

# INTELLECTUAL PROPERTY POLICY

<b>Policy Link</b>		Nil		
<b>Responsible Officer</b>		Principal		
<b>Superseded Documents</b>		New policy		
<b>Associated Documents</b>		Academic Freedom Policy Ethical Conduct of Research Faculty Code of Conduct Faculty Recruitment Policy Faculty Research Policy Privacy Policy Research Higher Degree Thesis Examination Procedure Staff Employment Handbook Student Code of Conduct		
<b>Review Date</b>		April 2022		
<b>Version</b>	<b>Endorsed By</b>	<b>Authorised By</b>	<b>Approval Date</b>	<b>Effective Date</b>
2.1	Acting Principal	Governing Board	20/06/2019	20/06/2019

## 1. PURPOSE

The purpose of this policy is to deal with matters relating to ownership, creation and development of intellectual property (IP) generated by faculty, staff and students of Moore Theological College (Moore College) and to provide guidance on the requirements and practices of the College with respect to intellectual property.

## 2. BACKGROUND

This policy is developed in the light of course accreditation guidelines as set out by the higher education sector regulatory body.

## 3. SCOPE

This Policy applies across the College.

## 4. DEFINITIONS

Definitions of key terms and acronyms as referred to in this policy.

Term	Definition
College	Means Moore Theological College Council, trading as Moore College or Moore Theological College

Intellectual property (IP)	<p>Means all statutory and other proprietary rights (including rights to require information to be kept confidential) protected by Australian law and international agreements applying to Australia as amended from time to time. These include, but are not limited to:</p> <ol style="list-style-type: none"> <li>1. copyright, as a result of the <i>Copyright Act 1968</i> (Commonwealth), including original literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, radio and television broadcasts, and published editions of works [the <i>Digital Agenda Act 2001</i> aims to make the same rights available to copyright owners of online materials as are available in relation to hard copy];</li> <li>2. patents for inventions granted under the <i>Patents Act 1990</i>;</li> <li>3. designs registered under the <i>Designs Act 1906</i>;</li> <li>4. trade marks registered under the <i>Trade Marks Act 1995</i>, and unregistered trade marks and names used or intended for use in business (which may be protected under common law through the action for passing off, and also under section 52 of the <i>Trade Practices Act 1974</i> [Commonwealth] and State fair trading legislation);</li> <li>5. exhibitions or performances; and</li> <li>6. confidential information, including trade secrets.</li> </ol>
Moore College	Means Moore Theological College Council, trading as Moore College or Moore Theological College
Originator	Means the originator, author or inventor of an item of intellectual property.
Professional purposes	Includes commercial use of a professional service offered by the originator or Moore College.
Staff	Means any employee of Moore College, other than a faculty member.
Student	Means an enrolled student of Moore College.
Teaching materials	<p>Means all materials produced in the course of, or for use in, teaching in any form and all IP in such materials including lectures, lecture notes and material, syllabi, study guides, assessment materials, images, multi-media presentations, web content and software.</p> <p>These materials may be produced by a member of faculty or staff in pursuance of the terms of his or her employment with the College (but regardless of whether this occurs under a specific direction to do so) as an aid or a tool for instruction in the course.</p>

## 5. POLICY STATEMENT

### 5.1 Principles

The principles that govern the operation of this policy are that:

1. Moore College seeks to encourage quality learning and teaching. We are committed both to teaching informed by scholarship and to the scholarship of learning and teaching itself.
2. Moore College believes that knowledge and understanding developed in the College context should be made available, where possible, so that others may benefit and the gospel mission advanced throughout the world.

3. Moore College respects and seeks to protect the moral rights of originators of intellectual property.
4. Moore College seeks also to protect its own right to the use of intellectual property produced by faculty and staff in the course of their employment and for use in the normal business of the College (e.g., course materials).
5. Moore College recognizes the right of originators of intellectual property to participate in the commercialization of intellectual property they have created.

## **5.2 Background Considerations**

### *5.2.1 Ownership of intellectual property*

Ownership of intellectual property generally entails:

1. exclusive rights to use the IP, including the right to publish, copy or adapt the material;
2. the right to sell, transfer, donate, grant licences or permissions to use the IP, or use the IP as security for loans;
3. entitlement to registration, where applicable;
4. standing to seek protection of exclusive IP rights before a court of law;
5. the exclusive right to control and direct development and commercialisation of the IP; and
6. liabilities of any kind associated with the ownership of IP.

### *5.2.2 Factors considered in the College's decisions about intellectual property*

1. IP created in the course of employment for the purposes of teaching and administration of the College;
2. substantial use of Moore College resources and/or services in the creation of the IP;
3. use of pre-existing IP of Moore College;
4. management of IP in the best interests of faculty, staff, and/or students who generated it; and
5. use of Moore College funds or funding obtained by Moore College in the creation of the IP.

### *5.2.3 Factors involved in determining intellectual property created by faculty*

1. Those at 5.2.2 and
2. The College has an expectation that faculty will not only be involved in teaching, pastoring and administration but also in research and the development of their own scholarly expertise;
3. the creation of intellectual property has a key role both in the work for which faculty are employed by the College and in their own scholarly development;
4. the distinction between what is developed for teaching purposes and other College projects, on the one hand, and what is developed in the pursuit of scholarly development and research, on the other, though this distinction is not hard and fast;
5. some IP may in fact be produced by a team of faculty, staff and students; and
6. the rights of both the faculty as the originators of intellectual property and the College as the entity for whom the intellectual property was developed need to be protected.

### 5.3 Moore College Ownership of Intellectual Property

1. Except as otherwise agreed in writing by the Principal, Moore College asserts rights to the ownership of IP created by faculty and staff in the course of their employment and for use in the normal business of the College.
2. Except as otherwise agreed in writing by the Principal, Moore College asserts rights to the ownership of IP where work is specifically commissioned by the College.
3. Moore College does not assert ownership of IP in a faculty member's research, even where that research is undertaken during paid study leave granted by the College.
4. Moore College does not assert ownership of IP in published works such as books, journal articles and blogposts generated by faculty, staff, or students except that covered under 5.3.2 above.
5. Moore College does not assert ownership over intellectual property (including teaching materials) created prior to the originator's employment with Moore College or after ceasing to be employed by Moore College.
6. Moore College may consider conceding ownership of IP in work created by faculty and staff in the course of their employment and for use in the normal business of the College, and in work specifically commissioned by the College, in return for a licence to use those works for teaching purposes.
7. Faculty and staff must not use or disclose any confidential information acquired in the course of their employment, except with the consent of Moore College. Faculty and staff may also have an obligation to confidentiality towards a third party in relation to information supplied to them in connection with research or administration.
8. The Principal will report to the Governing Board when agreeing in writing to waive Moore College's rights to the ownership of IP created by faculty and staff in the course of their employment and for use in the normal business of the College, and to the ownership of IP where work is specifically commissioned by the College.

### 5.4 Teaching Materials

1. Moore College asserts rights to the IP associated with teaching materials, including flexible learning materials that are produced by faculty or staff in the course of their employment and for use in the normal business of the College.
2. The originator of teaching materials has a non-exclusive, free licence to use such materials for publication and other purposes insofar as such purposes do not prevent or compromise the use of the material within the teaching and academic programs of the College. This licence is non-transferable, but faculty members and staff may allow their work to be used by others for non-commercial purposes without seeking the College's permission. If a publisher requires assignment of copyright, the College will grant this in return for a licence to use the material for teaching purposes.

3. Where there is an overlap between teaching material and a faculty or staff member's own original research, the material is treated as research for the purposes of this policy.
4. Furthermore, upon a member of the faculty or staff leaving the employ of Moore College, the College will consider relinquishing its rights in respect of teaching materials created by the faculty or staff member in exchange for a non-exclusive license to use those works for teaching and research purposes for a fixed period.
5. Moore College will not, without the written agreement of the originator, seek publication of IP or use it for purposes other than the College's teaching purposes.
6. Although Moore College receives fees from students, the use of teaching material by Moore College does not constitute commercialisation of intellectual property under the terms of this Policy.
7. Sermons, talks, and other non-research materials produced by faculty members are treated in the same way as teaching materials for the purposes of this Policy.

### **5.5 Intellectual Property Created by Students**

1. Moore College acknowledges that a student who is not an employee of Moore College owns the intellectual property that he/she has developed in the course of his/her studies at Moore College.
2. Students hold the copyright on any thesis and other forms of work they have completed for assessment.
3. Moore College may require a student to assign intellectual property rights to the College only in situations where
  - a. there is a significant contribution to the development of that intellectual property by a faculty or staff member;
  - b. where Moore College has existing ownership of related intellectual property that is necessary for the production of the student's work.

### **5.6 Obligations to Third Parties**

1. Where Moore College has contracted with another party to undertake a research project or other activity which may lead to the creation of intellectual property, and where the agreement between Moore College and that party deals with the ownership of intellectual property, ownership of intellectual property will be governed by that agreement.
2. Moore College will seek to ensure that, as far as practicable, the terms of agreements with third parties are consistent with the principles set out in this policy.
3. If faculty of Moore College are seconded to another party to undertake a research project or other activity which may lead to the creation of intellectual property, the secondment will require an agreement between Moore College and that party prior to the approval of the secondment by Moore College.

## **5.7 Intellectual Property Officer**

1. There will be an Intellectual Property Officer, who is a person appointed by the Principal to provide advice on intellectual property matters and to take responsibility for decisions regarding the commercialisation of intellectual property created by faculty, staff or students of Moore College.
2. The Intellectual Property Officer will maintain all records of decisions and agreements required under the terms of this policy.

## **5.8 Moral rights**

1. Moore College will take reasonable steps to ensure the moral rights of the originator.
2. Moore College will take reasonable steps to ensure that when it uses intellectual property created by an originator it consults with the originator before modifying or adapting that material, except in the case of teaching materials.

## **5.9 Disputes**

Disputes arising under this policy will be dealt with variously according to Section 5.4 of this policy, or the various dispute resolution mechanisms of the College such as the Faculty and Staff Grievance Resolution Policy, the Academic Grievance Appeals Policy or the Non-Academic Grievance Policy. Disputes that cannot be resolved internally will be dealt with by the External Dispute Resolution Officer.

## **5.10 Communication**

This policy will be communicated through the Moore College Policy Library on the College website.

## **6. LEGAL AND POLICY FRAMEWORK**

Legislation associated with this policy includes:

*Copyright Act 1968*

*Copyright Amendment (Moral Rights) Act 2000*

*Designs Act 2003*

*Digital Agenda Act 2001*

*Patents Act 1990*

*Trade Marks Act 1995*

## **7. IMPLEMENTATION**

Responsibility for implementation lies with the Intellectual Property Officer.

## 8. ACKNOWLEDGEMENTS

Australian Vice-Chancellors' Committee. *Ownership of Intellectual Property in Universities: Policy and Good Practice Guide* (Canberra, ACT: AVCC, 2002).

University of New South Wales. *Intellectual Property (IP) Policy*. Version 2.2. 2010/02686. 6 March 2013.

University of Sydney. *University of Sydney (Intellectual Property) Rule 2002 (as amended)*. 4 May 2009. Effective 11 June 2010.

University of Technology Sydney. *Intellectual Property Policy*. Version 4. COU/09-3/55. 17 June 2009.

## 9. REVIEW AND HISTORY

Version	Approved By	Approval Date	Effective Date	Sections modified
1.0	Governing Board	2014	2014	New policy
2.0	Governing Board	21/03/2019	21/03/2019	1. Reformatted and fully updated. 2. Governing Board addition at 5.3.8 (GB Minutes 21/03/2019)
2.1	Governing Board	20/06/2019	20/06/2019	Amendments: 1. In 5.4.2 replace "members" with "and staff" 2. In 5.4.3 and twice in 5.4.4 add "or staff" after "faculty"