



# COLLEGE of CENTRAL FLORIDA

## POLICY MANUAL

<b>Title:</b> INTELLECTUAL PROPERTY	<b>Number:</b> 3.27	<b>Page:</b> 1 of 7
	<b>See Procedures:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Legal Authority:</b> Florida Statutes 1001.64(2) and (4), 1001.65(1), 1004.726, and FAC 6A-14.0261	<b>Board Adoption/Revision Approval Dates:</b> 3/24/09	

College of Central Florida supports and encourages its employees to develop and publish scholarly and creative works and educational materials and products, intellectual property which may be subject to copyright, patent, trademark or service mark registration and which may generate royalty income. Such activities increase professional knowledge, provide creative models for students, and bring recognition to the College. These developments may involve the use of College resources and the employee's time while on duty at the College. The policy listed below therefore defines the rights and obligations of the parties concerned.

### **1. Persons Covered Under the Policy**

This policy is intended to cover relevant activities of all full and part-time College employees.

### **2. Materials Subject to Intellectual Property**

In general, Intellectual Property will be divided into the following major categories:

- a) Books, study guides, television scripts, articles, lectures, artistic works, logos, graphic designs, musical arrangements and compositions, dramatic compositions, tests, and other relevant materials which are usually covered by copyright laws.
- b) Technological materials including, but not limited to, computer programs, web courses, distance learning, pod casts, computer-controlled multimedia, including videodiscs, CD ROMS, etc., and television related materials, such as educational materials and video programs developed and released through cable television, open broadcast television, videocassette and the like, all of which are normally covered by copyright laws.
- c) Trademarks and service marks which are appropriate for registration on state or federal level.
- d) Specific products and discoveries which are usually subject to patent laws.



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All materials covered by this policy will be interpreted under one of the above categories.

### 3. Definitions

- a) College Resources – Any resources owned by the College and provided to College employees to use, including, without limitation, office space, computers, software, supplies, facilities and equipment and any like items.
- b) Effective Date – The date on which this Policy is officially adopted and approved by the District Board of Trustees of the College of Central Florida. This policy shall not be retroactive.
- c) Intellectual Property – Any and all copyrightable material (including, but not limited to, all derivative works, updates and modifications), inventions, tangible research materials, trademarks, service marks, and patents, as those terms are defined under applicable federal, state and local laws.
- d) Net Revenues - Gross receipts of anything of value less expenses incurred in connection with the creation, commercialization and/or registering of Intellectual Property, including, but not limited to, direct costs of obtaining and securing copyrights, patents, trademarks or service marks, indirect costs as determined by the College, and all attorneys' fees.

### 4. Determination of Rights

To determine the disposition of rights to Intellectual Property of employees, such rights will be interpreted within the framework of the following categories:

- a) Individual Effort – Intellectual Property generated as a result of individual initiative and not as a specific College assignment and with incidental use of College facilities and/or resources which reside solely with the author or inventor.
- b) College Assisted Individual Effort – The College provides support of an individual effort resulting in Intellectual Property by contributing employee time, facilities, and/or other College resources in excess of the limits of incidental use of College resources. The use of facilities generally available to the public, such as libraries, shall not constitute



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substantial use of College resources. The employee and College shall expressly agree in a written instrument signed by them that the work will be considered a “College Assisted Individual Effort.”

- c) Work for Hire (College initiated and supported) – This term shall have the same meaning as set forth in the Copyright Act, Title 17, U.S.C., Section 101, et. seq., referring to any work specifically ordered or commissioned by the College that is performed by an employee within the scope of the employee’s regular duties and for which the parties expressly agree in a written instrument signed by them that the work shall be considered a “Work for Hire.” All Work for Hire situations in which no written instrument has been executed will be considered and resolved on a case-by-case basis in accordance with the provisions of this Policy.
- d) Intellectual Property Sponsored by Outside Sources – Intellectual Property created with funds, personnel, resources and facilities administered and controlled by the College which are provided by governmental, commercial, industrial, or other public or private organizations or individuals which shall be considered, for the purpose of this policy, to be funds, personnel, resources, and facilities provided by or through the College. By way of example, but not by way of limitation, this definition includes grants.

### **5. Intellectual Property Net Revenue Provisions**

The royalty income from Intellectual Property shall be distributed as listed below:

- a) Individual Effort – Income derived from Intellectual Property produced from the individual initiative of College employees shall accrue solely to the author(s) or inventor(s). The Intellectual Property will be held in the name of the employee concerned.
- b) College Assisted Individual Effort – Net Revenues derived from Individual Efforts which are complimented by College time, facilities and/or resources, shall accrue solely to the author(s) or inventor(s). However, the College shall recover all of its costs, supported by detailed records, on time and materials. The only exception shall be when the author(s) or inventor(s) requests, and the College agrees, to permit its name to be used in conjunction with the product or process, and/or also agrees to market and/or assist in acquiring a marketing source for the product or process. In these cases royalties



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will be shared, with the College receiving 50% and the individual 50%, unless a written agreement is executed and approved by all parties prior to registration.

- c) Work for Hire (College initiated and supported) – Net Revenues of the Intellectual Property resulting from a specific assignment by the College or arising out of duties for which the individual is specifically employed by the College shall reside with the College. Under special circumstances, the College may share Net Revenues with the author(s) or inventor(s) upon recommendation by the College and approval of the District Board of Trustees.
- d) Sponsor-Supported Efforts – Income derived from Sponsor Supported Efforts shall be disbursed in accordance with the specific terms of governing contractual or grant documents. Income derived from Intellectual Property shall be disbursed in accordance with stated College policies when the contract or grant document is silent as to disbursement of royalties or time of value. The terms and conditions of the sponsorship contract shall determine all ownership issues.

### **6. Prerequisites to Disbursement of Net Revenues**

In order to insure that there is no misunderstanding between the College and the College’s employee as to the rights regarding the payment of collected Net Revenues under this Policy, the parties agree as follows:

- a) Prior Written Authorization – With the exception of an “Individual Effort”, prior to commencing the creation of Intellectual Property or within 30 days of beginning the creation, an employee shall secure prior written approval from the President or its designee and shall execute a written agreement acknowledging and accepting the terms of this policy. This agreement shall also include written representations, warranties, licenses, assignments of interest (if any), disclosures, identifications, royalty allocation, if any, indemnification of the College, and other provisions.

### **7. Ownership of Intellectual Property**

- a) Individual Effort – The College employee will own the Intellectual Property.



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- b) College Assisted Individual Effort – The College employee will own the Intellectual Property.
- c) Work for Hire (College initiated and supported) – The College will own the Intellectual Property as set forth in a Work For Hire Agreement executed by the parties prior to commencing the creation of any Intellectual Property for the College.
- d) Sponsor-Supported Efforts – Ownership is as set forth in the agreement governing the relationship between the sponsor, the College and the employee.

### **8. Use of Intellectual Property**

The use of Intellectual Property is divided into two categories:

- a) Internal Use – The College will be entitled to use internally for any purpose within the College, free of charge, any and all Intellectual Property created by College employees through Work for Hire. The College shall also be entitled to extend this authorization to other College employees. Except for instances that constitute “fair use” as that term is defined in the Copyright Act, a College employee who creates Intellectual Property through College Assisted Individual Effort or Individual Effort will be entitled to determine whether the Intellectual Property may be used by the College or other College employees.
- b) External Use – For all Intellectual Property owned by the College, the College shall have the sole right, but not the obligation, to determine whether to commercialize any Intellectual Property. Notwithstanding anything in this policy to the contrary, the College always reserves the right unilaterally to negotiate and enter into agreements for the exercise, sale, use, including the use for free, or other disposition of any and all rights of Intellectual Property owned by the College.

### **9. Death, Retirement or Cessation of Employee**

Except for employees receiving revenues as the result of Individual Effort, any employee who is entitled to receive Net Revenues under this Policy shall continue to receive Net Revenues upon death, retirement or upon voluntarily ending employment with the College for three (3)



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years after ending employment with the College. However, with the exception of employees receiving revenues as a result of Individual Effort, all rights of any College employee to receive net revenues under this Policy shall immediately terminate upon the involuntarily termination of employment with the College, and all net revenue that would have been paid to the College employee shall then be paid to the College.

### **10. Dispute Resolution**

The College shall appoint a committee comprised of administrators and support staff personnel to address dispute resolution. The College shall establish procedures for any College employee to petition the committee regarding a dispute pertaining to Intellectual Property. Those disputes include, but are not limited to, disputes regarding ownership rights, usage rights, percentage of royalty, revenue payments, or publication clearance. The committee shall be chaired by the President or his designee. The committee chair shall be responsible for making a recommendation to the College President to resolve any dispute under this policy. Any decision made by the College President shall be final and shall not be subject to any reconsideration or appeal.

### **11. Term**

The College's obligations to pay Net Revenues under this Policy shall in no event continue beyond the term of the protection of the relevant Intellectual Property.

### **12. Copyright/Patent/Trademark/Service Mark (Intellectual Property) Administration**

The Chief Fiscal Officer shall be responsible for the administration of Intellectual Property procedures. His or her duties shall include the following:

- a) Provide assistance and guidance as set forth in Florida Statutes, Section 1001.64(33) in obtaining a publisher for College personnel for all College Assisted, Work For Hire and Sponsor Supported works or efforts that are subject to copyright or patent.
- b) Provide review of all projects expected to generate Intellectual Property with support by the College or a sponsor in order to determine in advance the disposition of the product and



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income generated. The President, with the approval of the Board of Trustees and the author(s) or inventor(s), shall execute an agreement governing the determination of rights, disposition, and distribution of income prior to the program commencement.

- c) Recommend necessary changes to the College Intellectual Property rule and procedure.
- d) Register Intellectual Property:
  - 1. Individual Effort  
The author(s) or inventor(s) shall be responsible for registering the Intellectual Property and paying all fees applicable thereto, including legal fees.
  - 2. College Assisted Individual Effort  
Unless otherwise agreed, the employee, pursuant to Florida Statutes, Section 1001.64(23), shall register the Intellectual Property and bear all the costs unless the agreement between the parties states otherwise.
  - 3. Work For Hire (College initiated and supported)  
The College shall register the Intellectual Property and pay all the fees, including, but not limited to, legal fees.
  - 4. Sponsor Supported Efforts  
This shall be negotiated in the Sponsorship Agreement.