

## ADMINISTRATIVE PROCEDURES

<b>Title:</b> <b>INTELLECTUAL PROPERTY</b>	<b>Identification:</b> 4.23
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	<b>Effective Date:</b> 05/10/16
<b>Authority:</b> <b>FS 1001.64; 1.001.65; 1004.726</b>	<b>Signature/Approval:</b> Dr. Ken Atwater

### PURPOSE

This procedure establishes guidelines regarding all types of intellectual property, which includes but is not limited to, educational materials, copyrightable work and inventions that may be subject to trademark, trade secrets, copyrights, and patents by faculty, staff and students at the College.

### PROCEDURE

Hillsborough Community College (HCC) is committed to providing an environment that supports the academic activities of the faculty, staff, and students and encourages innovation and the creation of original works of authorship and the free expression and exchange of ideas. It is the intent of the College to maintain a positive atmosphere for development of intellectual property, while encouraging innovation, and discovery of new knowledge and its dissemination. Intellectual property includes but is not limited to the following examples: Inventions, discoveries, trade secrets, trade and service marks, writings, art works, musical compositions and performances, software, literary works and architecture. This procedure applies to all HCC employees and students.

#### I. **DEFINITIONS** - The following definitions apply to this procedure:

- A. **INTELLECTUAL PROPERTY** - Materials produced as the result of academic scholarship, which include but are not limited to textbooks, literary works, artistic creations, study guides, resource materials, software, videotaped lectures, databases, lectures, transparencies, visual aids, lab manuals, syllabi, bibliographies, glossaries, tests, assignments, course documents and other instructional materials, manuals, syllabi, tests, proposals, lectures, course materials, musicals, dance, dramatic compositions, films, charts, visual aids, teaching devices, video and audio recordings, live video and audio broadcasts, computer programs, pictorial, graphic, digital images and sculpture, inventions, patents, and other material protected by copyright, patent or trademark laws.
  
- B. **SIGNIFICANT COLLEGE RESOURCE CONTRIBUTIONS** - Is defined as meaning the College has provided the use of resources other than those ordinarily available to most or all faculty, staff and/or students. Sole utilization of College laboratories or special instrumentation, dedicated assistance by College employees, special financial assistance, or extensive use and exclusive control of commonly shared facilities shall constitute significant use of College resources. However, ordinary use of equipment, computers, College libraries and routine secretarial or administrative resources, including support from the College's IT department, and provision of office spaces and supplies, do not constitute significant college resource contributions. In addition, sabbatical leaves and funding provided through Faculty, Staff and Program Development (FSPD), are not considered significant college resource contributions for purposes of this procedure.

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C. SCHOLARLY WORK- Is defined broadly to include pedagogical, literary, artistic and creative works created by faculty with or without the assistance of other members of the College community where there is no significant College resource contribution. Scholarly work includes, without limitation: books (including textbooks), monographs, articles, reviews, and works of art (including, but not limited to, paintings, sculptures, plays, choreography and musical compositions); individual course materials such as syllabi, exams, lectures, transparencies, study guides, workbooks, and manuals; and instructional software, web pages, and internet-based instructional materials developed by faculty members in the course of their usual scholarly, pedagogical, and service activities. The latter include projects undertaken during sabbatical leaves, faculty workshops, and other special assignment periods intended for such activities.

II. OWNERSHIP AND USE - A "Work Made for Hire" under federal copyright law is one prepared by an employee within the scope of his or her employment.

A. Any of the following circumstances will result in HCC ownership:

- If the intellectual property is created by an employee within the scope of employment and/or related to an employee's job responsibilities.
- A work is related to the job responsibilities if it is the kind of work an employee is employed to do and they do it, at least in part, for use at work, or for other employees to use or for HCC to use. The work should be performed primarily at work, but use of some personal time or other facilities to create a work will still be within the scope of employment. Works that have nothing to do with an employee's job duties will remain the employee's property, as long as the employee makes no more than ordinary use of HCC facilities and property.
- If the intellectual property is created on HCC time, with the significant use of HCC resources and support including facilities.
- If the intellectual property is commissioned by HCC pursuant to a signed contract; or if it fits within one of the nine categories of works considered work for hire under Federal Copyright Law. The agreement may establish a percentage and/or joint ownership.
- HCC assigns a project or task that indicates the College will own the intellectual property or the College will share ownership with author or creator.

B. An employee owns intellectual property when:

- It is unrelated to the employee's job responsibilities and the employee made only ordinary use of College resources and support; or

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- The property is scholarly work. The College will not assert any ownership rights in the case of scholarly work and specifically disclaims any potential rights to do so under the "work for hire" provisions of the U.S. Copyright Act, unless the College and creator entered into an Intellectual Property

C. The College requests that the creator of any intellectual property created at HCC or by a College employee utilizing College resources and support, acknowledge the College contributions to the work.

D. Work produced by students working for the College will be a Work Made for Hire if they are produced under a specific contract with the College for production of that work. Something produced by a students as part of a class, or in any other capacity, will not be deemed a Work Made for Hire.

**III. INTELLECTUAL PROPERTY AGREEMENT** - An Intellectual Property Agreement (Work Made for Hire) between HCC and a member of the faculty, staff or student for intellectual work product will include the following:

- A designated percentage of ownership for College and creator will be identified;
- The compensation;
- Explanation concerning how the intellectual work product can benefit and be utilized by HCC faculty, staff and/or students;
- Detail of how revenues are to be allocated by HCC;
- Specific disclosure requirements for all parties prior to publicizing a project;
- Reference to any documents/requirements needed to provide for intellectual property protection; and
- Collaborative works involving more than one HCC faculty/staff contributor will also be a Work Made for Hire.

**IV. REVENUE** – The College wishes to promote excellence in all academic activities and endorses the legitimate expectation of creators to share in any net revenues resulting from the development of intellectual property. Accordingly, for any work in which the College asserts ownership interest under this procedure, the College and creator(s) will share any annual net revenue/royalties (revenues less recovery of all costs involved in protecting the intellectual property rights of the work, licensing costs, and other directly related administrative costs) in predetermined and designated percentages, unless different contractual agreements have been reached in relation to particular works by the parties. If a work involves more than one employee as creator, the creators will divide their share equally unless they provide the College with an alternative revenue distribution agreed upon by creators.

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- V. **COLLEGE NAME/LOGO** - Faculty, staff and students may use the College's name, logos, and marks to identify themselves. The College's name and logos cannot be used by individuals or entities in a manner that implies College endorsement or responsibility for particular activities, products, or publications for commercial purposes, or by any individual or group promoting itself, without the express written permission of the Executive Director of Marketing and Public Relations.

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History: Adopted: 5/6/92; Revised: 9/15/92, 6/15/99, 7/10/01; Formerly: 3.500, 3.501, 3.502, 3.503, 3.504, 3.505, 3.506, 3.507, 3.508, 3.509, 3.511, and 3.512

