

## **Procedure: 3.2.2p. (II.E.1)**

# **Development of Patentable Devices and Materials or Copyrightable Materials and Media by TCSG, College Personnel, or Students.**

**Revised:** July 15, 2015; and October 29, 2014.

**Last Reviewed:** April 11, 2023; September 7, 2022; October 21, 2020; September 16, 2019; September 10, 2018; and October 30, 2017.

**Adopted:** June 6, 1991.



### **I. PURPOSE:**

To further the Technical College System of Georgia's (TCSG) goal of making education accessible to the public, the Technical College System of Georgia owns the intellectual property rights in all works produced by or for the Technical College System of Georgia and its constituent colleges. Revenue generated by intellectual property rights owned by the TCSG may be distributed to the TCSG and/or the college originating the creation of the property. Adherence to this procedure and the State Board Policy: 3.2.1 is a condition of employment or enrollment.

### **II. RELATED AUTHORITY:**

15 U.S.C. § 1127 – Trademark.  
17 U.S.C. § 102 et seq. – Copyright.  
35 U.S.C. § 101 et seq. – Inventions Patentable.  
O.C.G.A. § 10-1-760 et seq. – Georgia Trade Secrets Act of 1990.  
O.C.G.A. § 50-18-70 et seq. – Georgia Open Records Act.  
TCSG State Board Policy 3.2.1. – Intellectual Property.  
TCSG Procedure 4.3.2p6. – Other Employment.  
TCSG Procedure 6.7.2p2. – Model Student Conduct Code.

### **III. APPLICABILITY:**

All work units and Technical Colleges are associated with the Technical College System of Georgia.

### **IV. DEFINITIONS:**

- A. "Copyrighted Materials" shall refer to materials or works other than software that qualify for protection under the copyright laws of the United States (17 U.S.C. § 102 et seq.) or other protective statutes whether or not registered copyright.

- B. "Intellectual Property" shall refer to patentable or copyrighted materials, trademarks, software, and trade secrets as defined by the Georgia Trade Secrets Act of 1990, the Georgia Open Records Act, or other Georgia law whether or not formal legal protection is sought.
- C. "Patentable Materials" shall refer to items other than software that reasonably appear to qualify for protection under the patent laws of the United States (35 U.S.C. § 101 et seq.) or other protective statutes.
- D. "Software" shall refer to computer programs in any form, including but not limited to applications for phones, tablets, or other devices, or any associated operational procedures, manuals, or other documentation associated with the software, whether or not protectable or protected by patent or copyright.
- E. "Trademarks" shall refer to all trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes (15 U.S.C. § 1127).
- F. "Trade Secrets" shall be defined as in the Georgia Trade Secrets Act of 1990 (O.C.G.A. § 10-1-760 et seq) or the Georgia Open Records Act. (O.C.G.A. § 50- 18-70 et seq)

#### **V. ATTACHMENTS: N/A**

#### **VI. PROCEDURE:**

- A. Intellectual property may be protected under the United States law and the laws of other nations. Intellectual property created by the faculty, staff, or students at the Technical College System of Georgia and its constituent colleges may have come about because of the aid or participation of the Technical College System of Georgia or one of its colleges. The respective rights and obligations of the Technical System of Georgia, its constituent colleges, and their faculty, staff, and students will be determined under the provisions of this procedure.
  - 1) Sponsor Supported Efforts: Projects sponsored by third parties often have contracts containing specific provisions concerning ownership of any resulting intellectual property. In such cases, if the support provided is sufficient to cover the cost of developing the portion of the intellectual property owned by the third party, the intellectual property rights shall be as outlined in the underlying contract. Should the contract be silent as to intellectual property rights, or in the absence of a contract, all rights in Intellectual Property shall vest in the Technical College System of Georgia. In addition, income or revenue generated by sponsor-supported property shall be distributed under the terms of the contract; if the contract is silent, all revenue shall be distributed to the sponsoring college or TCSG System Office.
  - 2) Technical College System of Georgia or College Assigned Efforts: Intellectual Property Rights in Intellectual Property created as a result of projects undertaken at the direction of the Technical College System of Georgia or one of its constituent colleges shall vest with the Technical College System of

Georgia. Should the property generate revenue from outside the college, all revenues will be remitted to the college and accounted for as provided by the Technical College System of Georgia.

- 3) Individual Efforts: Rights to Intellectual Property created solely through the efforts of faculty, staff, or students without any contribution or compensation from the Technical College System of Georgia or one of its constituent colleges shall vest in the individual creator(s). However, the creator(s) shall not be able to claim ownership rights in Intellectual Property created during work time for the Technical College System of Georgia or one of its constituent colleges or created using any resources of the Technical College System of Georgia or one of its constituent colleges that are not readily available to members of the public. It shall be the responsibility of the creator(s) to establish that he or she produced the Intellectual property solely with individual effort and without any contribution from the Technical College System of Georgia or the college. Revenue generated from property created solely through efforts of faculty, staff, or students without any contribution from TCSG or a constituent college shall belong to the individual owning the property.

**B. Proof of Individual Ownership of Intellectual Property Rights:**

In any case, where an employee, staff member, or student at the Technical College System of Georgia or one of its constituent colleges claims a personal right to intellectual property or related compensation, he or she must provide evidence of his or her own as provided herein. Failure to follow this procedure shall result in all Intellectual Property rights vesting in the Technical College System of Georgia.

The employee, staff member, or student must file in writing his or her request for approval of his or her claim of the individual right of ownership or related compensation. Decisions regarding who holds the right to Intellectual Property shall be made by the Assistant Commissioner of Technical Education or designee, utilizing the standards outlined in paragraphs 1-3 above, for employees and staff of the Technical College System of Georgia's System office. Decisions for the college's employees, staff, and students shall be made by the college president or designee utilizing the same standards.

Individuals may appeal the decision regarding Intellectual Property rights and/or compensation to the Commissioner of the Technical College System of Georgia. Appeals should be sent to the Commissioner in writing with all supporting documentation within ten (10) business days of receipt of the president's decision. The Commissioner of the Technical College System of Georgia shall consult with the Office of Legal Services before making a final decision. The Commissioner's decision should in most cases be made within thirty (30) business days after their receipt of the appeal.

C. Proposed Changes to Ownership Rights Established by this procedure:  
Any proposed changes to the Ownership Rights of Intellectual Property must be submitted in writing to the TCSG Commissioner for his or her consideration. The Commissioner may establish a committee to consider such requests. The decision of the Commissioner or designee shall be made within thirty (30) days after the written submittal of the request for altered ownership rights. In addition, the TCSG Office must approve any revenue-sharing agreement associated with the altered ownership of Legal Services.

D. Copyright, Trademark, Patent Applications  
All colleges must coordinate with the TCSG Office of Legal Services in submitting applications for copyrights, trademarks, or patents.

## **VII. RECORD RETENTION:**

Records about intellectual property owners shall be maintained per the State of Georgia Record Retention Schedule. Upon reasonable belief that legal action may occur as a result of an issue of ownership of intellectual property, the college shall suspend any schedule for destruction of related records and take immediate and affirmative steps to secure such records in their original format(s). [http://www.georgiaarchives.org/records/retention\\_schedules](http://www.georgiaarchives.org/records/retention_schedules)