

NORTHEAST COMMUNITY COLLEGE

ADMINISTRATIVE PROCEDURE NUMBER: AP-3030.0

FOR POLICY NUMBER: BP – 3030

OWNERSHIP OF INTELLECTUAL PROPERTY AND PATENT PROCEDURES

1. PROCEDURE SUMMARY STATEMENT

To establish procedures for intellectual property.

2. DEFINITIONS

In this procedure the following terms shall be defined as follows:

- 2.1 Independent Works Defined - An independent work is a work that is created or prepared by an author or inventor on the author's or inventor's own time and with the author or inventor's own resources, and which does not involve the use of College resources, except where such use is minimal as defined herein. A derivative work may also be an independent work if it meets the criteria set forth below.
- 2.2 College Supported Work defined - A College supported work is a creative work, including a derivative work, developed in whole or in part with the normal and customary use of College resources by the author or inventor within the department, division or other unit in which the "author or inventor" holds his or her primary appointment from the College.
- 2.3 Institutional Works defined - An institutional work is a work developed with the use of substantial college resources by an author or inventor. This would include a college approved work developed or created under a specific employment arrangement with a college employee or pursuant to a non-employee contractual arrangement.

3. PROCEDURE

3.1 Use of College's Name

A faculty member or staff employee of the College may identify his or her affiliation with the College, but without prior written approval, may not otherwise suggest the College's participation or endorsement of the conclusions of any study or research. Similarly, the College's name may not be used, without prior written permission of the President, in association with the sale or commercialization of the products of research by College faculty members or staff employees.

3.2 Ownership of Intellectual Property, General Provisions

- 3.2.1 Applicable to all technologies and media - This procedure is intended to apply to all creative works, including patentable subject matter, regardless of the media in which they are distributed or the nature of their technological manifestation, now known or later developed.
- 3.2.2 College rights - In reference to College supported works and institutional works, the College retains the right, where the College's interests will or may be significantly compromised, to make revisions to and/or develop new work based upon an author's or inventor's original creation (derivative works), while said author or inventor is in the employ of the College. Except to the extent that an author or inventor may have a right to receive income based upon royalties or other fees generated from a work, this policy provides no portability of other rights to College-owned intellectual property should the employment relationship between the College and the author or inventor terminate. The College also retains the right to grant a royalty-free license or an appropriate royalty-bearing license to the author or inventor to continue to use the techniques of other aspects of a work, even after the author or inventor is no longer employed by the College.
- 3.2.3 Classification of creative works - Under this procedure, intellectual property is classified as either:
 - 3.2.3.1 An Independent Work governed by Section 3.3;
 - 3.2.3.2 A College Supported Work governed by Section 3.4; or
 - 3.2.3.3 An Institutional Work governed by Section 3.5.
 - 3.2.3.4 An Invention governed by Section 3.6.

3.3 Independent Works

- 3.3.1 Ownership - A College faculty member or staff employee as the author or inventor of an independent work owns the intellectual property rights in that work.

3.4 College Supported Works

- 3.4.1 Ownership of College Supported Works - The faculty member and staff employee owns the copyright and other rights associated with traditional works of scholarship. Accordingly, except for (1) institutional works, and (2) patents, patentable subject matter, trade secrets and commercially viable discoveries, the faculty member or staff employee shall own the right to obtain copyrights and the right to royalties or other income from a College supported work, including books, films, cassettes, CDs, software, works of art, or other material. However, a faculty member or staff employee is prohibited from making a financial profit in or receiving compensation in excess of reasonable costs from the sale of educational materials used by students of the College, except royalties on books or other educational material from publishing houses of standing. In addition, the following specific rules apply to College supported works for which the faculty or staff member owns the copyright:

3.4.1.1 Instructional materials developed by a faculty member or staff employee in the process of delivering a course of instruction to students shall be the property of the faculty member or staff employee. No royalty, rent or other consideration shall be paid to a faculty member or staff employee when instructional materials are used at the College. Should the author of instructional materials leave the employ of the College, he or she shall provide the College with copies of the instructional materials (not including lecture notes) and shall grant the College a non-exclusive, royalty free license thereto, when it is determined by the College that such instructional materials are necessary to carry out the educational programs of the College.

3.4.1.2 Recordings of lectures shall be the property of the faculty lecturer, unless the recording is an institutional work.

3.4.2 Residual Rights of College - When the College's interest to provide a continued educational opportunity to students will or may be significantly compromised, the College retains the right to continue to use a College supported work for the educational benefit of its students. The faculty member or staff employee as the author or inventor of the College supported work shall grant a royalty-free license to the College for use of said work by the College for the educational purposes of the College, which license shall continue, even after the author or inventor is no longer employed by the College.

3.4.3 Early Disclosure and Incentives for Creative Efforts - A faculty member or staff employee shall disclose in writing as early as possible to the Human Resources office the nature of any College supported work that has potential commercial applications. This disclosure will provide an opportunity for the College to discuss and/or seek any necessary interpretation of this procedure, enter into any necessary contractual agreements as contemplated by Section 3.4.3 above, and/or secure the College's support for the creative endeavor.

3.5 Institutional Works

3.5.1 Ownership of Institutional Works - The College owns all rights to institutional works. The College does, however, reserve the right to determine whether the author or inventor should share in the rights to royalties and other rights in institutional works discussed in this procedure. The author or inventor shall disclose the potential for intellectual property rights associated with institutional works to the College as early as possible in writing filed with the Human Resources Office. The College also reserves the right to assign to the author or inventor any rights of ownership it may acquire pursuant to this procedure.

3.6 Inventions

Patents may be either independent works, college supported works, or institutional works as defined in Section 3.3.1, 3.4.1 or 3.5.1. Patentable discoveries by faculty

and staff members which are either college supported works or institutional works shall be offered to the Board in writing prior to making a patent application. If the Board accepts the offer within sixty days, it shall pursue the patent application with the help of the inventor at no cost to the latter. Royalties and other proceeds accruing from any successful patent shall be divided according to a mutually agreed upon formula, but in no case shall the inventor's share be less than 15 percent of the net revenues. If the Board rejects the offer, the inventor is free to pursue the patent application at their own expense. In the event that a third party assists the Board and the inventor in pursuing the patentability of a discovery or invention, the conditions and financial arrangements shall be specified by contract signed by all parties.

3.7 Ownership of Works Produced by Non-employees

All College personnel are cautioned to ensure that independent contractors agree in writing that ownership of commissioned work is assigned to the College, except where special circumstances apply and it is mutually agreed between the author or inventor and the College that the author or inventor will retain ownership.

3.8 Ownership of Copyrights in Student Works

Students own the copyrights to their student works. Students own the copyrights to all student writings and to other creative expressions required in the course of class assignments. The College shall, however, retain the right to keep original examination scripts and to possess a copy or record of other student works for purposes of assigning grades, maintaining archival materials, and record keeping.

3.9 Intellectual Property Rights for Multiple Creating Parties

Due to the nature of the creative process, it is not uncommon for more than one individual to claim part of the recognition as an Author or Inventor for a particular creation. The College shall recognize a written agreement between the contributing authors or inventors which defines their respective rights to the creation of the work or invention.

3.10 Supplemental Income from Commercial Applications

This procedure in no way alters the ability of an author or inventor to receive supplementary income from the College under any separate policy, as a result of the commercial application of intellectual property created by the author or inventor.

3.11 Other Provisions

Any situation not covered by these guidelines shall be processed in an expedient manner by the College administration for individual consideration by the Board of Governors.

4. APPLICABILITY

N/A

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SPONSORING DIVISION/DEPARTMENT: Administrative Services

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