INTELLECTUAL PROPERTY, COPYRIGHTS, AND INVENTIONS

I. PURPOSE

Provides direction for the determination of the ownership of materials prepared by College employees and students.

II. BACKGROUND and/or LEGAL REFERENCE

Employees and students of the Wharton County Junior College District are encouraged to publish and copyright, invent and patent materials and objects of their own creation that will contribute to the advancement of knowledge. The college desires to protect the interests of its personnel and students in relation to original works and ideas that may have monetary value. The college is responsible for insuring that public funds and property are not used for personal gain. The author, creator, inventor is free to benefit from royalties and monies accruing from such publication or invention subject to the conditions specified in this regulation.

III. DEFINITION

*Intellectual property* is defined as inventions, discoveries, technologies, processes, methods, trade secrets, computer software, literary works, instructional materials, publications, literature, art, dramatic and musical works, and all audiovisual materials including video, film, photographs, and audio programs.

IV. POLICY

A. To protect and promote the traditional academic freedom of members of the professional staff and the students at WCJC in matters of publication, design, development, and invention and the rights of both staff members, students, and the college, the following policy shall be deemed to be a part of the contract between the college and the members of the professional staff or students. Professional staff includes, but is not limited to, academic, administrative and information technology staff.

B. Individual Ownership

All classes of intellectual property, scientific and technological developments, materials or objects created solely on the employee's own time, outside of the employee’s job scope when applying to an employee and without the use of college facilities, equipment, materials, or support shall be the sole property of the creator(s). All other intellectual property, scientific and technological development materials or objects created in whole or in part by the employee or student vest in and are owned by WCJC.

C. College Ownership

Materials or objects created by employees or students at college expense or on college time or using college facilities or equipment shall be the property of the college. The college, in return for unrestricted license to use and reproduce original work without royalty payment, shall transfer to the creator of that work full ownership of any present or subsequent copyright/patent in accordance with the following paragraph.

In the event that materials or objects are sold to entities outside the college, all income will go to the college until all developmental expenditures incurred by the college for that project, including stipends paid to the developer (over and above contract salary), prorated support-staff salaries, supplies, and other expenses related to the creation of the materials or objects, are recovered. Thereafter, all remuneration as a result of copyright
D.  
Equity and Participation

The college will insure equity and management on the part of the inventor or inventors in business entities that utilize technology created at the college.

E.  
Sales to Students

1. No college employee shall realize a profit from materials sold exclusively to WCJC students.

2. When instructional material developed by the faculty is sold in the bookstore for a profit, the publisher of the materials must be approved by the Senior Vice President of Instruction.

F.  
Disclosure

Any college employee or student who intends to create any materials or objects developed wholly or partially using college time, equipment, materials, or facilities or within the scope of employment or studies and who intends to apply for registration of copyright; or patent rights in themselves, or who otherwise intends to commercialize those materials or objects will inform the Board of Trustees through the President of the College of that intent prior to the filing of any applications or commercialization and shall request a waiver of WCJC rights or other appropriate permission from WCJC. The college will initiate an institutional review of scientific and technological disclosures, including consideration of ownership and appropriate legal protection.

G.  
Exclusions

Personnel of divisions or units whose function is to produce educational materials may not realize a profit from the sale of those materials. In the case of any such materials produced exclusively by these units, copyright will be held by Wharton County Junior College. Materials produced under an externally funded grant will be guided by the terms of the grant.

(POLICY APPROVAL: 6-15-88, amended 11-20-07 Board of Trustees)

Note: In 1995, the college board once again affirmed its policy by approving the following in relation to copyright privileges. That reaffirmation is appended here as a continuation of the policy section of this regulation.

H.  
Members of the professional staff or students are free to benefit from royalties and monies accruing from books written; teaching aids developed including workbooks, laboratory manuals, transparencies, tapes, films, computer programs, and similar materials; and any equipment designed or invented provided the work to produce such creations is done on the employee’s or student’s own time and without the use of college facilities, equipment, materials, or support and outside the scope of their employment, if professional staff.

I.  
If the creation involves college time or resources, the following conditions apply:

a. The college holds the copyright until all developmental expenditures have been recovered when college facilities, equipment, materials, or support have been used in the development of the copyrighted item. Thereafter, the college will assign the copyright to the developer.

b. Any college employee or student who intends to create any materials for copyright or patent using wholly or partially college time, facilities, equipment or materials must inform the Board of Trustees of the intent through the President of the College.
J. No college employee or student may realize a profit from materials sold exclusively to WCJC students.

(POLICY APPROVAL: 10-25-95, amended 11-20-2007 Board of Trustees)

V. PROCEDURES

A. The President of the College or his/her designee administers this policy.

B. The following procedures are published here in compliance with the provisions of the Education Code:

1. Disclosure is made by any person who intends to create intellectual property and who intends to use any college resources, including time, in that creation.

2. Disclosure is made to the Board of Trustees through the college president.

3. Disclosure must occur prior to the employee or student using any college resources in the development of intellectual property. Normally, a minimum of 60 calendar days' notice is expected in order for an institutional review to be conducted.

4. Institutional review of scientific and technological disclosures, including consideration of ownership and appropriate legal protection, occurs as follows:
   a. the employee notifies his/her division chair (or, for non-faculty employees, his/her budgetary supervisor at a level comparable with that of division chair);
   b. the division chair (or equivalent) notifies the supervising vice-president;
   c. the supervising vice-president notifies the college president;
   d. the college president sends the disclosure to the employee's council (e.g., Faculty Council) and to President's Cabinet for review, comment, and recommendations;
   e. the college president reviews the disclosure as well as the responses from the employee's council and President's Cabinet, formulates a disclosure notification and recommendation for the Board of Trustees, and places the matter as an item on the agenda for the next available board meeting.
   f. the Board of Trustees has final authority in matters of intellectual property.

5. Licensing, ownership, and rights of use are the same for all materials and objects defined herein as intellectual property developed wholly or in part using college resources. That is, the college retains ownership of licenses, titles, copyrights, patents, etc., until all developmental costs incurred by the college are recovered, at which time such ownership passes to the creator(s), but the college retains the right to unrestricted use and reproduction of the original work or object without payment of royalties to the creator(s).
TO: Holders of Regs Manual
FROM: Frank R. Vivelo
DATE: March 9, 2000
SUBJ: Additional Procedure for Reg 276: Logging Copyright Approvals

Please attach the following required procedure to your copy of Reg 276, Intellectual Property, Copyrights, and Inventions:

Wharton County Junior College is committed to full compliance with all copyright and patent laws and takes responsible steps to respect the property rights of authors, inventors, developers, and creators of protected material. (In the following paragraphs, the term "copyright" is used to mean all legal rights over such protected material, such as trademarks and patents, as well as copyrights.)

Since no employee of the college, acting as an employee of the college, may duplicate, distribute, and/or otherwise publish protected material without the written permission of the copyright holder, except under those circumstances in which use of copyrighted material qualifies under the fair-use provision of the copyright laws, therefore—

All persons wishing to copy and publish/distribute copyrighted material, including instructors wishing to use copyrighted material in their course handouts, syllabi, exams, etc., or publish such material through the Internet in online courses or otherwise transmit such material electronically or any other way, must file with the director of library services a copy of their written permission to do so from the copyright holder.

The director of library services is charged with the responsibility for maintaining these permission files.

The college does not defend or accept responsibility for any employee who does not comply with copyright law or otherwise violates the above college procedure.