

Article 39 INTELLECTUAL PROPERTY

39.1 The District encourages the intellectual scholarship and academic creativity of faculty employees as an inherent part of the educational mission of the colleges. To that end, this article seeks to protect and promote the traditional academic freedom of the District's faculty in matters of intellectual property, and to balance the interests of faculty and the District reasonably and fairly in establishing ownership rights to intellectual property that has been created.

Definitions

39.2 The following definitions shall apply to this article:

39.2.1 “Intellectual property” includes “Works” and “Inventions.”

39.2.2 A “Work” is any material which is eligible for copyright protection, including (but not limited to) books, articles, reviews, dramatic or musical compositions, poetry, instructional materials (e.g., syllabi, lectures, student exercises, workbooks, readers, lab manuals, multimedia programs, tests, etc.), fictional or non-fictional narratives, analyses, (e.g., scientific, logical, opinion or criticism), works of art or design, photographs or films, video or audio recordings, computer software, architectural and engineering drawings, musical compositions. A Work may be recorded in any enduring medium (e.g., print, film, or digital media, etc.), or in any electronically mediated form (e.g., video or audio broadcast, html transmissions, or email attachments), or may exist in any tangible form (e.g., a sculpture, painting, or structure).

39.2.3 An “Invention” is any creation, improvement, development, idea, discovery, process, method or product, whether patentable or unpatentable, including (but not limited to) a device, design, model, or composition of matter.

39.2.4 A “District-commissioned Work” is an original work or invention prepared by a faculty employee at the explicit request of the District (i.e., a “Work for Hire”).

39.2.5 A “Copyright” is the ownership and control of the intellectual property in “original works of authorship” that is subject to copyright law. Copyright subsists in original works of authorship that have been fixed in an tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Original works include but are not limited to those specified in Section 39.2.2.

39.2.6 A “Patent” is the grant of a property right to the inventor that excludes others from making, using, offering for sale, or selling an invention in the United States or importing the invention into the United States.

39.2.7 “Ownership” is all legal rights, title and interest in a work or invention and includes royalties or any other form of compensation derived from the Work or Invention.

Ownership and Related Rights of Faculty Employees

39.3 Ownership and related rights of faculty employees:

- 39.3.1 Ownership of copyrights or patents for a work or invention developed by a faculty employee outside their normal teaching, scholarly or employment activities, when the work or invention is not a District-commissioned work, shall belong exclusively to the faculty employee.
- 39.3.2 Ownership of copyrights or patents for a work or invention developed by a faculty employee during their normal teaching, scholarly or employment activities, including professional development leave, when the work or invention is not a District-commissioned work, shall belong exclusively to the faculty employee.
- 39.3.3 Ownership of copyrights or patents for a work or invention developed by a faculty employee either outside or during their normal teaching, scholarly or employment activities, including professional development leave, when the faculty employee has utilized or relied upon District facilities, equipment or support services to a substantial degree, or has received reassigned time or a stipend for the express purpose of development of the work or invention, and the work or invention is not a District-commissioned work, shall belong to the faculty employee subject to the following condition:
 - 39.3.3.1 The District shall retain the non-exclusive, non-transferable, royalty-free license to use the work or invention. However, a faculty employee who develops electronically mediated course content under this provision shall have exclusive rights to the content.
- 39.3.4 Upon the death of a faculty employee, ownership as set forth in this section shall be transferred to the faculty employee's heirs or estate.

Ownership and Related Rights of the District

39.4 Ownership and related rights of the District:

- 39.4.1 If the District contracts with a faculty employee for the express purpose of creating a district-commissioned Work (i.e., a "Work for Hire") or an institutional effort, ownership of copyrights or patents shall reside in the District. In such cases, the faculty employee and the District shall enter into a formal agreement setting the terms of the District-commission, and the faculty employee shall be apprised of the District's right to ownership of the copyright or patent.
- 39.4.2 If the District wishes to record or broadcast any classroom, laboratory, or other instructional activity, it shall first obtain the permission of the faculty employee. Before the District may enter into an agreement for commercial redistribution of recorded or broadcast instructional activity performed by a faculty employee as part of their employment with the District, the District shall first obtain the written permission of the faculty employee. Ownership of copyright shall reside in the District.

- 39.5 If the District and a faculty employee enter into a separate agreement for a specific project, the right to claim copyright/patent ownership shall be governed by the terms of the specific agreement.
- 39.6 Ownership rights related to copyrightable or patentable material produced by a faculty employee as a result of a grant shall be governed by the terms of the grant. If ownership rights are not specified otherwise, the copyright/patent shall belong to the faculty employee.

Responsibility for Registration of Copyright or Patent

- 39.7 Responsibility for registration of copyright/patent shall lie with the owner of the copyright/patent.

Royalty Distribution

- 39.8 Royalty distribution rights shall parallel ownership of copyright/patent in accordance with Sections 39.3 through 39.6.

Re-opener

- 39.9 Either the Board or FA may reopen negotiations on this article at any time by delivering a written request to reopen to the other party.