

## **Intellectual Property Policy North Carolina Wesleyan College**

### **I. General definition**

Intellectual property is information and original expression that derives its intrinsic value from creative ideas and has commercial value. Ownership is subject to international, federal, and state laws and to this College policy.

### **II. Categories**

For the clarity of this policy, Intellectual Property can be categorized as follows:

Scholarly work – material prepared for traditional academic publications, such as scholarly journals, or other texts of a scholarly nature.

Creative work – artistic works, musical or dramatic compositions and performances, literary works, etc. Works of a primarily aesthetic nature.

Course materials – material of a pedagogical intent, used by the faculty member and College in the course of the College’s educational mission. This generally means materials intended for the immediate use of a student in a course.

### **III. Applicability**

This policy shall apply to faculty, staff, and students.

For brevity, in this document below “faculty” means “faculty member,” and “faculty/staff/student” means “faculty member, staff employee, or student.”

### **IV. Ownership of Intellectual Property**

The faculty/staff/student owns the intellectual property under the following conditions:

- If the intellectual property is unrelated to the faculty/staff/student job responsibilities and no more than incidental use was made of College resources; or
- If the intellectual property is scholarly work and/or creative work as defined above.
- If the intellectual property is online course content of a personal, intellectual nature.

The College owns the property under the following conditions:

- If the intellectual property, other than scholarly work and/or creative work as defined above, is created within the scope of employment on College time with the use of College facilities, or College financial support; or
- If the intellectual property is commissioned by the College or a component of the College pursuant to a signed contract or if it is considered work for hire under copyright law; or
- If the intellectual property results from research supported by federal, state, or College funds or third-party sponsorship designated to the College; or
- If the intellectual property consists of course materials specifically intended for the College’s instructional mission.

The College and faculty/staff/student own the intellectual property jointly:

- If criteria for College ownership and individual ownership (as set forth above) overlap; or
- If the faculty/staff/student involved in the creation of the intellectual property worked in collaboration with other College employees, for whom the creation was a part of their employment responsibilities, as part of a team to contribute the kind of expression intended to be part of an integrated whole. The College's employees who work as programmers, graphic artists, video technicians, writers, and other College support personnel often create this kind of expression. When added to the faculty/staff/student contribution, the result is a jointly-authored work.

Jointly owned intellectual property is shared between the faculty/staff/student and the College when there is commercial value. For this to occur there must be (a) an offer and an identifiable buyer with whom to negotiate; and (b) a negotiated, written letter of agreement executed between the faculty/staff/student and the College. The agreement shall be negotiated with the faculty/staff/student by the appropriate vice president. The agreement shall stipulate the percentage of ownership between the faculty/staff/student and the College, indicate who pays and how research and development costs are recovered, and describe future uses of the intellectual property. In the event percentage of ownership and payment and recovery of research and development costs are not addressed in writing, then the economic relationship is shared on a 50%/50% basis after the recovery of research and development costs.

When termination of employment (faculty/staff/student) or enrollment (student) occurs in cases where intellectual property is jointly shared, a negotiated, written letter of agreement will be executed with the College. The agreement shall be negotiated with the faculty/staff/student by the appropriate vice president in accordance with federal, state and College policies, procedures, and regulations. The agreement shall establish separate ownership rights, stipulate the percentage of ownership between the faculty/staff/student and the College, and describe future uses of the intellectual property. To initiate an agreement: (a) the faculty/staff/student notifies the appropriate vice president that a letter of agreement is required and the vice president and faculty/staff/student prepare the letter.

In the event of a disagreement between the faculty/staff/student and the vice-president, an appeal may be made to the president whose decision shall be final.

## **V. Disclosure**

Copies of this policy shall be printed in the College faculty/staff handbook and in the student handbook and shall be posted electronically on the college website.

## **VI. Review**

This policy shall be reviewed, as circumstances warrant, by the President's Council.