

**POLICY
BOARD OF TRUSTEES
MAYLAND COMMUNITY COLLEGE**

Title: INTELLECTUAL PROPERTY

Type: INSTITUTIONAL

POLICY NO: 3.012

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AUTHORITY: NCGS 115D-20 (7)

1. Policy Statement

Mayland Community College acknowledges the ownership rights associated with intellectual property and requires students and employees to adhere to all applicable laws of the State of North Carolina, the United States of America, international laws, treaties or conventions enacted by or ratified by the Congress of the United States, and appropriate administrative regulations. It is the purpose of this policy to address the rights and responsibilities of all students, employees, and any other individuals or entities associated with the College by making use of resources or facilities either owned by or under the supervision of the College.

2. Definitions

As used in this policy, the following definitions shall apply:

- a. "Direct and Significant Allocation of Institutional Resources" includes, but is not limited to, staff time, equipment, funds, release time from assigned duties, and computer usage, as well as resources in amount and kind over and above those usually and customarily provided to the employee. Occasional use of office or classroom space, libraries, or general computer resources will not typically constitute Direct and Significant Allocation of Institutional Resources.
- b. "Intellectual Property" means any product of the human intellect that is unique, novel, and unobvious that has some value in the market place. Intellectual Property may be protected under applicable federal or state law, including copyrightable works, ideas, discoveries, and inventions.
- c. "Works Made for Hire" are forms of intellectual property ownership under the federal Copyright Act, as amended from time to time. Works Made for Hire include (1) works prepared by employees within the scope of their employment, or (2) works that have been specifically ordered or commissioned for use as a contribution to a collective work. These may include works created through direct and significant allocation of institutional resources to a specified project or work created under a sponsorship/contractual agreement.

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3. Responsibilities

Individuals are responsible and liable for their own actions in the creation, use and distribution of intellectual property. Violations of this policy may result in actions up to, and including, expulsion from the College and/or termination of employment, as well as penalties associated by applicable statutes.

The President shall be the final arbiter regarding the disposition of applicable intellectual property as defined in this policy.

4. Disclosure

All employees who produce, or who anticipate producing, intellectual property have a duty to promptly disclose their works, discoveries, and/or inventions to the President of the College in order to prevent potential conflicts of interest or commitment. An Intellectual Property Disclosure Form is available in the President's Office for this purpose.

5. Ownership

The President or his designee will make the determination of which of the following areas apply to the proposed work:

- a. In the absence of any written agreement stipulating otherwise, students shall retain full ownership rights of their created works.
- b. In the absence of any written agreement stipulating otherwise, Mayland Community College retains full ownership of all works made for hire as defined herein. At least fifty (50) percent of the profit revenue realized from works made for hire shall be returned to the department that created the work(s).
- c. In the absence of any written agreement stipulating otherwise, employees shall retain full ownership rights of their works created independently and on their own initiative, so long as the intellectual property in question is not deemed to be a work made for hire and does not result from direct and significant allocation of institutional resources as defined herein. Employees may challenge such a presumption through submission of documentary evidence that clearly establishes that the intellectual property was developed without a direct and significant allocation of institutional resources.

The employee claiming full ownership rights for an intellectual property shall warrant in writing to the President that there are no third party claims against the intellectual property in question, that the intellectual property is the exclusive work of the employee and other persons identified in the disclosure to the President, and that no other person or entity claims an interest in the intellectual property.

Further, the employee must agree, in writing, to fully indemnify and hold harmless the College, its trustees, officers, faculty members, staff and any and all

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other individuals associated with the College, from and against any and all claims, demands, actions and causes of action brought against the College, its trustees, officers, faculty members, staff, and any and all other individuals associated with the College, relating to the intellectual property in question.

- d. In the absence of any written agreement stipulating otherwise, Mayland Community College and the employee involved will share ownership on an equal basis of any work that results from a direct and significant allocation of institutional resources. Where possible, the President will enter into negotiations with all parties involved to establish contractual agreements prior to the development of an intellectual property, and the agreement will define the percentage of ownership between the College and all other interested parties, as well as define the control and use of the intellectual property and any resulting compensation.

The College shall require employees to identify all non-original materials used and secure permissions for use where required. The President may appoint an Intellectual Property Committee to process, investigate, and make recommendations when intellectual property notifications occur or issues arise.

- e. Except as herein provided, Mayland Community College shall retain full ownership rights of all the College's intellectual property, including, but not limited to, copyrighted materials, logos and trademarks.

6. Exceptions

Exceptions to this policy are authorized if approved by the President following a favorable review and recommendation from the Intellectual Property Committee. Before approving an exception, the President shall determine that, on the basis of the evidence available, such exception is in the public interest and is consistent with the College's responsibilities to the community.