

Policy: **Intellectual Ownership in Creative Works & Patentable Inventions** Policy Number: **L-2**

Responsible for Policy: Human Resources

Approval Date: April 2018

Most recent review: Spring 2018

Date of most recent revision (*if applicable*): April 2018

Policy Statement

Creative work and patentable inventions are at the core of an educational institution's vitality. Finger Lakes Community College respects the rightful ownership of creative work and patentable inventions of all faculty and staff (defined as personnel by SUNY and in this document) and students. This includes creative and course content for faculty and any work created by a student while enrolled at the College. In general, personnel and students shall hold the copyright and patents to their work.

To encourage creativity and maintain transparency, a distinction must be made between work for hire, incidental and substantial use of resources, and sponsored agreements.

Reason for Policy

The College has a responsibility to promote innovation. Encouraging individual ownership to intellectual property is what distinguishes an academic institution from a traditional business.

Applicability of the Policy

This policy applies to all Finger Lakes Community College personnel and students.

Definitions referred to in Policy or Procedure:

Creative Works and Course Content: Academic course content and materials created by personnel including, but not limited to, syllabi, course materials and textbooks; other scholarly or creative works of authorship; instructional, dramatic, musical and artistic works; and manuscripts, articles, poetry, prose, short stories, digital shorts, novels, plays, screenplays, and creative writings.

Patentable Invention: Any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States or other relevant jurisdiction, and the patent applications or patents that embody them.

Incidental Use of FLCC Resources ("Incidental Use"): Any use of publicly or routinely-available FLCC resources, such as common areas, meeting rooms, cafeteria, gymnasium, library, office spaces, furnishings, office supplies, photocopiers, telephones, fax machines and other standard office equipment, personal-type computers, and commercially available software in use on such computers, computer and communications networks, including internet access and data storage, that is nonessential to the creation of intellectual property, and any use of FLCC resources by a student in accordance with assigned coursework pursuant to that student's academic curriculum.

Personnel: All full-time and part-time employees of FLCC, student employees, including students providing services under sponsor agreements, and other persons holding any paid appointment or position with FLCC.

Students: Individuals enrolled at FLCC face-to-face or online, including, but not limited to, credit bearing courses, continuing education, non-degree students, and not-for-credit students.

Substantial Use of FLCC Resources ("Substantial Use"): Any use of FLCC resources that is more than Incidental Use, including, but not limited to, use of financial support, funds and grants administered by FLCC, SUNY, or a SUNY Affiliate; inter-institutional collaborations facilitated by FLCC; equipment, facilities, services, laboratories,

or space; computers and computer or communications networks not publicly or routinely-available; research, clinical, or other scientific instruments; time spent by personnel, including secretarial, clerical, administrative staff; confidential information; inventions and other proprietary or intellectual property owned by FLCC; and any privileged access as a result of a person's affiliation with FLCC.

Related Documents

http://www.rfsuny.org/media/RFSUNY/Policies/intellectual-property-policy_pol.htm

<https://www.copyright.gov/title17/92chap1.html>

<https://www.copyright.gov/title17/92chap2.html>

<https://www.uspto.gov/patent/laws-regulations-policies-procedures-guidance-and-training>

Responsible for Procedure: Human Resources

Effective Date: April 2018

Most recent review: Spring 2018

Date of most recent revision (*if applicable*): April 2018

Procedures

I. Steps for determining ownership

In general, creators at Finger Lakes Community College own their work. The only exceptions to this are: work for hire, work created with substantial use of FLCC resources, and work that involves a sponsor for which an agreement has been established. Further, this policy and procedure shall not apply to the development of online learning courses by faculty or professionals at FLCC, as intellectual property rights regarding such courses are governed by the Collective Bargaining Agreements between FLCC and those employees.

The following guidelines shall be followed to determine whether any of the above-referenced exceptions (work for hire; substantial use; sponsor agreement) applies:

1. Distinguish work for hire from other creative work.

Work for hire means that the College has explicitly assigned the work. For example, the work may be an integral part of a staff person's job description or a special project assigned to a faculty member. Such works must be clearly defined, agreed upon before the work commences, and disclosed in a written document. For these works, Finger Lakes Community College owns the copyright. Work for hire does not include work performed by employees (professional and faculty) while on sabbatical.

2. Determine incidental use versus substantial use of FLCC resources.

Finger Lakes Community College has no copyright or patent claim regarding resources for work created by personnel or students when the creator may have used some (incidental) FLCC resources.

Finger Lakes Community College may have some copyright or patent claim regarding resources for works created through substantial use of FLCC resources. Substantial use shall be defined before the work commences.

3. Clarify ownership in works that receive funding from a sponsor.

If creative work is funded as part of an externally sponsored research program under a written agreement that allocates rights to Finger Lakes Community College or to a third party, ownership of such works developed shall be governed by the provisions of the agreement. Sponsored research programs funded by private sponsors generally provide for Finger Lakes Community College to retain title to all intellectual property that arises in the course of the research program, with the sponsor retaining an option to acquire commercialization rights through a separate license agreement. Government and non-profit sponsors generally allow rights to intellectual property that arise from the research program to vest with Finger Lakes Community College, subject to certain retained rights held by the federal government.

II. Complaint resolution

If any employee or student wants to file a complaint regarding intellectual property rights, the following process shall be followed:

1. Employees will file written complaints with Human Resources. Students shall file written complaints with the Associate Vice President of Instruction.

To be considered complete, the written complaint must identify (check boxes):

- All interested parties
- Complete description of the alleged violation(s) of the intellectual property
- Dates on which such violations occurred
- All associated documentation (contract, email, etc.) supporting the alleged violation(s)

(documentation is to be identified and attached to the complaint)

2. Within 30 calendar days of the complaint's filing, a representative of Human Resources or the Associate Vice President of Instruction shall schedule a meeting with the complainant and the appropriate Cabinet member. The 30 day period will not begin until the complaint is deemed complete as described above by the receiving party (Human Resources or Associate Vice President of Instruction).

3. Within 30 calendar days of the meeting with the Cabinet member, the Cabinet member shall make a written recommendation to the President and a copy shall be sent to all interested parties.

4. Within 30 calendar days of the President's receipt of the Cabinet member's recommendation, the President shall review the recommendation and issue a final determination in writing as to the ownership of the intellectual property. The President's decision is final.