



# Procedure: Student intellectual property

## Purpose

To provide a procedure to outline the rights and responsibilities of Students with respect to the creation of intellectual property (IP).

## Procedure

1. This Procedure is to be read in conjunction with the Intellectual Property Policy, and the IP Protection and Commercialisation Procedure. The priority of documents is:
  - a. Intellectual Property Policy;
  - b. IP Protection and Commercialisation Procedure;
  - c. this Procedure.

## Student ownership and assignment

2. Provisions relating to ownership of student intellectual property are contained in the Intellectual Property Policy. The default position is that a student owns their intellectual property.
3. Where a student wishes to participate, or continue to participate, in any activity which is the subject of an agreement or activity involving the University and a third party (for example through an internship or externally funded scholarship or research activity), or is the subject of IP protection by the University, the University may require the student to consent to any of the following as needed:
  - a. an assignment of IP to the University or a third party, excluding copyright in the student's thesis or other form of assessment;
  - b. a warranty that the student will not breach obligations of confidence or IP rights;
  - c. a declaration of consent to specified acts in respect of their moral rights in relation to certain works;
  - d. a right for the University or third parties to use or disclose confidential information that the student has the right to use or disclose.
4. To meet any requirements under clause 3 the student and the University must enter into a written agreement. Students must enter such an agreement freely and with consent. Students will be given a reasonable period (not less than thirty (30) days) to review and

return all documentation duly signed. Failing such agreement it may not be possible for the student to continue involvement in such activity.

5. University staff cannot provide specific advice to students as to their rights, obligations, or whether they should enter into agreements. University staff discussing with students should:

- a. Draw their attention to this procedure; and
- b. Recommend that the student seek independent advice, for example legal assistance from PARSA/ANUSA;

6. If a student decides not to participate (or continue to participate) in a project which is the subject of an agreement between the University and a third party, the University must use best endeavours to ensure that alternative project and supervision options are pursued so far as possible, to ensure the student is not academically disadvantaged by their decision not to participate in the project.

### **Rights and responsibilities of ANU staff and students**

7. Due to the devolved nature of administration at ANU, colleges and schools are responsible for implementing local processes for handling student IP matters, to ensure appropriate University staff are engaged in this procedure (e.g. HDR administration, Research Office, school administration, Technology Transfer Office).

8. Supervisors are responsible for identifying instances where a student will be working on a project that may be subject to IP or confidentiality agreements. The supervisor must then discuss the implications with the appropriate administrative staff in their local area as per clause 7 (e.g. HDR administration, Research Office, Technology Transfer Office), before the student begins work on the project.

9. It is the student's responsibility to seek independent advice on any agreement they are asked to enter into.

### **Background intellectual property**

10. It is the responsibility of the student to declare any background intellectual property they wish to use in any project or activity prior to the commencement of that activity.

11. The student must not use background intellectual property owned by themselves or third parties, in work related to their research, until there is a written agreement in place regarding the student's rights in respect of that background intellectual property.

### **Theses and assessments**

12. Nothing in the Intellectual Property Policy or Procedures shall restrict the right of a student to have their thesis or other form of assessment submitted for examination.

13. Under clause 4(c) of the *External Project funding and agreements* policy, the University will not accept an agreement with a third party where that agreement would limit the ability of a student to meet examination requirements of the University. For avoidance of doubt, this includes:

- a. any term purporting to allow external control or veto over the content of the thesis or other form of assessment, and
- b. any term allowing an external party to delay submission of the thesis or other form of assessment while protection of IP is sought.

14. Where intellectual property of a third party is contained in material submitted for examination, the University may reach agreement with that third party to require an examiner to keep the intellectual property confidential and/or to have the confidential material in an annex to the thesis that can be withheld from general access for a period after the award of the degree.

### **Indigenous cultural and intellectual property rights**

15. The University recognises and protects indigenous cultural and intellectual property rights, defined at clause 11 of the Intellectual Property Policy.

16. Students working with indigenous peoples or property need to be cognisant of the ethical requirements of doing so, and in particular, should take proactive steps to mitigate the risk of using indigenous cultural and intellectual property in a publication, thesis or assessment, without explicit written consent from those with the authority to give it.

## Document information

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