

# SFCC INTELLECTUAL PROPERTY AND COPYRIGHTS POLICY

## 4-22

### POLICY

#### A. *Intellectual Property Rights*

1. To protect and promote the traditional academic freedom in matters of publication, design, development, and invention and the rights of both employees 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.
2. Individual Ownership
  - a. All classes of intellectual property, scientific and technological developments, materials or objects created on the employee's own time and without the use of college facilities, equipment, materials, or support shall be the sole property of the creator(s).
  - b. Members of the professional staff 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 own time and without the use of college facilities, equipment, materials, or support.
3. College Ownership
  - a. Materials or objects created by employees 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.

- b. In the event that materials or objects are sold to entities outside the college, all income shall 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 publication or patented sale shall go to the creator(s) of the materials or objects.
          - c. Intellectual property developed as the end result of a project entirely supported by the college for the purpose of improving instruction or other college operations shall be the sole property of the college. The college, at its own option, may choose to patent or copyright such materials.
  - 4. Disclosure

Any college employee who intends to create any materials or objects developed wholly or partially using college time, equipment, materials, or facilities and who intends to copyright, patent, or otherwise merchandise those materials or objects shall promptly inform the President of the College of that intent, who shall initiate an institutional review, including consideration of ownership and appropriate legal protection.
  - 5. Exclusions
    - a. 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 shall be held by Santa Fe Community College.
    - b. Works created with support from external sources (such as grants) shall be governed by the conditions of the grant rather by Santa Fe Community College's policies and procedures, provided such arrangements are so stipulated in the agreement formulated between the college and the creator as a result of disclosure. (See disclosure procedures in this Policy.)
- B. Sales to Students*
- 1. No college employee shall realize a profit from materials sold exclusively to SFCC

students.

2. The sale in the college bookstore of any instructional or non-instructional material developed by faculty or staff shall be subject to approval by the Vice President for Finance & Administration.
3. Employees shall have no direct business dealings with the college or with students in the sale of textbooks, instruments, lecture notes, educational items and materials, or similar materials except with prior written permission of the Vice President for Finance & Administration. Under no circumstances shall college employees use their position at the college to promote or solicit sales of any kind for any business entity or organization in which they have a direct or indirect interest of a pecuniary nature.

*C. Use of Copyrighted Material*

1. Santa Fe Community 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.)
2. 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.
3. All persons wishing to copy and publish/distribute copyrighted material, including Faculty members 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, shall file with the director of the library a copy of their written permission to do so from the copyright holder.
4. The director of the library is charged with the responsibility for maintaining these permission files.
5. The college shall not defend or accept responsibility for any employee who does not comply with copyright law or otherwise violates the above college policy.

(POLICY APPROVAL: 1-15-02, SFCC Governing Board)

## **PURPOSE**

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

## **BACKGROUND and/or LEGAL REFERENCE**

Employees of the college 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 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 Policy.

## **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.

## **PROCEDURES**

- A. The President of the College or his/her désignée administers this policy.
- B. The following procedures apply:
  1. Disclosure is made by any person who intends to create marketable intellectual property that may ultimately result in personal gain and who intends to use any college resources, including time, in that creation.
  2. Disclosure (notice of intent to patent, copyright, or commercially market material) is made to the college president. Permission to use college resources to create marketable materials that my ultimately result in personal gain is requested from the appropriate cabinet officer and the president.
  3. Disclosure must occur *prior* to the employee 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 the disclosure, including consideration of ownership and appropriate legal protection, occurs as follows:
  - a. the employee notifies his/her dean (or, for non-faculty employees, his/her budgetary supervisor at a level comparable with that of dean);
  - b. the dean (or equivalent) notifies the supervising Vice President or cabinet-level supervisor;
  - c. the cabinet-officer notifies the college president;
  - d. the college president sends the disclosure to the employee's governance group (e.g., Faculty Senate) 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 governance group and President's Cabinet, and formulates or causes to be formulated a written agreement between the college and the employee regarding use of college resources, ownership of product, and any other terms relevant to the disclosure.
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).

9/6/01

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