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Guidelines regarding the right to teaching material created at Luleå University of Technology

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1. Introduction

Like other higher education institutions, Luleå University of Technology's mission is to offer first-cycle (undergraduate), second-cycle (Master's) and third-cycle (doctoral) education as well as contract education. Furthermore, the University shall conduct research and artistic development work and also collaborate with the surrounding society and provide information about its activities.

Within the context of the University's activities, material is created to be used in teaching. The purpose of these guidelines is to clarify the teacher's copyright to the teaching material and the University's right to use it.

2. The scope of the guidelines

These guidelines apply to the teacher staff at the University. The term 'teacher' includes those defined as teachers in the Swedish Higher Education Act¹, i.e. professors and senior lecturers, and those defined as teachers in the University provisions. The guidelines also apply to doctoral students when they are engaged to teach in accordance with the Higher Education Ordinance², with regard to the teaching material that the doctoral students have created in and for the teaching at the University.

3. The rules and regulations of copyright

3.1 General principles

The rules and regulations of copyright are based on the Act normally called the Copyright Act.³ The copyright comprises economic and moral rights, both belonging to the originator. The originator is the natural person who has created the material. The economic rights include the right of the originator to make the work available and to make copies of it. The originator may transfer the economic right. The moral rights include the right of the originator to have his or her name mentioned in connection to the material, the right not to have the work altered in a way which is considered to be offensive or insulting and the right not to have the work published in contexts where his or her artistic or literary reputation or individuality is at risk. In general, the moral rights can never be transferred it is however considered they may be waived.

¹ The higher Education Act, Chapter 3, Section 2 (3 kap. 2 § högskolelagen)

² The Higher Education Ordinance, Chapter 5, Section 2 (5 kap. 2 § högskoleförordningen)

³ The Act on copyright in literary and artistic works (1960:729) (Lagen (1960:729) om upphovsrätt till litterära och konstnärliga verk)

3.2 The employee's copyright and the employer's right to use - "the rule of thumb"

Within the context of an employment where copyrighted material is created, it is presumed that the employer has the right to use the copyrighted material. From the presumption, it follows that there is no specific remuneration besides the salary for the employer's use of the material. The employer's right to use the material is unlimited in time.

The presumption is normally called "the rule of thumb" and reads: "The employer can within *its scope of practice* and in *its normal activities* use such *works that are created* as a result of *official duties* to the employer. The employer's rights refers to using the work for the purposes that can be *predicted* when the work was created."

4. The right to teaching material at the University

4.1 The teacher's copyright

The educational activities at the University are essentially carried out by teachers and the doctoral students having an employment as a doctoral student at the University. In general, the teacher may organise the teaching and design the teaching material at will, in the way that he or she deems appropriate. The teaching material often constitutes copyrighted works. The teacher who has created the teaching material is the originator of the material.

4.2 The right to use the teaching material created by the teacher within the employment

The creation of the teaching material is based on the employment as a teacher. Accordingly, the University has the right to use the teaching material in its normal activities and for educational purposes that could have been predicted at the time of the creation of the work. If the University wants to use the teaching material in activities outside its normal activities, a specific agreement with the relevant teacher is required.

Teaching material includes, irrespective of the medium, all material intended to be used in teaching, for example Power Point-presentations, recorded lectures, photos, examination material and study guides.

5. The scope and meaning of the right to use

The right to use gives the University the right, without any other remuneration than salary, to use the teaching material for educational purposes, to make necessary revisions and updates, to produce and make available copies, and to store the teaching material.

The University's right to use the teaching material does not restrict the teacher's copyright of the teaching material, which means, for example, that the teacher may freely use the teaching material for production of textbooks, articles or other scientific works and may also use it in teaching with another principal.

6. The right to use the teaching material after termination of employment

When the teacher's employment is terminated, the University still has the right to use in its activities the teaching material created within the context of the teacher's employment, unless otherwise specifically agreed. The right to use the teaching material remains without any additional remuneration to the relevant teacher.

7. The right to use the teaching material in connection with the teacher signing a publication agreement

In cases a teacher intends to enter a publication agreement with a publishing firm regarding the teaching material, the following applies. In certain cases, publishing firms require exclusive rights of the work. Exclusive rights comprise the right to manifold and distribute the work and to make the work available for sale. If a teacher is to sign a publication agreement on teaching material created within the context of the University employment, he or she must make sure that the University's right to use is maintained unaltered (in accordance with that specified in section 5 and 6 above).

8. Contract agreements and agreements drawn up separately

If a separate agreement is entered between the individual teacher or doctoral student and the University, the content of that agreement applies.

In case the originator is not employed as a teacher at the University, there may be a need to enter a separate contract agreement regarding the right to use a specific teaching material.