

Intellectual Property	Procedure Number	690
	Effective Date	January 1, 2019

1.0 PURPOSE

Pulaski Technical College (the College) believes that the public interest is best served by creating an intellectual environment whereby creative efforts and innovations can be encouraged and rewarded, while still retaining for the College and its learning communities reasonable access to, and use of, the intellectual property for whose creation the college has provided assistance.

The College supports the development, production, and dissemination of intellectual property by its faculty members. The following policy language was taken in part from the Intellectual Property definitions and guidance from the American Association of University Professors (AAUP).

2.0 REVISION HISTORY

Adopted on:
November 2012
Revised on:
September 2014
November 2018

3.0 PERSONS AFFECTED

Faculty and staff

4.0 DEFINITIONS

1. Intellectual Property

Although the law provides for several different types of Intellectual Property, faculty concerns center on two: copyrights and patents. The following definitions are taken from pertinent federal statutes:

When used in this policy the term "Copyright" shall be understood to mean that bundle of rights that protect original works of authorship fixed 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" (including computer programs) include, but are not limited to the following: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works (photographs, prints, diagrams, models, and technical drawings); motion pictures and other audiovisual works; sound recordings; and architectural works. "Tangible media" include, but are not limited to, books, periodicals, manuscripts, phone records, films, tapes, and disks.

When used in this policy, the term "Patent" shall be understood to mean that bundle of rights that protect inventions or discoveries which constitute any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof; new and

ornamental designs for any useful article and plant patents being for the asexual reproduction of a distinct variety of plant, including cultivated sprouts, mutants, hybrids, and new found seedlings, other than a tuber propagated plant or plant found in an uncultivated state.

[Note on computer software: Computer programs fall into a gray area between the two types of intellectual property. Programs that are a part of a "new and useful process" may be eligible for patent protection, while programs embodying minimally original expression may be eligible for copyright protection.]

[Note on duration of patents and copyrights: The duration of a patent is 20 years from the date of the filing of the patent. Actual patent protection begins when the patent actually issues from the Patent & Trademark Office. The duration of a copyright (for works created and published after January 1, 1978) is the life of the author plus 70 years. Unlike patent protection, copyright protection under the Copyright Act attaches as soon as a work is "fixed in a tangible medium of expression," i.e., put on paper. There is no need to place a notice on distributed copies or apply to the Copyright Office for registration.

5.0 PROCEDURES

A. Who Owns the Intellectual Property?

The faculty member (or members) who creates the intellectual property, owns the intellectual property if the works are created independently and at the faculty member's own initiative for traditional academic purposes.

Intellectual property created, made, or originated by a faculty member shall be the sole and exclusive property of the faculty, author, or inventor, except as he or she may voluntarily choose to transfer such property, in full, or in part.

There are three limited and expressly defined sets of circumstances where the College can claim ownership of the copyright:

- A. Special works created in circumstances that may properly be regarded as "made for hire." [A work should NOT be treated as "made for hire" merely because it is created with the use of university resources, facilities, or materials of the sort traditionally and commonly made available to faculty members.]
- B. Negotiated contractual transfers, and
- C. "Joint works" as described in the Copyright Act, where the institution can be considered a co-author.
- D. The College shall own copyright only in the following three circumstances:
 - 1. The College expressly directs a faculty member to create a specified work, or the work is created as a specific requirement of employment or as an assigned institutional duty that may, for example, be included in a written job description or an employment agreement.
 - 2. The faculty author has voluntarily transferred the copyright, in whole or in part, to the

institution. Such transfer shall be in the form of a written document signed by the faculty author.

3. The College has contributed to a "joint work" under the Copyright Act. The institution can exercise joint ownership under this clause when it has contributed specialized services and facilities to the production of the work that goes beyond what is traditionally provided to faculty members generally in the preparation of their course materials. Such arrangement is to be agreed to in writing, in advance, and in full conformance with other provisions of this agreement.

B. Who May Use the Intellectual Property?

Material created for ordinary teaching use in the classroom or online and in department programs, such as syllabi, assignments, and tests, shall remain the property of the faculty author, but the College shall be permitted to use such material for internal instructional, educational, and administrative purposes, including satisfying requests of accreditation agencies for faculty- authored syllabi and course descriptions.

C. How to Resolve Emerging Issues and Disputes

If a dispute occurs, an Intellectual Property Committee representing both faculty and administration would serve to determine a satisfactory resolution with the parties involved. The committee will also serve a variety of other purposes, including keeping faculty and administration apprised of technological changes that will affect the legislative, contract, and policy contexts.

The Intellectual Property Committee will be composed of members equally apportioned between faculty (elected by the Faculty Senate) and administration (appointed by the president or his/her designee.) The committee members shall elect a chair from among themselves each year. Each member shall serve a two- year term, but can be reappointed if desired or needed by the College.

The Committee shall monitor and review technological and legislative changes affecting intellectual property policy and shall report to relevant faculty and administrative bodies, when such changes affect existing policies.

The Committee shall serve as a forum for the receipt and discussion of proposals to change existing institutional policy.

Disputes over ownership, and its attendant rights, of intellectual property will be decided by the Intellectual Property Committee.

If the inventors/creators disagree with the determination of the Committee he/she may appeal to the Chancellor.. or his or her designee. The Chancellor or his or her designee has ten (10) working days from the time of submittal to make a determination. This decision is final.

REQUIRED APPROVALS	NAME/SIGNATURE	DATE
Originator(s) Name(s):	PTC Board of Trustees	November 2012
Ratified by:	PTC Policy Review UA-PTC Policy Review	September 2014 November 2018
Recommended by Chancellor (Signature)	Margaret Ellibee	January 1, 2019
UA Policy Alignment	210.1 Patent and Copyright	August 21, 2019

