

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 1 - General Provisions and Executive Affairs

1-1015 Inventions and Works

This Regulation recognizes and promotes the creativity of employees. It serves to reflect on the contributions of the creators of inventions and works and the contributions of NCF in determining the rights of ownership and use, and the distribution of equity interests related to applicable intellectual property.

(1) Definitions. For the purpose of this regulation, the following definitions shall apply.

- (a) The term “work” includes any copyrightable material including printed materials, computer software or databases, audio and visual material, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculpture works.
- (b) The term “invention” includes any discovery, invention, process, composition of matter, article of manufacture, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items.
- (c) The term “creator(s)” is defined as faculty, staff, and other persons employed by NCF, whether full-time or part-time, visiting faculty or researchers, or any other person(s) covered by College Regulations who creates or discovers applicable intellectual property.
- (d) Independent Efforts. A work made in the course of independent efforts is the property of the employee, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Section, the term "independent efforts" means that:
 - 1. The ideas came from the employee;
 - 2. The work or invention was not made with the use of NCF support; and
 - 3. NCF is not held responsible for any opinions expressed in the work.

All inventions made outside the field or discipline in which the employee is employed by the College and for which no College support has been used are the property of the employee, who has the right to determine the disposition of such invention and revenue derived from such invention.

- (e) College Support. Works or inventions created with the use of College funds, or with more than incidental use of College personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the College. “College support” shall not be considered for:
 - 1. Works for which the intended purpose is to disseminate the results of academic research or scholarly study, such as books, articles, and electronic media;
 - 2. Textbooks and ancillary materials, where textbooks are defined as books that present educational subject matter intended for use in academic instruction, and ancillary materials are defined as materials that normally accompany academic texts including software or online

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information, exercises, demonstrations, or illustrations that are used by students or instructors to supplement the text, as well as sample test questions or test banks, a sample syllabus, lesson plans, and class activities. Sample test questions or test banks, a sample syllabus, lesson plans, and class activities, assigned reading materials will be available to other faculty and instructors as a resource bank for future teaching at the College; and

3. Works developed without use of appreciable College support and used solely to assist or enhance the employee's instructional assignment.
- (2) Exercise of Rights by NCF. NCF shall not exercise any rights in anything other than a work or invention created with College support or that in which it has written contractual rights to do so.
 - (3) Where development of a work or invention has been accomplished through the use of College support, the work or invention is the property of the College and the employee shall share in the proceeds therefrom pursuant to the applicable collective bargaining agreement(s). This provision, however, may be superseded by prior written agreement between the creator(s) and the College created for the purposes of developing said work or invention.
 - (4) Funding through Grants. Where development of a work or invention has been funded in part or whole through funds that NCF played a role in obtaining, the contract, grant, scholarship, or award involved shall determine the legal intellectual property rights therein and the distribution of any proceeds flowing from the development. If such matters are not covered entirely in writing by the contract, grant, scholarship, or award, the language of this regulation shall apply to the extent such matters are not covered.
 - (5) Development of Contract
 - (a) A written contract between NCF and the creator(s) shall be developed in accordance with the standards and guidelines set forth in this regulation, prior to the disposition of any of the net revenue from any applicable intellectual property or the division of any equity interests therein.
 1. The contract shall cover the entire time period for which the rights to the use of the applicable intellectual property may be legally protected, as well as the proportionate division of equity interests in the applicable intellectual property or the proportionate distribution of the net revenue from the applicable intellectual property in lieu of division of the equity interests.
 2. "Net revenue" is defined as that remaining after deducting all direct NCF expenses incurred in developing, obtaining protection for, and licensing, applicable intellectual property.
 3. In the absence of a written agreement to the contrary, multiple creators shall receive equal portions of the creator(s)' share of net revenue under contract.
 4. If the contract provides that NCF retains the entire equity interest in the applicable intellectual property, any proceeds from the sale of such equity interest shall be shared in the same proportion as the disposition of net revenue provided by the contract.

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5. The provisions of the contract shall be the only provisions subject to interest arbitration under the grievance and arbitration procedures set forth in any collective bargaining agreement or regulations of NCF.

(b) Guidelines

1. Upon the development of a work or invention, and prior to any publication or application for patent and/or trademark rights, the employee shall disclose the work or invention fully and in writing to the College President, along with an outline of the project and the conditions under which it was done. Within 60 days after such disclosure, the President will inform the creator(s) whether NCF seeks an interest in the work.
 2. NCF and the creator(s) will develop an agreement for the shared development and protection of the work and the allocation of any net income.
 - a. “Creator(s)” as used in these guidelines shall include creator(s)’ heirs, successors, and assigns.
 - b. The agreement may apportion equity interests between creator(s) and NCF, or may distribute net revenues in accordance with an agreed formula, with NCF retaining ownership of the entire equity interest, in which case NCF shall have no fiduciary duties, and shall not act as a fiduciary with regard to the creator(s) interests.
 3. If no agreement is reached within 60 days of the President’s notification to the creator(s) that NCF seeks an equity interest in a work, and if NCF and the creator(s) do not agree in writing to extend the negotiating period, equity interests and revenue will be apportioned with 50% assigned to the creator(s), and the remaining 50% assigned to NCF.
 4. Until such an agreement is reached or interests are divided per these guidelines, creator(s) shall not have the right to enter into any licensing agreement or assignment of the applicable intellectual property without the written consent of NCF.
 5. The proceeds received by NCF shall be used to support research and development activities, and technology transfer activities.
- (6) Limitation of Rights. NCF shall not make a condition of employment the signing of any agreement that limits an employee’s rights in the employee’s works beyond the limitations imposed by this Regulation.

Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Stat. 1004.23; Fla. Board of Governors Regulation 1.001

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