

305-01 INTELLECTUAL PROPERTY—PROCEDURE

1. PURPOSE

Coconino Community College recognizes that there is a mutual benefit between an individual and the College to encourage innovation, experimentation, invention, and development of intellectual properties that meet the College's plans and mission. While the College strengthens its reputation for quality and effectiveness, the individual benefits by gaining new skills and knowledge. Coconino Community College is committed to encouraging and recognizing creative efforts by sharing any financial returns fairly with the creator as explained in this procedure.

The College intends to permit an individual to receive recognition and compensation for intellectual property while protecting the College's contribution and investment. The College supports the concept that the ownership of intellectual property rights is not necessarily an “all-or-nothing” proposition. Rather, the rights of ownership of intellectual properties may be allocated in ways that optimally support the mutual interests of the College, faculty, staff, and students. Whenever it can be foreseen that a commercially viable intellectual property will be produced, a written agreement between the College and the creator shall be concluded before the material is created.

Intellectual property may be owned individually or jointly with Coconino Community College, depending upon the circumstances of creation. Similarly, any equity or profit derived from the intellectual property may belong solely to the creator or shared with the College depending on the conditions in which the property was developed. The following procedure describes the process for defining ownership and equity issues related to intellectual property. Compliance with this procedure is required for all employees as part of the terms of their employment.

2. PROCEDURE

1. Definitions:

- a. *“Intellectual Property”* includes all forms of legally recognized intellectual property, including but not limited to: copyrightable material; registered copyrights; any patentable invention; issued or applied-for patents; trade secrets; and trademarks, together with any associated or supporting technology, information, and know-how.
- b. *“Assigned Duty”* is performance of a task or project pursuant to a contractual obligation, assignment, or directive whether or not within the normal scope of an employee's employment.
- c. *“Copyrightable Material”* is anything that is an original work of authorship, fixed in a tangible medium of expression coming within the definition of the U.S. Library of Congress Copyright Office. Copyrightable intellectual property includes but is not restricted to:
 - I. Written materials – literary, dramatic, and musical materials or works, published or unpublished.
 - II. Visual and/or Recorded materials – sound, visual, audio-

visual, and television films or tapes, video tapes, web sites, motion pictures or other recordings or transcriptions, published or unpublished.

- III. Computer software – 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 and specifications.
- IV. Courseware and classroom materials – audio-visual, CDs, research collections, published and unpublished.
- V. Lecture notes and published articles or books based on lecture notes; slide collections; other research collections, written critiques and literary works, and so forth.
- VI. Visual artwork and graphic design.

- d. “*Creator*” is a College employee or student who creates or develops, individually or jointly with other creators, the intellectual property.
- e. “*Equity*” is the money value of an intellectual property or the financial investment in the development of that intellectual property.
- f. “*Incidental Use of College Resources*” is that use which does not involve significant additional expenses on the part of the institution for materials or other resources other than those incurred as part of the creator's normal duties. Examples include the use of office space, office computers and printers, and facilities generally available to all college employees, such as library facilities.
- g. “*Patentable Invention*” includes but is not limited to ideas for the development of a unique process or invention of any sort.
- h. “*Substantial Use of College Resources*” is that use which requires additional expenses that are not part of standard expenses for supporting the creator in his/her normal duties. Examples include but are not limited to assistance and time of other College employees, use of equipment, such as machining tools or electronic equipment, or the use of facilities not generally available to all college employees, such as video facilities or laboratories.

2. Ownership of Intellectual Property Rights:

To protect the rights of the individual and the College, the ownership and equity of intellectual property developed after the approval of this procedure may be set out in a written agreement before an intellectual property is developed, or at another time as necessary. If a written agreement signed by both parties specifying ownership exists, the terms of that agreement will control. Intellectual property created prior to the acceptance of this procedure will be subject to this procedure.

Ownership of intellectual property will be based on the following criteria:

- a. The creator will own intellectual property and any associated equity for all intellectual property developed by the creator that is not produced as a result

of normal teaching duties and that did not involve substantial use of College resources.

- b. Coconino Community College will own intellectual property and any associated equity when a creator produces the intellectual property as part of an assigned duty or under a contract to produce the intellectual property.

Individuals engaged in the development of copyrightable or patentable materials must comply with existing copyright and patent law. Nothing in this policy invests any rights in any person who produces intellectual property as the result of unauthorized use of College resources. **Any intellectual property created through any unauthorized substantial use of College resources will be wholly the property of the College.**

An employee of the College shall promptly inform the College of any intellectual property he or she creates in which the College may have ownership interest, as defined in this procedure.

3. Determination of Ownership and Equity:
There are two issues related to intellectual property: ownership and equity. The following table describes the ownership and equity issues based on the conditions under which the intellectual property was developed.

IF the Intellectual Property is produced ...	THEN
As an individual project of the creator(s) with <i>incidental use</i> of College resources and not as part of an assigned duty, written agreement or contract.	Ownership resides with the creator(s) exclusively. Any resulting equity belongs solely to the creator, who is responsible for obtaining the appropriate registrations and for any related expenses.
As an individual project of the creator(s) with <i>substantial use</i> of College resources.	Ownership resides with the College unless a written agreement is reached specifying otherwise. The College may, at its discretion, decide to agree share equity in order to obtain fair compensation to the College for use of College's resources while also allowing the creator(s) to monetize the intellectual property. The College is responsible for obtaining the appropriate registrations and any related expenses, unless ownership is transferred to the creator.
As part of specific College-assigned duty, written agreement, or contract, and, thus, regarded by the College as College duty or task.	Ownership resides with the College unless a written agreement specifies otherwise. The College is responsible for obtaining the appropriate registrations and any related expenses. Authorship always resides with the creator.
As part of a grant or contract funded by an outside agency.	Ownership and equity will be defined by the terms of the contract or grant.
If a student produces intellectual property as part of a course making incidental use of College resources.	The intellectual property belongs to the creator(s).

4. Limited License:

If an employee ceases employment with the College at a time when such employee is teaching an ongoing class, and the employee has created course or instructional materials for use in such class in which the College does not have an ownership interest, the College shall retain a royalty-free, nonexclusive license to use such materials solely for the purpose of continuing to teach the course for which the materials were prepared until the course's completion.

5. Resolving Disputes:

In the event that the College and the creator(s) cannot reach an agreement regarding ownership and equity for intellectual property, the creator may request review of the decision by the College's Academic Standards Committee. Such request for review must be made in writing or via email and submitted to the Provost/Vice President for Academic Affairs. Within 30 days of the request, the Committee will review all relevant information submitted to it and make a recommendation concerning the disputed decision to the College President or his/her designee, who will make the final decision. The final decision of the President or designee is subject to judicial review only pursuant to Arizona Revised Statutes Title 12, Chapter 7, Article 6. A creator's failure to complete the above review procedure will constitute a failure to exhaust administrative remedies.

3. BACKGROUND

1. References: Arizona Revised Statutes Title 12, Chapter 7, Article 6
2. Revision history: 9/11/02/2004, 05/12/2010, 12/07/2016
3. Legal review: 04/15/2010, 09/09/2016, 10/13/16
4. Sponsor: Academic Affairs

Adopted by College Council: 5/12/2010, 12/07/16

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