

INTELLECTUAL PROPERTY OWNERSHIP POLICY - BP 8.3

Legal Authority: NCGS 115D-19

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Revision:

Intellectual Property Ownership Policy

As a constituent member of the System, the Board encourages the creation of intellectual property that improves productivity, enhances the teaching environment, and contributes to the quality of life in North Carolina. This Policy governs the respective ownership rights of the College and all of its faculty members, staff, students, contract employees, and any other individuals officially associated with the College that receives compensation (“Covered Individuals”). This Policy shall apply to all intellectual property created (i) within the scope of employment or otherwise arising out of the participation of the Covered Individuals' activities on behalf of the College, (ii) pursuant to the terms of an agreement to which the College is a party, (iii) in conjunction with grants or contracts administered by the College or its supporting foundations, or (ii) by making Significant Use of College Resources (as defined below).

Intellectual Property. Covered Individuals routinely create intellectual property. Intellectual property as used herein shall include all forms of intellectual property, including, without limitation, all works of authorship, copyrights, programs, inventions, processes, methods, algorithms, machines, compositions of matter, coding, apparatuses, designs, or improvements created, developed, designed, originated, compiled, or produced by a Covered Individual.

Intellectual Property Ownership Standards Within Scope of Employment. As a general rule, the creator of Intellectual Property owns the Intellectual Property. Current law defines the owner as the employer when such Intellectual Property is created by employees within the scope of their employment. Therefore, as a matter of law, except as otherwise modified by this Policy or other written agreement signed by the Covered Individual and the President, all Intellectual Property created by a Covered Individual in the course of his or her employment with the College is the property of the College.

College Assignment of Rights. The Board appreciates that a fundamental principle of the College as an academic organization is to encourage the development and widest possible dissemination of scholarly work produced by members of the College community. Therefore, in an effort to encourage academic creativity and innovation, the Board agrees and hereby does assign to Covered Individuals ownership in the Intellectual Property (including books, papers, lecture notes, articles, and similar materials) created by such Covered Individual within the scope of his or her employment using College resources

that are generally available to the Covered Individual. Generally available resources include a faculty member's office, office computer, telephone (excluding long-distance charges), and library. In cases where the provisions of this Policy state that the College assigns ownership in the Intellectual Property to the Covered Individual, it is the intention that such ownership shall be assigned to the Covered Individual by operation of this Policy without requiring further action by the College.

The President shall implement those Administrative Rules appropriate to protect the College's property while also encouraging the educational process consistent with the NCGS, System guidance, and standards of the Southern Association of Schools and Colleges. Such Administrative Rules shall include at least the following components:

College Retains Ownership. The Board does not concede or assign ownership in the following situations:

1. **Assigned Projects and Tasks.** The College retains ownership of the Intellectual Property created by Covered Individuals as part of an assigned or commissioned project or task.
2. **Agreement to the Contrary.** The College retains ownership of the Intellectual Property created by Covered Individuals when the College and a Covered Individual enter into a written agreement that contains provisions for Intellectual Property ownership.
3. **External College Agreements.** The ownership of Intellectual Property commissioned or developed by a Covered Individual pursuant to an agreement that the College has with an entity outside of the College will be governed by the terms of such agreement. If the agreement does not specify ownership by the outside entity, ownership shall vest in the College. All such agreements must be approved in writing by the Covered Individual and the President.
4. **Significant Use of College Resources.** The College retains ownership of all Intellectual Property in which the College makes a significant investment in the development of the Intellectual Property through the provisions of substantial financial, personnel, technology, facilities, or other resources beyond that which is generally provided to a Covered Individual ("Significant Use of College Resources").

Intellectual Property Created by Students. Intellectual property created by a student in the course of their academic training using College resources that are generally available to all students shall be owned by the student.

Intellectual Property License Back. In consideration for the Board's assignment of rights in the Intellectual Property back to the Covered Individual, the Covered Individual must grant to the College a perpetual, irrevocable, unlimited, royalty free, and non-exclusive license to use the Intellectual Property for its own purposes. Such license shall include the right to publish, reproduce, display, transmit, adapt, prepare derivative works, distribute, perform, or otherwise make use of such Intellectual Property or portions thereof.

Intellectual Property Ownership Outside Scope of Employment. It is the policy of the College that Intellectual Property created using the Covered Individual's resources or generally available College resources on a Covered Individual's own independent

initiative outside the time, place, and scope of employment are owned by the Covered Individual. Use of such Intellectual Property by Covered Individuals within the scope of employment shall not change ownership of the Intellectual Property to the College.

Intellectual Property Updates. Covered Individual creator(s) of the Intellectual Property owned by the College have the right to update, correct, edit, or otherwise revise the Intellectual Property that becomes dated or that will be in need of revision within a particular period.

Disclosure. The Covered Individual creator(s) of any Intellectual Property shall promptly disclose to the President any Intellectual Property covered by this Policy that may be within the ownership rights of the College.

Transfer of Ownership. Where the College retains ownership of the Intellectual Property, it may, upon request, transfer ownership to the Covered Individual creator(s) of the Intellectual Property by written assignment signed by the President. In such cases, unless otherwise agreed to in writing, the College retains a perpetual, irrevocable, unlimited, royalty free, and non-exclusive license to use such Intellectual Property for its own purposes.

Third Party Materials. It is the policy of the College that all Covered Individuals comply with the requirements of law, specifically including state and federal copyright and privacy laws. Because liability may arise from incorporating into a work copyrighted material owned by third parties, and images and voices of individuals, it is the responsibility of the Covered Individual creator(s) or developer(s) to obtain in writing all permissions and releases necessary to avoid copyright infringement and invasion of the personal rights of others, regardless of the ultimate ownership of the created work.

Survival. Covered Individuals whose relationship with the College has ended shall continue to be bound by this Policy with respect to the Intellectual Property created during the Covered Individual's employment with the College.

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