

**ARTICLE 18**  
***INVENTIONS AND***  
***WORKS***

**18.1 University Authority and Responsibilities.** ~~Florida Statutes Section 1004.23~~~~The University is authorized~~ by the University, consistent with federal and state law, to secure letters of patent, copyrights, and trademarks on any work products; to enter into written contracts that establish the interests of the university and employees in each trademark, copyright, or patent; and to enforce its rights therein.~~to establish regulations and procedures regarding patents, copyrights, and trademarks consistent with federal and state law.~~ Such regulations and procedures shall be consistent with the terms of this Article.

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

~~(a)~~ (a) A "Work" means, in accordance with Title 17 of the U.S. Code, any original work of authorship that is or may be subject to copyright. Work includes but is not limited to printed material (such as books, articles, memoranda, and texts), computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, compositions (e.g., written, musical, dramatic), motion pictures, multimedia works, web pages, sound recordings, choreographic works, and pictorial or graphic illustrations or displays, and any creative expression of a Trademark used in connection with these items.

~~Instructional Technology Material is included in this definition.~~

~~(b)~~ (a)

~~(e)~~ (e)—An "Invention" shall include (i) any discovery, process, composition of matter, article of manufacture, know-how, design, model, technological development, biological material, strain, variety, culture of any organism, or portion, modification, translation, computer software or databases, or extension of these items which is or may be patentable or otherwise protected under Title 35 of the United States Code, or that is or may be protected as a Trade Secret, under the Florida Trade Secrets Act, Ch. 688, Fla. Stat. or any similar act of another State, as may be relevant, (ii) any novel variety of plant that is or may be patentable or otherwise protected under the Plant Variety Protection Act (7 U.S.C. §2321 et seq.) , (iii) any Trademark, and/or (iv) any directly related know-how used in connection with these items. ~~Instructional Technology Material which is or may be patentable is included in this definition.~~

~~(d)~~ (b)

~~(e)~~ (e)—"Instructional ~~Technology~~ Material" includes video and audio recordings or transmissions, motion pictures, films, slides, photographic and other similar visual materials, electronic and digital media, computer programs, programmed instructional materials, web pages, electronic, electro-mechanical, or solid state physics-based equipment, three dimensional materials and exhibits, and combinations of the above, which are prepared or produced in whole or in part by an employee and that are used for instruction. ~~All distance and distributed learning courses and/or modules are included in this definition.~~

(c) "Instructional technology," as used in this Article, means the form of an "invention" that is substantially new technology and is used to deliver instructional material, as distinct from the application of existing technology to deliver such instructional material.

~~(f)~~ (d)

~~(e)~~ (e)—"University Support" shall mean the non-incidental use of University funds,

48 out of unit personnel, facilities, equipment, materials, technological information, or students  
49 in the creation or making of a Work or Invention; and does not include the incidental use of  
50 resources made available to the University community for common use. University Support  
51 includes such support provided by other public or private organizations when it is arranged,  
52 administered, or controlled by the University.

53 ~~(e)(f)~~ “Distance or Distributed Learning” means -a course that is rarely or never  
54 conducted with the employee and the student in the same general physical space  
55 simultaneously.

### 56 57 **18.3 Works.**

58 (a) Independent Creative Efforts. A Work made in the course of Independent  
59 Creative Efforts is the property of the employee, who has the right to determine the  
60 disposition of such Work and the revenue derived from it. The employee shall provide  
61 documentation to substantiate his or her Independent Creative Efforts. As used in this Section,  
62 the term "Independent Creative Efforts" means that:

- 63 (1) the ideas came from the employee;
- 64 (2) the Work was made without the use of appreciable University Support;
- 65 and
- 66 (3) the University is not responsible for any opinions expressed in the Work.

67  
68 (b) University-Supported Efforts. A Work that is created with the use of University  
69 Support ~~as defined in 18.2(d)~~ is the property of the University, and the employee shall share in  
70 the proceeds therefrom. ~~For example, Web-based courses developed with University resources~~  
71 ~~use a team of technical support experts and faculty members to develop materials and software~~  
72 ~~used in the course. Accordingly, the University maintains the right of ownership to such~~  
73 ~~software and materials. These materials may~~ The Work shall be licensed by mutual agreement  
74 between the University and the employee(s) who developed the materials.

75  
76 (c) Exceptions. The University shall not assert rights to the following Works:  
77 (1) Those Works for which the intended purpose is to disseminate the  
78 results of academic research or scholarly study, such as books, articles, electronic and digital  
79 media; and

80 (2) Works developed ~~without the use of appreciable University~~  
81 ~~Support~~ and used solely for the purpose of instruction. This includes distance or  
82 distributed learning courses.

83 ~~(3) — The intellectual content developed by faculty members for Web-based~~  
84 ~~courses.~~

85  
86 (d) Disclosure/University Review.

87 (1) Upon the creation of a Work and prior to any publication, the employee  
88 shall disclose to the president or president's representative any Work made in the course of  
89 University-supported efforts, together with an outline of the project and the conditions under  
90 which it was done. ~~Consistent with the provisions of Section 18.3.(c) above, e~~ Employees need  
91 not disclose any Work regarding books, articles, and similar Works the intended purpose of  
92 which is to disseminate the results of academic research or scholarly Work.

- 93 (2) The president or president's representative shall assess the relative

94 equities of the employee and the University in the Work.

95 (3) Within ~~one hundred twenty~~ninety (120) days after such disclosure, the  
96 president or president's representative will inform the employee whether the University seeks  
97 an interest in the Work, and a written agreement shall thereafter be negotiated to reflect the  
98 interests of both parties, including provisions relating to the equities of the employee and the  
99 allocation of proceeds resulting from such Work. Allocation of proceeds/royalties shall be  
100 made in accordance with the University's policy on copyrights and patents. The agreement  
101 will also include provisions relating to the creation, use, and revision of such Works by the  
102 University or the employee, as well as provisions relating to the use or revision of such  
103 Works by persons other than the University or employee. All such agreements shall comport  
104 with and satisfy any preexisting commitments to outside sponsoring contractors.

105 (4) The employee shall assist the University in obtaining releases from  
106 persons appearing in, or giving financial or creative support to, the development or use of  
107 these Works in which the University asserts an interest, ~~including Instructional Technology~~  
108 ~~Materials as defined in Section 18.2(e)~~. The employee shall certify that such development or  
109 use does not infringe upon any existing copyright or other legal right.

110 (5) The employee and the University shall not commit any act that  
111 would tend to defeat the University's or employee's interest in the Work, such as making  
112 a public disclosure prior to the University obtaining intellectual property protection, and  
113 shall take any necessary steps to protect such interests.

114  
115 (e) Outside Activity. An employee may, in accordance with Article 19, Conflict  
116 of Interest or Commitment and Outside Activity, engage in outside activity, including  
117 employment pursuant to a consulting agreement.

118 (1) Any requirement that an employee waive the University's rights to any  
119 University-supported Work ~~as defined in Section 18.3(b)~~, or Inventions that arise during the  
120 course of such outside activity shall not be entered into unless specifically approved by the  
121 president or president's representative, in writing, prior to the start of such outside activity.

122 (2) An employee who proposes to engage in an outside activity where the  
123 employee may be asked to waive the University's rights shall furnish a copy of this Article and  
124 the University's Copyrights and Works Regulation to the outside employer prior to the time a  
125 consulting or other agreement is signed or, if there is no written agreement, before the outside  
126 activity/employment begins.

#### 127 **18.4 Inventions.**

128  
129 (a) Independent Inventive Efforts. All Inventions made outside the field or  
130 discipline in which the employee is employed by the University, and for which no University  
131 Support has been used, are the property of the employee, subject to 35 U.S.C. 115, who has  
132 the right to determine the disposition of such property and revenue derived from such  
133 property. The Invention shall be licensed by mutual agreement between the University and  
134 the employee(s) who developed the materials.~~The employee and the president or president's~~  
135 ~~representative may agree that the patent for such Invention be pursued by the University and~~  
136 ~~the proceeds shared.~~

137  
138 (b) University-Supported Efforts. Inventions made in the field or discipline in  
139 which the employee is employed by the University, or by using University Support, are the

140 property of the University and the employee shall share in the proceeds therefrom. Such  
141 Inventions and related rights shall be the property of the University and are hereby assigned to  
142 the University by the employee. If the University decides to patent, develop and market the  
143 Invention, all costs of the patent application and related activities, including those which lead  
144 to active licensed production, shall be paid from University funds. These costs shall be  
145 recovered before any division of patent or license revenue is made between the University and  
146 the employee.

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148 (c) Private or Industrially Sponsored Efforts. Except in unusual cases, Inventions  
149 developed in the course of privately or industrially sponsored research are the property of the  
150 University. The sponsor may be accorded the first option to negotiate an exclusive license, in  
151 which case the term of exclusivity and the compensation shall be negotiated at the time the  
152 Invention is made or under the provisions of the University's policy on copyrights and  
153 patents. If the sponsor exercises this option, the University retains royalty-free license rights  
154 to use the Invention or discovery for its own purposes.

155

156 (d) Outside Activity. An employee may, in accordance with Article 19, Conflict of  
157 Interest or Commitment and Outside Activity, engage in outside activity, including  
158 employment pursuant to a consulting agreement. All Inventions arising from authorized  
159 Outside Activity and outside of the field or discipline of the employee are the property of the  
160 employee, subject to the following conditions:

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162 (1) Any requirement that an employee waive the University's rights to  
163 any Inventions that arise during the course of such outside activity shall not be entered  
164 into unless specifically approved by the president or president's representative, in  
165 writing, prior to the start of such outside activity.

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167 (2) An employee who proposes to engage in an outside activity where the  
168 employee may be asked to waive the University's rights shall furnish a copy of this Article  
169 and the University's Patents, Trademarks, and Trade Secret Regulation to the outside  
170 employer prior to the time a consulting or other agreement is signed or, if there is no written  
171 agreement, before the outside activity/employment begins. Employees are not authorized to  
172 waive University rights, and any such waiver is deemed rejected unless specifically accepted  
173 by the Vice President of Research and Commercialization or designee.

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175 (3) Undisclosed Outside Activity is considered unauthorized.  
176 a. Any Invention arising from undisclosed Outside Activity  
177 must be disclosed to the Vice President of Research & Commercialization (~~see 18.4(e)~~). If  
178 the employee claims the Invention resulted from Independent Inventive Effort(s), then as  
179 part of the disclosure, the employee shall provide sufficient documentation to substantiate  
180 the claim.

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182 b. Upon receipt of written notice from the Vice President of  
183 Research & Commercialization confirming the University's decision not to assert a University  
184 interest in an Invention resulting from unauthorized Outside Activity, the employee shall have  
185 the right to determine the disposition of such Invention. However, the employee and the Vice  
186 President of Research & Commercialization may agree that a patent for such Invention will be  
187 pursued by the University; in that event, the employee and University shall share in the  
188 proceeds of any Invention as provided by this Article any applicable University policies or  
189 procedures, including applicable University of Central Florida Research Foundation  
190 ("UCFRF") Guidelines and Procedures for Distribution of Funds or in such other manner as

187 the employee and the Vice President of Research & Commercialization may agree.  
188

189 (e) Disclosure/University Review. Employees are required to disclose all  
190 Inventions owned by the University and all Inventions resulting from any Outside Activity  
191 within the field or discipline of the inventing employee. It is the policy of the University that,  
192 in general, research results should be publishable; publication of such results in appropriate  
193 venues is encouraged. However, if the publication of research results may reveal an Invention  
194 in which the University has an interest, employees should seek advice on how and when to  
195 publish the results in order that potential patent rights for the Invention are not compromised.  
196 That is, upon the making of an Invention and prior to any publication or public disclosure,  
197 employees shall promptly and fully disclose to the Vice President of Research &  
198 Commercialization any

199 ~~Invention described in 18.4(b)~~. Any delay in publication resulting from seeking such advice  
200 shall be minimized, but in any event shall not exceed ~~120~~ ninety days from the date of  
201 presentation of the proposed publication.  
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203 (1) The disclosure shall be made on the forms and according to  
204 procedures prescribed by the Vice President of Research & Commercialization. At a  
205 minimum the disclosure shall: (1) identify each employee, (2) provide a brief description of  
206 the Invention, and (3) identify and summarize the research project including the participants  
207 and applicable funding sources

208 (2) The Vice President for Research & Commercialization shall conduct  
209 an investigation to assess the patentability and marketability, as well as the respective  
210 equities of the employee and the University in the Invention, and to determine the extent to  
211 which the University should be involved in its protection, development, and promotion.

212 (3) The Vice President for Research and Commercialization shall inform  
213 the employee of the University's decision regarding the University's interest in the Invention  
214 within a reasonable time, not to exceed 120-ninety days from the date of the disclosure.

215 (4) In the event the University elects to obtain a Patent, register a  
216 Trademark or a Copyright, or to formally define a Trade Secret to protect the University's  
217 rights in the Invention, employees will execute any and all necessary documents to affirm,  
218 publicly formalize, and record the transfer of all rights to the University or to UCFRF.  
219 UCFRF is required to comply with the same policies and procedures regarding allocation  
220 of proceeds/royalties as the University.

221 (5) In the event the University asserts its rights in the Invention, all costs  
222 and expense of patenting, developing, and marketing the Invention and related activities,  
223 including those which may lead to active licensing of the Invention, shall be paid by the  
224 University.

225 (6) The division, between the University and the employee, of proceeds  
226 generated by the licensing or assignment of an Invention shall be negotiated and reflected in a  
227 written contract between the University and the employee and/or as set forth in the  
228 University's policy on copyrights and patents, including the applicable UCFRF Guidelines.  
229 All such agreements shall comport with and satisfy any preexisting commitments to outside  
230 sponsoring contractors. Faculty members who have a significant role or equity position in  
231 companies that license university intellectual property waive their University distribution.

232 (7) The employee shall not commit any act that would tend to defeat the

233 University's interest in the matter, and the University shall take any necessary steps to  
 234 protect such interest.

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236 (f) Release of Rights.

237 (1) In the event a sponsored research contractor has been offered the  
 238 option to apply for the patent to an Invention or other rights in an Invention, the University  
 239 will obtain the contractor's decision regarding the exercise of such rights within 120 days, or  
 240 within the time provided in the sponsored research agreement.

241 (2) Prior to making a patent application, at any stage of the patent process,  
 242 or in the commercial application of an Invention, if the University has not otherwise assigned  
 243 to a third party the right to pursue its interests, the president or president's representative may  
 244 elect to waive the University's rights to the patent, or withdraw from further involvement in  
 245 the protection or commercial application of the Invention. At the request of the employee in  
 246 such case, the University shall transfer the Invention rights to the employee. The Invention  
 247 shall be the employee's property and any costs already incurred by the University or on its  
 248 behalf shall not be assessed against the employee.

249 (3) All assignments or releases of Inventions, including patent rights, by  
 250 the president or president's representative to the employee shall contain the provision that  
 251 such Invention, if patented by the employee, shall be available royalty-free for governmental  
 252 purposes of the State of Florida and research or instructional purposes of the University,  
 253 unless otherwise agreed in writing by the University.

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255 ~~(g) University Policy.~~

256 ~~(1) The University shall have a policy addressing the division of proceeds~~  
 257 ~~between the employee and the University.~~

258 ~~Such policy may be the subject of consultation meeting pursuant to~~  
 259 ~~Article 2.~~

260

261 ~~(2)~~

262 (g)

#### Reconveyance of Copyright to the Employee.

263 (1) When copyright is assigned to the University in full or in part because  
 264 of the provisions of this Article, the creator of the copyrighted material  
 265 may request of the Vice President of Research and Commercialization that  
 266 ownership be returned to the employee.

267 (2) Such request may be granted if it does not  
 268 a. violate any legal obligations of or to the University;  
 269 b. limit appropriate uses of the materials by the University;  
 270 c. create a conflict of interest for the faculty member; or  
 271 d. otherwise conflict with specific goals of the University.

272 (3) Such request shall also be granted if the employee establishes that the  
 273 University has willfully misrepresented to the employee's substantial  
 274 detriment the necessity or cost of development expenses.

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Division of Proceeds.

With regard to any work or invention owned by the University and subject to the requirements of any applicable sponsored agreements, the net adjusted income shall be distributed 50% to the employee and 50% to the University.