

GEORGIAN COLLEGE OF APPLIED ARTS AND TECHNOLOGY

Academic

Procedure # 1-130

Effective Date: September 25, 2009

INTELLECTUAL PROPERTY

PURPOSE: This procedure is to outline Georgian College's position on the creation and development of works of intellectual property (IP) within the College, the ownership of intellectual property within those works, and academic recognition and revenue sharing of proceeds from commercialized intellectual property created and developed within the College.

SCOPE: All students, faculty and employees, full time or part time and any external creators of intellectual property who develop material on behalf of the College and who are not covered by other agreements.

RATIONALE: Georgian College strives to encourage, promote and foster innovation, the sharing of ideas and the creation of knowledge in activities engaged in by its faculty, employees, students and external associates.

RESPONSIBILITY: Responsibility for this procedure lies with the Vice President, Academic.

DEFINITION: Intellectual Property includes all of the interests and rights to copyrights (whether or not registered); trade names and trademarks; patents and pending applications for patents (whether Canadian or foreign issue); rights of publicity; franchises and all technology rights and licenses, including computer software and all proprietary know-how, trade secrets, inventions, discoveries, developments, research and formulae, whether or not patentable; and all other proprietary information or property relating to works created at the College, and any modifications related to the above.

**GENERAL
PRINCIPALS:**

Copyright:

Copyright is the legal protection of literary, dramatic, artistic, and musical works, sound recordings, performances, and communications signals. Copyright gives creators the exclusive right to use and reproduce their works. It is an infringement to do anything that only the copyright owner has the right to do, unless the owner's permission is given. The "fair dealing" clause in the Copyright Act allows an individual to make a copy of a work without the permission of the copyright owner for the purposes of private study, research, and criticism, review or news reporting. Within the interpretation of the Copyright Act, if a work is created in the course of employment, the employer holds the copyright, except where an agreement to the contrary exists.

Ownership:

Georgian College values the sharing of ideas, scholarly activity and the creation of knowledge. Examples of works created by faculty include, but are not limited to, course material such as lecture notes, lesson plans, and laboratory manuals; works such as learning objects, publications, photographs, and original presentations. Georgian College believes that creators should retain ownership of IP rights in the course of teaching and research activities. Two situations are exempt:

- i. **Assigned Tasks:** Works created or modified by College employees as assigned tasks in the course of their normal employment, and which are intended to assist in the operation, administration and/or management of the College's business. Copyright for such materials is vested with the College.
- ii. **Sponsored or Contract Research Activities:** The IP developed in works created under a sponsored agreement or contract will be owned as per the agreement or contract, and may supersede this policy.

Contributions:

All contributors (contributions could include ideas, expression, form, design, computer code, criticism, financial support) to *scholarly* works should receive appropriate recognition for their contributions as either a creator, or through an acknowledgement or citation. The College, because of its capacity as host, facilitator and supporter of scholarly works should be recognized for its contribution.

Moral Rights:

The College will respect the moral rights of creators of works whether the College owns the IP rights, or not. The creator or author of a work has the right to request, where reasonable, to be given

recognition of the work 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. The creator's moral right to the integrity of the work is infringed only if the work is distorted, mutilated or otherwise modified or mutilated, or used in association with a product, service, cause or institution. College staff and students are expected to respect the College's Copyright Procedure # 2-104.

Conflict of Interest: Conflict of interest exists when students are required to purchase teaching materials in which the instructor has a commercial interest. If the copyright is held by a publisher at arm's length, the instructor(s) must declare a conflict of interest to the appropriate department Coordinator. If the copyright is not held at arm's length, the material will be sold at cost. The adoption of employee-owned works in College course materials will be made only with the prior approval of the appropriate Dean. See Georgian's Conflict of Interest Procedure #4-126.

Significant College Resources It is the expectation of the College that personal work and creations by employees should not use significant College resources in the creation of their property.

The use of offices, staff-assigned computers and software, Centre for Teaching and Learning resources and library resources are generally not considered significant. The use of teaching labs and equipment are generally considered significant. The guiding factor in both cases is the amount of each resource required, and agreement must be made between the College and its faculty and/or staff prior to development of IP.

Academic Recognition and Revenue Agreements

In situations where academic recognition and / or revenue sharing of proceeds from commercialized intellectual property are appropriate under this procedure, an Academic Recognition and Revenue Agreement shall be prepared to the mutual satisfaction of the parties.

GEORGIAN COLLEGE OF APPLIED ARTS AND TECHNOLOGY

Academic

Prepared By: Linda Love, Vice President Academic

Recommended By: Academic Council June 1, 2009

Approved By: Brian Tamblyn September 25, 2009
College President