

	POLICY	Motion No.	EXEC 1034-2017
	Intellectual Property Rights	Effective Date	12/19/2017
		Responsible Department	Human Resources
		Attorney Review / Date	[Attorney Name] [Date]

SCOPE

The purpose of this policy is to define and clarify various examples/instances of intellectual property and what corresponding rights are associated with each instance.

POLICY

Externally Sponsored Work

Intellectual property created as a result of work conducted under an agreement between an external sponsor and Pennsylvania Highlands Community College that specifies the ownership of such intellectual property shall be owned as specified in said agreement.

Internally Sponsored Work

When Pennsylvania Highlands Community College provides funds or facilities for a particular project to the extent of substantial use, it may also choose to designate itself as sponsor of that work. Pennsylvania Highlands Community College may declare itself the owner of intellectual property resulting from said work. In such cases Pennsylvania Highlands Community College must specify in advance the disposition of any intellectual property rights arising from the project.

Individual Agreements

Intellectual property which is the subject of a specific agreement between Pennsylvania Highlands Community College and the creator(s) thereof shall be owned as provided in said agreement. Such agreements by Pennsylvania Highlands Community College and the faculty are encouraged.

Intellectual Property Created Within Scope of Employment

Intellectual property created by College employees who were employed specifically to produce a particular intellectual property shall be owned by Pennsylvania Highlands Community College if said intellectual property was created within the normal scope of their employment. Faculty are presumed not to be hired to produce a particular intellectual property. On the other hand, computer programs written on the job by staff computer programmers would fall under this provision.

Public Dedication

Except when limited by subparts in this policy, the creator of any intellectual property may choose to place his or her creation in the public domain. In such

cases both the creator and Pennsylvania Highlands Community College waive all ownership rights to said property.

Unless governed by subparts in this policy, ownership of intellectual property created at Pennsylvania Highlands Community College shall be determined as follows:

Traditional Rights Retained: In keeping with academic traditions at Pennsylvania Highlands Community College, the creator retains all rights to the following types of intellectual property, without limitation: books (including textbooks), educational courseware, articles, non-fiction, novels, poems, musical works, dramatic works including any accompanying music, pantomimes and choreographic works, pictorial, graphic and sculptural works, motion pictures and other similar audio-visual works, and sound recordings, regardless of the level of use of College facilities. This provision does not include computer software (other than educational courseware) or data bases.

No Substantial Use of College Facilities: The creator owns all intellectual property created without substantial use of College facilities, including intellectual property rights in computer software and data bases.

Substantial Use of College Facilities - No External or Internal Sponsorship: Ownership of intellectual property created with substantial use of College facilities, but not directly arising from externally sponsored work, or from work for which Pennsylvania Highlands Community College has declared itself as sponsor, shall be determined as set forth hereinafter depending on whether the creator or Pennsylvania Highlands Community College develops said property.

- **Development by Creator:** The creator originally owns intellectual property created with substantial use of College facilities but no external or internal sponsorship, and retains said ownership by commercial development of said property subject to the following: (i) Pennsylvania Highlands Community College shall receive 15% (fifteen percent) of the net proceeds to the creator above \$25,000 (twenty-five thousand dollars) in constant 2008 dollars from all sources (in the case of patents and copyrights, this provision shall be limited to the life of the patent or copyright), and (ii) Pennsylvania Highlands Community College shall receive a perpetual, non-exclusive, non-transferrable, royalty free license to use said intellectual property. In the case of software, this license includes access by specified College personnel to the source listings, and Pennsylvania Highlands Community College shall require each person to whom a disclosure is made to execute in advance a binding confidentiality agreement in favor of and enforceable by the creator. If the intellectual property is created solely by a student or students, the creator is exempt from the obligation to pay to Pennsylvania Highlands Community College a fraction of his net proceeds, but not from the provision of this paragraph for a non-exclusive license to Pennsylvania Highlands Community College.

- **Development by Pennsylvania Highlands Community College:** When intellectual property is created with substantial use of College facilities, but not directly arising from sponsored research, the creator will originally retain the rights to the property, provided that he desires to commercially develop the property himself or to make it available to the public. If, however, the creator elects not to commercially develop same or fails to show diligence in pursuing such development, then the ownership rights to that property may be acquired by Pennsylvania Highlands Community College.

- **Substantial Use of College Facilities - External or Internal Sponsorship:** Ownership of intellectual property created with substantial use of College facilities and directly arising from work sponsored under an agreement between an external sponsor and Pennsylvania Highlands Community College, or from work for which Pennsylvania Highlands Community College has declared itself a sponsor, but for which neither the external sponsor nor Pennsylvania Highlands Community College have specified the ownership of resulting intellectual property shall be determined as set forth hereinafter depending on whether the creator or Pennsylvania Highlands Community College develops said property.
 - **Development by College:** Pennsylvania Highlands Community College originally owns intellectual property created with substantial use of College facilities provided by an external agreement or internal College sponsorship and retains said ownership by commercial development of said property, subject to the following: in all cases, the creator shall receive 50% (fifty percent) of the net proceeds to Pennsylvania Highlands Community College.

 - **Development by Creator:** When intellectual property is created with substantial use of College facilities provided by external or internal sponsorship, Pennsylvania Highlands Community College will originally retain the rights to the property, provided that it desires to commercially develop the property or to make it available to the public. If, however, Pennsylvania Highlands Community College elects not to commercially develop same or fails to show diligence in such development, the ownership rights to that property may be acquired by the creator. This assignment of rights to the creator may be prohibited by the terms of an external sponsorship agreement with Pennsylvania Highlands Community College or by an internal College sponsorship declaration, but in such cases the creator must be notified in advance.

- **Consulting Agreements:** Work done by individuals as consultants to outside firms is presumed not to involve unreimbursed substantial use of College facilities, and the rights to intellectual property created under consulting agreements are retained by the outside firms or the individual as specified by the terms of the consulting agreement.
 - **Procedural Provisions:** Under College policy consulting work must not make substantial unreimbursed use of College facilities except by explicit prior agreement. Any member of Pennsylvania

Highlands Community College community who is engaged in consulting work or in business is responsible for ensuring that provisions in his agreements are not in conflict with this policy of Pennsylvania Highlands Community College or with Pennsylvania Highlands Community College's commitments. Each creator of intellectual property should make his/her obligations to Pennsylvania Highlands Community College clear to those with whom he/she makes such agreements and should ensure that they are provided with a current statement of Pennsylvania Highlands Community College's intellectual property policy. Appropriate sample contract wording to cover various possible external consulting arrangements shall be available from Pennsylvania Highlands Community College's chief academic officer.

Published and Unpublished Works of Others – Adherence to Copyright Law

Copyright and fair use are complex legal issues. Pennsylvania Highlands Community College encourages its faculty, staff and students to use multimedia and text resources to enhance teaching and learning while abiding by copyright and intellectual property law, including the U.S. Copyright Act, the Digital Millennium Copyright Act, and the TEACH Act. Pennsylvania Highlands Community College respects intellectual property and has made it a priority to ensure all employees respect the copyright of others. Every employee of the College is required to comply with Copyright law and to adhere to the College's intellectual property policy and guidelines. Questions related to compliance can be directed to the College's library staff. Copyright infringement through inappropriate copying or distribution of copyrighted content is a personal as well as a College liability and will result in appropriate discipline.

Effective Date	Motion Number	Document Author	Description of Change
12/19/2017	EXEC 1034-2017	Human Resources	Added section: Published and Unpublished Works of Others
12/16/2008	EXEC 1019-2008	Human Resources	Initial Release; was not know that previous policy existed
1994	Policy # 118		Initial Release