

Administrative Procedure 3710

Intellectual Property and Securing of Copyright

The El Camino Community College District recognizes and encourages District employees and students to engage in the production of scholarly works, creative publications, and technology-based materials.

Property subject to copyright or other intellectual property protection, including but not limited to those in the forms of books, compositions, paintings and other works of comparable type, developed by employees or students shall be the property of the creator unless the property is prepared by means of a District grant, constituting substantial District support, an externally funded grant, or contract with the District.

The Superintendent/President or his/her designee shall be responsible for securing the copyright or other intellectual property right for any materials for which the District is entitled to ownership.

This intellectual property and securing of copyright procedure shall be interpreted consistent with other District policies, including, but not limited to, the District's policy on academic freedom and federal and state statutes and regulations. This procedure shall also be interpreted consistent with all collective bargaining agreements. In the event the provisions of these procedures and the provisions of any operative collective bargaining agreement conflict, the collective bargaining agreement shall take precedence.

- I. El Camino Community College District has defined substantial district support, works for hire, proprietary instructional material and intellectual property in Article 24 of the Faculty Contract. These definitions and stipulations will apply to all employee and student work at the ECC District.
 - a) A **Work** is any material which is eligible for copyright protection, including (but not limited to): books, articles, dramatic or musical compositions, poetry, instructional materials (e.g., scientific, logical, opinion or criticism), works of art or design, photographs or films, video or audio recordings, computer software, architectural and engineering drawings, and choreography. A Work may be recorded in any enduring medium (e.g., print, manuscript, electronic storage formats, optical, photosensitive film, etc.) or may exist in any tangible form (e.g., a sculpture, painting, structure or building).
 - b) An **Invention** is any idea or discovery which is eligible for patent protection, including (but not limited to) a device, process, design, model, strain or variety of any organism or composition of matter.
 - c) **Intellectual Property** is inclusive of any intangible property or other assets eligible for intellectual property protection under the law.
 - d) **District Support** includes the use of district funds, personnel, facilities, equipment, materials, or technology.

- e) **Substantial District Support** is defined as support involving either (1) direct costs to the District in excess of \$2000 over and above any budget customarily provided for the employee's usual appointment or assignment; or (2) indirect costs to the District (including but not limited to salaries and wages) in excess of \$5000 for District employees providing secretarial, technical or creative services specifically for the project; or (3) the use of exceptionally expensive District equipment or facilities (e.g., professional recording and filming studio, professional television cameras and the like). A grant obtained through the initiative and efforts of an employee or student shall not be considered to have resulted from Substantial District Support so long as the employee's contributions exceed the District's contributions.
- f) **A Work for Hire or Invention for Hire** is one for which the employee is specifically compensated to create. Works or inventions for Hire include products resulting from grants where the employee's contributions were less than contributions from the District. Works or Inventions for Hire shall remain the property of the District for all purposes.
- g) **Proprietary Instructional Materials** are those materials an employee created to perform his assignment more effectively for the benefit of the students, including (but not limited to): syllabi, lectures, student exercises, illustrations, recordings, multimedia programs and tests. The employee may use Instructional Materials in a traditional classroom or in any form of Distance Education. These Proprietary Instructional materials may be created using the personal resources of the employee and/or resources provided by the district.
- h) Employees who develop **Intellectual Property** with District Support as defined above, including but not limited to electronically posted notes, lectures, audio or videotaped presentations, broadcasts, or multi-media or interactive software, shall retain all ownership rights to and control of such material, except that the District shall retain the right to use property created with Substantial District Support for its own purposes without payment of royalties or other considerations, and the employee shall provide appropriate access to District personnel for evaluation, program review and accreditation purposes .

II. In the absence of a specific contract or agreement:

- a) If there is a reasonable determination that a particular work or other intellectual property created by an employee may be sold or traded commercially, the District and the employee may elect to draft and execute a contract specifying the terms of ownership of the work.

- b) If the receipt of grant funds restricts or specifies ownership of employee-created work, the District will abide by the requirements of the grant agreement.
- c) If the District and employee wish for any other reason to change or share ownership of a work or other intellectual property, they may jointly draft and execute a contract specifying terms of ownership.

The District will strive to actively protect all copyrighted materials or other intellectual property owned solely or partially by the District.

References:

Education Code Sections 72207 and 81459

17 United States Code 201

35 U.S. Code Section 101 et seq.

37 Code of Federal Relations 1.1 et seq.

Agreement Between El Camino Community College District and El Camino College Federation of Teachers, Local 1388, AFT, AFL-CIO.

El Camino College

Approved: 5/22/17