

PROCEDURE

Subject	Intellectual Property	Number: 5.182
Source	Vice President Business and Administrative Services	Reference (Rule #) 6HX14-5.182
President's Approval/Date: 09/10/2013		

Purpose: To establish College policy regarding intellectual property.

State College of Florida, Manatee-Sarasota provides engaging and accessible learning environments within the context of its mission, vision and institutional values. Therefore, the College supports and encourages its employees and students to develop educational materials, scholarly and creative works, and other products that advance the mission of the College. These forms of intellectual property may be subject to copyright, patent, trademark, and other laws and may generate royalty income. Such development may involve the use of College personnel and resources. This Procedure defines and applies the respective rights of the College, its students, faculty, and staff regarding intellectual property in those cases where a written agreement does not otherwise govern the rights of the parties.

Definitions

Intellectual Property: generally described in Section I below. It is the intent of this policy that intellectual property related to distance education be treated in the same manner as intellectual property related to traditional classroom education.

College Employees: includes faculty, staff, and students who are employed by the College.

Author/Creator/Inventor: as used in this procedure, a college employee, or a student who creates or invents intellectual property subject to this policy.

I. Materials Subject to Intellectual Property Rights

- A. All written works, including books, journal articles, creative literary works, texts, glossaries, bibliographies, study guides, resource materials, laboratory and other manuals, syllabi, tests, and proposals
- B. Lectures; course materials; musical, dance or dramatic compositions; and unpublished scripts
- C. Films, charts, transparencies, and other visual aids and teaching devices
- D. Video and audio recordings
- E. Live video and audio broadcasts
- F. Computer programs
- G. Pictorial, graphic (including digital images), and sculptural works

- H. Scientific discoveries, inventions, and patents
- I. Technology-mediated courseware in any form or format, including any works created, stored, and/or delivered electronically in any fashion, whether synchronously or asynchronously, and at any location, whether in person or via distance education.
- J. Any other materials that may be protected by copyright, patent, trade secret, and/or trademark laws and controls, irrespective of whether formal protection is sought.

II. **Determination of Rights**

To determine the disposition of rights regarding intellectual property developed by College employees and students, ownership of intellectual property will be assessed within the framework of the following categories:

A. Faculty

Ownership of intellectual property created by a faculty member shall reside solely with the author/creator/inventor, subject to the provisions and exceptions contained in Sections II. A. 1-3 and D. below.

1. Ownership of intellectual property shall reside with or be shared by the College when faculty develop intellectual property as a result of an assigned project or task, where the assignment explicitly states that the intellectual property will be wholly or jointly owned by the College. Under appropriate circumstances, the College may share royalty income with the author/creator/inventor.
2. The College is entitled to share in the rights to ownership and disposition of faculty-created intellectual property and share in royalty income when the property is generated with College support. Such support gives rise to shared ownership when the College provides resources that are not generally available to the College faculty, or the College has made or will make a significant investment in the development of the work through the provision of extraordinary allowances or substantial financial, personnel, technology, facilities, or other resources beyond those which are generally provided faculty in the ordinary course of work assignments (whether in money or in money's worth, and whether or not supported by outside sources under contract).

Resources generally available to faculty include, but are not limited to, the standard use of College laboratories, studios, buildings, office computers, networks, software, learning management systems, materials, or equipment, but do not include release time from regularly assigned duties, direct investment by the College of funds or staff, or the purchase of special equipment for the project, or extraordinary use of resources.

A written agreement of joint ownership shall be required, and College personnel engaged in such efforts shall be responsible for contacting the appropriate Vice President for guidance regarding the development and execution of the agreement before undertaking the College-assisted activities. Failure to execute a written agreement with the College shall not deprive the College of its joint ownership rights.

3. Instructional materials developed in conjunction with class teaching are specifically deemed not to be created with College support as defined in Section II. A. 2 and are not otherwise considered "works-for-hire," unless such materials were developed using

college-administered funds paid specifically to support instructional materials development. Such instances of development using college-administered funds will be governed by the provisions of Sections II. A. 1-2 and D. as applicable. Otherwise, the author/creator/inventor is the owner.

4. Intellectual property created for ordinary teaching use in the College curriculum, such as syllabi, assignments, and tests, shall remain the property of the author/creator/inventor. However, the College shall be permitted, subject to the approval of the author/creator/inventor, which approval shall not be unreasonably withheld or delayed, a royalty-free, non-exclusive license to make copies of, display, and use such material in support of the College's educational mission, specifically for internal instructional, educational, and administrative purposes, including satisfying requests of accreditation agencies for faculty-authored syllabi and course descriptions.

In the event a faculty member leaves the College, the College shall be permitted a royalty-free, non-exclusive license to make copies of, use, display, and create derivative works from intellectual property created for ordinary teaching use in the College curriculum, in support of the College's educational mission, specifically for internal instructional, educational, and administrative purposes, unless the author/creator/inventor specifically withholds approval for good cause. The College will, when exercising its license, credit the faculty member unless the faculty member provides reasonable advance notice to the College that credit should not be given.

B. Staff

The College will retain ownership of any intellectual property created by staff members in any work they perform for the College or otherwise within the scope of their employment with the College, subject to provisions contained in Sections II. B. 1 and D. below.

1. If for any reason, intellectual property created by a staff member falls outside College ownership under the general provisions of this section but is created with College support, the College is entitled to share in the rights to ownership and disposition of the intellectual property and share in royalty income. "College support" for purposes of this subsection means use of College facilities or resources in anything more than an incidental fashion.

C. Students

Ownership of intellectual property created by a student resides with the student, subject to provisions contained in Sections II. C. 1-3 and D. below.

1. When student employees produce intellectual property in the course of any work they perform for the College or otherwise within the scope of their employment with the College, they will be treated as staff members according to the terms of Section II. B. above.
2. For students who are not employees, the College is entitled to share in the rights to ownership and disposition of student-created intellectual property and share in royalty income when the intellectual property is generated with College support. Such support gives rise to shared ownership when the College provides resources that are not generally available to the College student body, or the College has made or will make a significant investment in the development of the work through the provision of extraordinary allowances or substantial financial, personnel, technology, facilities, or other resources

beyond that which is generally provided students in the ordinary course of instruction and research (whether in money or in money's worth, and whether or not supported by outside sources under contract).

3. Ownership of intellectual property as a result of contribution from a student working, as part of coursework or research, on a project sponsored by or on behalf of faculty, staff, or the College should be covered by a written agreement between the sponsor (faculty, staff, and college) and the student. The student must be informed of these terms by the project owner, leader, or department chair before starting work on the project.

D. Other Provisions

Notwithstanding Sections II. A.-C. above, the following provisions shall apply:

1. Ownership of intellectual property may be specified by written agreement between any party and the College, which shall supersede the provisions herein. Such written agreements are the preferred course of action in most cases.
2. Ownership of intellectual property produced under sponsor-supported projects shall be governed by the specific terms and conditions of the sponsorship contract between the College and the sponsor. 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. If the agreement does not specify ownership, ownership shall vest in the College.
3. Unless the parties agree in writing to the contrary, the College shall own the rights to intellectual property in the following categories:
 - a. Databases and similar collections of information which are obtained primarily on behalf of the campus/centers or departments rather than individuals, or which involve issues of privacy or information.
 - b. Collaborative works by persons working as members of the SCF community, when numerous individual original contributions are indistinctly merged, as a practical matter, into a new and distinct work fixed in a tangible medium of embodiment, and the individual creators have not entered into an agreement with respect to joint authorship.
4. Notwithstanding anything set forth herein, the College is at all times subject to Florida's public record laws.

III. Royalty Income and Use of Revenue

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

A. Individual Ownership

Income derived from intellectual property under sole ownership of faculty, staff, or students shall accrue solely to the author/creator/inventor.

B. Shared

Ownership Income derived from intellectual property with shared ownership by operation of this policy shall be distributed in accordance with a written agreement between the employee

or student 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 appropriate and Vice President of engagement in any intellectual property 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 30% of the royalties generated from all intellectual property.

C. College Ownership

Where intellectual property 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 from intellectual property royalties. The College 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 Projects

Income derived from sponsor-supported projects 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 intellectual property 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. Intellectual Property Administration

The President may establish additional procedures for the administration of intellectual property concerns. These procedures may designate an appropriate Vice President as the official responsible for all such issues, may establish contractual guidelines, and provide for periodic review and update of all policies, contracts, and activities related to intellectual property at the College.

V. Registration of Copyrights/Patents

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

A. Individual Ownership

The author/creator/inventor shall be responsible for registering the copyright or patent, and paying all applicable fees.

B. Shared Ownership

Unless otherwise agreed, the College shall register the copyright or patent, and costs and fees shall be borne as follows:

1. College: 30%

- 2. Author/creator/inventor: 70%
- C. College Ownership

The College shall register the copyright or patent and pay all the fees.

- E. Sponsor-Supported Project

Payment of fees shall be negotiated and identified in a written agreement.

VI. Dispute Resolution

This procedure shall be administered by the appropriate Vice President, who will provide advisory interpretations, in collaboration with the Chair of the Faculty Senate as deemed appropriate, upon request of any member of the College community. Disputes concerning the interpretation and application of this rule shall be resolved by the appropriate Vice President.

VII. Appeals

The decision of the Vice President may be appealed to the President, who will appoint an ad hoc committee to make recommendations towards the resolution of the appeal. The ad hoc appeals committee shall include an appropriate member of the President's staff, one or more appropriate and disinterested College employee, and a student. The College's General Counsel shall be informed of the appeal, provided copies of all relevant documents, and assigned to serve as counsel to the committee. Procedures for the appeals hearing, unless otherwise provided, shall be governed by procedures established in accordance with this policy. The decision of the President is final and binding.