

2470 – Intellectual Property

Purpose

The purpose of this procedure is to foster the creation and dissemination of knowledge and to provide certainty in individual and institutional rights associated with ownership and with the distribution of benefits that may be derived from the creation of intellectual property. This procedure is intended to be a broad statement to provide uniformity throughout the College. Barton Community College (Barton) strives to establish an environment that fosters creation and innovation in service to students, community, and the College. The institution promotes innovation, progressive instruction, creative expression, and the free exchange of ideas. As such, Barton employees are encouraged to author, publish, copyright, invent, and patent materials of their own creation that will contribute to the advancement of knowledge and learning.

This procedure applies to all full- or part-time employees, including students, creating intellectual property related to the scope of their employment while under contract or within the employment of the College. When revenues are to be shared, the creator(s) shall obtain his/his share only after the College has recouped any direct costs borne for equipment and materials and cost paid to third parties. Revenues shall be shared equally among multiple creators unless otherwise agreed in writing by the creators.

Likewise, employees are expected to follow intellectual property policies and procedures. The purpose of the procedure is to identify the creation, use, and dissemination of knowledge. In addition, the procedure defines the rights associated with ownership and intellectual property, including that which is protected under copyright, trademark, and patents for both the College and the creator(s).

Final decisions on disputed materials will be made by the College President and shall constitute final agency action.

Definitions

1. Author or Creator:
Defined as any individual or a team who invents, authors, discovers, or creates intellectual property.
2. Intellectual Property:
Defined as any work(s) that may be submitted for copyright. This includes, but is not limited to the following:
 - a. Instructional materials such as assignments, assessments, tests, handouts, lectures, exercises, labs, study guides or any other material used within a course or within the learning management system.
 - b. Complete online courses and other web-related course materials.
 - c. Creative works such as prose, dramatic works, musical compositions, poetry, choreography, drawings, and other artistic products.
 - d. Scholarly works such as papers, articles, reviews, blogs, analyses and scientific discoveries/products.
 - e. Technology (hardware/software-based materials) such as computer programs, audio/visual material, media, devices, coding, or any invention that could obtain a patent.

3. Substantial Support:
Defined as the use of professional, technical, or technology College resources that are generally provided for the construction or implementation of courses or projects OR use of College resources beyond normal access.
 - a. Examples of normal professional, technical, or technology support:
 - i. Regular employee compensation and workspace
 - ii. Standard use of technology or access to other professional options
 - iii. Typical professional development opportunities
 - b. Examples for beyond normal substantial support:
 - i. Extra compensation for work
 - ii. Additional cost for personal, services, technology or other project needs
 - iii. Substantial use of employee's time and energy within working hours

4. Mediated Courseware:
Mediated courseware (<https://www.lawinsider.com/dictionary/mediated-courseware>) includes, but is not necessarily limited to, instructional material delivered over the Internet, synchronous and/or asynchronous video or audio courses, components of courses, or instructional support materials.

5. Creative Commons:
"Creative Commons licenses give everyone from individual creators to large institutions a standardized way to grant the public permission to use their creative work under copyright law" ([Creative Commons](#), CC BY).

Barton's open educational resources (OER) initiative utilizes creative commons as the most common way to find accessible instructional resources that fall within one of six open licenses or the public domain.

General Copyright

The ownership of the various rights associated with copyright are dependent upon the specific type of intellectual property. Since the College's Board of Trustees and Administration have a fiduciary responsibility for the appropriate use of College funds, unless otherwise provided for under these regulations, ~~all rights associated with works produced as "work for hire" or other works that make "substantial use" of institutional resources belong to the institution. "Substantial use" means that the creator receives more than normal support for the project or receives time and/or resources specifically dedicated to the project.~~ ~~this procedure, all rights associated with works produced with substantial support of institutional resources belong to the institution.~~

The College shall assert limited ownership of some of the various rights as set forth below:

Mediated Courseware

~~The College shall have limited ownership or control rights for mediated courseware as specified below:-~~

~~Self initiated mediated courseware. When employees develop mediated courseware without specific direction by the institution, unless otherwise agreed, the ownership of the courseware shall remain with the employee. Normally, no royalty, rent or other consideration shall be paid to the employee when that mediated courseware is used for instruction at the College and such mediated courseware shall not be used or modified without the consent of the creator(s).~~

~~The mediated courseware shall not be sold, leased, rented or otherwise used in a manner that competes in a substantial way with the course offerings (credit or non-credit) of the College unless that transaction has received the approval of the Vice President of Instruction (chief academic officer) of the institution. Should approval be granted to offer the course outside of the College, the creator shall reimburse the institution for substantial use of institutional resources from revenues derived from the transaction offering the course~~

~~Institution directed mediated courseware. When the College specifically directs the creation of mediated courseware by assigning one or more employees to develop the mediated courseware and supplies them with materials and time to develop the mediated courseware, the resulting mediated courseware belongs to the institution and the institution shall have the right to revise it and decide who will utilize the mediated courseware in instruction. The institution may specifically agree to share revenues and control rights with the employee.~~

~~The College shall develop procedures for reporting the development of mediated courseware to the appropriate College administrator.~~

Mediated Courseware

Mediated courseware belongs to the institution and Barton has the right to decide who will utilize the mediated courseware in instruction.

Mediated Courseware may be defined into two categories:

- Self-Initiated Mediated Courseware means mediated courseware created by the employee without specific direction by the College for use within their assigned courses or related activities regardless of delivery method.
- Institution-Directed Mediated Courseware means mediated courseware created pursuant to a specific assignment, and the College provides the employee with materials and time to develop the mediated courseware.

Creation of Intellectual Property

Intellectual property created for the administrative functions of the College is the property of the College unless a specific contract is entered into between the creator and the College before the work has begun. Faculty and staff, at their discretion, may enter into specific contracts with the College for work outside their regular employment agreements. Ownership of intellectual property created by contractors and partners who are not regular College employees will be specified in their contractual agreements.

Use of Intellectual Property

It is the responsibility of all members of the College to comply with all copyright laws. If a faculty member utilizes course materials copyrighted prior to their Barton employment and/or copyrighted in association with employment at other institutions, these materials may be utilized in accordance with this procedure as long as the faculty member accepts employment with the College. Once employment is discontinued, the College would no longer have the right to use the copyrighted course materials without written authorization from the faculty member.

Scholarly and Artistic Works

Notwithstanding any use of institutional resources or the “work for hire” principle, the ownership of textbook, scholarly monographs, trade publications, maps, charts, articles in popular magazines and newspapers, novels, nonfiction works, artistic works, like

works, and supporting materials shall reside with the creator(s), and any revenues derived from the creator(s) work shall belong to the creator(s). In the case of **course materials textbooks**, Barton shall have royalty-free use of the work within the College, unless otherwise agreed in writing.

Manuscripts for Academic Journals

1. Notwithstanding any use of institutional resources or the “work-for-hire” principle, the owner of manuscripts for publication in academic journals shall reside with the creator(s), and any revenue derived from the creator(s) works shall belong to the creator(s).
2. If the manuscript is to be published, the creator(s) shall request the right to provide the College with a royalty-free right to use the manuscript within the institution in its teaching, research, and services programs, but not for external distribution, and, if successful, the creator(s) shall grant such right to the institution.
3. ~~Upon the establishment of national governmental or nonprofit entities whose purpose is to maintain in an electronically accessible manner a publicly available copy of academic manuscripts, the College will review each entity and upon determination that providing the manuscripts will not jeopardize the publication of articles or infringe on academic freedom, require the creator(s) to provide to the appropriate entity a limited license for the use of each manuscript.~~

Copyrightable Software Regulations Inventions Regulations

~~Patents obtained on inventions resulting from institutionally sponsored research or the ownership of copyrightable software~~ Inventions available for or that have obtained a patent, that have an actual or projected market value in excess of \$10,000 annually, and that have received substantial support from the College shall be retained by Barton. ~~County Community College or may be assigned by the College to an organization (herein referenced as Organization) independent of the institution and created for the purpose of obtaining patents on inventions, receiving gifts, administering or disposing of such patents, and promoting research and the development of intellectual property at the College by every proper means.~~ Inventions may include, but are not limited to, the items listed in the “Intellectual Property” definition provided with this procedure.

The following regulations shall be followed with respect to inventions ~~or software~~:

1. Anyone who conceives an invention resulting from a project sponsored by the College or who develops copyrightable software that is not included in mediated courseware shall report the matter to the employee’s appropriate supervisor. The supervisor will notify the College President of the project.
2. If the President ~~or the Organization~~ decides the invention does not warrant patenting, the inventor is free to patent it. In such case, however, the College does not relinquish its right to publish any of the data obtained in or through the project. If the College ~~or the Organization~~ decides not to further the use of the copyrightable software, it shall assign the rights therein to the creator(s).
3. When any revenue is obtained by or on behalf of the College from the development or assignment of any patent or from royalties, license fees, or other charges based on any patent or copyrightable software, not less than twenty-five (25) percent of revenues shall be paid to the inventor(s) or creator(s). Revenue sharing shall begin only after the College recoups costs as set forth in this procedure.
4. In case of a cooperative project sponsored in part by an outside corporation or individual, a written contract shall be made between the College and the cooperating agency or organization.

5. In the case of a project where it is proposed that all costs including overhead, salary of the employee, reasonable rent on the use of equipment, etc., are paid by an outside party, the outside party and the College shall negotiate the appropriate assignment of all patent or copyrightable software rights prior to the provision of any funding by the outside party. ~~The College shall reserve the right to publish all data of fundamental value to science and technology.~~
6. Changes in the above regulations may be made by the College to conform to the requirements of the United States Government when contracting with the United States Government or a Federal Government Agency.

Copyrightable Software

~~The rights to copyrightable software with an actual or projected market value in excess of \$10,000 annually, except software included in mediated courseware, shall be determined pursuant to College's Copyrightable Software Regulations (see above).~~

Student Academic Creations

~~The ownership of~~ **The intellectual property rights** of students' works submitted in fulfillment of academic requirements rests with the author or creator(s).

The **Students**, by enrollment in the College, give the institution **permission and** a nonexclusive royalty-free license to mark on, modify, **submit to instructional vendor**, retain the work as may be required by the process of instruction, or otherwise handle the work as set out in the College's Intellectual Property Procedure or in the course syllabus. **These methods include but are not limited to grading, certifying, and assessing student submissions for authenticity, and these should not be seen as a violation of the student's intellectual property rights.** The College shall not have the right to use the work in any other manner without the written consent of the creator(s).

The student may choose to assign an open license (like Creative Commons) to their work for the future use and benefit of students, faculty, and the College.

Trademarks

~~Barton County Community College~~ retains the sole right to any and all trademarks of and represented by the College. The use of the College's trademark(s), may be granted by the President, who may require a licensing fee for their use.

Disputed Claims

Final decisions on disputed materials will be made by the College President and shall constitute final agency action.

Contact(s)

Vice President of Instruction

Related Form(s) Relevant Policy or Procedure(s): [Policy 1463 – Intellectual Property](#)

Approved by: President

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