

## Intellectual Property Policy - Box Hill Institute

### Purpose

This policy is designed to establish clear rules governing intellectual property at Box Hill Institute (BHI) entities to promote:

1. The security, currency and growth of the intellectual property owned by a BHI entity.
2. A climate of research, invention, innovation and commercial development at the Institute.
3. Mutually beneficial commercial partnerships in the development of intellectual property between entities and individuals or external bodies.
4. Compliance by employees, learners, and independent contractors with the intellectual property rights of others, and compliance with intellectual property laws and related agreements.

### Scope

This policy applies to all BHI operations, and to all learners, employees, and independent contractors.

### Policy Statement

A BHI entity will own intellectual property as follows, and may reproduce, adapt or otherwise use this material for administrative, commercial or educational purposes:

- intellectual property that results from the efforts of employees or independent contractors pursuant to the terms of their employment or engagement at the Institute or while undertaking professional development paid for by the Institute.
- intellectual property generated by employees or independent contractors through substantial use of the Institute's resources and/or services. This includes teaching and learning materials.

The following are exceptions to the above:

- when an alternative agreement has been negotiated between the entity and an employee or independent contractor, ownership of the resulting intellectual property will be governed by that agreement.
- when an employee (not an independent contractor) whose role entails the production of scholarly work, (not being teaching or learning materials or non-scholarly work), the entity:
  - assigns the copyright ownership of that work to that person.
  - reserves the right to reproduce or disseminate that work for the entities teaching or research purposes on a royalty-free basis.
  - encourages the employee to make public and publish that work except when the employees know that the work directly relates to intellectual property that the entity is currently developing (or potential intellectual property that the entity could have an interest in developing). In this instance, when publishing or making public that work could reasonably be seen to affect the potential commercial benefit to the Institute of intellectual property being developed (or potentially developed), then written permission from the relevant General Manager or Executive Director is needed before that work is made public or published.
- Where short course tutors are employed on a time limited contract to produce resources for a short course their contract will specify an amount of payment for preparation of materials. The copyright of those materials will become the property of BHI by written assignment.

Ordinarily, learners at the entity with which the student is enrolled own the intellectual property in works created in the general course of their studies. This could include essays, paintings, or other original works. However, when the generation of the intellectual property created by a learner has involved substantial additional use of the entity's resources and/or services (above those normally provided to learners in the course of their studies) the entity owns the intellectual property. Where learners wish to vary this arrangement, they can negotiate an alternative arrangement with the entity. This should be done prior to the development of the intellectual property in question. Staff should get permission from the learners if they want to copy, reproduce, communicate or transmit the learner's works for purposes unrelated to their learning and assessment.

**Compliance with Intellectual Property Laws and Related Agreements**

Employees and independent contractors will respect the lawful rights of intellectual property owners, including owners other than the Institute, in their use of intellectual property in the course of their employment, and will comply with requirements imposed by law or agreement.

When putting print and graphic material on line under the Institute’s CAL (Copyright Agency Limited) licence (such as articles, chapters of books and photos), staff must only do so using the Institute’s approved online platforms as identified in the Institute’s Copyright Guides on the Institute Intranet and Quality System.

**Code of Conduct**

All employees are expected to conduct themselves in a manner consistent with the Box Hill Institute Code of Conduct for Employees.

**Definitions**

**Copyright materials** mean “works” in copyright which include:

- Text (literary) works- books, journal articles, song lyrics, film scripts, reports
- Other kinds of related works including computer programs, compilations/data bases
- Artistic (visual) works- paintings, drawings, photos, maps and plans and “subject matter” which is copyright including audio visual material
- cinematographic films including the images and sounds
- sound recordings
- broadcasts- TV and radio
- published editions, which have their own copyright protection separate from the content

**Intellectual property** means any property right arising from legislation, common law or a contract. Key types are:

- Copyright-limitations in copying and communicating text works, music and scores, images, audiovisual materials and some performances (Copyright Act 1968 Cth.) and Copyright Act (Cap 63) Singapore 2006
- Patents under the Patents Act 1990 and analogous Singapore legislation
- Trademarks registered under the Trade Marks Act 1995 and unregistered trademarks used or intended for use in business and analogous Singapore legislation
- Designs registered under the Designs Act 1906 and analogous Singapore legislation
- New plant varieties under the Plant Varieties Act 1987 and analogous Singapore legislation
- Circuit layouts under the Circuit Layout Act 1989 and analogous Singapore legislation
- Trade Secrets and other Confidential Information under contract or as part of employment

**Research** is defined as an original investigation to gain knowledge, understanding and insight. It involves creative work and artistic endeavors undertaken systematically in order to increase the stock of knowledge, including knowledge of humans, culture and society, and the use of this stock of knowledge to devise new applications. Research is characterised by originality and includes creative activity and performance. It has investigation as a primary objective, the outcome of which is new knowledge, with or without a specific practical application, or new or improved materials, products, devices, processes or services. Research ends when work is no longer primarily investigative.

	<p><b>Scholarly work</b> is work relating to scholarship where scholarship is the creation, development and maintenance of the intellectual infrastructure of subjects and disciplines in educational institutions. This can include scholarly books, scholarly articles, scholarly editions, scholarly conference papers, scholarly dictionaries and contributions to major research databases. This does not include teaching materials that do not embody original research.</p> <p><b>Moral Rights</b> of individual creators in copyright works they have created. These rights are different from the “economic rights” of the copyright owner, i.e. right to copy or communicate works to the public. Moral rights protect the creator’s right to be acknowledged as creator and protect their reputation by maintaining the integrity of the work.</p> <p><b>Educational purposes</b> - intellectual property shall be taken to have been reproduced, adapted or otherwise utilised for the educational purposes of the Institute if it:</p> <ul style="list-style-type: none"> <li>• is reproduced or otherwise utilised in connection with a particular course of instruction provided to enrolled learners of the Institute.</li> <li>• is reproduced or otherwise utilised for inclusion in the collection of the Institute library or any other resource repository at the Institute</li> <li>• is provided to learners of the Institute, or learners at another Institute, on a cost recovery basis.</li> </ul> <p><b>Commercialisation</b> is distinguished from <i>educational purposes</i> and means to publish, sell, hire, licence or otherwise dispose of or deal with any product, or service, based on or incorporating third party intellectual property, where such provision is above cost price. This excludes the at-cost provision of materials to enrolled learners of the Institute.</p> <p><b>Net Revenues</b> means revenues after deducting all costs associated with the development, protection, marketing and administration of the relevant intellectual property.</p> <p><b>Verso page</b> is the page opposite to, or the overleaf of, the title page. To meet copyright requirements it must contain</p> <ul style="list-style-type: none"> <li>• The universal copyright symbol ©</li> <li>• description of the rights asserted</li> <li>• the name of the Institute</li> <li>• the year of publication</li> </ul>
<p><b>Related Procedures</b></p>	<p>The following procedures are linked below: Intellectual Property Procedure Copyright Procedure</p>
<p><b>Related Operating Guidelines</b></p>	<p>NIL</p>
<p><b>Related Forms</b></p>	<p>See linked forms below.</p>
<p><b>Related Policy, Legislation and Regulation</b></p>	<p>The following acts with their accompanying Regulations: Copyright Act 1968 (Cth.) Patents Act 1990 (Cth.) Trade Marks Act 1995 (Cth.) Plant Breeder's Rights Act 1994 (Cth)</p>

	<p>Designs Act 2003 (Cth.)          Circuit Layouts Act 1989 (Cth.)          Trade Practices Act 1974 (Cth.)          Copyright Act (Cap. 63)Sing.          Trade Marks Act (Cap 332) Sing.          Patents Act (Cap 221) Sing.          Registered Designs Act (Cap 266) Sing.</p>
<b>Records</b>	Records will be maintained in accordance with the requirements of Box Hill Institute's Records Management Policy and Procedures.
<b>Review</b>	This policy and any associated procedures must be reviewed no later than five (5) years from the date of approval. The policy and associated procedures will remain in force until such time as they have been reviewed and re- approved or rescinded. The policy and procedures may be rescinded or amended as part of continuous improvement prior to the scheduled review date.
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<b>Amendment</b>	10 May 2019 by Academic Quality Assurance Officer – Minor Administrative changes to remove reference to 'BHIG' and 'CAE'

#### Associated Files

1. PROLR07A Intellectual Property Procedure – BHI
2. PROLR07B Copyright Procedure – BHI