

 DALHOUSIE UNIVERSITY <i>Inspiring Minds</i> Intellectual Property Policy	<i>Policy Sponsor:</i> President	<i>Approval Date:</i> March 28, 2023
	<i>Responsible Unit:</i> Intellectual Property Office	<i>Amendments:</i> June 27, 2023

A. Background and Purpose:

1. This policy aims to ensure that intellectual property rights and recognition are properly conferred on all those who are responsible for the creation of the intellectual property at Dalhousie University.

B. Application:

1. This Policy applies to all Members of the University, and to external contractors unless there are written agreements to the contrary which have been approved by an authorized individual representing the University and an authorized individual representing the contractor. In the case of any conflict or ambiguity between this policy and a collective agreement, the collective agreement shall prevail.
2. Intellectual property rights for Works created by Agricultural College employees before September 1st, 2012 are held by Dalhousie University. Intellectual property for these works can be transferred to the creator(s) upon request.

C. Definitions:

1. Terms used in this policy are defined in Appendix "A" of this Policy.

D. Policy

1. **Ownership.** Except as stipulated below, or in an applicable collective agreement, the ownership of rights in Intellectual Property created in the course of teaching, learning, and or scholarly activities belong to the Originators(s).

The exceptions are:

- a. **Assigned Tasks.** The University retains ownership of rights in Intellectual Property created as Assigned Tasks, except where copyright for these works is covered by any applicable collective bargaining agreement.

- b. **Sponsored Research.** In sponsored research activities, ownership of rights in Intellectual Property may be governed by the terms of the research contract (e.g. Research Agreements). Anyone involved in these research activities must be made aware of any such stipulations of the contract by the principal investigator. Anyone involved in these research activities, as a condition of such involvement, may be asked to execute acknowledgments and/or assignments of Intellectual Property rights according to the terms of the governing research contract. This includes, but is not limited to, co-investigators, research assistants, contractors, and research participants.
- c. **University Journals.** The University shall own the Intellectual Property rights in any journal or magazine published by the University. This exception does not include the rights to individual works contained within the journal, including particular articles, reviews or literary pieces published in such a journal or magazine.
- d. **Continuing Education.** The University shall own the rights of Intellectual Property which is (i) created for use in continuing education programs by the University; or (ii) produced under the terms of a contract; or (iii) an externally funded project arranged on behalf of the Faculty of Open Learning and Career Development; or (iv) an externally funded project arranged on behalf of Extended Learning (Faculty of Agriculture). This may be modified by service agreements with individual clients or consultants.
- e. **Work Commissioned by the University.** The University owns the rights in Intellectual Property which is specifically commissioned by the University under a written agreement in which the Originator assigns Intellectual Property rights to the University.
- f. **Informed Consent or Agreement.** Where Intellectual Property rights have been willingly waived or assigned to the University by the Originator(s), or as otherwise agreed in writing by the University and the Originator(s).
- g. **Use of Indigenous Traditional Knowledge in Research, Education, or Community Engagement.**
 - a. All intellectual property relating to Indigenous peoples and communities, including, but not limited to, First Nations, Inuit, and Métis, shall be respectful of the Royal Commission on Aboriginal Peoples, the Truth and Reconciliation Commission of Canada's Calls to Action and Principles of Reconciliation, the Calls for Justice in the Missing and Murdered Indigenous Women and Girls Final Report, and the United Nations Declaration of the Rights of Indigenous Peoples.
 - b. Research involving Indigenous peoples and communities, including, but not limited to, First Nations, Inuit, and Métis, shall follow guidelines, definitions, and policies established by the Interagency Advisory Panel on Research Ethics. This includes, but is not limited to, the ownership of research output and data, assignment of rights, and any associated licenses. Ownership should be specified in a research agreement. These guidelines may also apply to international research.

- c. Teaching and other material using Indigenous Traditional Knowledge should be used in consultation with the relevant community, where applicable. This includes, but is not limited to, research conducted without human participants, such as land-based research. It also includes but is not limited to, non-research material, such as communications or promotional material. Relevant guidelines can be found through consultation with the relevant communities, and via templates, such as the Mi'kmaq Ecological Knowledge Study Protocol.
 - d. When working with Indigenous peoples or communities, individuals are expected to seek local guidance in the application or adaptation of this Policy.
- 2. **Theses.** Copyright in a Thesis belong to its Author, unless assigned by the Author(s), or the original material. This does not apply to third-party material that is used under a license, with permission, or under exceptions and user rights from *The Copyright Act*. Co-authored manuscripts forming the basis of a thesis may be owned by the various Authors. Practices vary between and within disciplines, the amount of involvement of the supervisor in the research may also vary. For example, an apprenticeship or collaborative team research model, or the virtual independence of the student.
- 3. **Collaborations.**
 - a. All collaborative research, for example among members of a lab or team, at the University will be undertaken in a climate of informed consent.
 - b. Collaborators should specify, in advance and in writing, how the process by which the rights to Intellectual Property arising out of the collaboration will be determined. The determination of rights should be based on the extent and nature of the contribution, and not on differences in power. Any waiver, assignment, license or other modification of rights, or any amendment to such an arrangement, requires informed consent.
- 4. **Recognition.** All contributions to Intellectual Property should receive appropriate recognition for their contributions in accordance with generally accepted standards of scholarly conduct , and where applicable, meeting requirements provided in the Tri-Agency Frameworks: Responsible Conduct of Research, as it may be amended from time to time. Depending on the nature of a contribution, appropriate recognition can take, but is not limited to, one or more of the following forms:
 - a. recognition as an Originator, if appropriate under applicable law: Who is an Inventor of a Patent is governed by the applicable law and is not a matter of choice or agreement. Correctly naming Inventors is often critical, as a Patent may be invalidated if naming is done incorrectly.
 - b. recognition through an acknowledgement or citation.
- 5. **Use of Scholarly Works on Campus.**
 - a. **University License.** Collective agreements may govern ownership of intellectual property for academic employees. When the Collective agreements do not apply, and Scholarly Works created by academic employees, have been printed and distributed or made

If a conflict cannot be resolved informally, the matter may be submitted to the Vice-President Research and Innovation for an administrative decision, or addressed through the relevant collective agreement. The Vice-President Research and Innovation (or delegate) will consult with others as appropriate and will issue a written decision.

E. Administrative structure

1. *Authority:* This policy falls under the authority of General Council and the University Secretary.
 2. *Policy Review:* This policy will be reviewed every five years or earlier if the policy is no longer compliant with applicable laws or if a review is deemed necessary by the Board of Governors.
 3. *Heads of Academic and Administrative Units*
The head of an academic or administrative unit is responsible for:
 - i. familiarizing themselves with the requirements of this policy, its procedures, and applicable intellectual property laws and communicating requirements to staff and faculty in their units;
 - ii. making reasonable efforts to ensure that management of personal information in their units meets the requirements of this policy, its procedures, and applicable intellectual property laws.
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2. *Members of the University*
Members of the University are responsible for:
 - i. taking reasonable steps to use intellectual property in accordance with this policy, its procedures, and applicable laws;
 - ii. actively participating in intellectual property training and familiarizing themselves with this policy, its procedures, and applicable laws.
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3. *Intellectual Property Officer*
The Intellectual Property Officer is responsible for promoting, monitoring, and reporting on compliance with this policy. The Intellectual Property Officer's responsibilities also include, but are not limited to:
 - a. providing intellectual property advice and consultation;
 - b. supporting training and relevant information exchange;
 - c. providing ongoing assessment of institutional risks related to intellectual property;
 - d. responding to and providing advice regarding intellectual property incidents and breaches; and
 - e. responding to intellectual property complaints.

F. Procedures:

1. General Counsel may approve procedures that support the management and protection of intellectual property pursuant to this policy. General Counsel shall determine in advance what consultation, if any, is required before deciding whether to approve a given procedure.

Appendix “A” – Definitions

In this Policy:

1. **“Assigned Tasks”** means:

- job-related duties such as the preparation of memoranda, letters, administrative reports, minutes of meetings;
- materials required for course management and administration, such as course outlines, mid-term and final examinations, assignments and laboratory manuals;
- administrative computer programs written to support the University's on-going operations.

Assigned Tasks does not include scholarly works or any works covered by applicable collective bargaining agreements.

2. **“Author”** or **“Authors”** means the person(s) who has created a Work.

3. **“Commercialize”** and **“Commercialization”** mean to make Intellectual Property available outside of the University on a for-profit basis but does not include publication or distribution of conventional texts by a recognized university or other academic press.

4. **“Copyright”** has the meaning prescribed in the *Copyright Act* (Canada).

5. **“Intellectual Property”** or **“IP”** is a type of intangible property relating to creations of the mind which, by virtue of statute (an Act of Parliament) or common law (based on precedence established in court cases), may have certain rights associated with it. These rights are personal rights which typically enable the person who holds them to exclude others from practicing, copying or doing something with the IP. Notice that rights to intellectual property are distinct from the underlying intellectual property itself.

6. **“Invention”** or **“Inventions”** means new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether patentable or not.

7. **“Inventor”** or **“Inventors”** means the person(s) who, under the applicable law, is considered to be an inventor of an Invention.

8. **“Member(s) of the University”** refers to faculty, staff and students of Dalhousie University and others engaged in activities under the auspices of Dalhousie University.

9. **“Moral Rights”** means an Author's rights to claim authorship and to protect the integrity of a Work under the *Copyright Act* (Canada) and applicable foreign equivalents.

10. **“Originator”** or **“Originators”** means the person(s) who has created Intellectual Property and includes Authors(s) and Inventor(s) where applicable.

11. **“Patent”** means letters patent for an Invention under the Canadian *Patent Act* or foreign equivalent.
12. **“Scholarly Work”** means a Work created in the course of teaching, learning or research at the University. Scholarly Works include, but are not limited to: student works submitted for academic evaluation, research reports, papers prepared for publication, books, computer programs, detailed assignments, detailed teaching materials, such as course notes, works of art and experimental data.
13. **“Thesis”** means a Work embodying the results of a student’s research program, and, especially at the graduate level, is a substantial and original piece of work.
14. **“Traditional knowledge”** as defined by the Tri-Agency: “is held collectively by all members of a community, although some members may have particular responsibility for its transmission. It includes preserved knowledge created by, and received from, past generations and innovations and new knowledge transmitted to subsequent generations.”
15. **“Work”** or **“Works”** means any architectural, artistic, choreographic, cinematographic, dramatic, literary, musical, scientific, technical or other work in which copyright may subsist under the *Copyright Act* (Canada) and applicable foreign equivalent.