

6Hx19-1.38 Intellectual Property

The purpose of this Board Rule is to establish Board policy regarding intellectual property.

The College supports and encourages its employees and students to develop scholarly and creative works, educational materials, and products. These forms of intellectual property may be subject to copyright laws and may generate royalty income. Such development may involve the use of College personnel and resources. This Rule defines and applies the respective rights of the College, its students, faculty, and staff regarding intellectual property.

I. Materials Subject to Intellectual Property Rights

- A. All written works, including books, journal articles, texts, glossaries, bibliographies, study guides, resource materials, laboratory and other manuals, syllabi, tests, and proposals
- B. Lectures, musical or drama compositions, and unpublished scripts
- C. Films, filmstrips, charts, transparencies, and other visual aids and teaching devices
- D. Video and audio recordings
- E. Live video and audio broadcasts
- F. Programmed instructional material
- G. Computer programs
- H. Pictorial, graphic (including digital images), and sculptural works
- I. Other materials subject to the United States copyright laws and controls

II. Determination of Rights

To determine the disposition of rights regarding intellectual property developed by College employees, materials or patents will be assessed within the framework of the following four categories:

- A. **Individual Effort.** Rights to copyrightable intellectual property generated as a result of individual initiative and not as a specific College assignment and with only incidental use of College facilities or resources shall reside solely with the author/creator/inventor. These materials shall include only

those which the author/creator/inventor could have developed even in the absence of employment at the institution.

- B. College Assisted Individual Effort.** When the College provides partial support of an individual effort resulting in copyrightable intellectual property or a patent by contributing employee time, facilities, or other College resources, the College is entitled to share in the rights to ownership and disposition of these materials or patent and a sharing of royalty income. Partial support exists when the College employee could not have developed the material or patent in the absence of employment at the College. A written agreement of joint ownership shall be required and College personnel engaged in such efforts shall be responsible for contacting the Vice President of Instruction/Provost, West Campus for guidance regarding the development and execution of the agreement before undertaking the College-assisted activities. Absent a separate written agreement, it shall be presumed that the College is entitled to all rights applicable to the copyrights and/or patents, except as otherwise provided in this Rule.
- C. College Initiated and Supported Efforts.** Ownership of copyrightable intellectual property or a patent specifically developed as a result of specific assignment by the College or arising out of the duties for which the individual was specifically employed by the College shall reside with the College. Under appropriate circumstances, the College may share royalty income with the author/creator/inventor upon written agreement with the District Board of Trustees.
- D. Sponsor Supported Efforts.** College employees who produce copyrightable intellectual property or a patent under sponsor supported projects shall be governed by the specific terms and conditions of the sponsorship contract. In most instances, the agreement between the sponsor and the College vest title to the copyrightable material or patent in the College, with the sponsor retaining a royalty-free license for the sponsor's use. In some instances, the agreement may specify that the material or patent is to be distributed within the public domain. Some grants or sponsorship programs specifically require that the author/creator/inventor and the College must relinquish rights to the copyrighted material or patent created under the sponsored effort. College personnel are responsible for determining, in advance, the terms of sponsorship and for obtaining guidance regarding the development and execution of an agreement with the College or the sponsor.

III. Royalty Income and Use of Revenue

Royalty income from copyrightable intellectual property/material shall be disbursed and used as follows:

- A. **Individual Effort.** Income derived from materials and patents produced from the individual initiative of College employees as defined above shall accrue solely to the author/creator/inventor.
- B. **College Assisted Individual Effort.** Income derived from individual efforts which are complemented by College employees and faculties or resources shall be distributed in accordance with a written agreement between the employee and the College. In the absence of a written agreement, the income shall be distributed thirty percent (30%) to the College and seventy percent (70%) to the author/creator/inventor. The author/creator/inventor shall be responsible for notifying the Vice President of Instruction/Provost, West Campus of engagement in any copyrightable effort and executing a written agreement of joint ownership with the College before beginning any effort which results in the production of royalties. Failure to execute a written agreement with the College shall not deprive the College of its rights to thirty percent (30%) of the royalties generated from all copyrightable intellectual property or patents.
- C. **College Initiated and Supported Efforts.** Where copyrighted intellectual property or a patent is generated by a specific College assignment or as a result of labors for which the individual was employed, the College shall be the sole recipient of all income derived. In specific instances where an exceptional product results from individual initiated activities and only after specific Board approval, the District Board of Trustees may share portions of income derived with the author/creator/inventor. Such efforts shall be determined on a case-by-case basis
- D. **Sponsor Supported Efforts.** Income derived from sponsor supported efforts shall be disbursed in accordance with the specific terms of the governing contractual or grant documents. The College and the author/creator/inventor shall be governed by the conditions of the applicable grant or contract. Income derived from the copyrighted intellectual property or patents shall be disbursed in accordance with the stated College policies when the contract or grant document is silent as to disbursement of royalties or items of value.

The College and individuals who receive royalty income derived from the creation and production of intellectual property shall retain an unrestricted use of such revenue in accordance with federal and state laws, College policies and procedures, and terms contained in written agreements, contracts, and grant documents.

IV. Copyrightable Intellectual Property Administration

The President shall establish procedures for the administration of intellectual property concerns in accordance with this Rule. At a minimum, these procedures shall designate an administrator who shall be responsible for all such issues, shall establish contractual guideline and provide for periodic review and update of all policies, contracts and activities related to intellectual property at the College.

V. Register of Copyrights/Patents

Costs associated with the registration of copyrights and filing of patents shall be paid as follows:

- A. **Individual Effort.** The author/creator/inventor shall be responsible for registering the copyright or patent and paying all applicable fees.
- B. **College Assisted Individual Effort.** Unless otherwise agreed, the College, shall register the copyright or patent and costs and fees shall be borne as follows:
 - a. College: Thirty Percent (30%)
 - b. Author/Creator/Inventor: Seventy Percent (70%)
- C. **College Initiated Effort.** The College shall register the copyright or patent and pay all the fees.
- D. **Sponsor Supported Effort.** Payment of fees shall be negotiated and identified in a written agreement.

VI. Appeals

Disagreements regarding copyrightable intellectual property/patent issues may be appealed to an ad hoc appeals committee appointed by the President. The ad hoc appeals committee shall include a College administrator, faculty member, and student. The College Attorney/Director of Governmental Affairs shall be informed of the appeal, provided copies of all relevant documents and serve as counsel to the College. Procedures for the appeals hearing, unless otherwise provided, shall be governed by procedures established in accordance with this Rule.

VII. Students' Copyrightable Intellectual Property Rights

Ownership of copyrightable intellectual property that is the result of individual student initiative with the incidental use of College facilities and resources resides with the student. If the student is working on copyrightable intellectual property/material initiated and funded by the College, ownership resides with the College.

Rule Adopted: 11/18/08

Effective Date: 01/01/09

Legal Authority:

General Authority: Florida Statutes: 1001.64; 1001.65; 1004

Other References:

Law Implemented: Florida Statutes: 1001.64(1)(2)(4)(5)(18)(25)(33)(43)(44);
1001.65(1)(3)(5)(6)(12)(16)(25); 1004.72

Proposer: Katherine M. Johnson, President