

Revision Responsibility: Executive Vice President-Provost
Responsible Executive Officer: Executive Vice President-Provost

Source/Reference: [TBR Policy 5:01:06:00](#)
[TBR Guideline A-075](#)

PURPOSE

The purpose of this policy is to encourage inventions, discoveries, and the production of copyrightable materials by members of the Columbia State Community College community.

DEFINITIONS

- I. Copyrightable Materials – Those materials or works which reasonably appear to qualify for protection under the copyright laws of the United States or other protective statutes. Copyrightable materials include but are not limited to:
 - A. Books, text, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals;
 - B. Computer programs;
 - C. Films, filmstrips, charts, transparencies, and other visual aids;
 - D. Lectures, musical or dramatic compositions; unpublished scripts;
 - E. Video or audio tapes, cassettes,
 - F. All electronic data storage devices such as CD's, DVD's, jump drives, thumb drives, etc.
- II. Patentable Materials – Those innovations, inventions, discoveries, or developments which reasonably appear to qualify for protection under the patent law of the United States or protective statutes. The United States Code Annotated, Title 35, Section 101, as amended, provides that “whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.”
- III. Scope of Employment – Activities which have been assigned to an employee by his or her supervisor or which are performed during normal working hours or which fall within the employee's job description.

POLICY

- I. It is the policy of Columbia State Community College to: (1) encourage inventions and the production of copyrightable works by employees of the College; (2) facilitate the utilization of such discoveries and materials to the benefit of the public, the Institution, and the members of the Institutional community; and (3) provide for the equitable sharing of any proceeds derived from the commercial exploitation of inventions, discoveries and copyrightable materials in which, pursuant to this policy, Columbia State Community College is determined to have an

interest. This policy is intended to protect the interests of all concerned parties: the College, members of the College community, external sponsors of research, and the public.

- II. *Establishing Responsibility for Utilization and Sharing* – Intellectual property developed by persons to whom this policy applies shall be the sole and exclusive property of Columbia State if the subject intellectual property is:
- A. Developed within the person’s scope of employment with the Institution;
 - B. Developed in the course of a project sponsored by the Institution;
 - C. Developed with the significant use of the Institution’s facilities, services, or equipment (personal office space, libraries, and the inventor or author’s personal computer provided by the Institution excluded); or
 - D. Developed in the course of a project arranged administered or controlled by Columbia State and sponsored by persons, agencies, or organizations external to the Institution, absent prior written agreement to the contrary.

With respect to students, use of resources or facilities typically available to students in their educational activities shall not be considered “significant”.

Prior to Columbia State providing support (for example, release time or institutional funding) to a person to whom this policy applies, where that support could reasonably be expected to result in an invention or creation of a copyrightable work with commercial value, Columbia State and the person or persons receiving that support shall agree in writing whether any intellectual property potentially arising from the supported activities would qualify as a scholarly work.

- III. *Mutual Responsibilities and Rights* - Intellectual property developed outside an employee’s scope of employment, on the employee’s own time and without the use of significant College resources shall be the sole and exclusive property of the Inventor or Author. In consideration of College support in evaluating the intellectual property, seeking patent protection and/or pursuing commercialization activities, Columbia State and the Inventor or Author may agree to assign all or a portion of the ownership rights to the invention or work to Columbia State. Significant use of institutional facilities, services, or equipment shall be defined to include a cost to the Institution in the amount of \$2,500 or more (in constant 2001 dollars).
- IV. *Applications for the Titles of Patents and Copyrights* - Subject to the approval of the Chancellor or his designated representative, Columbia State Community College is authorized to seek and hold patents and copyrights, to assign their rights, and to execute royalty-sharing agreements. Income derived from the commercialization of intellectual property in which Columbia State has an interest shall be first applied toward any direct expenses incurred by Columbia State in seeking patent protection or copyright registration or in pursuing commercialization of the intellectual property. The Columbia State share of income accruing from patents and copyrights is then to be deposited in a restricted account. Funds in this account are to be used solely for the enhancement of instructional programs.

In evaluating inventions, discoveries, and copyrightable materials, filing patents and copyrights applications, and licensing and administration of patents and copyrights, Columbia State Community College is authorized to obtain outside services from independent patents and copyrights assistance organizations. Any compensated assistance obtained from private legal counsel must be approved in advance by the Attorney General of the State of Tennessee.

PROCEDURES

I. Disclosure

- A. Persons to whom this policy applies are responsible for disclosing to Columbia State the invention or production of a copyrightable work which could reasonably be expected to have commercial value. Disclosure shall be made to the President, or to such person as the President may designate.
- B. In the event that two or more persons are entitled to claim ownership of the intellectual property, the inventors or authors shall reach agreement between or among themselves regarding relative contributions for the purposes of distribution of net income from the invention or work. That agreement should be in writing and be notarized. The agreement will be required prior to the President's initial decision regarding whether to pursue patent protection or commercialization of the intellectual property.
- C. The inventor or author shall fully cooperate with the designated College personnel or Advisory Committee in the disclosure process and in other subsequent activities associated with patenting and/or commercialization of the invention or work.
- D. The President, at his/her discretion, shall appoint faculty, staff and other persons experienced in intellectual property matters to an ad hoc Intellectual Property Advisory Committee. The disclosure shall be forwarded to the Committee for an evaluation of the ownership, patentability and/or commercial potential of the invention or work. The Committee shall conduct an interview with the Inventor or author and other persons as needed to make this evaluation. A patentability evaluation shall in particular include a thorough evaluation of acts by the Inventor or items of prior art which would bar patent protection. The Committee shall provide the President of the College with its recommendations as to ownership of the intellectual property, whether patent protection should be sought, and whether to seek commercialization opportunities within twenty working days. The Committee shall conduct investigations as it deems necessary in the preparation of its recommendations to the President. The Committee is authorized to seek outside assistance in preparing its recommendations. Any compensated assistance obtained from private legal counsel must be approved in advance by the Attorney General of the State of Tennessee. The Committee shall also generally advise the President in all matters relating to this Policy.
- E. For those inventions or works in which the College is deemed to have an ownership interest, following a decision by the President (or the President's designee) to seek patent

protection, copyright registration, and/ or commercialization of the intellectual property, the Committee will arrange to have those activities undertaken. All direct costs associated with those activities shall be borne by Columbia State Community College.

II. Role of the President and/or Designee Relative to Patents and Copyrights

- A. The President of Columbia State is responsible for decisions regarding ownership of the intellectual property.
- B. The President will receive from Columbia State Community College employees and/or students disclosure concerning inventions, discoveries, and copyrightable materials.
- C. Following receipt, the President shall within ten working days refer the disclosure to their designee or form an ad hoc committee with faculty, staff, and other persons experienced in intellectual property matters.
- D. On receiving recommendations from the designee or the ad hoc committee, the President within ten working days will inform the Committee and the individual who has interest in the patent or copyright as follows:
 1. If the committee recommends that Columbia State Community College waive all claims, the President will indicate whether or not he/she concurs and whether or not the Institution waives all claims.
 2. If the Committee advised the President that institutional sponsorship, external sponsorship, or significant use of institutional resources were involved, the President will indicate whether or not the Institution intends to hold and pursue its rights.
 3. If the Committee advises the President of a royalty-sharing arrangement, the President will indicate whether or not the Institution accepts the recommended arrangement.
- E. For inventions made in the course of a project funded in whole or in part by the Federal Government, the Bayh-Dole Act (37 CFR 401) imposes certain reporting requirements associated with the technology transfer process. The President shall designate the party responsible for ensuring that those reporting requirements are satisfied.

III. Royalty-Sharing Agreements

- A. In considering a royalty-sharing agreement, the President will take into account contributions by the individual and by Columbia State. The shares of the parties are to be based on the relative contributions of the parties to the invention, discovery, or copyrightable materials developed. The royalties shall be shared; net of the costs of obtaining licensing, and administering the patents and copyrights. The agreement shall be approved by the President and the Chancellor or his/her designated representative. In no case shall the employee's share of the net royalties be less than 40 percent. Where

institutional sponsorship or significant institutional resources were involved, the agreement shall also provide for reservation to the Board of Regents of a nonexclusive, irrevocable license to the invention, discovery, or copyrightable materials with power to grant the licenses for all governmental and educational purposes.

- B. If the content of materials developed by a Columbia State employee, and for which Columbia State holds a copyright, is changed during the period of the original copyright, the authors shall have the options of being credited, or not credited for the materials retained. Such action shall not abrogate any royalty-sharing agreement.
- C. Nothing in this policy shall preclude mutually agreed on contractual arrangements between the Institution and members of the community wherein either party may agree to waive rights to patents, discoveries, or copyrightable items. All employees shall cooperate with the Institution in obtaining patents and copyrights, including the execution of all necessary documents.

IV. Appeal Procedure

Upon receipt of the President's decision related to rights and royalty-sharing agreements, the Columbia State employee in question shall have thirty calendar days in which to file a formal written appeal. The President is not authorized to delegate responsibilities relative to appeals. Within fifteen calendar days following the end of the thirty-day period, the President shall make known his/her decision concerning the appeal. If appropriate, the final decision by the President may be appealed to the Chancellor of the Tennessee Board of Regents in accordance with [TBR Policy 1:02:11:00](#). Decisions of the TBR Chancellor shall be binding.

V. TBR Policy Supersedes

If there are any conflicts or contradictions between this institutional policy and any of the Tennessee Board of Regents' policy the TBR policy should be followed.