

EASTERN SHORE COMMUNITY COLLEGE INTELLECTUAL PROPERTY POLICY

ESCC policy regarding intellectual property rights of employees and students is consistent with applicable law, SCHEV, and VCCS policies. Detailed descriptions of the VCCS intellectual property policy are in Section 12.0 of the VCCS Policy Manual. The dean of instruction is the college intellectual property policy administrator. The president designates a committee to assist the administration of the intellectual property policy.

The college may claim an interest in intellectual property when it asserts a right to ownership or the right to a license for its use. The college may choose not to claim an interest in intellectual property even though it might legally be able to do so.

Intellectual Property includes but is not limited to any material defined within one or more of the following categories:

- A potentially patentable machine, product, composition of matter, process, or improvement, in any of these;
- An issued patent;
- A legal right which is part of a patent; or
- Anything that is copyrightable.

Some examples of copyrightable intellectual property include:

- Written Materials – literary, dramatic, and musical materials or works, published or unpublished;
- Coursework – lectures, printed materials, images and other items used in the delivery of a course, regardless of the physical medium of expression;
- Visual and/or Recorded Materials – sound, visual, audio-visual, and other television films or tapes, video tapes, motion pictures or other recordings or transcriptions, published or unpublished; and
- Computer-Related Materials – computer programs, procedures and other documents involved in the operation and maintenance of a data processing system, including program listings, compiler tapes, a library of sub-routines, user and programmer manuals, specifications, and databases.

Ownership of Intellectual Property - Employees

Faculty and other ESCC employees shall retain ownership of intellectual property as follows (VCCS Policy Manual Section 12.0.3):

“Nothing in this policy invests ownership or other rights in any person who produces intellectual property as the result of an unauthorized use of college resources. VCCS claims ownership of intellectual property produced by any VCCS employee or student as follows:

- Assigned Duty – VCCS claims exclusive ownership of any intellectual property produced by a VCCS employee when produced as a result of an assigned duty except as otherwise provided by a separate written agreement or waiver which is executed by a duly authorized officer of a college or the VCCS.
- Incidental Use of College Resources – VCCS does not claim an ownership interest or a license to use any intellectual property which was developed with only incidental use of college resources except as otherwise provided by separate written agreement or waiver which is executed by a duly authorized officer of the college or the VCCS. The creator shall own all dissertations, thesis, and classroom instructional materials prepared at the creator’s inspiration regardless of the physical medium of expression when such thesis, dissertations, or materials are produced as a result of routine teaching duties. Further, notwithstanding the foregoing, unless there is agreement otherwise with the creator, the creator shall also own all literary works (such as poems, plays, novels, essays, musical scores, etc.) prepared as a result of the creator’s inspiration unless the creator was hired, assigned or directed to create the literary work in question. The scope of ownership, however, does not include elements in the work that are created as a result of an assigned duty of a VCCS employee, such as a computer programmer, that participates in the development of the intellectual property.
- Significant Use of College Resources – VCCS claims an exclusive ownership interest in any intellectual property which was developed with the significant use of college resources except as otherwise provided by separate written agreement or waiver which is executed by a duly authorized officer of a college or the VCCS. The creator must advise the college intellectual property policy administrator when the creation of intellectual property involves significant use of college resources.”

Ownership of Intellectual Property – Students

Student ownership of intellectual property shall be governed by the provisions of Section 12.0.3.0 of the VCCS Policy Manual:

“Except as otherwise provided by separate written agreement or waiver that is executed by a duly authorized officer of the VCCS or a college, the VCCS:

- Does not claim an ownership interest in intellectual property produced by a student provided that the production of the intellectual property is not an assigned duty and it involves only incidental use of college resources. VCCS does, however, claim the right to use student intellectual property for its internal educational and administrative purposes.

- Claims a non-exclusive, irrevocable, royalty-free license to use intellectual property developed by a student with the substantial use of college resources.
- Claims an exclusive ownership interest in any intellectual property developed by a student with the significant use of college resources. “

Intellectual Property Decision Appeals - Decisions made by the intellectual property policy administrator regarding, but not limited to, ownership, royalty payments and publication of intellectual property resulting in disputes, may be appealed to the president. The decision resolving such disputes is made by the president and is final.

The college must annually collect and report college activity regarding intellectual property to SCHEV.