

Policy Title:	<b>Intellectual Property Policy</b>
Policy Number:	<b>1500</b>

## 1. Purpose

University of Niagara Falls Canada (UNF) believes that efforts to increase and to communicate knowledge are at the heart of academic endeavours. Often these endeavours will result in the creation of Intellectual Property (IP) which may be of benefit to society.

The goal of this policy is to establish the framework for encouraging the creation of IP, and to facilitate the development and commercialization of IP, while safeguarding the traditions of academic freedom and interest(s) of the University, its faculty, staff and students.

## 2. Scope

UNF defines IP as any form of original knowledge or expression created in part or in whole with one's intellect and may include – but is not limited to – technical information, know-how, copyrights, models, patterns, drawings, specifications, prototypes, or inventions.

The Intellectual Property Policy applies to all University personnel and students who make or develop IP.

It also applies, with necessary changes, to external contractors if the terms of their contracts with the University do not specify ownership of any IP produced under the terms of the contract.

This policy does not apply to IP created by independent effort during demonstrably private research or during private consulting activities to external organizations/businesses when such activities do not involve any substantial use of university infrastructure or support and/or where these activities have been approved by the University.

## 3. Intellectual Property Ownership

Except as stipulated below, it is University policy that ownership of the IP created in the course of teaching, research and academic activities belong to the creator(s). The exceptions to this are as follows:

- The University will have ownership of all IP created by non-academic personnel.
- The University will negotiate a contract that specifies the terms of ownership of IP resulting from initiatives that are specifically commissioned by the University that is outside of the scope of the assigned duties of non-academic personnel.
- The University will retain ownership of IP resulting from projects specifically commissioned by the University.
- In sponsored or contract research activities, ownership of IP rights may be determined in whole or in part by the regulations of the sponsor or the terms of the contract. The University must be aware of any such regulations or contract terms by the principle investigator before University

Personnel is able to participate in these activities.

- When a University personnel dies, the estate will retain all rights, responsibilities and obligations under this policy, unless the estate transfer the rights, responsibilities and obligations to the University or another party.

IP created by a Student in the course of study at the University (including theses, dissertations and other scholarly works) will be owned by the student.

IP emanating from a student's research project shall be owned by the Institution in the following circumstances:

- if the IP is created by making substantial use of the Institution's resources (excluding supervision) and there is no reimbursement agreement concluded between the Institution and the Student; or
- if the Research carried out by the Student forms part of the Institution's Research Projects.

An external party that grants a bursary or scholarship to a Student may elect to own the IP created by that Student during his/her study at the University provided the Student and the Institution have consented to the assignment of IP ownership in writing and such consent is not contrary to any applicable local or national law(s).

The University will own the IP for Course Material(s) created by academic or non-academic personnel, with the exclusion of Course Material(s) created from or for Open Educational Resources.

The University grants the Creators of Course Materials a royalty-free, non-exclusive license to use the Course Materials created by them for teaching and Research purposes at the Institution.

#### **4. Intellectual Property Licensing**

To the extent that ownership of IP governed by these policies is vested in University personnel, such IP is subject to a perpetual, non-exclusive, royalty-free, irrevocable license in favor of the University for teaching, research and academic purposes.

Such licenses are subject to the exceptions and limitations covered in these policies, including the right of the creator, in certain circumstances, to require discontinuance after a period of five years.

Owners of IP rights in scholarly works created during teaching and research activities grant the University a non-exclusive, royalty-free, irrevocable license to copy and/or use such works in other teaching and research activities but excluding licensing and distribution to persons or organizations outside the University community. Any such licensing and/or distribution activity would be authorized only by an additional license from the owner(s).

#### **5. Intellectual Property Responsibilities**

Creators shall keep appropriate records of their Research in accordance with UNF's applicable procedures.

## POLICY

Individual researchers have an obligation to ensure that their work is published or publicly disseminated in an appropriate manner.

All members of a research team must ensure that appropriate credit is given for the contributions of all individuals that contributed to the work.

Those individuals who have made a significant intellectual or scholarly contribution to the work being reported, and without whose contribution the work would not be complete must receive appropriate recognition for their contributions.

Recognition may include recognition as a creator, recognition through citation or an acknowledgement.

No decision concerning the publication of licensing may be made without the unanimous agreement of all creators.

University personnel shall acknowledge for the support provided by the University when reporting their scholarly work.

In recognition of the support provided by UNF in the creation of any commercially successful IP, creators of IP are encouraged to recognize the University's support through a financial contribution to a student scholarship or bursary fund at the institution.

University students and staff are expected to respect all third-party intellectual property rights.

Any use of the University's name or any University-owned mark in connection with any product, service, research project or work, apart from indication of the institutional affiliation(s) of the creator(s), requires explicit written consent from the Office of the President.

Collaboration agreements between academic personnel and third-parties (including academic researchers and faculty/personnel at other institutions, agencies and/or companies) must specify, in advance and in writing, how the process by which the rights to any IP arising from the collaboration will be determined.

The determination of rights shall be based on the extent and the nature of the contribution, not on differences in power or rank.

The rights of students involved in research projects, particularly with respect to recognition and the assignment of grades, must be protected.

When UNF facilities and/or funds are involved, the University must be a party to the agreement.

In the event that University Personnel are requested to sign a Non-Disclosure Agreement (NDA) with respect to a collaboration or project in which IP may arise, University Personnel are required to

submit the agreement to the President's Office prior to execution.

## **6. Intellectual Property Copyright Management**

UNF's Copyright Policy states the general principles governing copyright in works created by University personnel.

## **7. Patents**

The general principles regarding Patent rights in inventions created by University personnel are stated in Sections 3-5 of this Policy.

In addition to the provisions of Policy sections 2 and 3, the ownership by University personnel of Patent rights in inventions created by them shall be subject to the following conditions:

- The creator(s) shall grant the university a perpetual, non-exclusive, royalty-free, irrevocable license to make, use, and sell such patented or patentable Inventions solely for the university's teaching (including distance and continuing education), research and academic activities.
- The creator(s) shall keep the university informed about all patent filings in Canada and other countries through annual activity reports or other appropriate means.

## **8. Commercialization**

When creator(s) elect to commercialize their IP, they must advise the President's Office, in writing, and in a timely way of their intentions.

Except when contractual arrangements have been made through informed consent or the University has provided direct support for the development of IP (such as funding, material supplies and equipment, dedicated space, teaching relief time, or staff support), the University assumes no a priori share of revenue, ownership, copyright, or other obligations for the rights to IP developed by members of the University. Reimbursement for direct support costs shall be negotiated between the University and the developers of the IP in accordance with University policy and procedures.

When creator(s) elect to commercialize the IP, they assume responsibility for legally protecting and marketing it, finding a licensee, negotiating a license agreement, and administering that agreement. Any such license agreement must contain full and complete releases and indemnification in favour of the university, with respect to the commercialized intellectual property. Such creator(s) will pay the university 25% of Net Revenues arising from the intellectual property or 10% of Gross Revenue, whichever is greater, on an annual basis.

Creator(s), at their option, may offer the intellectual property to the university for commercialization. The university retains the absolute and sole right to determine if it wishes to accept such intellectual property for commercialization.

The university shall retain 75% of Net Revenue arising from the intellectual property, and the creator(s) shall receive 25%, payable on an annual basis, unless the university and the creator(s)

agree to a fixed percentage of Gross Revenue that is of equal or greater value for the university.

If, the university has accepted the assignment of the intellectual property and if, after a period of two years from the later of the date of such assignment (or if a Patent is involved, the date of issuance of the Patent), the rights to the intellectual property have not been assigned or licensed, they may be, at the creator's request, assigned back to the creator, in return for an agreement by the creator to: (1) reimburse the university for all Development Expenses prior to any distribution of revenues, and (2) pay to the university 25 % of the Net Revenue arising from the intellectual property or 10% of Gross Revenue, whichever is greater, on an annual basis.

To protect the reputation of the University, it must control use of its name, trademarks, service marks and logos. This is particularly true for non-university sponsored commercialization of IP. Under no circumstances may the University be presented, directly or indirectly, as endorsing or warranting a particular product. The use of the University's name, trademark, service marks and/or logo may not be used in commercial advertising, product or product promotions, service research or work (apart from the indication of the institutional affiliation of the creator(s)) without the prior approval of the President's Office.

**9. Dispute Resolution**

The University recognizes that disputes may arise between the University and Academic or non-academic personnel and students with respect to IP and the implementation of this Policy. All parties are encouraged to resolve the concern(s) or dispute in the workplace informally, by discussing it directly with the individual(s) involved and attempting to resolve the matter between them.

If the informal process has not resolved the concern or dispute, the University personnel involved can report the matter formally to their Supervisor, or to Human Resources as per the University's Conflict Resolution Policy.

**10. Definitions**

These definitions apply to terms as they are used in this policy.

Word/Term	Definition
Academic Personnel	Any core, complementary, adjunct or visiting faculty, instructors, teaching assistants, post-doctoral fellows, undergraduate and post-graduate students.
Non-Academic Personnel	Includes full-time and part-time administrative, professional, support staff and any other person(s) paid by or through the University.
Creator	A member of University Personnel who creates Intellectual property.
University	University is defined as University of Niagara Falls Canada.
University Personnel	Includes both Academic and non-academic personnel.