



Intellectual Property Administrative Procedure

Purpose:

West Virginia Northern Community College encourages faculty, staff and students to contribute to scholarship, creative work, and the discovery of knowledge appropriate to their programs and the College's mission. The College encourages faculty, staff and students to be creative and innovative in developing materials to enhance teaching and learning. The College recognizes that creators will produce materials which are copyrightable or patentable and are recognized as intellectual property including, but not limited to, printed course material, multimedia materials, online courses and supplemental materials. The purpose of this institutional regulation is to clarify issues related to ownership, use, and sale and distribution of proceeds of intellectual property.

Applicability:

The following provisions shall govern the relationship between the College and the creator(s) regarding intellectual property as it relates to ownership, use, sale and distribution of proceeds.

Definitions

College-supported works: Works created under one of the following conditions: work created as part of the creator's job as defined in position descriptions, contracts or notices of employment; work that constitutes work for hire; work that is created with significant use of College resources.

Contracted or directed works: Works that are created under a contract between the creator and the College that involves compensation in the form of direct payment, stipend or released time or work that is created as the result of a directive from the College where production of the work is a part of the employee's normal job expectations.

Copyrightable work: Copyrightable works are those original works of authorship fixed in a tangible format of expression which are eligible for protection under the copyright laws of the United States (Title 17, U.S. Code). Copyrightable works include, but are not limited to, books and other literary works, articles, dramatic works, musical compositions, sound recordings, choreographic works, visual artworks, photographs, motion pictures, multimedia products, software, telecourses, online courses, master courses.

Creator: Any faculty, staff or student who develops or creates intellectual property.

Independent works: Works created, developed, or produced entirely on the employee's own time and without significant College support.

Intellectual property: All creative work that is copyrightable or patentable under U.S. law. This applies to creative works whether or not a copyright or patent has been issued or whether or not an application has been made for a copyright or patent.

Master course: An online course which has been identified, based upon need, by the Vice President of Academic Affairs as a course requiring development or revision which serves as the basis for online sections of the course. Faculty who develop the course are paid a stipend and the course must be developed consistent with the online course request and approval procedure.

Patentable works: Patentable works are those original inventions, discoveries, or processes protected by United States patent law including, but not limited to, devices, manufactured products, new materials, certain computer software, and new varieties of biologic organisms.

Significant use of College resources: The use of College resources described below where the use is at a level that exceeds what is ordinarily available to all faculty, staff or students. College resources are College-funded or supported resources including, but not limited to, facilities, computer hardware or software, equipment, property, personnel, time, financial assistance or use of College facilities or equipment that result in a significant expenditure of funds that would not have otherwise occurred.

Sponsored works: Works that are created as a result of a contract, grant, or other arrangement with a third party where the third party is providing financial support for development of the materials including direct pay, stipends and released time.

Work for hire: Work related to faculty responsibility, even if the College has not specifically requested that it be created.

Procedure:

Independent Works

Works that are created, developed or produced on the creator's time without the use of significant College resources shall be owned by the individual. The creator may sell independent works and retains all proceeds from such sale. Faculty may incorporate independent works into courses as appropriate for the course. However, any intellectual property that students must purchase must follow the same procedures that are required for textbooks that are authored by an employee as stipulated in the Bookstore and Textbook Rule (NC 4008). At the discretion of the College, online courses developed as independent works may be offered by the College. Before offering such courses, the College and the creator shall negotiate an agreement regarding the rights and responsibilities of each party as it pertains to the course. Unless stipulated in the agreement, if the creator leaves the College, the College shall retain non-exclusive, non-transferrable license to offer the course for one year subsequent to the departure.

College-Supported Works

If the College requests an employee to develop an online course or other works, or if the material has been created or developed with significant use of College resources, or if the works fall under the category of work for hire, the course or works shall be owned by the creator but the College shall have non-exclusive, non-transferable rights to use the work for five years, while the creator is employed. If the creator leaves the College, he or she may take the work to use for his or her purpose, but the College retains the right to use the work for the balance of five years. The creator and the College negotiate an agreement to use the course beyond the five years. It is expected that the creator will keep the work current by making modifications and updates as appropriate during the time the creator is employed by the College. Consideration for additional support from the College will be given if major changes, based on the change rubric, to an online course or other works are deemed necessary by the College and the creator.

While employed, the creator will not use the property in any way that is in competition with the College, without prior written consent. Generally, direct competition means that the works may not be used at another college or university within a 50 mile radius of the College

In the case of an online course while the creator is employed at the College, the creator will have the right of first refusal to teach the course. Should the creator be unwilling to teach a section or sections of the course in a given academic term, or if teaching these sections would exceed a

reasonable load per College faculty load practices, the College has the right to assign another faculty to teach the course after the creator has signed the agreement to be paid for developing the course.

Intellectual property that is a college-supported work cannot be sold by either party without consent of the other. Before selling any material, both parties must enter into an agreement regarding the distribution of proceeds.

Contracted or Directed Works

Intellectual property produced as a result of a contract between the College and the creator or works created as the result of a directive from the College where production of the work is a part of the employee's normal job expectations are the sole property of the College. The creator may use contracted or directed works in courses the creator teaches while employed at the College. In the event the works are an online course, the creator will have the right of first refusal to teach the course unless teaching the course exceeds the reasonable load defined by the College. The College may sell such property at its discretion. Before entering into a sale of such property, the College will enter into an agreement with the creator for distribution of proceeds which exceed costs of production (including use of College resources) and marketing.

Master Courses

Development and/or designation of master courses is initiated by the Vice President of Academic Affairs (VPAA). When the VPAA determines a master course should be developed, the VPAA will request a faculty to develop the course. A standard contract shall be issued by the VPAA which includes the stipend to be paid after the course has been approved in accordance with the Online Course Request Form Procedure. The stipend shall be set at the beginning of each fiscal year but shall not be less than \$1500. The course and creator must meet all requirements as set by the Online Course Approval Procedure. The master course will be licensed for five years. After the licensing period has expired, if the creator can demonstrate revision and improvement of material, another stipend not to exceed one half of the amount offered for designing the course will be provided for revision and continued use of material. The exact amount of stipend will be determined based on whether revisions were minor or extensive, based on the change rubric.

Since the master course falls under standard work for hire practices, the course belongs to the College. However, the faculty member is permitted to use the material in other professional settings during the licensing period that do not directly compete with the College. The College has unlimited right to use the course and content.

In compliance with the Online Course Procedure, the creator of the course will have the first option to teach the online sections. As needed, and as agreed upon by the College and the Creator the course (with all materials produced by creator) may be copied for use by other faculty – both full time and adjunct.

The Master Course may not be sold without mutual consent of both parties. Prior to any sale, an agreement must be entered into by the parties specifying the distribution of proceeds from the sale. If an instructor is the recipient of a Master Course, he or she may not use the course at another institution.

Sponsored Works

For sponsored works created or developed with funds provided by external sponsors through grants or contracts, intellectual property rights are generally governed by terms of the grant or contract. In the event that the agreement with the third party does not specify intellectual property rights, the College and creator shall develop and enter into an agreement that represents the best interests of all parties.

Student Works

Students are encouraged to contribute to scholarship, creative work, and the discovery of knowledge within their courses and programs. Students have sole ownership of materials produced relative to course assignments or projects. Student work may be displayed in the course in which the student is enrolled (whether online or face-to-face) without permission of the student, consistent with FERPA regulations. Student work may not be copied to another class in which the student is not enrolled without written permission of the student. Student works may be used for research and academic purposes with prior permission of the student. Students must be informed about how their work may be used after the class is completed.

Dispute Resolution

Disputes over ownership, use or sale of intellectual property covered under this policy will be referred to an Intellectual Property Committee. The Intellectual Property Committee shall be composed of two faculty appointed by the Faculty Assembly, two administrative representatives appointed by the College President, and a member of the Board of Governors appointed by the Chairperson of the Board. The Committee shall select its chairperson. The Committee will review the merits of the competing claims and will determine an appropriate resolution. The action of the Committee is final at the institutional level.

Consistent with State Code and College rules, an individual desiring to appeal a decision may use the procedure set forth in state code. To begin the process, log on to <http://www.pegb.wv.gov/>

Procedural information is available by contacting:

WV Public Employee Grievance Board
808 Greenbrier Street
Charleston, WV 25311
(304) 558-3361
Toll-Free (866) 747-6743
Fax (304) 558-1106
E-mail: wvgb@wv.gov

Institutional Procedure for Evaluation of Course Revisions

RUBRIC FOR EVALUATING “MINOR” VS. “MAJOR” REVISIONS FOR ONLINE COURSES	
<p>Minor revisions include things like:</p> <ul style="list-style-type: none">• Updating syllabi or outcomes on master course guides• Changing access or due dates for exams, quizzes, or other assignments• Replacing publisher’s PPT presentations as necessary for a new edition of a textbook• Updating lecture materials for a new edition of a textbook• Changing some wording or questions on quizzes or exams• Making small adjustments to strategies based on assessment data to enhance student learning	<p>Major revisions include things like:</p> <ul style="list-style-type: none">• Revising the content of the course through significant changes to course and student learning outcomes as indicated on master course guides; extensive changes to wording and questions on the majority of quizzes, exams, projects, or other assignments in the course, excluding materials added that were provided by the textbook publisher.• Developing and adding components to a course which were not there before (supplemental instruction materials, audio-visual resources being embedded into the PPTs or the course, accessibility for students who are visually or hearing impaired, group projects or discussion boards, individualized PPT presentations for students)• Making extensive revisions recommended by a QM peer review team to have the course meet Quality Matters standards

Table 1. Summary of Intellectual Property Guidelines

	Independent Works	College Supported Works	Contracted or Directed Works	Sponsored Works
Ownership	Creator	Creator	College	Determined by terms of grant or contract
Use	Determined by creator; May be assigned to College by agreement	College has non-exclusive, non-transferable rights to use the work for five years; Faculty have first right of refusal to teach classes	Determined by College; For online courses, faculty have first right of refusal to teach classes	Determined by terms of grant or contract
Sale	Discretion of creator	Sale only with mutual consent	Discretion of College	Determined by terms of grant or contract
Distribution of funds	All proceeds to creator	Determined by agreement developed prior to sale	Determined by agreement developed prior to sale	Determined by terms of grant or contract
