



TITLE: Intellectual Property Rights

PROCEDURE NUMBER: 3.0.1000.1

RELATED POLICY AND PROCEDURES: 3.0.1000.1 Intellectual Property Rights

DIVISION OF RESPONSIBILITY: Academic Affairs

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Approved by President

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DISCLAIMER
PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS SECTION DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE COLLEGE.

Definitions

- A. Employee-**Any individual employed by Piedmont Technical College to perform assigned tasks. Third-party consultants are not employees within the meaning of the State Board for Technical and Comprehensive Education Intellectual Property Rights Policy and these procedures.

- B. Intellectual Property-**Any product of intellectual activity that is unique, novel, unobvious, and/or original, or otherwise subject to copyright or patent protections pursuant to Title 17 or Title 35 of the U. S. Code of Laws. NOTE: A state agency has 11th Amendment immunity from Title 17 lawsuits; however, 11th Amendment immunity does not extend to lawsuits against State employees in their individual capacities.

C. Student – Any individual enrolled in a credit or non-credit course at Piedmont Technical College at the time the intellectual property is created.

Administrative Responsibilities

It is the responsibility of the Vice President for Academic Affairs to review and revise this procedure.

Procedure

A. Management of Intellectual Property Rights

Piedmont Technical College manages Intellectual Property rights in a manner that:

1. Encourages the creation of intellectual property by all employees.
2. Provides for the sharing of intellectual property between all institutions which are members of/or affiliated with the State Board for Technical and Comprehensive Education System.
3. Provides, in limited circumstances and by prior written agreement only, for a portion of the net proceeds from the commercial exploitation of specifically designated intellectual property to be awarded to the employee(s) who created the work on the institution's behalf.
4. Protects agency resources and assures that they are used consistently with the College's missions.
5. Uses intellectual property to serve the public good.

B. Property Ownership

Piedmont Technical College reaffirms the policy of the State Board for Technical and Comprehensive Education (SBTCE) that copyrights, patents and all other forms of intellectual property developed by faculty, staff, and students of Piedmont Technical College within the scope of his or her employment or using agency resources is the exclusive property of the college or the system office. As "work for hire," no transfer of ownership rights in copyrights, patents or other forms of intellectual property from the institution to the employee or other party or parties shall occur unless the college possesses ownership rights expressly and specifically grants the ownership rights, in whole or in part, to the employee or other party or parties by means of a written and signed agreement.

1. Within the limitations prescribed in SBTCE Procedure 3-0-100.1, the State Board for Technical and Comprehensive Education delegates to the College Presidents the authority to enter into written property ownership agreements with employees, students, or independent contractors who create original works involving copyrights, trademarks, patents or other forms of intellectual property for use or ownership by the College.

2. Piedmont Technical College develops guidelines and procedures for entering into intellectual property agreements, provided the terms of any such agreements:
 - a. Waive the institution's copyright to no more than class lectures, notes, or course syllabi, or to scholarly works which are not created within the scope of employment, or to scholarly works which are not created using agency resources.
 - b. Under no circumstances, provide for a portion of the net proceeds from the commercial exploitation of intellectual property to be awarded to an employee(s) who created the work on the institution's behalf if the material was created within the scope of his/her employment, or if the material was created by using any agency resources. It is the responsibility of the employee or student to make the college aware of any instances where work is being completed that could lead to an intellectual property claim. All discussions and agreements related to intellectual property must be had before the project is started.
3. Anyone producing work for Piedmont Technical College and anyone providing work for their use must represent and warrant that such works:
 - a. Are undertaken in compliance with the provisions of the South Carolina Ethics Act, 8-3-100, et seq.;
 - b. Do not libel, defame, or invade the privacy of any person or firm; and
 - c. Do not violate or infringe any intellectual property right (including but not limited to copyright, trademark, patent, or right of publicity) of any person or firm or otherwise violate the provisions of the Federal Copyright Act, or any other federal law or regulation.

C. Third-Party Consultants

Intellectual property developed by a non-employee third-party consultant pursuant to the terms of a written and signed contract is generally considered to be owned by the College, unless otherwise provided in the consulting contract. Nothing in this procedure precludes the College from entering into such a consulting contract where the parties have agreed that the non-employee consultant will own the materials upon creation.