

CP 1.16.1 Intellectual Property

Related Board of Trustee Policy: BP 1.16

Responsible Official *President*
Approvals *11/12/09*
Revision

Definitions

- **Intellectual Property** – Includes, but is not limited to, the definition and description of works of authorship as established by the Copyright Act, Title 17, Chapter 1 § 101. Definitions, to include “in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:
 - (1) literary works;
 - (2) musical works, including any accompanying words;
 - (3) dramatic works, including any accompanying music;
 - (4) pantomimes and choreographic works;
 - (5) pictorial, graphic, and sculptural works;
 - (6) motion pictures and other audiovisual works;
 - (7) sound recordings; and
 - (8) architectural works.”
- **Creator** – Any person who creates an intellectual property.
- **Ownership** – Refers to a legally binding agreement specifying the creator of the intellectual property and who shall retain the reward of the intellectual property in its distribution.
- **College Resources** – Include, but are not limited to, labor, materials, equipment, facilities, offices, supplies, libraries, labs, and personnel.
- **Ownership Agreement** – An agreement between the College and the creator on the ownership, distribution and use of intellectual property based upon the time, expenses, expertise and creative talents of the creator and the uses of the college resources and expenditures in the production of the intellectual property, and material contributions of the College and the creator to the creation of the intellectual property.
- **College Branding** – Refers to the College’s name, trademark, logos, mascots, and characters, which are owned or controlled by McDowell Technical Community College.
- **Net Revenue** – The net revenue refers to the revenue derived from the distribution of an intellectual product, minus the direct and indirect costs to distribute the product.

Intellectual Property Ownership

- Intellectual property created in whole or in part with College resources is subject to ownership by the College and the College retains the right to financial reward and claim

for distribution governed by terms and conditions of an Ownership Agreement between the creator(s) and the College.

- Intellectual property created with no College resources is the exclusive property of the creator(s) and the College has no interest in any such property and no claim to any financial reward or claim for distribution.
- Intellectual property created without the use of College resources but for the purpose of fulfilling college functions or its mission is subject to joint ownership by the college and the creator(s). The creator(s) retains the rights to use the intellectual property, to financial reward and claim for distribution in accord with an Ownership Agreement between the creator(s) and the College.
- The use of College resources for personal gain or political promotion is inappropriate use of College resources and subject to reprimand.

Rights and Responsibilities

- The use of the college name or college branding within intellectual property for publication or promotional purposes shall be subject to prior approval and negotiation by the College president.
- It is the creator's responsibility to ensure that intellectual property does not include intellectual property owned by others. The creator(s) is responsible for obtaining the appropriate releases and permissions for the use of intellectual property owned by others.
- The creator must obtain and hold signed release forms from all individuals appearing in intellectual property.
- The creator(s) of any intellectual property is required to make prompt disclosure to the College president when the use of college resources will be required to complete the work.
- If the intellectual property contains a marketable financial value, the creator and the college will follow appropriate procedures to negotiate an Ownership Agreement. Use and distribution of intellectual property shall be governed by terms and conditions of the Ownership Agreement.
- The college shall have license to use of intellectual property according to the Ownership Agreement. Financial reward and distribution of the intellectual property shall be governed by the terms of the Ownership Agreement.
- Credit and ownership of the intellectual property shall be subject to the Ownership Agreement.
- When a creator(s) disagrees with the College's claimed ownership or use of intellectual property, he/she can submit a written complaint to the President within thirty (30) days. The creator should include a detailed description of the factual basis for the complaint and a statement of the actions requested. The President will review the complaint and render a decision. The President's decision is final.

Ownership Agreement Form Intellectual Properties McDowell Technical Community College

Name of Copyrighted Work _____
Date of Creation _____
Creator(s) of Copyrighted Work _____
Owner(s) of Copyrighted Work _____

Copyright Ownership and Licensing

_____ Creator(s) [All rights—including licensing of use rights to the College, if any.]

_____ Non-exclusive License to the College _____ Exclusive License to the College

Unbundling of rights

1. Distribution Rights
2. Duplication Rights
3. Derivative Works Rights
4. Public Display Rights
5. Public Performance Rights

Terms

Revenue Sharing

_____ % To Copyright Holder(s)

_____ % To License Holder(s)

It shall be the policy of McDowell Technical Community College to encourage the allocation of copyright so as to optimally support the mutual interests of the College, faculty, staff, and students. The preceding agreement meets these objectives and is mutually satisfactory to the following:

For the Copyright Owner(s)

Signature, Date

Print name and title

For the College:

Signature, Date

Print name and title