



Administrative Rules

SUBJECT: Copyright Ownership

AR#: 4.02.006

Based on Board Policy:

[D-2, Academic Freedom and Responsibility](#)

Recommended by Council/President:

Academic and Campus Affairs Council

Date Approved/Amended:

03/07/1988; amended 02/27/01, 06/01/12

Value Statement

The objective of this policy is to encourage the production of copyrightable material (“Works”) that advance Austin Community College's scholarly, academic, and public service missions and that contribute to the professional stature of those involved in the creation of the Works.

Administrative Rule

1. Scope of Policy

This policy governs the respective ownership rights of the College its students, and all of its employees, both academic and non-academic, in copyrightable material produced within the scope of employment or otherwise arising out of the participation of individuals, including students, in the activities of the College. While the College will not assert its ownership interest in scholarly and academic Works created by members of the faculty who use generally available College resources, or in works created by students participating in courses, the College does assert ownership of copyrightable Work where significant College resources are utilized in the creation of the Work or in other circumstances as required pursuant to an agreement with a third party or where the Work is a work made for hire. Generally available resources include one’s office, office computer, telephone (excluding long-distance charges), library and other resources that may be included in the accompanying Intellectual Property Agreement Form. For student-created Works, the College retains an unlimited license to use the work for educational purposes.

This Policy is specifically applicable to the creation of technology-mediated courseware in any form and format, including but not limited to video and Internet-based materials. However, this Policy is not intended to affect the compensation of faculty and other College personnel involved in the delivery of instruction independent of the ownership of the courseware that may underlie such instruction.

2. Ownership Principles and Standards

College faculty, students, and staff routinely create intellectual property that is subject to copyright protection.

President/CEO: Richard M. Rhodes Date: 08/09/12

However, copyright protects only the original expression of facts and ideas that have been fixed in a tangible medium of expression such as a written work, computer software, video, photographs, painting, or other item of tangible (even if virtual) expression.

Copyright protection does not protect the underlying facts or ideas in and of themselves, because facts and ideas exist independent of the effort or contribution of the author to fix them in tangible form. Under the federal Copyright Act of 1976, original works of authorship are automatically protected by copyright simultaneously with their fixing in a tangible form of expression. The owner of the copyright to a Work has the exclusive right to reproduce it, display, perform, or distribute it to the public, and make adaptations or derivative Works based on the original. This Policy is designed to delineate the identity of the owner of the Work as well as set forth a framework for the sharing of value that might arise from the creation of a Work.

In cases where the provisions of this Policy state that the College cedes copyright ownership to the author(s), it is the intention that such ownership will be ceded to the author(s) by operation of this Policy without requiring further action by the College.

As a general rule, the author of a Work is the owner of the copyright. It is the general policy of the College that Works that are created on an individual's own independent initiative outside the time, place, and scope of employment or activity within the College are owned by the author.

Conversely, under the work made for hire doctrine of the Copyright Act, the author, and, therefore the owner, of the copyright in Works created by persons within the scope of their employment is the employer rather than the individual creator. Therefore, unless modified by this Policy or by the specific terms of a written agreement signed by the faculty member, student, or other employee or covered individual and the President or his or her designee, as a matter of law, Works created by College faculty members in the course of their teaching and research and by other personnel in the course of their employment (including students working in conjunction with faculty as College employees, or as College interns distinguished from interns working directly for faculty on the faculty member's own project, or from interns working for third parties, unless so provided in any agreements regarding such internships), are the property of the College, Faculty, or Students.

However, since a fundamental principle of the College as an academic organization is to encourage the development and widest possible dissemination of scholarly Work produced by members of the College community, and consistent with longstanding academic tradition, except as described below, the College cedes copyright ownership to the faculty member who writes or develops a scholarly or academic tangible or virtual Work (including books, papers, lecture notes, articles, and similar materials) where such Work is created by a faculty member either using his or her own resources or using College resources that are generally available to the College faculty. In such cases the faculty member is entitled to determine, consistent with the College's Use of Name and Conflict of Interest/Conflict of Commitment policies, how the Work is to be disseminated and to keep any net income it produces.

For purposes of this Policy, a "Student Work" is a tangible or intangible Work authored by an enrolled student in the fulfillment of course requirements or otherwise a product of the student's enrolled participation in course work. Student Works include, for example, work created in satisfaction of course assignments or other requirements, such as essays, stories or other writings, photographs, audio-visual materials, computer programs, other course-related projects, and tests.

Unless otherwise specified in an agreement between the College and a student, or otherwise stated in a course or project description, a student is considered to be the author of a Student Work for Copyright Act purposes, and the copyrights in the Work are thus considered to be owned by the student; but as a condition of enrollment in the course the student grants and the College retains the right to use the Work for educational purposes, including but not limited to reproduction, dissemination, public display, posting on the Internet (including as part of online course materials), or any other use in any media that is consistent with the College's educational purposes.¹ In cases of authorship of Student Works by groups of students, including but not limited to students acting together in course work or course projects (e.g., theatre courses, game design courses, etc.), the students as a group (including any faculty member or College staff assisting in the creation of the group Student Work, consistent with copyright law regarding ownership) retain copyright ownership in the group Student Work, subject to the Copyright Act and other provisions of law governing collective works and works of contribution and property rights in those works; but are subject to the College's retained right to use the group Student Work for educational purposes, including creation of derivative works. For example, in instances where a group Student Work is developed in one course, in whole, part or installment, the College retains the right to use the group Student Work for educational purposes, including but not limited to its use as the basis for continuing development of the Work in the same, a related, or a subsequent course, for additional or derivative development by some or all of the same students and/or other students. The College reserves the right to delete, destroy, erase or otherwise dispose of any individual copies of Student Works (e.g., course work, assignments or tests) it does not wish to retain; it is the student's obligation to make and keep copies of Student Works the student wishes to be retained.

The College does **not** cede ownership in the following situations:

a) Assigned Projects and Tasks

The College retains ownership of the copyright to Works created:

- i. by faculty members as part of an assigned project or task, where the assignment explicitly states that the work will be owned by the College;
- ii. by staff members in any work they perform for the College; and
- iii. by graduate interns or other fellows, and student employees in the course of any assigned duties other than research tasks performed in support of a project directed by a faculty member that does not fall within any other exception, or students acting as College interns on specific College Projects.

b) External College Agreements

Ownership of the copyright to works commissioned or developed by a faculty member or other employee pursuant to an agreement that the College has with an entity outside of the College will be governed by the terms of such agreement. If the agreement does not specify ownership by the outside entity, ownership shall vest in the College. All such agreements must be approved in writing by the President or his or her designee.

c) Institutional Works

Unless the parties agree in writing to the contrary, the College shall own the copyright in a work if the College:

- i. will make or has made a significant investment in the development of the work through the provision of substantial financial, personnel, technology, facilities, or other resources beyond that which is generally provided faculty in the ordinary course of instruction and research; or
- ii. enters into a written agreement with the developer(s) that makes provision for copyright ownership.

3. Revenue Distribution

The identity of the owner of a Work does not dictate the manner in which revenues derived from that Work may be distributed among those involved in its creation, distribution and use. Unless otherwise agreed in writing, the College shall share with the creator(s) the net income (that is, the gross income less all costs incurred by the College in the development, production and distribution of the Work) received from commercialization or exploitation of Works owned by the College in accordance with the following formula. The change in distribution formula will only affect net revenues above the triggering amount, whenever such revenues are received.

	Cumulative Net Revenue
Developer/Creator	35%
Developer's Academic Department*	15%
General College	50%

(*The purpose of the Departmental share is to support additional instructional development activities. If the developer is not a faculty member, the Department share is allocated to the General College.)

4. Intellectual Control

Where the College owns the copyright in a Work, the College grants the creator(s) a royalty free, non-exclusive license to reproduce and use the work for his or her own noncommercial academic or scholarly purposes, subject to the College's policies on Conflict of Interest/Conflict of Commitment and Use of Name. Use or distribution of such Works outside of the College, or distribution to colleagues, whether within or outside of the College, for their use outside of the College, must be in accordance with guidelines established by the College.

Faculty creator(s) of Works owned by the College have the right to update, correct, edit, or otherwise revise Works that become dated or that will be in need of revision within a particular period. It is the policy of the College that such rights be agreed upon and incorporated into a written agreement that is entered into prior to the creation of the Work.

Regardless of whether such an agreement has been entered into, if the College believes a revision is necessary and the creator(s) fail to make the revision in a timely manner or if the revision made does not, in the College's opinion, meet customary standards as determined by the College, the College may employ other persons to revise or update the Work. In the latter instance, the creator(s) may request that his or her name(s) be removed from the Work, and such request will be honored by the College.

5. Disclosure

The creator(s)/developer(s) of any Works shall promptly disclose to the Copyright Officer any copyrightable materials covered by this policy that may be within the ownership rights of the College.

6. Transfer of Ownership

Where the College retains ownership of a Work, it may, upon request, transfer ownership to the creator(s) or developer(s) of the work by written assignment signed by the President or the Copyright Officer. In such cases, unless otherwise agreed to in writing, the College retains a royalty free, non-exclusive right to reproduce and use such works for its purposes.

7. Third Party Materials

It is the policy of the College that all faculty, students, and employees comply with the requirements of law, specifically including state and federal copyright and privacy laws. Because liability may arise from incorporating into a work copyrighted material owned by third parties and images and voices of individuals, it is the responsibility of the creator(s) or developer(s) to obtain in writing all permissions and releases necessary to avoid copyright infringement and invasion of the personal rights of others, regardless of the ultimate ownership of the created work.

8. Dispute Resolution

This Policy shall be administered by the Copyright Officer, who will provide advisory interpretations upon the request of any member of the College community. Disputes concerning the interpretation and application of this Policy shall be resolved by the Academic and Campus Affairs Council. The decision of the Council may be appealed to the President. The decision of the President is final and binding.

¹ The College retains a world-wide, unconditional, unlimited, irrevocable license to use the Work for any and all educational purposes of any kind consistent with or in furtherance of the College's educational purposes and programs of any kind, excluding non-educational commercial exploitation of the Work, in and by or through any and all media of any character or kind, whether or not now existing; and "use" includes rights to use, reproduce, disseminate, display, perform, broadcast, post or otherwise utilize the Work for the permitted purposes.