

ARTICLE 27
INTELLECTUAL PROPERTY

27.1 **University Authority and Responsibilities.** Section 1004.23, Florida Statutes, authorizes each university to establish rules and procedures regarding patents, copyrights, and trademarks. Such rules and procedures shall be consistent with the terms of this Article.

27.2 **Definitions.** The following definitions shall apply in this Article:

- (a) A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. Instructional technology material, as defined in the Assignment of Responsibilities Article, Section 14.14(a), is included in this definition.
- (b) An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. Instructional technology material, as defined in the Assignment of Responsibilities Article, Section 14.14(a), is included in this definition.
- (c) "Instructional technology material" is defined in the Assignment of Responsibilities Article, Section 14.14 (a).
- (d) "University support" includes the use of university funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University.

27.3 **Works.**

- (a) **Independent Efforts.** A work made in the course of independent efforts is the property of the faculty member, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Section, the term "independent efforts" means that:
 - (1) The ideas came from the faculty member;
 - (2) The work was not made with the use of university support; and
 - (3) The university is not held responsible for any opinions expressed in the work.

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(b) **University-Supported Efforts.**

- (1) If the work was not made in the course of independent efforts, the work is the property of the university and the faculty member shall share in the proceeds therefrom.
- (2) **Exceptions.** The university shall not assert rights to the following works:
 - a. Those works for which the intended purpose is to disseminate the results of academic research or scholarly study, such as books, articles, electronic media; and
 - b. Works developed without the use of appreciable university support and used solely for the purpose of assisting or enhancing the faculty member's instructional assignment.

(c) **Disclosure.**

- (1) Upon the creation of a work and prior to any publication, the faculty member shall disclose to the President or representative any work made in the course of university-supported efforts, together with an outline of the project and the conditions under which it was done. Consistent with the provisions of Section 27.3(b)(2)a., above, faculty members need not disclose regarding books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly work.
- (2) The President or representative shall assess the relative equities of the faculty member and the University in the work.
- (3) Within sixty (60) days after such disclosure, the President or representative shall inform the faculty member whether the University seeks an interest in the work, and a written agreement shall thereafter be negotiated to reflect the interests of both parties, including provisions relating to the equities of the faculty member and the allocation of proceeds resulting from such work. Creation, use, and revision of such works shall also be the subject of the written agreement between the faculty member and the University as well as provisions relating to the use or revision of such works by persons other than the creator. The faculty member shall assist the University in obtaining releases from persons appearing in, or giving financial or creative support to, the development or use of these works in which the University has an interest. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

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- (4) The faculty member and the University shall not commit any act which would tend to defeat the University's or faculty member's interest in the work and shall take any necessary steps to protect such interests.

27.4 Inventions.

(a) Disclosure/University Review.

- (1) A faculty member shall fully and completely disclose to the President or representative all inventions which the faculty member develops or discovers while an employee of the University, together with an outline of the project and the conditions under which it was done. With respect to inventions made during the course of approved outside employment, the faculty member may delay such disclosure, when necessary to protect the outside employer's interests, until the decision has been made by the outside employer whether to seek a patent.
 - (2) If the University wishes to assert its interest in the invention, the President or representative shall inform the faculty member within 120 days of the faculty member's disclosure to the President or representative.
 - (3) The President or representative shall conduct an investigation which shall assess the respective equities of the faculty member and the University in the invention, and determine its importance and the extent to which the University should be involved in its protection, development, and promotion.
 - (4) The President or representative shall inform the faculty member of the University's decision regarding the university's interest in the invention within a reasonable time, not to exceed 135 days from the date of the disclosure to the President or representative.
 - (5) The division, between the University and the faculty member, of proceeds generated by the licensing or assignment of an invention shall be negotiated and reflected in a written contract between the University and the faculty member. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.
 - (6) The faculty member shall not commit any act which would tend to defeat the University's interest in the matter, and the University shall take any necessary steps to protect such interest.
- (b) **Independent Efforts.** All inventions made outside the field or discipline in which the faculty member is employed by the University and for which no university support has been used are the property of the faculty member, who has

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the right to determine the disposition of such work and revenue derived from such work. The faculty member and the President or representative may agree that the patent for such invention be pursued by the University and the proceeds shared.

- (c) **University-Supported Efforts.** An invention which is made in the field or discipline in which the faculty member is employed by the University, or by using university support, is the property of the University and the faculty member shall share in the proceeds therefrom.
- (d) **Release of Rights.**
 - (1) In the event a sponsored research contractor has been offered the option to apply for the patent to an invention or other rights in an invention, the University shall use its good offices in an effort to obtain the contractor's decision regarding the exercise of such rights within 120 days.
 - (2) At any stage of making the patent applications, or in the commercial application of an invention, if it has not otherwise assigned to a third party the right to pursue its interests, the President or representative may elect to withdraw from further involvement in the protection or commercial application of the invention. At the request of the faculty member in such case, the University shall transfer the invention rights to the faculty member, in which case the invention shall be the faculty member's property and none of the costs incurred by the University or on its behalf shall be assessed against the faculty member.
 - (3) All assignments or releases of inventions, including patent rights, by the President or representative to the faculty member shall contain the provision that such invention, if patented by the faculty member, shall be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the University.
- (e) **University Policy.**
 - (1) The University shall have a policy addressing the division of proceeds between the faculty member and the university.
 - (2) Such policy may be the subject of consultation meetings pursuant to the Consultation article.
- (f) **Execution of Documents.** The University and the faculty member shall sign an agreement individually recognizing the terms of this Article.

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27.5 Outside Activity.

- (a) Although a faculty member may, in accordance with Article 28, Conflict of Interest/Outside Activity, engage in outside activity, including employment, pursuant to a consulting agreement, requirements that a faculty member waive the faculty member's or University's rights to any work or inventions which arise during the course of such outside activity must be approved by the President or representative.
- (b) A faculty member who proposes to engage in such outside activity shall furnish a copy of this Article and the University's patents policy to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.