

**Securing of Copyright**

Reference: Education Code Sections 72207, 81459; 17 U.S.C. 201

In any case of conflict between this administrative procedure and a collective bargaining agreement the appropriate provisions of the collective bargaining agreement shall prevail.

The Board of Trustees recognizes and encourages the creation of employee-developed materials as an inherent part of the educational mission. The Board also acknowledges the privilege of District personnel (faculty, staff, and students) to prepare, through individual initiative, articles, pamphlets, and books that may be copyrighted by and generate royalty income for the author.

In order to support and facilitate creativity in the college educational setting, a wide variety of support services are provided upon which the individual may draw. The provision of support facilities, creative support staff, and the individual program developer puts each of these three segments in cooperation with each other and thereby establishes the collective rights of the three parties.

1. **Definition of Copyrightable Material**

The following are defined as copyrightable materials by the Palo Verde Community College District:

- a. Books, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, test, and proposals.
- b. Lectures, musical or dramatic compositions, and unpublished scripts.
- c. Films, film strips, charts, transparencies, and other visual aids.
- d. Video and audio tapes and cassettes.
- e. Live video or audio broadcasts.
- f. Program and instruction materials.
- g. Computer programs.

2. **Definition of Level of Support in the Development of Copyrightable Materials**

All materials defined as copyrightable developed or executed by an employee during the course of contractual duties and subject to or eligible for patent, copyright, or any other similar right of ownership and/or distribution are the properties of the District and employee with the determination of rights to copyrightable material allocated as follows:

a. Determination of Equities

- (1) Individual Effort - Income derived from materials resulting from the individual initiative of college personnel should normally accrue to the author alone.
- (2) College-assisted Individual Effort - When individual efforts are significantly assisted by the use of college facilities, resources, or support staff, the degree to which the income shall be shared shall be determined in advance before completion of the project.
- (3) College-supported Efforts - When copyrighted materials are generated as a result of assigned duty, the degree to which derived income shall be allocated to participants shall be specified at the completion of the project.
- (4) Sponsor-supported Efforts - When special purpose grant funds are utilized, the conditions of the grant contract shall prevail in relation to allocation of derived income.

b. Definition of Rights of Ownership

- (1) Individual Effort - Materials developed by an employee during leisure hours while not fulfilling contractual duties to the District, not on District property, nor involving other District employees during the course of their responsibilities, and without benefit of District equipment, are the exclusive property of the employee.
- (2) College-assisted Individual Effort - When the college provides partial support of an individual effort resulting in copyrightable material by contributing staff time, facilities or equipment, or staff support services, an agreement governing joint rights to ownership, disposition of materials, and the sharing of royalty income shall be entered into. If possible, the disposition of rights shall be defined in advance but in any case no later than the completion of the project.
- (3) College-supported Efforts - Ownership of copyrightable material developed as a result of assigned duty shall reside with the District.

The procedure for disposition of rights shall be defined in advance.

If the District employee is assigned by the District for the development of said materials and wishes to gain exclusive rights, he/she must also execute a document agreeing to reimburse the District for all costs up to production-ready state relating to the complete project.

- (4) Sponsor-supported Efforts - When special purpose grant funds are utilized, the conditions of the grant contract shall prevail in relation to the right of ownership. In the event that these are not specified with a given federal grant program, pertinent general regulations relating to copyrights and patents determining the percentage of participation and royalties shall prevail.

The procedure for disposition of rights shall be defined in advance. Title generally is retained by the District or shall be assigned to the public domain.

In the event the District employee desires to acquire exclusive patent, copyright, or any other similar right of ownership and/or distribution of said property, he/she shall execute a document with the District in which he/she agrees to reimburse the District for all of its costs, including, but not limited to, the following: wages of District employees involved in the production of said materials, paper, audio and audio visual tapes, and any other articles, drawings or displays developed to the camera-ready state at District expense.

In the event the District does not choose to produce the item and secure copyright within five (5) years from the completion of the project, all rights shall automatically revert to the individual.

*(Formerly PVC Board Policy 6500)*

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