



wadecollege

**INTELLECTUAL PROPERTY MANUAL**

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## GENERAL INTELLECTUAL PROPERTY POLICY

Wade College is committed to providing an environment that supports the learning, teaching, and creative activity of its faculty, students, and staff. The college recognizes the significant merit not only of new inventions, increased knowledge, and improved instructional materials as developed by college personnel but also the scholarly and creative products generated by students as well. The college is mindful of the increased effectiveness, extension of resources, and productivity afforded to all faculty, staff, and students. The entire community of Wade College is encouraged to create, publish, invent, copyright, and patent materials of their own creation which will contribute to the advancement of knowledge, increase productivity and/or efficiency, and contribute to the public good. However, when the intellectual property takes on commercial value, the college has an obligation to the public to share in the benefits derived from college support used in the development of such intellectual property. This policy establishes the criteria concerning the disclosure, classification, ownership, equity, royalty participation, use, licensing, management, and marketing of intellectual property. This policy applies to all faculty members, staff, students, and anyone using college facilities who develops intellectual property. Should there be any conflict between the provisions of this policy and the terms of a separate written agreement between Wade College and any party, the terms of that separate written agreement will govern.

## ADMINISTRATIVE RESPONSIBILITY

The Vice-President of Academic and Student Affairs and the President of the Wade College shall be responsible for directing the implementation of the intellectual property policies in this manual within their respective areas of administrative authority.

These policies shall be reviewed by the above-mentioned administrators on a yearly basis to review their efficacy and maintain compliance with ever-changing copyright laws and keep pace with the vast number of advancements being made in the realm of electronic availability. In order to retain necessary flexibility in the administration of policies, Wade College reserves the right to interpret, revise, or delete any of the provisions of this manual or any of its policies, as the college deems appropriate in its discretion.

## INTELLECTUAL PROPERTY MANUAL

This *Intellectual Property Manual*, including the various copyright policies incorporated into the document, shall be maintained electronically by the Vice-President of Academic and Student Affairs. The manual (in electronic format), in addition to other college publications, including but not limited to the *Wade College Catalog* and *Student Handbook*, shall be given to prospective students upon request and incoming students during the *Introduction to the Wade College Experience* course. New faculty and staff members will receive this publication in addition to various college publications, including but not limited to the *Wade College Catalog* and *Faculty Handbook*, during their initial trimester of employment. The manual will be available electronically via the *Wade College Website* in its entirety. Copies of the manual may be printed at the discretion of individual student, faculty, and staff member. Notice of availability of revisions and their locations will be distributed at least annually (during the month of July) to all faculty, staff, and students via the Wade College email system.

## DEFINITIONS

**Commissioned Work:** a work that is produced or created pursuant to a written agreement with the college and for college purposes by either (1) an individual(s) who is not employed by the college or (2) a college employee(s) acting outside the scope of his or her regular college employment, as determined by his or her existing college employment arrangement or contract.

**Compilation:** a work formed by the collection and assembly of college-owned and individual-owned intellectual property in such a way that the resulting work as a whole constitutes an original work.

**Copyright:** the intangible property right granted for a limited period of time by federal statute (Title 17 of the U.S. Code) for an original work of authorship fixed in any tangible form of expression. Copyright provides the owner with five exclusive rights, including the exclusive right to reproduce the work, to prepare derivative works based on the work, to distribute copies of the work to the public by sale or other transfer of ownership (or by rental, lease, license or lending), to display the work publicly and to perform the work publicly (if relevant).

**Independent Academic Effort or Creative Activity:** the inquiry, investigation, research, or creative activity that is carried out by faculty, staff, and students of the college working on their own, that advances knowledge or the development of the arts, sciences, humanities, or technology where the specific direction, methodology, and content of the pursuit is determined by the faculty, staff member(s), or student(s) without the direct assignment, supervision, or involvement of the college.

**Intellectual Property/Work Product:** inventions, discoveries, technologies, scientific and technological developments, processes, methods, trade secrets, computer software, instructional materials, publications, literature or literary works, art, dramatic and musical works, all audiovisual materials (including but not limited to video, film, photographs, and audio programs), and other original works

and ideas that may have monetary value. Trade secrets are a form of intellectual property and are proprietary information defined as any information, whether or not copyrightable or patentable, that is not generally known or accessible and that gives competitive advantage to its owner. It is not intended that any intellectual property be excluded from this definition, including, but not limited to the definition of trade secrets continued herein.

**Patent:** a grant which gives the owner of the patent the right to exclude all others from making, using, or selling the claimed invention in the United States for a set period of time. Similar rights are granted in other countries, but the discussion of patents in this policy will focus specifically on United States patent rights.

**Sponsored Work:** a work that is produced or created under an agreement between the college and a sponsor which provides the college with ownership and/or usage rights to the work and intellectual property produced under the agreement. Sponsored works do not include works created through independent academic effort or creative activity, even when based on the findings of the sponsored project, so long as an agreement does not state otherwise.

**Substantial Use:** the use of resources other than those “commonly available” to most or all faculty, staff, and/or students. At this date, such ordinarily available resources include office space and personal office equipment, office computers, library and other general use information resources, and everyday telephone, computer, and computer network support. However, substantial time spent in the use of these latter resources may constitute the use of “Substantial Institutional Resources.” Resources not considered “commonly available” include specially procured equipment or space, additional staffing or personnel, utilization beyond normal work hours of college personnel, and monetary expenditures that require a budget.

**Trademark and Service Mark:** any word, phrase, name, symbol, logo, slogan, device, or any combination thereof that is used in trade to identify and distinguish one party’s goods or services from those of others.

**Works for Hire:** works related to an individual’s job responsibilities within the scope of his or her employment or a work specially ordered or commissioned.

## **RESPONSIBILITY OF DISCLOSURE**

Wade College personnel who, during their affiliation with the college, invent, author, create, or produce intellectual property of commercial value resulting from or through the affiliation shall disclose such developments to the President. Employees who, subsequent to their affiliation, produce intellectual property which was supported in part by the college shall disclose the development to the President. The duty to disclose arises as soon as the employee has reason to believe, based on his or her own knowledge or upon information supplied by others, that the discovery or invention may be patentable. Certainty about patentability is not required before a disclosure is made. Disclosure must be initiated within 60 days after notification of the marketability of the intellectual property.

Before any attempt is made to protect the intellectual property, the producer will certify in writing to the President that to the best of his or her knowledge the materials do not infringe on any existing copyright, or on the rights of others.

The President shall review the disclosure, gather necessary information, and recommend appropriate action. The President or designee may conduct investigations into the substantiality of college support used to develop the property. The President shall make a recommendation concerning the intellectual property and the disclosure. The recommendation may include copyrighting, licensing, patenting, and/or royalty, equity, and business management components. Final review and approval of the recommendations shall rest with the Wade College Board of Trustees (hereinafter “Board”).

## **OWNERSHIP OF INTELLECTUAL PROPERTY**

All college personnel, authors, creators, or inventors, including students, who develop intellectual property, are free to benefit from royalties and monies accruing from such publications or inventions subject to the following:

- A. All classes of intellectual property (as defined above) created on the employee's or student’s own time, and without the use of college facilities, equipment, materials, or support, shall be the sole property of the inventor, author, or creator (hereinafter “producer”).
- B. Curricular materials including course outlines, curricula, lesson plans, course handouts, PowerPoint and other presentation materials (in all forms and media), course content, student learning outcomes, and syllabi are deemed to be works made for hire and therefore all intellectual property associated therewith is owned by the college. Likewise, student rosters, attendance forms,

interim grade reports, and assessments of student projects, including all intellectual property associated therewith, belong solely to the college.

Scholarly articles and papers written for publication in journals, presentations, and scholarly papers prepared for seminars and conferences, and personal lecture or teaching notes are typically not considered to be owned by the college as works made for hire or otherwise.

- C. Subject to the provisions of this policy, intellectual property created where the college provided the environment, specifically the minimal use of facilities, personnel, equipment, and/or college funds, shall be owned by the producer(s). [The use of the Wade College Library and/or the provision of office space shall not constitute minimal use of college facilities or equipment.] Equity in college-supported property, where minimal use of facilities and equipment is present, shall be divided 75 percent to the producer and 25 percent to the college, after subtracting 15 percent for a protection and infringement shelter.
- D. Subject to the provisions of this policy, the ownership of intellectual property rights resides with the producer unless the work involves the substantial use of college facilities, personnel, equipment or funds. Intellectual property of this type shall be owned in total by Wade College. The producer shall be entitled to an equity share of 50 percent and the college share of equity shall be 50 percent, after subtracting 15 percent for a protection and infringement shelter.
- E. When work is commissioned by Wade College, the college shall have and retain all rights to and full equity in the intellectual property. College personnel are considered to be conducting commissioned work when they are assigned to do so as part of general satisfactory job performance, when they are relieved of normal duties, or when provided additional compensation.
- F. The college claims no ownership of popular nonfiction, novels, poems, musical compositions, or other works of artistic imagination that are not institutional works. However, the college does NOT relinquish equity claims.

Independently-developed or college-supported work completed after the producer became affiliated with the college and before the effective date of this policy shall be excluded from this policy. Work completed by the producer after affiliation with the college shall be considered owned by the college with all rights to equity and use reserved. Property in development at the effective date of this policy shall not be excluded from this policy.

- G. If the Board takes action to copyright, license, patent, and/or seek other available protection for the intellectual property, the administration shall proceed to assign all protection rights to Wade College. The college will pay the legal, filing, and all other expenses relating to receiving protection from the protection and infringement shelter. If the college does not exercise this option, the producer(s) is free to deal with the intellectual property at his or her own discretion.
- H. The college shall have no rights to royalties or proceeds in which equity and ownership is held by the producer. If the college decides to assert its interest in royalties or sale of work which received minimal college support and is owned by the producer, the division of royalties or proceeds shall be 75 percent to the producer and 25 percent to the college, after subtracting 15 percent for a protection and infringement shelter. If the proceeds are received directly by the producer, the President shall be notified and the producer shall pay the appropriate percentage to the college within 15 working days of receipt. If the college decides to assert its interest in royalties or sale of intellectual property that was college supported and which is owned by the college, the division of royalties or proceeds shall be 50 percent to the producer and 50 percent to the college, after subtracting 15 percent for a protection and infringement shelter. If the proceeds are received directly by the college, the producer shall be notified and the college shall pay the appropriate percentage to the producer with 15 working days of receipt. College personnel shall have no rights to royalties or proceeds in which equity and ownership is held totally by the college. The college portion of the royalties or other related income shall be used first to supplement the product protection and infringement shelter, and thereafter, for the benefit of the college.
- I. If the producer is going to license an external agency to reproduce and sell college-supported (minimal support) property, the terms of any agreement or sale shall be negotiated between the producer, the President or designee, and the external agency. Income derived shall be divided 75 percent to the producer and 25 percent to the college, after subtracting 15 percent for a protection and infringement shelter. If the producer personally markets the property, the division of the proceeds shall be the same as for licensing to an external agency, unless otherwise recommended by the President. If the college licenses an external agency to reproduce and sell college-supported (substantial support) property or otherwise transfer rights to an external agency, the terms of any agreement or sale shall be negotiated between the producer, the President or designee, and the external agency. Income derived shall be divided 50 percent to the producer and 50 percent to the college, after subtracting 15 percent for

protection and infringement shelter. If the college markets the property itself, the division of proceeds shall be the same as for licensing to an external agency, unless recommended otherwise by the President.

- J. In circumstances where the production and distribution of intellectual property results in enterprise activities and business ventures, the producer shall be allowed a share of equity in the business and/or a share of the equity in fiscal returns and encouraged to participate in managing a business related to developing the intellectual property. Percentages and other details shall be negotiated on an individual basis between the producer and the college. If more than one individual is entitled to equity in the intellectual property and there is no agreement between such personnel, the President will work to negotiate the manner in which the equity award to the producers will be distributed.
- K. No college employee shall realize a profit from materials sold exclusively to Wade College students. When instructional materials developed by the faculty of Wade College are sold in the college bookstore for a profit, the publisher of the material must be approved by the President.
- L. The college, employee, and/or student may relinquish all or a portion of their rights to the property at any time during the entire process covered by this policy.

### **SPECIFIC STUDENT RIGHTS**

The college encourages students to produce intellectual property directly related to course assignments. Course-related activities may be carried out with access to college facilities and equipment provided appropriate channels and guidelines are followed. The student shall adhere to the laws governing the use of copyrighted materials. Students will be governed by the following:

- A. Students shall have sole ownership and equity rights to property they produce at their expense.
- B. The college will be the sole owner and equity holder of property developed by the student if the college initially agreed to fund, or later, to purchase the student's project. In this case, the student may retain a copy of the project for personal use only and not for sale or distribution.
- C. Any and all products of course assignments including, but not limited to designs, drawings, paintings, sculptures, video and audio productions, photographs, computer-aided designs and literary works are the sole property of the student. Please refer to the **RIGHTS TO ARTWORK** policy contained in the *Wade College Student Handbook*.
- D. The student may relinquish all or a portion of his or her rights to the property at any time during the entire process covered by this policy.

### **USE OF COLLEGE MARKS**

Intellectual property comprised of or associated with the college's trademarks and service marks, including but not limited to its name, logos, slogans, insignia, and other symbols of identity (collectively the "Marks") belongs exclusively to the college and/or its affiliates. The policy is designed to protect the reputation of the college and its affiliates, and to prevent the illegal or unapproved use of the college's Marks.

No college Mark may be used without the prior, written authorization of the President of the college. However, faculty, staff, and students may identify their status or professional affiliation with the college as appropriate, but any use of the college's Marks in this regard must avoid any confusing, misleading, or false impression of affiliation with, or sponsorship or endorsement by, the college. No products or services may be marked, offered, sold, promoted, or distributed with or under the college's Marks without the college's prior written permission and compliance with the licensing policies of the college. All requests for use of the college's Marks must be submitted in writing to the President. The President retains information concerning what marks, names, logos, symbols, insignias, and related words, phrases, and images currently comprise the college's Marks.

### **PENALTIES FOR VIOLATION OF INTELLECTUAL PROPERTY RIGHTS**

The President or designee will investigate allegations of license or copyright infringement of college-supported property and will determine appropriate action. If such an action is started alone or in concert with the producer, all costs of such action will be borne by the college. All proceeds in excess of such costs will be shared by the college and the producer following the appropriate percentage rate. If the college decides not to act on an alleged unauthorized use of the property, the producer may initiate action to pursue redress. Costs of such action will be borne by the producer, who shall have the rights to all recoveries resulting directly from the action.

All faculty, staff, and students are responsible for their own actions in the creation, use, and distribution of intellectual property. Violations of this policy may result in disciplinary action by the college up to and including expulsion from the college and/or termination of employment.