

ARTICLE 18
INVENTIONS AND WORKS

18.1 University Authority and Responsibilities. Section 1001.74, Florida Statutes, authorizes the University to establish rules and procedures regarding patents, copyrights, and trademarks. Such rules and procedures shall be consistent with the terms of this Article.

18.2 Definitions. The following definitions shall apply in Article 18:

(a) A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. ~~Instructional technology material, as defined in Section 9.9(a), is included in this definition.~~

(b) An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. ~~Instructional technology material, as defined in Section 9.9(a), is included in this definition.~~

~~(c) "Instructional technology material" is defined in Section 9.9(a).~~

~~(d)~~(c) "University support" includes the use of University funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University.

18.3 Works.


(a) Independent Efforts. A work made in the course of independent efforts is the property of the faculty member, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Section, the term "independent efforts" means that:

- (1) the ideas came from the faculty member;
- (2) the work was not ~~made with the use of~~ University supported; and
- (3) the University is **shall** not **be** held responsible for any opinions expressed in the work.

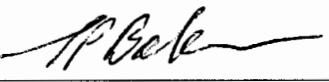
(b) University-Supported Efforts.

(1) If the work was not made in the course of independent efforts, ~~the work~~ **it is** the property of the University and the faculty member shall share in the proceeds therefrom.

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(2) Exceptions. The University shall not assert rights to the following works:

a. Those works for which the intended purpose is to disseminate the results of academic research, or scholarly study, **or creative efforts**, such as books, articles, electronic media, **databases, poems, musical compositions, and works of art**, and

b. Software released by a faculty member to the academic and research community for general public use under a license, such as the Gnu General Public License, that provides it not be marketed for profit, and

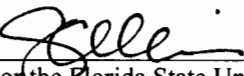
b.c. Works developed without the use of appreciable University support and used solely for the purpose of assisting or enhancing the faculty member's instructional assignment. Examples of such works include case studies, text books, laboratory manuals and class notes produced in connection with regularly scheduled courses of instruction, regardless of the medium. For University support to be appreciable it must go beyond the resources commonly or routinely provided or made available to similarly situated faculty members for the performance of the instructional assignment. For example, the use of resources such as the libraries; one's office, office computer and other University computer facilities; and office supplies is not considered appreciable University support.

(c) Disclosure.

(1) Upon the creation of a work and prior to any publication, the faculty member shall disclose to the President or representative any work made in the course of university-supported efforts, together with an outline of the project and the conditions under which it was done. ~~Consistent with the provisions of Section 18.3(b)(2)a., above, faculty members need not disclose regarding books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly work.~~ **Faculty members need not disclose regarding works covered by 18.3(b)(2) (Exceptions), above.**

(2) The President or representative shall assess the relative equities of the faculty member and the University in the work.

(3) Within sixty (60) days after such disclosure, the President or representative will inform the faculty member whether the University seeks an interest in the work, and a written agreement shall thereafter be negotiated to reflect the interests of both parties, including provisions relating to the equities of the faculty member and the allocation of proceeds resulting from such work. Creation, use, and revision of such works shall also be the subject of the written agreement between the faculty member and the University as well as provisions relating to the use or revision of such works by persons other than the author. The faculty member shall assist the University in obtaining releases from persons appearing in, or giving financial or creative support to, the development or use of these works in which the University has an interest. All such

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agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(4) The faculty member and the University shall not commit any act which would tend to defeat the University's or faculty member's interest in the work and shall take any necessary steps to protect such interests.

18.4 Inventions.

(a) Disclosure/University Review.

(1) A faculty member shall fully and completely disclose to the President or representative all inventions which the faculty member develops or discovers while an employee of the University, together with an outline of the project and the conditions under which it was done. With respect to inventions made during the course of approved outside employment, the faculty member may delay such disclosure, when necessary to protect the outside employer's interests, until the decision has been made by the outside employer whether to seek a patent.

(2) If the University wishes to assert its interest in the invention, the President or representative shall inform the faculty member within 120 days of the faculty member's disclosure to the President or representative.


(3) The President or representative shall conduct an investigation which shall assess the respective equities of the faculty member and the University in the invention, and determine its importance and the extent to which the University should be involved in its protection, development, and promotion.

(4) The President or representative shall inform the faculty member of the University's decision regarding the University's interest in the invention within a reasonable time, not to exceed 135 days from the date of the disclosure to the President or representative.

(5) The division, between the University and the faculty member, of proceeds generated by the licensing or assignment of an invention shall be negotiated and reflected in a written contract between the University and the faculty member. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(6) The faculty member shall not commit any act which would tend to defeat the University's interest in the matter, and the University shall take any necessary steps to protect such interest.

(b) Independent Efforts. All inventions made outside the field or discipline in which the faculty member is employed by the University and for which no University support has been used are the property of the faculty member, who has the right to determine the disposition of such work and revenue derived from such work. The faculty member and the President or representative may agree that the patent for such invention be pursued by the University and the proceeds shared.

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(c) University-Supported Efforts. An invention which is made in the field or discipline in which the faculty member is employed by the University, or by using University support, is the property of the University and the faculty member shall share in the proceeds therefrom.

(d) Release of Rights.

(1) In the event a sponsored research contractor has been offered the option to apply for the patent to an invention or other rights in an invention, the University will use its good offices in an effort to obtain the contractor's decision regarding the exercise of such rights within 120 days.

(2) At any stage of making the patent applications, or in the commercial application of an invention, if it has not otherwise assigned to a third party the right to pursue its interests, the President or representative may elect to withdraw from further involvement in the protection or commercial application of the invention. At the request of the faculty member in such case, the University shall transfer the invention rights to the faculty member, in which case the invention shall be the faculty member's property and none of the costs incurred by the University or on its behalf shall be assessed against the faculty member.

(3) All assignments or releases of inventions, including patent rights, by the President or representative to the faculty member shall contain the provision that such invention, if patented by the faculty member, shall be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the University.

(e) University Policy.

(1) The University shall have a policy addressing the division of proceeds between the faculty member and the University.

(2) ~~Such policy may be the subject of consultation meetings pursuant to Article 2.~~ **Division of Proceeds. When a U.S. patent is issued on an invention assigned to the University, the inventor will receive a \$500 payment.**

a. The first \$10,000 of royalties or other income resulting from inventions in which the University takes title will be distributed as follows:

85% to the inventor(s)

15% to the University.

b. Once the \$10,000 plateau has been reached, net income (gross royalties minus direct costs of patenting, licensing, legal, and other related expenses) in excess of \$10,000 will be divided as follows:

40% to inventor(s)

30% to the department/ unit of which the inventor is a member

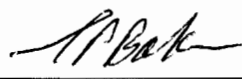
30% to University.

(3) Other aspects of such policy may be the subject of consultation meetings pursuant to Article 2.

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(f) Execution of Documents. The University and the faculty member shall sign an agreement individually recognizing the terms of this Article.

18.5 Outside Activity.

(a) Although a faculty member may, in accordance with Article 19, Conflict of Interest/Outside Activity, engage in outside activity, including employment, pursuant to a consulting agreement, requirements that a faculty member waive the faculty member's or University's rights to any work or inventions which arise during the course of such outside activity must be approved by the President or representative.

(b) A faculty member who proposes to engage in such outside activity shall furnish a copy of this Article and the University's patents policy to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

18.6 Additional Faculty Interests in University-Supported Educational Materials.

(a) "Educational materials" are works developed for the purpose of instruction.

(b) The University shall not claim ownership of educational materials created by a faculty member unless

(1) The creator has employed in its development, without personal charge to him/herself, the equipment, materials or staff services of one or more of the organizations established or supported by the University primarily to assist in developing and producing educational materials; or

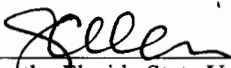
(2) The creator has been both commissioned in writing by the University, or one of its colleges, schools, departments or other subdivisions, to develop the work and, in its production has received assistance in the forms of released time or University funds, including grants and contract funds administered by the University.

(c) Creative Control. Subject to the provisions of this agreement, the creator has the right to and the responsibility for control of the content and the right to make other versions of the content of the materials for presentation in other media.

(d) Internal Use.

(1) Use of University-supported educational materials within the University requires approval of the creator.

(2) As long as the creator of University-supported educational materials remains a member of the staff of the University, he or she has the right to revise any or all materials because of obsolescence provided that the University shall not be obligated to provide further resources for the development of any such

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revisions unless the revisions are requested by the University or agreed upon jointly by the University and the creator. Should the extent of the required revision exceed the resources of University supporting agencies involved, materials may be withdrawn by agreement of the creator and the University.

(3) If the University-supported educational materials are used internally without revision for a period of two years, the University shall request the creator and the appropriate University supporting agency or agencies to consider revising the materials or to determine whether they shall continue to be used.

(4) The creator has the right to make personal and professional use of the materials within the University. Scheduling and arrangements to cover the costs for such personal requests will be made with the University supporting services involved with the original production of the educational materials.

(5) If the creator terminates employment with the University, the University retains the right to continued internal use of the University-supported educational materials in accordance with this policy unless special conditions for subsequent internal use have been arrived at by joint written agreement of the creator and the University.

(6) The creator has the right to use the University-supported educational materials at no cost to the University after termination of his or her employment with the University subject to the provisions of this policy.

(e) External Use. Licensing or sale or publication of University-supported educational materials for external use shall be preceded by a written agreement between the University and the creator specifying the conditions or use, including provisions concerning the right of the creator to revise the materials or to withdraw them from use, and the distribution of net royalty income.

(f) Compensation for Production Activity.

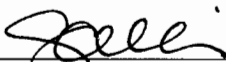
(1) With the exception of payments made by dual compensation appointments, the University shall not make any payment to the creator of University-supported educational materials other than the compensation regularly received.

(2) The regular assignment of the creator may be adjusted to take into account the extra time required to develop, or produce, or revise the University-supported educational materials.

(3) The creator may receive payment for the development of materials. Such additive compensation will be provided for in a written agreement between the University and the creator.

(g) Distribution of Royalties.

(1) The University shall license the external use of University-supported materials only after it enters into a written agreement with the creator specifying the distribution of net royalty income.

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(2) Such an agreement will be subject to the following guidelines:

a. The University's original production costs shall be recovered by the University prior to the distribution of any royalties. Production costs will include the following categories:

i. Direct costs. Those salaries and materials specifically identified with the production of such materials. Direct costs are computed by those supporting agencies involved with design, preparation, production, editing, duplication and distribution of the work.


ii. Indirect costs (Overhead). Costs for space, utilities, amortization of equipment, etc., which are generally referred to as overhead. The current University indirect cost rate will be applied for recovery of indirect costs relating to the production of University-supported works.

b. Expenses related to the production and distribution of additional copies of educational materials will be recovered from each sale or rental on the same basis as the original production costs.

c. Royalties may be included in the sale or rental price subject to any limitation imposed by outside contracting or granting agencies.

d. Fifty percent of any resultant net royalty income (royalty income after production costs and distribution costs) derived from the external use of University-supported educational materials will go to the University, and fifty percent to the creator.

e. Twenty-five percent of the University's share shall be allocated to SRAD. The remaining royalties that accrue to the University shall be returned to the school, college and/or supporting agency to finance further the development of educational materials or for other educational purposes. Distribution shall be as negotiated among the Vice President, Research and Graduate Studies, and the chief administrator of the department, school, college or agency involved.

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