

POLICY GROUP: NC900 – Applied Research

POLICY TITLE: Ownership of Intellectual Property

A. Background and Definitions

Niagara College is committed to providing an environment conducive to the pursuit of scholarship, applied research and creative activity for its employees and students. The results of such pursuits may lead to the development of intellectual property (IP) that may have commercial value.

Applied Research Office (ARO): refers to the research administration office of the College or equivalent (Research and Innovation Division)

Applied Research Services Agreement: An agreement between the College and a TPE whereby the College agrees to provide applied research services to the TPE.

Arising IP: IP that is developed by one or more parties in the course of applied research activities which did not previously exist. It is also referred to as “foreground IP”.

Commercialization: The process of taking an invention or scientific discovery (e.g. new technology, new or improved manufacturing process) or other IP to one or more commercial markets.

Commercialization Pathways: The various methods by which IP may be commercialized. A list of commercialization pathways can be found on the College’s website.

Creator: Any Niagara College employee, or student who creates IP at the College.

Invention: A tangible or intangible concept, system, device, process, machine, scientific discovery, work, or creation which is unique and original, as well as any related IP. Inventions can be issued a patent under the *Patent Act (Canada)*.

Intellectual Property (IP): Any form of knowledge of expression created by one’s intellect that can be legally protected, including technical information, inventions, models, drawings, photographs, specifications, prototypes, computer software, curriculum and teaching materials, and other creations that can be protected under patent, copyright, trademark, integrated

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circuit topography, plant-breeders rights, and industrial design laws. For the purposes of this policy, confidential information having a commercial value is to be considered IP.

Literary Work: Work consisting of, but not limited to; text, such as books, pamphlets, or computer programs.

Patent: In Canada, patent is a right granted by the federal government to the inventor (or person to whom the investor has assigned their rights) to stop others from making, using and/or selling an invention from the day the patent is granted to a maximum of 20 years after the day on which the patent application is filed.

Public Disclosure: The communication of information relating to IP to external parties, including students who are not presently contractors or employees of the College. Public disclosure includes, but it not limited to, disclosure in written or oral form; communication by email; posting on a web blog or social media platform; disclosure in a news report, press release or interview; publication in a journal, abstract, poster or report; presentation at a conference; demonstration of an invention at a trade show; or the industrial application of an invention.

Third Party Entities (TPEs): An industry or community partner with which the College has contracted to provide applied research services that could result in arising IP.

B. Purpose

This policy, taken together with the Commercialization policy, governs the ownership and procedures for the protection of IP, and identifies the rights and responsibilities of various stakeholders.

C. Policy Statements

1. This policy is in keeping with the IP provisions within the collective agreements. However, if any part of this policy conflicts with a collective agreement, the provisions of the collective agreement will prevail.

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2. If any part of this policy conflicts with a signed agreement between the College and a creator of IP, or between the College and a third party, the provisions of the signed agreement will prevail.

Intellectual Property Developed by Employees

3. Ownership of IP developed by Niagara College employees within the scope of their employment, or staff employed by a researcher on funds administered by the College, rests with the College, unless a specific agreement is made to the contrary.
4. When IP is developed on the employee's own initiative, outside of the scope of their college responsibilities, and without any reliance on college support or resources, the IP resides with the individual. Where the IP bears a reasonable relationship to the individual's employment responsibilities at the College, it will be the employee's responsibility to illustrate that the IP was developed entirely on their own initiative, without use of college resources.

Intellectual Property Developed by Students

5. Ownership of IP developed by an unpaid student remains with the student. This does not apply if the student develops the IP as part of their employment on an applied research project. If the unpaid student has utilized College property or facilities to develop a marketable product, the student is required to grant the College a royalty-free licence to use such IP for internal uses.

Intellectual Property by Third Party Agreements

6. Ownership of arising IP resulting from projects involving third parties is specified in the signed applied research services agreement between the College and the third party. Creators may be asked to sign a waiver, as assignment of rights, or any other document relating to ownership and protection of the arising IP.
7. In case of discrepancy between this policy and the terms of an applied research services agreement, the terms of the agreement shall prevail.

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Proceeding

8. All arising IP is to be disclosed by the creator to the College in a timely manner. Creators must also disclose to the College, any financial and/or other relationship that may affect the protection of such IP.
9. If the College chooses not to pursue a patent, licence, copyright, or other IP protection, the College may enter into an agreement with the creator of the IP under which the employee or student, may apply for IP protection. The College may elect to transfer IP ownership to a third party for appropriate compensation.
10. An agreement with the creator will specify the rights of the College and the creator, related to the IP ownership, term of ownership, royalties and fees, and the responsibilities of each party to protect the IP.
11. Occasionally, IP that belongs to an employee or client is made available to the College during the course of an applied research project or other activity. In these cases, the employee or client’s IP is returned at the conclusion of the project.
12. College research projects that develop “tools and techniques” during the course of the project for a specific client, are to be regarded as building blocks or components of the project. Such tools and techniques are the property of the College and may be used by the College in other projects for other clients.
13. Any dispute arising under this policy will be submitted in writing to the Vice President, Research and External Relations. The Vice President may elect to form a working group to research the dispute and recommend a resolution to the Vice President. The decision of the Vice President is binding on all parties and there is no further right to appeal.

D. Related Documents

Policy: NC900 Commercialization

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E. Document History

Date	Approval/Review/Key Change(s)
January 21, 2004	New
November 22, 2004	General updates
December 12, 2022	Updated content to align with new Commercialization policy Reclassification of policy from category 600 to 900 and change of Executive Responsibility