

Article 18
INVENTIONS AND WORKS

18.1 University Authority and Responsibilities. Section 1004.23, Florida Statutes, and the Board of Governors' delegations to the University Board of Trustees authorize the University to establish regulations and procedures regarding patents, copyrights, and trademarks. Any regulations 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 code 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. A "work" does not include any patentable material, which is encompassed with the definition of an "invention" in Section 18.2(b), below.

(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.

(c) ~~"Appreciable University resources"~~ includes the use of University funds, personnel, students, equipment, facilities, materials, or technological information, and includes such resources provided by other public or private organizations when it is arranged, administered or controlled by the University. The support must go beyond the resources commonly or routinely provided or made available to similarly situated faculty members. For example, the minimal use of basic resources such as office supplies; libraries; one's office, office computer/laptop/tablet and other general University computer resources is not considered ~~appreciable~~ Appreciable University resources.

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:

- (1) the ideas came from the faculty member;
- (2) the work did not receive appreciable-Appreciable University resources;
- (3) the work is outside the field or discipline in which the faculty member is employed by the University; and
- ~~(34)~~ the University 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, it is the property of the University and the faculty member shall share in the proceeds therefrom.

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

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

41 ~~b. — Software released by a faculty member to the academic and research community~~
42 ~~for general public use under a recognized open-source license, provided that the faculty member~~
43 ~~does not market the software for profit, and~~

44 ~~eb. The work is used solely to support the faculty member’s instructional assignment~~
45 ~~and was not developed with support provided by other public or private entities, including but not~~
46 ~~limited to C&G, that was arranged, administered or controlled by the University or a Direct~~
47 ~~Support Organization of the University. Examples of such works include case studies, textbooks,~~
48 ~~laboratory manuals, and class notes produced in connection with regularly scheduled courses of~~
49 ~~instruction, regardless of the medium.~~

50 (c) Disclosure.

51 (1) Upon the creation of a work and prior to any publication, the faculty member shall
52 disclose to the President or representative any work made in the course of University-supported
53 efforts, together with an outline of the project and the conditions under which it was done. Faculty
54 members need not disclose regarding works covered by 18.3(b)(2) (Exceptions), above.

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

57 (3) If practicable, within sixty (60) days, but in no case later than ninety (90) days, after
58 such disclosure, the President or representative will inform the faculty member whether the
59 University seeks an interest in the work. A written agreement shall thereafter be executed in
60 accordance with this article. Creation, use, and revision of such works, as well as provisions
61 relating to the use or revision of such works by persons other than the author, shall also be the
62 subject of the written agreement between the faculty member and the University as well as
63 provisions relating to the use or revision of such works by persons other than the author. The
64 faculty member shall assist the University in obtaining releases from persons appearing in, or
65 giving financial or creative support to, the development or use of these works in which the
66 University has an interest. All such agreements shall comport with and satisfy any preexisting
67 commitments to outside sponsoring entities.

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

71 18.4 Inventions.

72 (a) Disclosure/University Review.

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

79 (2) The President or representative shall conduct an investigation which shall assess the

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80 respective equities of the faculty member and the University in the invention and determine its
81 importance and the extent to which the University should be involved in its protection,
82 development, and promotion.

83 (3) If the University wishes to assert its interest in the invention, the President or
84 representative shall inform the faculty member as soon as practicable, but in no case later than 135
85 days from the date of the faculty member’s disclosure to the President or representative.

86 (4) The division, between the University and the faculty member, of proceeds generated
87 by the licensing or assignment of an invention shall be in accordance with this article and reflected
88 in a written contract between the University and the faculty member, which faculty will timely
89 execute. All such agreements shall comport with and satisfy any preexisting commitments to
90 outside sponsoring contractors.

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

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

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

102 (d) Release of Rights.

103 (1) In the event a sponsor has been offered the option to apply for the patent to an
104 invention or other rights in an invention, the University will use its best effortsreasonable efforts
105 consistent with University best practices to obtain the sponsor’s decision regarding the exercise of
106 such rights within 120 days.

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

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

118 18.5 Division of Proceeds.

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(a) With regard to any work or invention owned by the University and subject to the requirements of any applicable sponsored agreements, the division of royalties, proceeds, or fees received by the University shall be as follows:

(1) Division of Proceeds. When a U.S. patent is issued on an invention assigned to the University, the faculty member 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 faculty member(s)

15% to the University.

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

For works:

50% to the faculty member(s) for works and

50% to the University.

For inventions:

40% to the faculty member(s) for inventions and

60% to the University.

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

(b) The University and the faculty member(s) shall sign an agreement 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 any University patent policies or regulations 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

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(2) The creator has ~~been both commissioned in writing~~been assigned 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 ~~release time and/or~~ University funds, including salary, 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, which shall not be unreasonably withheld.

(2) As long as the creator of University-supported educational materials remains an employee 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 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.

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

(2) Licensing or sale or publication of University-supported educational materials for external use by creator or an agent of creator 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

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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.

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