Erikson) in connection with works created by faculty members, researchers, other employees, or students must be approved in advance by Erikson. Similarly, Erikson must approve in advance the use of its name or trademarks in connection with any works created under collaborative agreements with outside entities (other than to identify creators by their titles or affiliations with the Erikson). Requests for such approval must be submitted in writing to Erikson's Chief Marketing and Communications Officer. Inappropriate or unapproved use of Erikson's name, seal, or trademarks may be grounds for discipline, up to and including dismissal.

Faculty members, researchers, other employees, and students may not participate in the creation or use of works that might give the impression of Erikson sponsorship when there is none.

**5. Responsibilities of Erikson and Employees**

Faculty, researchers, employees, contractors and students shall cooperate with Erikson in its efforts to protect any rights to applicable intellectual property. Erikson is not, however, under any obligation to pursue, prosecute or defend any such rights in intellectual property, and faculty, researchers, employees, contractors and students understand that they themselves bear ultimate responsibility for protecting their own interests.

**F. DISPUTE RESOLUTION**

**1. Informal Resolution**

Any disputes arising as to the ownership or commercialization of any intellectual property developed by Erikson faculty, staff, or students should be resolved, if possible, through informal discussion and dispute resolution. Such resolutions should be reflected in a written agreement to be filed with the Senior Vice President and Dean of Faculty for future reference.

**2. Formal Resolution**

Any dispute relating to the ownership or commercialization of any intellectual property developed by Erikson faculty, staff, or students that cannot be settled through informal discussions shall be submitted in writing, by any party in the dispute, to the Vice President and Dean of Faculty. The Senior Vice President and Dean of Faculty shall review all of the relevant facts and circumstances, such as the circumstances attending the creation of the intellectual property (including but not limited to the extent to which Erikson resources have been used), and make a recommendation to the President.

In formulating this recommendation, the Senior Vice President and Dean of Faculty may, in his or her sole discretion, make use of outside consultants, consult with faculty, or delegate responsibility for formulating the recommendation to another administrator or to a committee of Erikson faculty or administrators. The Senior Vice President and Dean of Faculty or delegate may, in his or her sole discretion, consider written submissions from the involved parties, interview parties and witnesses, or otherwise conduct the level of investigation deemed appropriate to the circumstances. The President shall consider the recommendation and make the final determination in consultation with the Board of Trustees.

### 3. Procedure for Resolution in Cases of Potential Conflict

Erikson officers or Board members who have any interest in the intellectual property in question should withdraw from the process to avoid conflicts of interest or the appearance of impropriety. If the Senior Vice President and Dean of Faculty withdraws from the process for this reason, the President shall appoint another Erikson administrator to conduct the initial investigation and make a recommendation to the President. If the President withdraws from the process due to a potential conflict of interest, the Senior Vice President and Dean of Faculty shall make a recommendation directly to the Board, which will make the final decision.

#### **EXHIBIT A**

The following is a summary of the current rules for determining when a work passes into the public domain.

- Any work published on or before December 31, 1922 is now in the public domain, which means it may be freely quoted or copied as a matter of copyright law.
- Works published between January 1, 1923 and December 31, 1977, inclusive, are protected for a term of 95 years from the date of publication, with the proper copyright notice. (For example: © 1950 John Doe.)
- However, if the work was published between 1923 and December 31, 1963, when there used to be a (non-automatic) "renewal term," the copyright owner may not have renewed the work. If he or she did not renew, the original term of protection (28 years) would now be expired and these works will be in the public domain.
- For materials created on or after January 1, 1978, the way to measure the term of protection changes. Copyright protection is no longer related to a date of publication, but rather but rather runs for 70 years from the date the author dies (called, "life of the author" plus 70 years). Moreover, publication is irrelevant. Works are protected from the moment that they are created (i.e., embodied in a tangible medium) whether they are published or not. In the case of "a joint work prepared by two or more authors who did not work for hire," the term lasts for 70 years after the last surviving author's death.
- Finally, those works that were created before January 1, 1978, but were never published, are now protected for the longer of life of the author plus 70 years or until December 31, 2002.
- Note that federal copyright law no longer requires a copyright notice. Accordingly, older works published without a copyright notice may be in the [public domain](#), but for works created after March 1, 1989, absence of a notice means virtually nothing.
- A special rule governs works for hire and anonymous works. For all works made for hire, and for all anonymous and pseudonymous works (unless the author's identity is

revealed in Copyright Office records), the duration of copyright will be 95 years from publication or 120 years from creation, whichever is shorter.

### **EXHIBIT B**

To determine whether a work published after January 1, 1923 is currently under copyright protection, Erikson's librarian should do the following:

- Examine a copy of the work for such elements as a copyright notice, place and date of publication, author, and publisher. If the work is a sound recording, examine the disk, tape cartridge, or cassette in which the recorded sound is fixed, or the album cover, sleeve, or container in which the recording is sold; and
- If necessary, search U.S. Copyright Office's catalogs and other records (at [www.copyright.gov](http://www.copyright.gov)) or have the U.S. Copyright Office make such a search. Upon request, the Copyright Office staff will search its records at the statutory rate of \$75.00 per hour. Copyright registrations made and documents recorded from 1978 to date may be searched online.

Copyright searches can be made by title of the work, by name of the author or probable copyright owner (which may be the publisher or the producer), or by registration number or other copyright data. However, to narrow the search, Erikson's librarian should provide as much additional information as is known, including the approximate year when the work was published or registered, the type of work involved, and the title, volume or issue number of any periodical wherein the work was published. Detailed instructions for searching the Copyright Office's records are provided in the Copyright Office's Circular No. 22, "How to Investigate the Copyright Status of a Work," at <http://www.copyright.gov/circs/circ22.html>.

It is important to note that searches of the Copyright Office's records may not be conclusive in all cases. Information about a particular copyrighted work may be incomplete or lacking entirely. In addition, the Copyright Office does not maintain listings of works by subject or lists of works that are in the public domain. Further complicating matters are the frequent changes in the federal laws regarding copyright status, duration, registration, and renewal requirements that have occurred over the past 30 years. Moreover, because each country has its own copyright laws, some works that are in the public domain in the United States may not be freely used without the owner's permission abroad. For all of these reasons, when in doubt, Erikson's librarian should consult with the Vice President and Dean of Academic Affairs before reaching any conclusions regarding the copyright status of a work.

### **EXHIBIT C**

Erikson's librarian will attempt to determine whether an image that Erikson or any Erikson faculty member or instructor wishes to digitize is available for sale or license at a fair price. Erikson's librarian will conduct this inquiry according to the following procedure:

- check all information within Erikson's control regarding the image's source and ask relevant faculty and staff for any such information if the image is in Erikson's possession;

- if the image is not in Erikson’s possession, consult standard reference publications and databases for information regarding the source of the image. For example, check rights reproduction collectives and/or major professional associations representing image creators in the appropriate medium. Examples of such organizations are collected in Exhibit D to this Policy.

If the desired image is available in usable digital form for sale or license, Erikson must purchase or license the image before Erikson’s librarian may lawfully digitize the image. In such cases, Erikson’s librarian will consult with the Vice President and Dean of Academic Affairs and the interested faculty or staff member to determine whether Erikson wishes to purchase or license the image.

Erikson’s librarian will periodically review the availability of any images that Erikson or any Erikson faculty or instructors wish to digitize. If a previously unavailable image becomes available online or for sale or license at a fair price, the image should be purchased or licensed before it is digitized or used again. In such cases, Erikson’s librarian will follow the procedures outlined in the preceding paragraph.

### **EXHIBIT D**

The following provisions are meant to guide Erikson’s librarian in the process of obtaining permission to use copyrighted materials on behalf of Erikson faculty member, instructors, employees or students. However, these provisions merely suggest some basic starting points for obtaining permission to use others’ works in academic settings and are not meant to be exhaustive.

Thus, if Erikson’s librarian is unable to secure the owner’s permission by following the steps listed below, the interested faculty member, instructor, employee or student should consult with the Vice President and Dean of Academic Affairs before using the work in a manner that exceeds fair use limitations. In no event should an Erikson faculty member, instructor, employee or student use the copyrighted work without obtaining permission.

#### **1. Collective Rights Organizations**

- a. **Text.** If the work to be copied is part of a book or journal article, Erikson personnel should contact the Copyright Clearance Center (“CCC”) at <http://www.copyright.com>. If a work is registered with the CCC, permission generally requires 24 to 36 hours.
- b. **Images.** To obtain permission to use copyrighted images, Erikson’s librarian should contact one or more of the following organizations:

Academic Image Cooperative  
<http://www.studiolo.org/index.html>

Allan Kohl’s Art Images for College Teaching  
<http://images.umdl.umich.edu/cgi/i/image/image-idx?c=aict&page=index>

American Society of Media Photographers  
<http://www.asmp.org>

Artist's Rights Foundation  
<http://www.artistsrights.org>

Artist's Rights Society  
<http://www.arsny.com>

Aurora Picture Network International  
<http://www.auroraphotos.com>

Lantern Slides of Classical Antiquity: A Center for the Study of  
Architecture Project in  
Cooperation with Bryn Mawr College  
<http://www.brynmawr.edu/Admins/DMVRC/lanterns>

Media Image Resource Alliance ("MIRA")  
<http://www.mira.com>

Society of Architectural Historians' Image Exchange  
<http://www.sah.org/index.php?module=ContentExpress&func=display&ceid=11&meid=9>

Visual Artists and Gallery Association  
<http://www.vaga.co.uk>

Other Professional Photography Organizations  
<http://www.s2f.com/STOCKPHOTO/Associations>

- c. **Authors.** If the author has retained copyright in a contribution to a periodical such as a magazine or newspaper, permission may be obtained through [Ingenta](http://www.ingentaconnect.com) (<http://www.ingentaconnect.com>) which handles rights for the [Publication Rights Clearinghouse](#), a collective-licensing agency representing such writers' groups as The National Writers Union (NWU), the Canadian Science Writers' Association (CSWA), the Periodical Writers Association of Canada, the Society of Children's Book Writers and Illustrators, and the United States Section of the International Association of Art Critics, among others.
- d. **Music.** ASCAP (<http://ascap.com>), BMI (<http://bmi.com>), and SESAC (<http://www.sesac.com>) all license the right to perform musical works in public. If an Erikson faculty member, instructor, employee or student wants to record and distribute a musical composition that has already been recorded by someone else, or synchronize music with visual images, Erikson's librarian should contact The Harry Fox Agency Inc. (<http://www.nmpa.org/hfa.html>). The Music Research Consultants (<http://www.musicresearch.com>) web page contains links to publishers, record labels, music rights agencies, and more. This is a good place to gather contact information. If users provide the name of an artist, album, song or label, the All-Music Guide (<http://www.allmusic.com>) allows them to search for additional information and often links directly to sources.



- e. **Motion Pictures.** The [Motion Picture Licensing Corporation](http://www.mplc.com) (<http://www.mplc.com>), [Movie Licensing USA](http://www.movlic.com) (<http://www.movlic.com>), [Swank Motion Pictures, Inc.](http://www.swank.com) (<http://www.swank.com>), and Criterion Pictures, U.S.A ([criterionpicusa.com](http://www.criterionpicusa.com)) grant public performance rights.
- f. The Motion Picture Licensing Corporation is an independent copyright licensing service exclusively authorized by major Hollywood motion picture studios and independent producers to grant Umbrella Licenses to nonprofit groups, businesses, and government organizations to ensure that the public performances of home videodiscs and videocassettes comply with the Federal Copyright Act.
- g. Movie Licensing USA, a corporate division of Swank Motion Pictures, Inc., addresses the specific Movie Public Performance Site Licensing needs of schools and public libraries. Movie Licensing USA provides an exclusive license that satisfies the copyright protection needs of the movie producers, while offering a worry-free, liability-free movie license.
- h. Swank Motion Pictures, Inc., is a major movie distributor and a public performance licensing agent in non-theatrical markets where feature entertainment movies are shown. Swank Motion Pictures, Inc., has exclusive distribution arrangements in many markets with most American movie producers for the motion pictures seen in theaters. Creating an account requires basic information (shipping and billing addresses, contact person, telephone number, fax number, and an e-mail address), and pricing varies by format, title, and venue. For more information, contact:

Tiffany Ellis  
 Senior Account Executive  
 Swank Motion Pictures  
 Phone: 1-800-876-5577  
 Fax: 314-289-2192  
 E-mail: [tellis@swank.com](mailto:tellis@swank.com)

Licensing motion pictures can be expensive. A license dated September 18, 2003, for a one-time showing of the films *Ordinary People* and *A Beautiful Mind* cost \$331.00 per film for a total cost of \$662.00.

[Internet Archive](http://www.archive.org/details/movies) (<http://www.archive.org/details/movies>) has educational public domain films available for download. The films are stored in MPEG format and need to be downloaded to view rather than viewing as streaming video.

Erikson's librarian may also need to investigate whether any rights need to be cleared that could be held by the actors, producers, writers, performers, guilds, or composers. Agent representation for living people

can be found at the [WhoRepresents](http://www.whorepresents.com) website (<http://www.whorepresents.com>).

One may research film and video copyrights using the database at the Copyright Office (*see* Section I (A)(2), above). This database lists claimants and copyright ownership to works registered after 1978. To search for works registered before 1978, one must search in the Library of Congress online catalog, [LOCIS](http://catalog.loc.gov) (<http://catalog.loc.gov>), or in printed Copyright volumes.

## 2. **Contacting copyright owners directly**

**Erikson's librarian** may also contact the author and the publisher directly. Wake Forest University (<http://www.law.wfu.edu/library/copyright>) maintains a site with links to many publishers. In addition, *The Literary Marketplace* (for books) or Ulrich's *International Periodicals* (for journals), both published by the R. R. Bowker Company, may be useful resources if the author or publisher are not known. Project Acorn (<http://acorn.lboro.ac.uk>) provides helpful information about the entire process of obtaining permission to reprint to use copyrighted works, as does the University of Texas at Austin's Harry Ransom Humanities Research Center (<http://www.hrc.utexas.edu/watch/locating.html>).  
<http://tyler.hrc.utexas.edu>.

Sometimes, the apparent copyright owner is no longer the real copyright owner. The Copyright Office (<http://www.copyright.gov>) now provides online searching of some of its registration records and performs professional searches for a fee. (*See* Circulars 22 and 23 on the Copyright offices website, <http://www.copyright.gov/circs/circ22.html> and <http://www.copyright.gov/circs/circ23.html>, for further instructions.

## 3. **Authorization to give permission**

Users of copyright material need to be sure that the person giving the permission to reprint is in fact authorized to do so. This may be particularly difficult to know if it is unclear who the copyright owner is, or if the owner is a legal entity of some kind (e.g., a business or organization). Moreover, authors and publishers are not always clear about whether the author has retained his or her rights or has assigned them to the publisher. Erikson's librarian should question an author or publisher about their authorization to grant permission to use or reprint the material.

## 4. **Written evidence of scope of permission**

Ideally, permission to reprint should be in writing with a clear description of the scope of the request. Vaguely-worded permissions may not cover all of the intended uses. Requests for permission should describe exactly what an Erikson faculty member, instructor, employee or student wants to do with the material and they should include alternatives if one is unsure of such issues as format. For example, if an Erikson faculty member is preparing a Web-based multimedia product, she may wish to also distribute it on a CD-ROM under some circumstances; in such a case, permission should be secured to do both.

Although written permission is best, it is not always essential. If permission is obtained orally, Erikson's librarian should describe precisely the desired use and then document the conversation carefully by taking thorough notes. She should then write a confirming letter to the owner asking him to initial and return the letter if he agrees that it accurately reflects the permission granted.

## **5. Difficulty Identifying Owner**

If the author, creator or publisher is not obvious, which may frequently be the case for historical photographs, architectural drawings, personal papers or other archival materials, the task of identifying the author may be more difficult. In such cases, Erikson's librarian should try the following:

- a.** Check with the source of the faculty member's, instructor's, employee's or student's copy of the work for any information about who owns the copyright and how to contact the owner. For example, the library where the faculty member, instructor, employee or student found the materials may own the copyright or know whom to contact for permission to use the work or excerpts from it.
- b.** For manuscripts, check the WATCH File (<http://tyler.hrc.utexas.edu>), a database that contains primarily the names and addresses of copyright holders or contact persons for English-language authors whose papers are housed in whole or in part in libraries in North America and the United Kingdom.
- c.** Check for an alternative work that is either in the public domain or for which copyright ownership can be more easily determined.

## **6. Avoid Taking Risks**

Occasionally it may be impossible to ascertain whom to ask for permission to reprint, or the owner simply may not respond to a permissions request. However, copyright law protects materials even if it seems as though no one cares about whether the material is used or reproduced. Thus, Erikson's librarian should avoid using copyrighted material until permission is obtained from the author. Moreover, Erikson's librarian should carefully and comprehensively document her searches for copyright owners. Erikson personnel should contact the Vice President and Dean of Academic Affairs before copying or using copyrighted material without permission.

This policy was approved by the Board of Trustees on January 15, 2009.