

**Williamsburg Technical College
PROCEDURE**

SECTION D – EDUCATIONAL AFFAIRS

Title INTELLECTUAL PROPERTY RIGHTS OF EMPLOYEES AND STUDENTS	Number D-46.1
Division of Responsibility Academic Affairs	Approval Date Page 1/21/2021 1 of 2
Approval Vice President _____ President _____	Supersedes Procedure No. D-46.1 Date 7/22/15

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Williamsburg Technical College is a public trustee of state and local resources. Consistent with this trust and pursuant to state and federal copyright, patent and ethics statutes and standards, the college shall manage 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 South Carolina Technical College System;
3. In limited circumstances and by prior written agreement only, provides 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 college resources and ensures that they are used consistently with the college's mission; and
5. Uses intellectual property to serve the public good.

Within the limitations prescribed in this procedure, the President or his designee may enter into written property ownership agreements with employees or independent contractors who create original works involving copyrights, patents, or other forms of intellectual property for use or ownership by the college.

The college has established the following guidelines for entering into intellectual property agreements.

1. Williamsburg Technical College waives the college's copyright ownership 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 college resources.
2. The college, under no circumstance, will 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 college's behalf if the material was created within the scope of his or her employment, or if the material was created by using any college resources.

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3. The college and its employees shall be fully compliant with the provisions of the State Ethics Act and Williamsburg Technical College Policies D-11 “Personal Benefit from Instructional Projects” and A-13 “Ethics Requirements for Area Commissioners and Employees.”
4. The College and its employees will adhere to the provisions of the Federal Copyright Act, or any other federal law or regulation.

All full-time and part-time faculty, staff, and students of Williamsburg Technical College who intend to create copyright or patent materials shall inform the Vice President for Academic and Student Affairs with a written request detailing what college resources are required and an estimated date of work completion. Information about third party involvement should be included. The Vice President for Academic and Students Affairs will appoint an ad hoc Intellectual Property Committee. The committee will consider the work and all the details and a make a recommendation back to the Vice President for Academic and Student Affairs. Upon receipt of the recommendation, the Vice President for Academic and Student Affairs will notify the requestor in writing and establish the property ownership agreement, if appropriate. Any appeals may be made to the President; whose decision is final.

Intellectual property developed by a non-employee, third-party consultant pursuant to the terms of a written and signed contract will generally be 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.

DEFINITIONS

1. 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.
2. Area Commissioner
A member of the governing body of the college, appointed by the governor.
3. Employee
Any individual employed by Williamsburg Technical College to perform assigned tasks. Third-party consultants are not employees within the meaning of Williamsburg Technical College Property Rights Policy and these procedures.
4. Student
A person taking any course offered by the college.

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.