

4008. ADMINISTRATIVE REGULATIONS ON MATERIALS PRODUCED
BY FACULTY AND STAFF

4008.1 The Vice President, Academic Affairs, has primary responsibility for administering this policy, but may do so in consultation with the Vice President, Administrative Services.

4008.2 Definitions

- A. "Materials," for the purposes of this regulation, are original published or unpublished works, whether in print or fixed in an electronic or other tangible medium known or later developed, including, but not limited to:
1. Fictional or non-fictional writings, books, articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, annotations, and commentaries.
 2. Derivative works based on pre-existing works, such as translations, musical arrangements, dramatizations, fictionalizations, parodies, or other adaptations of the pre-existing works.
 3. Lectures and lecture notes.
 4. Musical or dramatic compositions, pantomimes, and choreographic works, including any accompanying music or words.
 5. Films, filmstrips, slides, charts, transparencies, and other visual aids.
 6. Videotapes and cassettes.
 7. Sound recordings of music, spoken, or other sounds fixed in phonorecords, audio tapes, compact disks, or any other recording medium.
 8. Live video or audio broadcasts.
 9. Visual artistic works, including but not limited to drawings, paintings, prints, sculptures, architectural works, or photographs, and reproductions of such works.
 10. Computer programs, software, CD-ROMs, works created for use with or dissemination over the Internet, and multimedia works.
 11. Processes for manufacturing, machines, composition of matter, or new and useful improvements thereof.

12. Scientific and musical instruments.

13. Other Instructional Materials.

B. "Materials," for purposes of this regulation, do not include:

1. Compilations of copyrighted works not authored or developed by District faculty or staff, unless the resulting work as a whole constitutes an original work of authorship.
2. Works not authored or developed by District faculty or staff, which form the basis for derivative works by District faculty or staff.
3. Works authored or developed by District faculty or staff, which are the subject of a written agreement transferring copyright ownership to another.
4. Works which, because of the expiration of copyright or patent protection or the unprotected nature of the works, are in the public domain.
5. United States government works.
6. Works from which the notice of copyright has been removed.
7. Non-patented inventions bearing the word "patent," and inventions for which no patent application has been made bearing the words "patent pending" or "patent applied for."
8. Proposals for grants benefiting the District, including creative and innovative ideas contained in the proposals, regardless of the expected level of involvement of the proposal author or authors in the utilization of grant funds.
9. District policies, regulations, and procedures, course descriptions and catalogs, correspondence, announcements, agendas, forms, or any confidential, official, or administrative documents related to District business or operations.
10. Devices that perform substantially the same overall function or work in substantially the same way to obtain substantially the same result as an existing patented device.
11. Works or devices developed through unauthorized copying or reverse engineering of protected existing works where such use is prohibited by statute or by a license agreement with the owner of the protected work.

12. Ideas, concepts, and principles.
 - C. "Ownership," for purposes of this regulation, means possession of the rights inherent in owning a copyright or patent on materials, including the right to collect royalties and the right to license others to use or distribute the materials.
 - D. "District resources," for purposes of this regulation, include, but are not limited to:
 1. District property, facilities, and equipment.
 2. Supplies purchased with District funds.
 3. Items or labor purchased with funds directly or indirectly arising from a federal grant to the District or any of its departments.
 - E. "Commissioned," for purposes of this regulation, means ordered, instructed, or requested by the District to develop materials, excluding those materials which are defined in Section 4008.2.
 - F. "Primarily," for purposes of this regulation, means constituting more than 50% of the funds, equipment, supplies, labor, and/or effort involved in producing materials.
 - G. "Normal teaching, scholarly, or employment activities," for purposes of this regulation, include, but are not limited to:
 1. Classroom activities, including lectures, student-teacher interaction, student-student discussion, teacher- or teacher aide-led study group discussions, examinations, and laboratory sessions.
 2. Preparation for classroom activities.
 3. Grading of examinations, papers, and other assignments, and reporting thereof.
 4. Attendance at faculty and/or staff meetings.
 5. Conferences or office hours held for student-teacher interaction.
 6. Activities and materials developed by faculty or staff while on sabbatical or other approved leave of absence.
 7. Administrative duties.

4008.3 The ownership of and rights to materials are determined as follows:

A. Ownership Rights of Faculty and Staff Members

1. Faculty or staff members shall have exclusive ownership of materials they develop outside their normal teaching, scholarly, or employment activities and without primarily relying on District resources.
2. Faculty or staff members shall have exclusive ownership of materials they develop during their normal teaching, scholarly, or employment activities and without primarily relying on District resources, including:
 - a. Materials developed or prepared for publication, whether ultimately published or not, in scholarly, scientific, or academic journals not related to, or sponsored, published, or commissioned by the District.
 - b. Materials developed or prepared for lectures or presentations, whether ultimately presented or not, at scholarly, scientific, or academic meetings or symposia not related to, sponsored by, or commissioned by the District.
 - c. Materials developed or prepared for presentation to the faculty member's own classes, or to classes in which the faculty member serves as a guest or substitute lecturer.
3. Faculty and staff members shall have exclusive ownership of materials developed by faculty and staff members during their normal teaching, scholarly, or employment activities and relying primarily on district resources including:
 - a. Materials developed or prepared for publication, whether ultimately published or not, in scholarly, scientific, or academic journals not related to, or sponsored, published, or commissioned by the District.
 - b. Materials developed or prepared for lectures or presentations, whether ultimately presented or not, at scholarly, scientific, or academic meetings or symposia not related to, sponsored by, or commissioned by the District.
 - c. Materials developed or prepared for presentation to the faculty member's own classes, or to classes in which the faculty member serves as a guest or substitute lecturer.
4. Faculty shall not use district resources to develop materials outside their normal teaching, scholarly, or employment activities.

B. Ownership Rights of the District

1. The District shall have exclusive ownership of materials developed by faculty and staff as a result of projects commissioned by the District.
2. The District shall, in conformance with applicable federal regulations and subject to the limitations thereof, have exclusive ownership of materials developed by faculty and staff as a result of the District's receipt of federal grant funds, unless ownership is otherwise specified or prescribed in the grant document. Pursuant to applicable regulations, the District may or may not register with the Copyright or Patent and Trademark Office materials developed under such grants.
3. The District shall grant to the faculty and staff member who created materials owned by the District under this regulation, to the extent permitted by applicable laws and regulations, a royalty-free license to publish and use the materials for scholarly purposes.

C. Transfer of Ownership Rights

1. If, within three (3) years from the date of completion of materials owned by the District under this regulation, the District has not published, disseminated, marketed, licensed, or otherwise made commercial or non-commercial use of the materials, the faculty or staff member who developed the materials, whether still employed by the District or not, shall then have the right to purchase the materials except on a showing by the District of reasonable and sufficient cause why the materials should not be sold.
2. The purchase price for such materials shall be the fair market value at the end of the three-year period following completion of the materials.
3. In the event of a disagreement about the reasonableness or sufficiency of the District's stated cause for refusing to sell the materials, or about the value of the materials, a panel of three persons, consisting of a representative selected by the Vice President, Academic Affairs, the faculty or staff member or a representative selected by the faculty or staff member, and a third member mutually agreed upon by the other two panel members, shall meet to resolve the issue. The panel may, with the approval of the Vice President, Academic Affairs, consult available sources for assistance in determining fair market value of the materials.

4. If the faculty or staff member purchases the materials, the District retains the nonexclusive, nontransferable, royalty-free license to use materials. If the faculty or staff member sells, transfers, or licenses the materials to another, the sale, transfer, or license agreement shall include language retaining this license in the District and agreeing that any subsequent sale, transfer, or license agreement also shall include such language.