



# Academic Intellectual Property Policy

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## 1 PURPOSE

Top Education Institute (TOP) acknowledges the importance of facilitating an academic environment that is committed to the advancement of knowledge. Ownership of Intellectual Property (IP) is an integral component of the research outcomes that are encouraged in this environment. As a higher education provider, TOP is involved in the creation and dissemination of IP as well as upholding laws that ensure the protection of ownership of IP.

The purpose of this policy is to provide understanding regarding the rights and responsibilities associated with ownership of IP. The policy details principles of ownership relevant to TOP, academic staff and students. This policy should be read in conjunction with TOP's Authorship of and Access to Research Outputs Policy.

## 2 SCOPE

This policy applies to students, academic staff and affiliates of TOP including visiting and honorary appointments.

## 3 DEFINITIONS

**Intellectual Property (IP)** refers to the ownership rights relating to work created from the intellect. IP is protected by laws such as those associated with copyright, trademarks and confidentiality agreements.

**Course of Employment** includes work undertaken as outlined in relevant duty statements for particular positions and any other work incidental to employment requirements.

**Commercialisation** is the use of IP for the purpose of commercial return or benefit.

**Moral Rights** are associated with the ownership of IP and ensure rights including: the right of fair attribution of authorship; the right for work not to be altered; and the right of integrity of **material**. **Copyright** refers to rights expressed in the Copyright Act 2011 associated with created works including course materials and scholarly publications.

## **4 PROCEDURE**

### **TOP's ownership of Intellectual Property**

- 4.1 TOP retains ownership of IP that has been created by staff in the course of their employment at TOP. This includes Unit teaching materials such as course outlines, multimedia resources, manuals and handouts.
- 4.2 To avoid the possibility of TOP wrongly claiming IP rights, measures must be taken to ensure that pre-existing IP is dealt with appropriately. Therefore, at the commencement of employment at TOP, academic staff must disclose any pre-existing IP or agreements with third parties that may be relevant to their employment at TOP.
- 4.3 At the completion of a staff member's employment, TOP has the discretion to give permission for future use of course materials solely for teaching and scholarly purposes, so long as materials are not used for any commercial gain. In such cases, when materials are used there must be clear acknowledgement that materials were developed whilst the staff member was employed by TOP. Moral rights are retained by TOP.

### **Academic employees' ownership of Intellectual Property**

- 4.4 Any IP developed from research activities by academics in the course of their employment at TOP remains with the academics, unless a royalty and/or income sharing agreement is agreed to by both parties.

Although employees retain ownership of IP in scholarly works, they must grant a perpetual, royalty-free licence to the Institute for the use of this material. TOP will take measures to identify the author of any work created by academic staff that is used for the Institute's purposes. The author retains moral rights to the material.

- 4.5 TOP has the right to claim IP ownership where work has been created:
  - using TOP's resources; or
  - on the basis of research with colleagues; or
  - because of specific commissioning by TOP; or
  - with the support of funding/specific grants obtained by TOP.
- 4.6 In the course of their employment at TOP, staff must respect any IP rights of third parties. Staff need to sign an agreement on behalf of TOP if they wish to incorporate external IP into work at TOP. Staff must abide by copyright guidelines when using material where the copyright is owned by external bodies and/or TOP. Academic staff

may publish any scholarly material but must acknowledge that it was created at TOP. If material is co-authored it cannot be published solely by one author. TOP retains the right to prohibit the use of its name and logo on published work.

- 4.7 Staff must maintain the confidentiality of any material owned by TOP. In using confidential material owned by TOP staff must not make copies nor use it for any purpose other than that for which it was provided.
- 4.8 Commercialisation based on the utilisation of IP is seen as a positive outcome for TOP and its academic reputation. Generally, staff are given the opportunity to share in any financial or other benefit from the commercialisation of IP produced as a result of work completed in the course of their employment at TOP. Although specific agreements may be used as a basis for deciding on the nature of reward, generally it will be considered that the net proceeds will be shared between TOP and a staff member on a 50/50 basis.

#### **Affiliates' ownership of Intellectual Property**

- 4.9 Affiliates of TOP, including Visiting and Honorary appointments, must adhere to ownership of IP guidelines in place for TOP's academic staff. This includes the need to disclose pre-existing IP and agreements with parties external to TOP. The rights of IP ownership, including copyright and moral rights, are commensurate with those of TOP employees.

TOP will retain ownership of IP in the circumstances outlined for employees in Section 4.5 above. In addition to these conditions, TOP will also retain ownership of IP if it has been created by an affiliate with use of background IP owned by TOP.

#### **Students' ownership of Intellectual Property**

- 4.10 Students at TOP retain ownership of IP created by them. Also, students have copyright and moral rights for published material arising from their research activities.
- 4.11 Particular circumstances preclude student ownership of IP including:
- material is used for teaching purposes;
  - a staff member has created the material with the student a co-creator;
  - there is a specific agreement in place such as one between TOP and a third party.

In cases where students agree to be involved in research with staff members or affiliates of TOP, students should be made aware of IP ownership conditions and, if

necessary, an agreement should be signed before research begins.

- 4.12 Research Higher Degree students retain both the moral rights and copyright of their thesis. They also have ownership of IP and any publications and commercialisation arising from the thesis unless there is a pre-existing IP arrangement between the candidate and their supervisor(s) and/or a third party. Such arrangements can recognise background IP.

Should such an IP sharing arrangement be agreed to prior to the commencement of higher degree candidature it must be updated at six-monthly intervals when the candidate lodges their six-monthly report. The relative percentages of ownership can be varied depending upon the respective input of IP by the participants. Such IP agreements will be held by Student Administrative Services and a copy placed on the student's file.

IP agreements should only be signed by the candidate after they have received advice from an independent legal expert in IP. TOP will pay the cost of the candidate obtaining such advice.

Should any conflict arise between the candidate and Supervisor or third party as to the percentage ownership of IP then the normal Conflict/Grievance Resolution Policy should be followed in seeking a resolution to the issue.

## 5 RELATED DOCUMENTS

- i. Authorship of and Access to Research Outputs Policy
- ii. Workplace Grievance Policy and Procedure
- iii. Copyright Guidelines
- iv. Code of Conduct for Research

## 6 VERSION CONTROL

Historical Version	Approved by	Approval Date
2016.11	Academic Board	9 November 2016
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