



*University Staff (non-bargaining unit faculty and employees)*

SUBJECT (R*)	EFFECTIVE DATE (R*)	POLICY NUMBER (O*)
WORKS AND COPYRIGHTABLE MATERIALS	July 2005	1710.345

**POLICY STATEMENT (R\*)**

The University recognizes and acknowledges its responsibility to protect and administer, under applicable state and federal law, the intellectual property rights as such rights apply to the Faculty and the University itself. At the same time, the University acknowledges that, as a public institution, it has a responsibility to ensure that intellectual property created at the University is appropriately developed to obtain maximum public benefit.

**Disclosure of Works**

University Personnel are required to disclose promptly all University-supported Works, excluding Regular Instructional Works and Traditional Works of Scholarship, as defined in this policy.

If, after a full disclosure of a Work and review by the Provost or representative a Work is determined to be a University-supported Work that is neither a Traditional Work of Scholarship nor a Regular Instructional Work, the Provost or representative may, on behalf of the University:

- elect to acquire title to the work by assignment (i.e., the Creator assigns the rights to the University). The development and marketing of the Work is at the discretion of the University. Generally, the University seeks to develop and market the Work and may elect to seek copyright or other legal protection. The University will be responsible for the development and negotiation of licensing agreements in order that the Work is managed in a way that serves the public interest. In rare cases, the University may elect to license the Work to the Creator for a minimal royalty; or
- decide the Work disclosure is premature or incomplete, in which case, the creator will be asked to resubmit the Work disclosure when additional information is obtained; or
- elect to waive the University’s rights to the Work, thus allowing the Creator to protect the Work as he or she may wish. If outside funds supported the work leading to the Work, this waiver is subject to any provisions in the sponsoring agreement.

In cases in which the University has waived its interest and the Work was supported by federal funding, any waiver must be to the supporting federal agency, rather than to the Creator(s). In addition, no waiver shall be granted until any pre-existing commitments to sponsoring agencies with regard to Works are cleared. In general, the University will not waive its rights to Works of Creators who are full-time employees or appointees of the University. In cases where the University elects to waive its rights to a Work, the Creator will indemnify and hold harmless the University for any tort claims or criminal charges resulting from the nature or use of the Work.

If a Creator assumes “ownership” of any University-supported Work, the University and the State of Florida will retain for informational or educational purposes a limited, royalty-free right to the use of the Work and to all copyright rights in the Work, excluding the copyright right to make modifications.

If the University asserts rights to any University-supported Work, upon request, the Creator will be granted, only for informational or educational purposes a limited, royalty-free right to the use of the Work and to all copyright rights in the Work, excluding the copyright right to make modifications. Furthermore, while the Creator is a University Personnel, the University will consult with, and first offer to the Creator the right to make modifications in the Work should the modified Work be intended for use within the University. Should the University allow anyone other than the Creator to make modifications in the Work then, upon request of the Creator, the University will make all reasonable efforts to remove from the Work any attribution to the Creator. Separate written agreements may be made between the Provost/representative and the Creator regarding any Work. For example, to protect the integrity of the Work, certain artistic rights, especially the right to make modifications, might be retained by the Creator. Conversely, to assure effective commercialization of a Work, certain rights that the Creator reserves may be relinquished prior to licensing the Work to a commercial developer. Prior to the creation of a Work, especially when appreciable University support may be used in its creation, the Creator may seek an agreement with the Provost to establish or clarify certain ownership rights.

### Distribution of Net Income from Works

Distribution of Net Income from Works will be made in accordance with the Inventions and Patents Policy as specified within the policy under section License Revenue Allocation.

### REASON FOR POLICY (O\*)

To encourage, facilitate, promote, and reward the development and dissemination of original scholarship and research, effective pedagogy, creative endeavors, and copyrightable works.

### DEFINITIONS (R\*)

For the purposes of Intellectual Property as they apply to Works the following definitions shall apply:

“Work” shall include any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures musical or dramatic compositions, choreographic works, and pictorial or graphic works.

“Creator” shall mean a member of University personnel who creates a work or invention.

“Traditional Works of Scholarship” shall mean University-supported Works such as theses, dissertations, books, articles, plays, poems, musical compositions, and similar works of scholarship or artistic endeavors; to the extent these Works disseminate the results of academic research, scholarship, or creative endeavor.

“Regular Instructional Works” shall mean University-supported works developed without the use of appreciable University Support and used solely for the purpose of assisting or enhancing a faculty member’s instructional assignment.

“University Support” shall include the use of University funds, personnel, facilities, equipment, materials, or technological information and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University. In determining whether University Support is appreciable, factors such as the following shall be considered:

- whether the creation of the Work involved the use of special services, equipment, facilities, or technological information that go beyond what is traditionally provided to faculty members generally in the preparation of course materials;
- whether the Work in question was created as a specific requirement of employment, as an assigned instructional duty, or as a Work for Hire.

“Independent Efforts” with regard to a Work means that the ideas for the Work came from the Creator, the Work was not made with the use of University Support.

### RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT (R\*)

Division of Human Resources  
Florida International University

### RESPONSIBLE ADMINISTRATIVE OVERSIGHT (R\*)

Employee and Labor Relations  
Division of Human Resources  
Florida International University  
11200 S.W. Eighth Street, PC 236  
Miami, Florida 33199  
Telephone (305) 348-2079

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**\*R = Required \*O = Optional**