

CANADORE COLLEGE
OPERATIONAL POLICY MANUAL

TITLE: Intellectual Property

EFFECTIVE DATE: June 4, 2013

1. SCOPE

1.1 Authority

This policy is issued under the authority of the Board of Governors.

1.2 Application

This policy applies to all Canadore College employees and students. This policy also applies to researchers, associates, contractors, and volunteers working with the College's employees and students or using College resources.

2. DEFINITIONS

2.1 Copyright

Copyright means the right to produce, reproduce, and copy works. Only the copyright owner has the right to decide when and how the work is to be copied. Copyright protection is automatic once the work is created and applies whether or not a copyright statement appears on the material. Copyright means, in relation to a work, the sole right to produce or reproduce a work or any substantial part of a work in any material form, including without limitation, in electronic form, and to communicate electronic copies of the work.

2.2 Intellectual Property

- a. Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.
- b. Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs.

2.3 Moral Rights

Moral rights reflect the personal rights of the author of Intellectual Property. It is understood that the author has the right to request, where reasonable in the circumstances, to be given recognition by name or by pseudonym; to remain anonymous; or to choose not to be associated with any modification of the work that is

perceived to be prejudicial to his/her honour or reputation.

3. PURPOSE AND PRINCIPLES

The purpose of this policy is to clarify the rights and responsibilities of the College, its employees, students, researchers, associates, contractors, and volunteers with regard to Intellectual Property (IP) based on the following principles:

- a. encourage an environment where teaching, learning and research flourish and where the development of values is supported;
- b. achieve an equitable balance between the rights of the creators of IP and the interests of the College;
- c. operate within the existing employer-employee collective agreements, within Canadian Copyright laws and within accepted research policies, e.g. Tri-agency policies and College policies including the Conflict of Interest Policy.
- d. recognize the IP rights students have to the work that they create;
- e. encourage the utilization of research results in Canada for the benefit of Canadians;
- f. promote the development of fruitful and productive partnerships and recognize the unique contribution each partner brings to the partnership and the need for each partner to benefit from the relationship and have their interests protected;
- g. support and encourage the publication of research results in the open literature;
- h. support a researcher's right to use his/her research results for non-commercial purposes in future research and in teaching; and
- i. respect the IP assets of all partners in research.

4. POLICY

4.1 Ownership of Work

In the absence of any written agreement to the contrary between the College and an employee, the College shall be the owner of all IP rights in a work created by the employee in the course of employment with the College in the execution of their normal, assigned administrative and professional duties. Where a professional development leave is approved, the College shall own any IP rights in any work created and for which the leave was granted. These works include, but are not limited to:

- i. Administrative materials;
- ii. Curriculum support materials;
- iii. Teaching support materials;
- iv. Instructional by-products;
- v. Teaching/learning resources;
- vi. Professional, technical and artistic works; and
- vii. Research results.

4.2 Moral rights

- a. When the College owns the copyright to IP, the College will ensure that the creator's name is associated with the work.
- b. If revisions or updates are required, the College will first ask the original author to undertake the tasks. If he/she is not willing or able to do so, the College reserves

the right to assign the tasks to others.

4.3 Patent Protection

In determining whether to seek patent protection and the appropriate access to IP the College and participants are to consider:

- a. the nature of the research or project and any business interactions;
- b. the stage and background of the proposed research or project;
- c. common practices in that sector;
- d. opportunities for novel forms of dissemination and use;
- e. the background rights to existing and collaborator IP;
- f. the nature and importance of the contributions (scientific, financial and other) of all participants involved in the support and development of the IP; and
- g. the opportunities for application of the research to other sectors.

4.4 Share of Royalties

Property for which the College claims ownership or part ownership may be subject to a revenue sharing agreement between the College and the creator. In such cases the shares will be based on development costs, cost of sales, and revenue estimates. The percentage shares are to be negotiated on a case-by-case basis and agreed to in writing.

4.5 Transfer of Ownership of Intellectual Property

- a. At the creator's request, the College will agree to transfer ownership of work to the creator if the College does not wish to be involved in the commercialization of the work.
- b. In the case that the College does transfer its ownership in a work to the creators of that work:
 - i. the creators will grant the College non-exclusive license to continue to use the work to the benefit of the College;
 - ii. the College may, at its discretion, require that Canadore's name be retained or removed from the work; and
 - iii. the distribution of royalties between the College and the creators will remain the same as originally agree to unless modified by a separate agreement.

4.6 Ownership of Student Works

Students own the copyright to the materials they produce unless the student received compensation as an employee, used College resources outside of course work, or used College resources while working in conjunction with a College or non-College client for the creation of the work.

4.7 Ownership of Works Made for Hire

Materials created for the College by persons who are not employees are subject to separate signed contracts prior to the initiation of work. The agreement will state that the College is the owner of the IP in any work created or developed by the individuals unless agreed to in advance and stipulated in the contract.

4.8 Ownership of Recordings

Audio and video recordings of classroom proceedings are defined as instructional by-products. As such these recordings are copyrighted property of the College.

4.9 Access to Research Results

- a. Access to research results may include the following arrangements, some of which may be prescribed by external funding agencies, e.g., Tri-council funding agencies:
 - i. open dissemination with no restrictions;
 - ii. non-exclusive licensing;
 - iii. exclusive licensing;
 - iv. joint ownership;
 - v. partial assignment of ownership; or
 - vi. full assignment of ownership.
- b. In order to secure IP protection a maximum delay of six months is permitted when submitting papers for publication.

4.10 Intellectual Property Agreements

In order to ensure that the rights of all parties are protected, it is mandatory that all IP agreements address the following elements:

- a. Where access to IP is granted via an exclusive license or assignment, before the start of the project, exploitation is to be pursued with due diligence and within an appropriate time frame. Inventors have future use of the IP in the case of a failure to exploit the IP.
- b. A partner's proprietary data, commercially sensitive information and potentially valuable results or ideas are to be protected from unauthorized, inadvertent or untimely disclosure.
- c. No publication of research results is to expose a partner's proprietary information without their express permission to do so.
- d. The College and its researchers retain the right to use the knowledge or IP generated for non-commercial purposes in future research and in teaching.

4.11 Benefit to Canada

Every effort is to be made to deliver the maximum benefit to Canada from research conducted at the College by exploiting the IP within an appropriate timeframe.

5. ROLES AND RESPONSIBILITIES

5.1 President

The President is responsible for the overall management and operation of the College. The President is to ensure that the policy is implemented and that compliance is monitored.

5.2 Vice President, Academic

The Vice President Academic is responsible for the effective implementation of this policy and is to resolve any disputes arising policy interpretation.

6. EVALUATION

This policy will be reviewed every three years.