

Community College of Rhode Island

## **Summary of CCRI's Intellectual Property Policy**

Prepared by Daniel J. Donovan, J.D.  
Professor, Legal Studies

The R.I. Board of Governors for Higher Education approved CCRI's Intellectual Property Policy on March 24, 2008. The purpose of this policy is to address questions of ownership of Intellectual Property (trademarks, trade secrets, patents, and copyrights) between the college and its faculty and staff. A basic concept of intellectual property law is that items of intellectual property developed by employees within their scope of employment is considered to be "work-made-for-hire" and belongs to the employer (in our case the college or technically the Board of Governors). For faculty members, there has been a long standing debate nationally over what is within the scope of employment of faculty and thus what intellectual property belongs to the educational institution as opposed to the individual faculty member. This debate has intensified in recent years with the development of distances learning courses where faculty members have been putting items such as lecture notes online. URI has an Intellectual Property Policy that dates back more than a decade, and this policy protects the rights of ownership of faculty members in their work.

The effort to get a similar policy at CCRI started in 1999 but ran into some roadblocks along the way. President Di Pasquale arranged a meeting last summer with the lawyer for the Office of Higher Education and the Deputy Commissioner to discuss the status of CCRI's Intellectual Property Policy. Vice President Morgan and I attended the meeting along with the President at the Office of Higher Education. There were a number of revisions in the policy language made at the request of the Higher Education lawyer. The policy was approved by the Academic Chairs Council and then by the President's Council in 2007. The Office of Higher Education requested additional changes (mostly style changes) which were done. The policy was then approved by the Board of Governors on March 24, 2008 (with our own Governor Solomon making the motion to approve).

Faculty members would be mostly concerned with copyright issues under the policy, and for that information one needs to look at Section 4.5 of the Policy and Flowchart 1a. The heart of Section 4.5 established the right of ownership in faculty in lecture notes, articles, books, art and music works and other publications created by the faculty member. There is a list of examples approved as part of the policy which a faculty member should also review. One of the examples addresses the issues of development of a book or other material while on sabbatical (you own it). The question of ownership of works created during sabbatical is one of the most common questions I have gotten from faculty members over the years on copyright law.

One exception that should be noted under Section 4.5 is material submitted to the Curriculum Review Committee for approval of a course or program of study. These materials would belong to the college and not the individual faculty member. I drafted the language on curriculum material, which I believe is an accurate statement of the ownership rights in this material. The course or program is being approved as an official course or program of the college, and the materials submitted are subject to revision (and frequently are) as a condition for approval. Copyright is based upon originality and curriculum materials are subject to review and revision at several steps along the way from the department level up to approval of the President. The college obviously uses the course and program descriptions in its catalog and may expand what it available to potential students by listing student learning outcomes and the like.

There is a notice on the first page about the distance learning committee at Higher Education. At the meeting on August 1<sup>st</sup> at the Office of Higher Education, it was emphasized that there is a Distance Learning Committee at Higher Education that was established at the suggestion of the General Assembly, and that this committee will be developing policies on distance education. It was stated that those policies might supersede any policies in the Intellectual Property Policy that is approved. At present, at CCRI the development of distance learning classes is left up to the individual faculty member, and there is no payment for the development of the course. In other systems, the faculty member and instructional designers are paid to develop the course either alone or in conjunction with others, and then the college system owns the course. This type of system is apparently under consideration in Rhode Island.