

11:04:03:00 Intellectual Property

Purpose:

It is the policy of Dyersburg State Community College (DSCC) to: (1) encourage inventions, discoveries, and the production of copyrightable materials by its faculty and staff, (2) facilitate the utilization of such discoveries and materials to the benefit of the public, the institution, and the members of the institutional community; and (3) provide for the equitable sharing of any proceeds derived from the commercial exploitation of inventions, discoveries, and copyrightable materials in which, pursuant to this policy, the institution is determined to have an interest.

Scope:

DSCC has adopted the intellectual property policy as stated by TBR Policy 5:01:06:00. The TBR policy is located at <http://www.tbr.edu/policies/default.aspx?id=1458> and should be reviewed to gain additional information and understand any additional requirements.

Appropriate appeal to the president of the institution will be made available. Decision by the president may be appealed to the Tennessee Board of Regents in accordance with TBR Policy 1:02:11:00.

Policy:

The basic factors to be considered in establishing the responsibility for the utilization of any invention, discovery, or copyrightable materials and sharing of the proceeds are (1) DSCC sponsorship of the project leading to discovery or development of materials; (2) significant use of DSCC's facilities, services, or equipment and (3) the sponsorship of the project through DSCC by agencies or persons outside DSCC. In the event that any one of these three factors exists, DSCC shall have an interest in the invention, discovery, or copyrightable materials.

In defining the mutual responsibilities and rights, the following principles and procedures are to be followed:

1. Title to all inventions, discoveries, and copyrightable materials developed solely through individual initiative or personal time, and not involving assignment or the significant use of DSCC facilities or services (libraries excluded), shall be vested in the employee producing the patentable or copyrightable materials.

2. The general obligation of the faculty members to produce scholarly and creative works shall not for purposes of this policy be construed as a DSCC assignment affecting title claims to inventions, discoveries, or copyrightable materials.
3. Significant use of DSCC facilities, services, or equipment shall be defined to include a cost to the institution in the amount of \$2,500.00 or more (in constant 2001 dollars).

Applications for the Titles of Patents and Copyrights

DSCC is authorized to seek and hold patents and copyrights, to assign their rights, and to execute royalty-sharing agreements. DSCC's share of income accruing from patents and copyrights (net of cost incurred for obtaining, licensing, or administering the patents and copyrights) is to be deposited in a restricted account. Funds in this account are to be used solely for the enhancement of research and instructional programs.

Disclosure

Prior to seeking patents, copyrights or commercial exploitation, employed members of DSCC shall disclose to the president, or his or her designee, all inventions, discoveries, and copyrightable materials which are derived from work supported by or through DSCC, or which involved a significant use of DSCC's resources. The faculty is responsible for disclosure of inventions, discoveries, and copyrightable materials that directly result from classwork or programs of study, or if significant DSCC resources were utilized.

Intellectual Property Advisory Committee

The Learning Resource Center (LRC) Committee serves as the Intellectual Property Advisory Committee. The committee is composed of faculty from each division, continuing education staff, LRC staff and one student.

Responsibilities and general process guidelines for the LRC Committee are as follows:

1. The Committee shall advise the president in all matters relating to this policy.
2. The Committee shall conduct such investigation as may be necessary to assess the rights and responsibilities of all parties.
3. The Committee will receive from the president, or his or her designee, all disclosures made by employed members of the institutional community concerning inventions, discoveries, and copyrightable materials.
4. The Committee shall expeditiously seek to determine the extent to which the invention, discovery, or copyrightable materials resulted from institutional or other sponsorship, or involved a significant use of institutional resources. The Committee may advise the president as follows:
 - a. If the Learning Resource Center Committee establishes that no DSCC or external sponsorship or no significant use of DSCC resources were involved, it shall advise the institution to waive all claims.
 - b. If the Learning Resource Center Committee establishes that DSCC sponsorship, external sponsorship, or significant use of DSCC resources were involved, it shall advise the president.
 - c. If the Learning Resource Center Committee establishes that external sponsorship was involved, it shall determine the terms of the sponsorship agreement as it relates to patents and copyrights and advise the president and those providing disclosure of such terms. Where the terms of the external sponsorship do not provide for the disposition of patents and copyrights, DSCC and Board policies shall be followed.

Role of the President Relative to Intellectual Property

The president, or his or her designee, will receive disclosure from employed members of DSCC concerning inventions, discoveries, and copyrightable materials. Following receipt, the following process is applicable:

1. The president shall refer the disclosure to the Learning Resource Advisory Committee and request its study and recommendations.
2. On receiving recommendations from the Learning Resource Advisory Committee, the president in a reasonable time will inform the Committee and the employed individual who has interest in the patent or copyright as follows:
 - a. If the LRC Committee recommends that the institution waive all claims, the president will indicate whether or not he or she concurs and whether or not DSCC waives all claims.
 - b. If the LRC Committee advises the president that DSCC sponsorship, external sponsorship, or significant use of DSCC resources were involved the president will indicate in a reasonable time whether or not DSCC intends to hold and pursue its rights.
 - c. If the LRC Committee advises the president of a royalty-sharing arrangement, the president will indicate in a reasonable time whether or not DSCC accepts the recommended arrangement.
3. In evaluating inventions, discoveries, and copyrightable materials, filing patents and copyrights applications, and licensing and administration of patents and copyrights, DSCC may obtain outside services from independent patents and copyrights assistance organizations.
4. In considering a royalty-sharing agreement, the president will take into account contributions by the individual and by DSCC. The shares of the parties are to be based on the relative contributions of the parties to the invention, discovery, or copyrightable materials developed. The royalties shall be shared, net of the costs of obtaining, licensing, and administering the patents and copyrights, and the agreement shall be approved by the president and the Chancellor or his or her designated representative. In no case shall the employee's share of the net royalties be less than twenty-five (25) percent. Where DSCC sponsorship or significant DSCC resources were involved, the agreement shall also provide for reservation to the Tennessee Board of Regents of nonexclusive, irrevocable license in the invention, discovery, or copyrightable materials with power to grant licenses for all governmental and educational purposes.

Miscellaneous Items

If the content of materials developed by a faculty or staff member of DSCC, and for which DSCC holds a copyright, is changed during the period of the original copyright, the authors shall have the options of being credited, or not credited, for the materials retained. Such action shall not abrogate any royalty-sharing agreement.

1. Nothing in this policy shall preclude mutually agreed on contractual arrangements between DSCC and members of the community wherein either party may agree to waive rights to patents, discoveries, or copyrightable items.
2. An employee may appeal any decision by following proper appeal procedures.

Compliance:

All employees are expected to comply with this policy, cooperate with DSCC in obtaining patents and copyrights (including the execution of all necessary documents), and abide by the determination of the advisory committee

and president.

Definitions:

Author: the person or persons responsible for creation of a copyrightable work.

Copyrightable Materials – Those materials or works which reasonably appear to qualify for protection under the copyright laws of the United States or other protective statutes. Copyrightable materials include, but are not limited to:

- books, texts, glossaries, bibliographies, study guides, manuals, syllabi and tests
- proposals, charts, transparencies, compositions, and video or audio tapes
- computer programs, online materials and classes, and unpublished scripts

Intellectual Property: inventions and works.

Invention: any invention, discovery, composition of matter, article of manufacture, know-how, design, model, process, new application, technological development, or biological material.

Net Income: gross income less direct costs due to patent prosecution, copyright registration, commercialization, defense, maintenance, and administration of intellectual property.

Patentable Materials – Those inventions, discoveries or developments which reasonably appear to qualify for protection under the patent laws or protective statutes of the United States. U.S. Code Annotated, Title 35, Section 101 provides that “whoever invents or discovers any new and useful process, machine, manufacture or composition of matter, or any new, useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.”

Scholarly works: include, but are not limited to, articles written for publication in academic journals, textbooks, works of art, musical compositions, and literary works. Theses and dissertations are not, for the purposes of this policy, scholarly works. Works by non-faculty employees shall not, for the purposes of this policy, be considered scholarly works.

Scope of employment: refers to activities which have been assigned to an employee by his or her supervisor or which are performed during normal working hours or which fall within the employee’s job description.

Significant use: utilization of Institution funds, personnel, facilities, equipment, materials or other resources resulting in a cost to the Institution (direct, indirect, or depreciative) of more than \$2,500 (in constant 2001 dollars).

Work: any copyrightable material, such as literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic,

and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works; computer software or databases; circuit diagrams; architectural and engineering drawings; and lectures.

Revision History:

Policy created May, 2005.

Policy updated by HEOA committee June, 2011; approved by Administrative Council on 6/21/11.

Dyersburg State Community College

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