

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

Development of Patentable Devices/Materials or Copyrightable Materials/Media by TCSG/College Personnel or Students

Revised: July 15, 2015; October 29, 2014

Last Reviewed: September 10, 2018, October 30, 2017

Adopted: June 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 any and 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)
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 associated with the Technical College System of Georgia.

IV. DEFINITIONS:

- A) "Copyrighted Materials" shall refer to materials or works other than software which 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 a 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 which 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 United States’ law and the laws of other nations. Intellectual property created by the faculty, staff or students of 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 in accordance with the provisions of this procedure.
 - 1) Sponsor Supported Efforts: Projects sponsored by third parties often have contracts containing specific provisions with respect to 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 to be owned by the third party, the intellectual property rights shall be as set forth 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. Income or revenue generated by sponsor-supported property shall be distributed in accordance with 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 of 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 of 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 ownership 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 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 employees, staff and students of the colleges 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 prior to making a final decision. The Commissioner's decision should in most cases be made within thirty (30) business days after his/her 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. Any revenue sharing agreement associated with the altered ownership must be approved by TCSG Office of Legal Services.

D) Copyright, Trademark, Patent Applications

All colleges are required to coordinate with the TCSG Office of Legal Services in the submission of applications for copyrights, trademarks, or patents.

VII. **RECORD RETENTION:**

Records pertaining to ownership of intellectual property shall be maintained in accordance with 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