2470 – Intellectual Property

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.

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 with in the employment of the College. When revenues are to be shared, the creator(s) shall obtain his/he 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.

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

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.

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 and Student Services (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.

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 his/her work shall belong to the creator(s). Except for textbooks, institutions 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 his/her 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

Patents obtained on inventions resulting from institutionally sponsored research or the ownership of copyrightable software with an actual or projected market value in excess of $10,000 annually 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.

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

4. 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 his/her appropriate supervisor at the College. The supervisor will notify the College President of the project.
5. If the President or the Organization decides that 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).
6. 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.
7. The remainder of any revenue mentioned in Regulation 3 (above) shall be used as deemed appropriate by the College. The College may agree that the Organization may retain a portion of the funds.
8. 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.
9. In 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.
10. 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 students works submitted in fulfillment of academic requirements shall be with the creator(s). The student, by enrolling in the College, gives the institution a nonexclusive royalty-free license to mark on, modify, 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. The College shall not have the right to use the work in any other manner without the written consent of the creator(s).

Trademarks

Barton County Community College retains the sole right to any and all trademarks of and that represent 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.

(Based on policy 1463; revised and approved by President on 10/16/07)