

**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 faculty member's institutional expertise as defined in Article 19.2 (b). not specifically itemized in the faculty member's AOR 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.

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

39 a. Those works for which the intended purpose is to disseminate the results of  
40 academic research, scholarly study, or creative efforts, such as but not limited to books, articles,  
41 electronic media, ~~databases, databasespublicly available databases,~~ poems, musical compositions,  
42 and works of art, and

43 ~~b. Software released by a faculty member to the academic and research community~~  
44 ~~for general public use under a recognized open-source license, provided that the faculty member~~  
45 ~~does not market the software for profit, and~~ b. Software released by a faculty member to the  
46 academic and research community intended for scientific or general public use under a recognized  
47 open-source license, provided that the faculty member does not market the software for profit, and  
48 is consistent with the terms of any related contract and/or grant, and;

49  
50 ~~ebc. The work is used solely to support the faculty member's instructional assignment~~  
51 ~~and was not developed with support provided by other public or private entities, including but not~~  
52 ~~limited to C&G, that was arranged, administered or controlled by the University or a Direct~~  
53 ~~Support Organization of the University. Examples of such works include case studies, textbooks,~~  
54 ~~laboratory manuals, and class notes produced in connection with regularly scheduled courses of~~  
55 ~~instruction, regardless of the medium. The work is used solely to support the faculty member's~~  
56 ~~instructional assignment. Examples of such works include case studies, textbooks, laboratory~~  
57 ~~manuals, and class notes produced in connection with regularly scheduled courses of instruction,~~  
58 ~~regardless of the medium.~~

59 (c) Disclosure.

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

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

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

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

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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) 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.

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

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

(5) 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 for which no Appreciable University resources have been used and are outside of the faculty member's institutional expertise as defined in Article 19.2 (b) ~~and are outside the field or discipline in which the faculty is employed by the University~~ 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.

(c) University-Supported Efforts. An invention made using Appreciable University resources and/or is within the faculty member's institutional expertise as defined in Article 19.2 (b) ~~or is in the field or discipline in which the faculty is employed by the University~~, is the property of the University, and the faculty member shall share in the proceeds.

(d) Release of Rights.

(1) In the event a sponsor has been offered the option to apply for the patent to an invention or other rights in an invention, the University will use ~~its best efforts~~ reasonable ~~its best efforts~~ nationally established standards to obtain the sponsor'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

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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.

#### 18.5 Division of Proceeds.

(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.

#### 18.6 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

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at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

18.76 ~~Additional Faculty Interests in~~ University-Supported Educational Materials.

(a) “Educational materials” are works developed for the purpose of instruction. The University shall not claim ownership of educational materials created by a faculty member if the work is used solely to support the faculty member’s instructional assignment. Examples of such works include case studies, textbooks, laboratory manuals, and class notes produced in connection with regularly scheduled courses of instruction, regardless of the medium. ~~Unless:~~

~~(b) The University shall not claim ownership of educational materials created by a faculty member if the work is used solely to support the faculty member’s instructional assignment. Examples of such works include case studies, textbooks, laboratory manuals, and class notes produced in connection with regularly scheduled courses of instruction, regardless of the medium.~~

~~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~~ been assigned 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 release time and/or University funds, including salary as specified in the faculty member’s AOR, grants, and contract funds administered by the University.

(~~eb~~) 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.~~

(~~12~~) 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.

(~~23~~) 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

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continue to be used.

(34) 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.

(45) 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.

(dce) 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.

(efd) 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.

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