

**Intellectual Property**

**Policy Number:** 235

**Categorized:** Academic

**Responsible Office:** Chief Academic Officer

**Subject:** The process for the recognition, notification, protection, ownership, use, and commercialization of **intellectual property**, and any royalties or other income derived therefrom.

**Related Policies:**

**Procedures:** See Section four below

**Additional Information:**

**Effective Date:** 12/15/2020

**Last Reviewed Date:** 12/15/2020

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**1. Scope**

This policy applies to employees and students of Northern Virginia Community College.

**2. Policy**

Northern Virginia Community College adheres to the policies of the Virginia Community College System (VCCS) relative to intellectual property, copyright issues, and revenue derived from the creation of intellectual property. The VCCS policy determines ownership rights and responsibilities regarding intellectual property produced by an employee and/or student. Detailed descriptions of the VCCS Intellectual Property Policy are in Section 12 of the VCCS Policy Manual.

The Chief Academic Officer is the intellectual property administrator who will carry out the provisions of the VCCS Intellectual Property Policy. The college president will appoint a college committee to advise the administrator in implementing the policy. Insofar as possible, the committee membership will reflect expertise in the intellectual property identified.

VCCS claims ownership of intellectual property produced by any VCCS employee or student as follows:

- When produced as a result of assigned duty except as otherwise provided by a separate written agreement or waiver which is executed by a duly authorized officer of a college or the VCCS.
- Which was developed with the substantial use of college resources except as otherwise provided by separate written agreement or waiver which is executed by a duly authorized officer of a college or the VCCS.
- Development or delivery of a distance learning course is considered a substantial use of college resources whether the faculty member is compensated or not.
- Faculty and staff are strongly encouraged to address any concerns about ownership interests through a separate written agreement prior to the development of intellectual property.

The college usually does not claim an interest in dissertations or theses, classroom materials produced as part of the usual or routine teaching duties, any intellectual property produced without any actual out-of-pocket cost to the institution, or materials produced by students as part of course requirements making only incidental use of college resources.

The college does not claim an interest in literary works (poems, plays, novels, essays, musical scores, etc.), unless the creator made substantial use (\$10,000 or greater value) of college resources, or was hired, assigned, or directed to write the work.

### 3. Definitions

Additional definitions for this Policy are set forth in VCCS Policy 12 available at [BoardDocs® Policy: Section 12.0](#).

Assigned Duty: a task or undertaking pursuant to a contractual obligation, specific assignment, or directive. Assigned duty is narrower than “scope of employment.” A general obligation to develop curriculum materials, to do research even if it results in a specific end product such as a vaccine, published article, or a computer program, or to produce scholarly publications is not a specific request or direction and hence is not an assigned duty. In contrast, an obligation or specific direction to develop particular teaching materials, to write a particular article, or to produce a particular computer program is an assigned duty.

Claim an Interest: NOVA may claim an interest in intellectual property when, pursuant to this policy, it asserts a right to ownership of the property or the right to a license for its use. NOVA may choose not to “claim an interest” in some forms of intellectual property that it does not want to own, even though it might legally be able to do so.

Creator: either an inventor in the context of patentable inventions or an author in the context of copyrightable works. Creator may be assumed to be either singular or plural.

Employees: full- and part-time faculty; full- and part-time classified employees, administrative staff; and students who are paid for specific work by the college. Students may be employees for some purposes and not for others. If they are paid as student assistants, for example, they are employees. Students receiving general scholarship funds would not normally be considered employees for the purposes of this policy.

Intellectual property: includes, but is not limited to, any material defined within one or more of the following categories:

- a. a potentially patentable machine, production composition of matter, process, or improvement in any of these;
- b. an issued patent;
- c. a legal right which is part of a patent; or
- d. anything that is copyrightable.

Some examples of copyrightable intellectual property include:

- a. Written Materials - literary, dramatic, and musical materials or works, published or unpublished;
- b. Courseware - lectures, printed materials, images and other items used in the delivery of a course, regardless of the physical medium of expression;

- c. Visual and/or Recorded Materials - sound, visual, audio-visual, and television films or tapes, video tapes, motion pictures or other recordings or transcriptions, published or unpublished; and
- d. Computer Related Materials - computer programs, procedures and other documents involved in the operation and maintenance of a data processing system, including program listings, compiler tapes, a library of sub-routines, user and programmer manuals, specifications, and data bases.

Incidental Use of College Resources involves the normal use of office space and facilities generally available to all college employees, such as libraries, computers, equipment, and support staff and does not

- a. involve the procurement of special supplies, services, equipment, or other support by the College,
- b. constitute more than ten percent (10%) of the normal duty time of any administrator or classified employee in any semester, or
- c. involve released or reassigned time, or 4) demand more than 20% of the normal work hours of assisting college employees in any semester. Incidental resources that are available to employees generally should not be counted in the assessment of the use of College resources or general funds.

Substantial Use of College Resources involves

- a. more than 10% of the normal duty time of any administrator or classified employee in any semester,
- b. released or reassigned time from the creator's normal duties,
- c. more than 20% of the work hours of assisting college employees in any semester, or
- d. procurement of special supplies, services, equipment, or other support by the College.

The total value of identifiable resources shall not exceed \$10,000 for a specific intellectual property. The value of released or reassigned time shall be based on the contract rate for adjunct faculty. The value of support staff dedicated to the creator's efforts shall be a pro rata share of their salary and benefits. The value of other resources dedicated to the creator's efforts, such as supplies, equipment and other support, shall be based on reasonable cost if an actual cost figure is not readily available. It is the responsibility of the creator to advise the college policy administrator when substantial college resources are involved in the creation of intellectual property.

#### **4. Procedures**

The creator of intellectual property is responsible for initiating agreements with the College, establishing ownership before the project is begun. Early identification of the potential creation of intellectual property is encouraged. Use forms NVCC Intellectual Ownership Agreement (Form #125-401) and NVCC Intellectual Notification (Form #125-402) and return to the intellectual property administrator.

The intellectual property administrator will review all requests. The College President will review appeals. The President may appoint an ad hoc advisory committee for appeals.

The intellectual property administrator will submit an annual report as needed in accordance with guidelines in Section 12.1.11 of the VCCS Policy Manual.

#### **5. Authority**

VCCS Policy Section 12 Intellectual Property