

1 **Article 18**
2 **INVENTIONS AND WORKS**

3 18.1 University Authority and Responsibilities. Section ~~4001.74~~1004.23, Florida Statutes, and the
4 Board of Governors' delegations to the University Board of Trustees authorizes the University to
5 establish ~~rules~~regulations and procedures regarding patents, copyrights, and trademarks. ~~Such~~
6 ~~rules~~Any regulations and procedures shall be consistent with the terms of this Article.

7 18.2 Definitions. The following definitions shall apply in Article 18:

8 (a) A “work” includes any copyrightable material, such as printed material, computer
9 software code or databases, audio and visual material, circuit diagrams, architectural and
10 engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial
11 or graphic works, and sculptural works. A “work” does not include any patentable material, which
12 is encompassed within the definition of an “invention” in Section 18.2(b), below.

13 (b) An “invention” includes any discovery, invention, process, composition of matter, article
14 of manufacture, know-how, design, model, technological development, strain, variety, culture of
15 any organism, or portion, modification, translation, or extension of these items, and any mark used
16 in connection with these items.

17 ~~(c) “University support” includes the use of University funds, personnel, facilities,~~
18 ~~equipment, materials, or technological information, and includes such support provided by other~~
19 ~~public or private organizations when it is arranged, administered, or controlled by the University.~~

20 ~~(cd) “Appreciable University support” includes the use of University funds (including salary~~
21 ~~for research assignments), personnel, students, equipment, facilities, materials, or technological~~
22 ~~information, and includes such support provided by other public or private organizations when it~~
23 ~~is arranged, administered or controlled by the University. The support must go beyond the~~
24 ~~resources commonly or routinely provided or made available to similarly situated faculty~~
25 ~~members. For example, salaries; the incidental/occasional/negligible -use of basic resources such~~
26 ~~as office supplies; libraries; one’s office; office computer/laptop/tablet and other general~~
27 ~~University computer resources , including but not limited to networking, storage, email, and~~
28 ~~wireless is not considered appreciable University support.~~

29 18.3 Works.

30 (a) Independent Efforts. A work made in the course of independent efforts is the property of
31 the faculty member, who has the right to determine the disposition of such work and the revenue
32 derived from such work. As used in this Section, the term “independent efforts” means ~~that~~:

- 33 (1) the ideas came from the faculty member;
34 (2) the work ~~was~~did not receive appreciable University ~~supported~~support; and
35 (3) the University shall not be held responsible for any opinions expressed in the work.
36 ~~(4) the work is used solely to support the faculty member’s instructional assignment.~~

37 ~~Examples of such works include case studies, textbooks, laboratory manuals and class notes~~

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~~produced in connection with regularly scheduled courses of instruction, regardless of the medium,~~

(b) University-Supported Efforts.

(1) If the work was not made in the course of independent efforts, it is the property of the University and the faculty member shall share in the proceeds therefrom.

(2) Exceptions. The University shall not assert rights to the following works:

a. Those works for which the intended purpose is to disseminate the results of academic research, scholarly study, or creative efforts, such as books, articles, electronic media, databases, poems, musical compositions, and works of art, and

b. Software released by a faculty member to the academic and research community for general public use under a recognized open--source license, ~~such as the Gnu General Public License, provided~~ that provides it the faculty member does not ~~be marketed~~ market the software for profit, and

c. the work is used solely to support the faculty member's instructional assignment. Examples of such works include case studies, textbooks, laboratory manuals and class notes produced in connection with regularly scheduled courses of instruction, regardless of the medium.;

~~e. —Works developed without the use of appreciable University support and used solely for the purpose of assisting or enhancing the faculty member's instructional assignment. Examples of such works include case studies, text books, laboratory manuals and class notes produced in connection with regularly scheduled courses of instruction, regardless of the medium. For University support to be appreciable it must go beyond the resources commonly or routinely provided or made available to similarly situated faculty members for the performance of the instructional assignment. For example, the use of resources such as the libraries; one's office, office computer and other University computer facilities; and office supplies is not considered appreciable University support.~~

(c) Disclosure.

(1) Upon the creation of a work and prior to any publication, the faculty member shall disclose to the President or representative any work made in the course of University-supported efforts, together with an outline of the project and the conditions under which it was done. Faculty members need not disclose regarding works covered by 18.3(b)(2) (Exceptions), above.

(2) The President or representative shall assess the relative equities of the faculty member and the University in the work.

(3) If practicable, Within within sixty (60) days, but in no case later than ninety (90) days, after such disclosure, the President or representative will inform the faculty member whether the University seeks an interest in the work, and a written agreement shall thereafter be executed, in accordance with this article, negotiated to reflect the interests of both parties, including provisions relating to the equities of the faculty member and the allocation of proceeds resulting from such work. Creation, use, and revision of such works shall also be the subject of the written agreement between the faculty member and the University as well as provisions relating to the use or revision of such works by persons other than the author. Creation, use, and revision of such works, as well as provisions relating to the use or revision of such works by persons other than the author, shall also be the subject of the written agreement between the faculty member and the

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1 University as well as provisions relating to the use or revision of such works by persons other than
2 the author. The faculty member shall assist the University in obtaining releases from persons
3 appearing in, or giving financial or creative support to, the development or use of these works in
4 which the University has an interest. All such agreements shall comport with and satisfy any
5 preexisting commitments to outside sponsoring ~~contractors~~ entities.

6 (4) The faculty member and the University shall not commit any act which would tend
7 to defeat the University's or faculty member's interest in the work and shall take any necessary
8 steps to protect such interests.

9 18.4 Inventions.

10 (a) Disclosure/University Review.

11 (1) A faculty member shall fully and completely disclose to the President or
12 representative all inventions which the faculty member develops or discovers while an employee
13 of the University, together with an outline of the project and the conditions under which it was
14 done. With respect to inventions made during the course of approved outside employment, the
15 faculty member may delay such disclosure, when necessary to protect the outside employer's
16 interests, until the decision has been made by the outside employer whether to seek a patent.

17 ~~(2) If the University wishes to assert its interest in the invention, the President or~~
18 ~~representative shall inform the faculty member within 120 days of the faculty member's disclosure~~
19 ~~to the President or representative.~~

20 ~~(3)~~ (2) The President or representative shall conduct an investigation which shall assess the
21 respective equities of the faculty member and the University in the invention, and determine its
22 importance and the extent to which the University should be involved in its protection,
23 development, and promotion.

24 ~~(4) The~~ (3) If the University wishes to assert its interest in the invention, the President
25 or representative shall inform the faculty member of the University's decision regarding the
26 University's interest in the invention within a reasonable time, not to exceed 135 120 days, or as
27 soon as practicable, but in no case later than 135 days thereafter, from the date ~~from the date~~ of
28 the faculty member's disclosure to the President or representative.

29 ~~(5)~~ (4) The division, between the University and the faculty member, of proceeds generated
30 by the licensing or assignment of an invention shall be negotiated in accordance with this Article
31 and reflected in a written contract between the University and the faculty member. All such
32 agreements shall comport with and satisfy any preexisting commitments to outside sponsoring
33 contractors.

34 ~~(6)~~ (5) The faculty member shall not commit any act which would tend to defeat the
35 University's interest in the matter, and the University shall take any necessary steps to protect such
36 interest.

37 (b) Independent Efforts. All inventions made outside a faculty member's field of expertise
38 for which is the basis of the faculty member's University employment, and made outside a faculty
39 member's field of expertise for which is the basis of the faculty member's University employment,
40 and made outside the field or discipline in which the faculty member is employed by the University
41 and for which no appreciable University support has been used are the property of the faculty

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1 member, who has the right to determine the disposition of such work and revenue derived from
2 such work. The faculty member and the President or representative may agree that the patent for
3 such invention be pursued by the University and the proceeds shared.

4 (c) University-Supported Efforts. An invention ~~which is made~~ within a faculty member's
5 field of expertise for which is the basis of the faculty member's University employment, or within
6 a faculty member's field of expertise for which is the basis of the faculty member's University
7 employment, or in the field or discipline in which the faculty member is employed by the
8 University, or by using appreciable University support, is the property of the University, and the
9 faculty member shall share in the proceeds ~~therefrom~~.

10 (d) Release of Rights.

11 (1) In the event a ~~sponsored research contractor sponsor~~ has been offered the option to
12 apply for the patent to an invention or other rights in an invention, the University will use its ~~good~~
13 ~~offices in an effort~~ best efforts to obtain the ~~contractor's sponsor's~~ decision regarding the exercise
14 of such rights within 120 days.

15 (2) At any stage of making the patent applications, or in the commercial application of
16 an invention, if it has not otherwise assigned to a third party the right to pursue its interests, the
17 President or representative may elect to withdraw from further involvement in the protection or
18 commercial application of the invention. At the request of the faculty member in such case, the
19 University shall transfer the invention rights to the faculty member, in which case the invention
20 shall be the faculty member's property and none of the costs incurred by the University or on its
21 behalf shall be assessed against the faculty member.

22 (3) All assignments or releases of inventions, including patent rights, by the President or
23 representative to the faculty member shall contain the provision that such invention, if patented by
24 the faculty member, shall be available royalty-free for governmental purposes of the State of
25 Florida, unless otherwise agreed in writing by the University.

26 18.5 Division of Proceeds.

27 (e)—a) With regard to any work or invention owned by the University Policy.

28 (1) ~~The University shall have a policy addressing and subject to the requirements of any~~
29 applicable sponsored agreements, the division of royalties, proceeds between the faculty member
30 and/or fees received by the University, shall be as follows:

31 (2) ~~Division of Proceeds.~~ Division of Proceeds. —When a U.S. patent is issued
32 on an invention assigned to the University, the ~~inventor faculty member~~ will receive a ~~\$500,000~~
33 750,560,500 payment.

34 a. The first \$10,000 of royalties or other income resulting from inventions in which the
35 University takes title will be distributed as follows:

36 875% to the faculty member (s)

37 125% to the University

38 (2) a.(2) ~~The first \$10,000 of royalties or other income resulting from works or~~
39 inventions in which the University takes title will be distributed as follows between the faculty

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1 ~~member (s) department and the University.:~~

2 ~~85% to the inventor faculty member(s) department~~
3 ~~15% to the University.:~~

4 ~~b.(3) — Once the \$10,000 plateau has been reached, N~~ **Once the \$10,000 plateau**
5 **has been reached** ~~net~~ income (gross royalties **or other income** minus any direct
6 costs of patenting, licensing, legal, and other related expenses) ~~in excess of \$10,000~~
7 will be ~~divided~~ **distributed** as follows:

8 ~~(1) For works:~~

9 ~~(2)~~

10 ~~40% to the inventor faculty member(s) f-or works and~~
11 ~~50% to the University.~~

12 ~~(1)~~

13 ~~(3) For Inventions :~~

14 ~~30% to the department/ unit of which the inventor faculty member is a~~
15 ~~member~~

16 ~~(1)~~

17 ~~(4) 30% to the University.~~

18 ~~(2) 40% to the the faculty member (s) for works~~ **University faculty member (s) for**
19 **inventions and**
20 **60% to the University.**

21 ~~(3)~~ **(4)** Other aspects of such policy may be the subject of consultation meetings pursuant to
22 Article 2.

23 ~~(f) — Execution of Documents. (b)~~ The University and the faculty member **(s)** shall sign
24 an agreement ~~individually~~ recognizing the terms of this ~~Article~~ **article**.

25 18.56 Outside Activity.

26 (a) Although a faculty member may, in accordance with Article 19, Conflict of
27 Interest/Outside Activity, engage in outside activity, including employment, pursuant to a
28 consulting agreement, requirements that a faculty member waive the faculty member's or
29 University's rights to any work or inventions which arise during the course of such outside activity
30 must be approved by the President or representative.

31 (b) A faculty member who proposes to engage in such outside activity shall furnish a copy
32 of this Article and ~~the University's patents policy~~ **any University patent policies** to the outside
33 employer prior to or at the time a consulting or other agreement is signed, or if there is no written
34 agreement, before the employment begins.

35 18.67 Additional Faculty Interests in University-Supported Educational Materials.

36 (a) "Educational materials" are works developed for the purpose of instruction.

37 (b) The University shall not claim ownership of educational materials created by a faculty
38 member unless

39 (1) The creator has employed in its development, without personal charge to him/herself,

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1 the equipment, materials or staff services of one or more of the organizations established or
2 supported by the University primarily to assist in developing and producing educational materials;
3 or

4 (2) The creator has been both commissioned in writing by the University, or one of its
5 colleges, schools, departments or other subdivisions, to develop the work and, in its production
6 has received assistance in the forms of release time and/or University funds, including grants and
7 contract funds administered by the University.

8 (c) Creative Control. Subject to the provisions of this agreement, the creator has the right to
9 and the responsibility for control of the content and the right to make other versions of the content
10 of the materials for presentation in other media.

11 (d) Internal Use.

12 (1) Use of University-supported educational materials within the University requires
13 approval of the creator.

14 (2) As long as the creator of University-supported educational materials remains an
15 employee of the University, he or she has the right to revise any or all materials because of
16 obsolescence provided that the University shall not be obligated to provide further resources for
17 the development of any such revisions unless the revisions are requested by the University or
18 agreed upon jointly by the University and the creator. Should the extent of the required revision
19 exceed the resources of University supporting agencies involved, materials may be withdrawn by
20 agreement of the creator and the University.

21 (3) If the University-supported educational materials are used internally without revision
22 for a period of two years, the University shall request the creator and the appropriate University
23 supporting agency or agencies to consider revising the materials or to determine whether they shall
24 continue to be used.

25 (4) The creator has the right to make personal and professional use of the materials within
26 the University. Scheduling and arrangements to cover the costs for such personal requests will be
27 made with the University supporting services involved with the original production of the
28 educational materials.

29 (5) If the creator terminates employment with the University, the University retains the
30 right to continued internal use of the University-supported educational materials in accordance
31 with this policy unless special conditions for subsequent internal use have been arrived at by joint
32 written agreement of the creator and the University.

33 ~~(6e)~~ External Use.

34 (1) The creator has the right to use the University-supported educational materials at no
35 cost to the ~~University~~ creator after termination of his or her employment with the University subject
36 to the provisions of this policy.

37 ~~(e) — External Use.~~ (2) Licensing or sale or publication of University -supported
38 educational materials for external use shall be preceded by a written agreement between the
39 University and the creator specifying the conditions or use, including provisions concerning the
40 right of the creator to revise the materials or to withdraw them from use, and the distribution of
41 net royalty income.

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1 (f) Compensation for Production Activity.

2 (1) With the exception of payments made by dual compensation appointments, the
3 University shall not make any payment to the creator of University-supported educational
4 materials other than the compensation regularly received.

5 (2) The regular assignment of the creator may be adjusted to take into account the extra
6 time required to develop, or produce, or revise the University-supported educational materials.

7 (3) The creator may receive payment for the development of materials. Such additive
8 compensation will be provided for in a written agreement between the University and the creator.

9 ~~(g) Distribution of Royalties.~~

10 ~~(1) The University shall license the external use of University-supported materials only~~
11 ~~after it enters into a written agreement with the creator specifying the distribution of net royalty~~
12 ~~income.~~

13 ~~(2) Such an agreement will be subject to the following guidelines:~~

14 ~~a. The University's original production costs shall be recovered by the University~~
15 ~~prior to the distribution of any royalties. Production costs will include the following categories:~~

16 ~~i. Direct costs. Those salaries and materials specifically identified with the~~
17 ~~production of such materials. Direct costs are computed by those supporting agencies involved~~
18 ~~with design, preparation, production, editing, duplication and distribution of the work.~~

19 ~~ii. Indirect costs (Overhead). Costs for space, utilities, amortization of~~
20 ~~equipment, etc., which are generally referred to as overhead. The current University indirect cost~~
21 ~~rate will be applied for recovery of indirect costs relating to the production of University-supported~~
22 ~~works.~~

23 ~~b. Expenses related to the production and distribution of additional copies of~~
24 ~~educational materials will be recovered from each sale or rental on the same basis as the original~~
25 ~~production costs.~~

26 ~~c. Royalties may be included in the sale or rental price subject to any limitation~~
27 ~~imposed by outside contracting or granting agencies.~~

28 ~~d. Fifty percent of any resultant net royalty income (royalty income after production~~
29 ~~costs and distribution costs) derived from the external use of University-supported educational~~
30 ~~materials will go to the University, and fifty percent to the creator.~~

31 ~~e. Twenty five percent of the University's share shall be allocated to SRAD. The~~
32 ~~remaining royalties that accrue to the University shall be returned to the school, college and/or~~
33 ~~supporting agency to finance further the development of educational materials or for other~~
34 ~~educational purposes. Distribution shall be as negotiated among the Vice President, Research and~~
35 ~~Graduate Studies, and the chief administrator of the department, school, college or agency~~
36 ~~involved.~~

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