

# Davis Technical College

## Research and Copyright Policy

Effective Date: 15 November 2001

### 1. Purpose

To define and outline the respective rights that all personnel of the Davis Technical College (College) have in such works created during the course of affiliation with the College. This policy preserves the practice of allowing personnel to own the copyrights to traditional scholarly works, and at the same time seeks to protect the interests of the College in works that are created with the substantial use of College resources. Personnel are strongly encouraged to clarify issues of ownership and revenue sharing by specific written agreements with the Fiscal Service Office at the outset of the project or otherwise as soon as possible.

### 2. Definitions

**2.1. Copyright** - Copyright is the legal right of the owner of an intellectual or creative work to control the copying, modification, distribution and display of that work. Copyright protects the expression of ideas fixed in a tangible medium, but not the ideas that the expression embodies. Reference: U.S. Copyright Act, Title 17, United States Code.

**2.2. Work** - Work is the material that can be protected under copyright law, or any statute enacted in the future that governs the protection of intellectual property and is based on principles similar to the principles of governing copyright.

**2.3. Creator** - One or more individuals, singularly or in a group, who make a copyrightable contribution to a work.

**2.4. Owner** - The party who owns or controls the rights to a work and who has the right to sell, assign, distribute or license the use of the work.

### 3. Policy

**3.1. General Rules of Ownership** - Works created by College personnel within the scope of their College employment are considered to be works made for hire, and thus are works as to which the College is the owner and controls all legal rights in the work. Under Section 101 of the copyright law, "a work made for hire" is (1) a work prepared by an employee within the scope of his or her employment; or (2) a work specially ordered or commissioned for use as: a contribution to a collective work, a part of a motion picture or other audiovisual work, a translation, a supplementary work, a compilation, an instructional text, a test, answer material for a test, a sound recording, or an atlas. In contrast, works created by College personnel outside the scope of their College employment are not covered by this policy and are considered to be owned by the creators, unless such works are created through substantial use of College resources under the following provisions providing guidance in determination of ownership:

**3.1.1.** The College and the creator, or personnel, agree to create the work, in whole or in part, as part of a specific grant, contract, appointment or assignment, with or without a reduction in other College responsibilities.

**3.1.2.** The work is produced through the use of College facilities not available to the general public, which include but are not limited to, equipment, production facilities, computing resources, or special expertise of College personnel.

**3.1.3.** The work is significantly based upon material that is proprietary to the College, regardless of whether the creator produced the proprietary information.

**3.1.4.** The College provides significant College funding in direct support of the work's creation. However, regular sabbatical and leaves with pay shall not count as a factor in determining substantial use.

**3.2. Copyrightable Material Produced Under Grants** - Copyrightable materials produced under grants or contracts from an external funding source shall be subject to conditions of the contract or grant with respect to ownership, distribution and use, and other residual rights, and shall be used and disseminated in compliance with all applicable laws.

**3.3. Obligation to Disclose** - The creator shall promptly disclose to the Fiscal Services Office the creation of any work in which the College has an ownership interest as provided in this policy. The creator of the work owned by the College shall promptly execute an assignment of all their rights to the College when requested to do so by the administration. The creator shall cooperate fully with the College and the Fiscal Service Office in further protection, promotion or dissemination of the work. The College will promptly execute any transfers or copyright ownership or other agreements needed to carry out this policy.

**3.4. Revenue Sharing** - The creator of a work that is owned by the College, shall receive a share of any royalty income or other revenue realized by the College as owner, from the sale, licensing or other commercialization of the work. The creator of a work made for hire may receive a share of royalty income or other revenue, provided that an appropriate agreement is entered into between the College and the creator prior to the inception of the work.

**3.4.1.** The creator's share of income shall be based on a percentage of such income or revenue remaining after reimbursement of all the College's direct costs of copyright registration, licensing and other legal protection of the work.

**3.4.2.** Upon request, an accounting of all costs and calculations of monies paid in connection with a work of which the College is the owner shall be made available to the creator of the work within a reasonable time.

#### **4. Approval and Notes**

Board Approval: 15 November 2001

President's Council Approval: 06 November 2001

CDMT Approval: 23 October 2001