

The following intellectual property procedure shall be interpreted consistent with other district policies, including but not limited to, the district's policy on academic freedom (Board Policy 4030), and federal and state statutes and regulations. This procedure shall also be interpreted consistent with all collective bargaining agreements.

Definitions

For the purposes of this procedure, the following definitions apply to the following words or phrases:

“Administrative activity” means the execution of the district's management or administrative functions such as preparing budgets, policies, contracts, personnel management, printing course materials and catalogues, maintenance of computer data, long-range planning, and keeping inventories of equipment. Teaching and academic endeavors are not administrative activities.

“Author” or “creator” means an individual who alone or as part of a group of other creators invent, author, discover, or otherwise create intellectual property.

“District resources” means all tangible resources including buildings, equipment, facilities, computers, software, personnel, and funding.

“Employee” means an individual employed by the district and shall include full-time and associate faculty, classified staff, student employees, appointed personnel, persons with "no-salary" appointments, and academic professionals who develop intellectual property using district resources, unless there is an agreement providing otherwise.

“Intellectual property” means works, products, processes, tangible-research property, copyrightable subject matter, works of art, trade secrets, know-how, inventions, and other creations the ownership of which are recognized and protected from unauthorized exploitation by law. Examples of intellectual property include scholarly, artistic, and instructional materials.

“Student” means an individual who was or is enrolled in a class or program at the district at the time the intellectual property was created.

“Student e

One electronic copy of each syllabus will be requested from faculty by the Office of Instruction for the following purposes:

- A. Providing syllabi to students who request them for individual course articulation when the faculty member is unavailable.
- B. Providing syllabi to authors of an accreditation self-study to demonstrate inclusion of Student Learning Outcomes and language that demonstrates the college's meeting of other accreditation standards and sub-standards.
- C. Providing syllabi to visiting accreditation team members to demonstrate meeting of accreditation standards and sub-standards.

This particular electronic copy will only be used for the purposes outlined above.

However, paper or electronic copies of syllabi may be included in materials required for tenure-review packets (see Tenure Candidate Handbook) and may be requested by department chairs and discipline leads as part of the evaluation of associate faculty members (see Associate Faculty Handbook). They may also be requested by department chairs and Academic Senate presidents for the purposes of evaluating student requests for grade changes (see Board Policy/Administrative Procedure 4231, Grade Changes), and by department chairs, deans, and members of the Grievance Hearing Committee for the purposes of settling a student grievance (see Administrative Procedure 5530, Student Rights and Grievances). In these cases, the requestor must obtain the syllabus via specific request to its author or from the student in support of their grievance or request for change of grade.

Intellectual property unrelated to an individual's employment responsibilities at the district and that is developed on an individual's own time and without the district's support or use of district facilities is the exclusive property of the creator,

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students must obtain all required licenses, consents, and releases necessary to avoid infringing the rights of third parties. District employees and students with questions or concerns regarding third-

student outside of the classroom setting and should not be solely or exclusively available within the district. This would include course textbooks, packs, software, and other instructional materials (Education Code §76365 and 5 California Code of Regulations, §§59400, et seq.). In addition, profiting by the instructor-of-record from sales of required course materials may also be in violation of district's policy and institutional code of ethics, which requires that faculty members avoid conflict of interests between their contractual obligations to the district and private business or personal commitments, including soliciting and selling services or products during the course of their regular work at the college (Administrative Procedure 3050). In accordance with district policy, no instructor will profit from the purchase of required or suggested materials for courses for which he or she is the instructor-of-record. Materials authored by the instructor of record will be provided at cost, or the instructor will be responsible for demonstrating to the Vice President, Instructional Services, that profits were donated to the MiraCosta College Foundation or other nonprofit entity.

Notification

The intellectual property coordinator shall provide a copy of these intellectual-property procedures to persons upon request. The district shall arrange training on a periodic basis for faculty, staff, and/or other persons who are covered by this intellectual-property procedure.

and until such claim or suit has been settled or withdrawn, the District may withhold any sums due the Author under this agreement.

5. Consideration

Form B: Contract under which Employee Keeps Copyright of the Work and Gives District a License to Use/Exploit Work

Course Materials

This Agreement made the _____ day of _____ 20____ by and between _____ ("Author," and if there is more than one author then all of them collectively) and _____ ("District").

Recitals

The Author will be the sole contributor of copyrightable expression to the educational course materials anticipated to result from this project. The District will be contributing significant kinds and/or amounts of District resources. The Parties recognize that under law, the District is obligated to obtain appropriate consideration for the transfer of state resources. In furtherance of their mutual objectives, the Parties agree to allocate certain of their rights and responsibilities as set forth in this agreement.

The author and the District agree as follows:

1. Rights Granted

Nonprofit Educational Uses. The Author hereby grants to the District for the full term of this agreement the nonexclusive right to copy, distribute, display, perform, transmit, and publish for nonprofit educational purposes the educational course materials entitled: _____] (hereinafter called "Work").

or

Nonexclusive Commercial License. The Author hereby grants to the District for the full term of this agreement the nonexclusive right to copy, distribute, display, perform, transmit, publish and sell throughout the world the educational course materials entitled: [name of work] (hereinafter called "Work"). This license grant also includes, without limitation, the rights to the Work listed in Paragraph 8 below, with authority to license those rights in all countries and in all languages.

or

Exclusive Commercial License. The Author hereby grants to the District for the full term of this agreement

5. Copyright Registration

The Author authorizes the District to register copyright in the Work in the Author's name in the United States and elsewhere as the District may elect.

6. Author's Warranty

(a) The Author warrants that they are the sole owner of the Work and have full power and authority to make this agreement; that they have made a good faith effort to follow the District's Intellectual Property Policy and Procedures and that the Work does not infringe any copyright, violate any property rights, or contain any scandalous, libelous, or unlawful matter.

(b) To the extent that an act of the Author that results in a claim of copyright infringement was authorized by the District's Intellectual Property Policy and Procedures, in accordance with that Policy and to the extent authorized by the Constitution and laws of the State of California, the District, will defend, indemnify and hold harmless the Author against all claims, suits, costs, damages and expenses that the Author may sustain by reason of such infringement or violation by the Work of any copyright.

(c) In all other cases, the Author will defend, indemnify, and hold harmless the District and/or its licensees against all claims, suits, costs, damages, and expenses that the District and/or its licensees may sustain by reason of such infringement or violation by the Work of any copyright.

translation rights; publication in anthologies, compilations, digests, condensations; first and second serial rights (in one or more installments); dramatic, motion picture, and television rights; broadcast by radio; recordings; electronic, mechanical, and visual reproduction; computer programs; microprint, microfiche, and microfilm editions; syndication rights; permissio

(c) Upon the expiration of the term of this Agreement, the parties may agree to renew this Agreement for an additional [] year [] term, upon the same terms and conditions as set forth herein.