

POLICY

Aurora College (the “College”) will respect the rights to intellectual property created by a creator as part of his/her employment or studies with the College. Aurora College will seek benefit from this intellectual property based on its involvement and support of the research.

PRINCIPLES

Aurora College values creation and innovation and encourages members of the College community to create innovative works and inventions and original publications.

The College recognizes that it plays a unique role in the production of knowledge within the North and Canada as a whole and that it must use this role to contribute, to the extent possible, to the socio-economic benefit of the North and Canada.

SCOPE

This policy applies to intellectual property created by all College members and by independent contractors, unless there is a written agreement approved by the College that provides otherwise.

This policy is subject to applicable federal and territorial laws, the common law, and statutes relating to intellectual property, including the:

- *Copyright Act*
- *Industrial Design Act*
- *Integrated Circuit Topography Act*
- *Patent Act*
- *Plant Breeders’ Rights Act*; and
- *Trade-marks Act*

DEFINITIONS

Copyright: a number of moral and economic rights provided to creators of works as prescribed in the *Copyright Act* (R.S.C., 1985, c.C-42).

Creator: the author or inventor of the intellectual property as characterized by an individual who has made a substantial intellectual, original, or other contribution to the development of a work or invention as defined in intellectual property law principles. The individual must have contributed to the work or invention so as to take public responsibility for its contents in whole or part, and the individual’s contribution must be relatively substantial to the development process of the final work or invention. Creators include but are not limited to the College’s

students, employees and independent contractors. There can be more than one Creator with respect to the development of a work or invention.

Employee: persons employed by the College including full-time, part-time, casual, term and indeterminate employees.

Employee Work: work or Intellectual Property developed by an Employee in, or during the course of employment, or for a College related purpose.

Intellectual Property: all materials, products, inventions, discoveries and the products of research that are capable of protection pursuant to any law of Canada or any other country, such as patent, design, copyright, trademark, and plant breeders' rights, or that may be licensable.

Moral Rights: rights as defined in the *Copyright Act* that a creator maintains over the integrity of a work including the right to:

- i. Assert authorship of the work or require his/her name or pseudonym to be associated with the work;
- ii. Remain anonymous;
- iii. Object to or restrain certain uses of or associations with the work; or
- iv. Object to or restrain any modification of the work which may prejudice the creator's honour or reputation.

Moral rights may be waived in whole or in part, but cannot be assigned to others.

Ownership: legal and beneficial title in and to a work or invention and its related intellectual property rights. The owner generally has the right to restrict the use of the work or invention, to adapt or modify it, to permit others to use it, to commercialize it, and to be associated with it.

Patents: are government grants that give inventors or their assignees exclusive rights to their inventions for a limited period of time in the country that issues the patent. In Canada, the *Patent Act (R.S.C., 1985, c.P-4)* codifies the rights and requirements of a patent holder. Inventors must obtain a patent in each country in which they want protection. Inventors can apply for Canadian and international patents through the Canadian Intellectual Property Office.

Personal Work: work or Intellectual Property developed by an Employee entirely on the Employee's own time, on his or her own initiative, without the use of College assets or support and not developed for an employment or College related purpose.

Public Domain: The status of a work whose intellectual property protection has expired or has been abandoned such that the work then belongs to the public and may be used by anyone without permission or the payment of royalties. These works are said to be in the public domain.

1. General Intellectual Property Rights

- 1.1 The College owns the Intellectual Property created by Creators who have used College facilities, funds or resources on campus and/or off campus, and received College support in creating Intellectual Property. At the request of the College, the Creators will sign an assignment document to formalize the College's ownership of such Intellectual Property.
- 1.2 Where the College owns the Intellectual Property in a work pursuant to Section 1.1 above, the Creator will have a non-exclusive royalty-free licence to use the Intellectual Property for non-commercial purposes without the right to sub-license.
- 1.3 **Students** – Students own the Intellectual Property in works they develop as part of their normal coursework, subject to any employment or other obligations between the student and the College, or any external parties that sponsor or support the student in the development of the intellectual property. The College must seek written permission prior to reproducing any student work (see policy B.18 Copyright).
- 1.4 **Employees** – The College owns the Intellectual Property created by its Employees where those works are created in the course of their assigned duties, such as administrative materials (e.g. course outlines, instructional resources, learning materials, lesson plans) and equipment. The College owns the Intellectual Property created by its Employees who have used College facilities, funds or resources on campus and/or off campus, unless otherwise provided for by a written agreement approved by the College. The College recognizes an Employee's ownership of Intellectual Property created outside the scope of his or her employment with the College, on his or her own initiative, time, and without College support. Where such intellectual property bears a reasonable relationship to the Employee's duties at the College, it is the Employee's responsibility to show that the Intellectual Property was developed entirely on his or her own initiative and time, without College support, and not for an employment related purpose.
 - 1.4.1 In cases where there is a combination, or perceived combination of Personal Work and Employee Work, ownership will be determined on a case by case basis and a commercialization plan may be negotiated and agreed to in writing in advance of use.
- 1.5 If the College owns the Intellectual Property, it may voluntarily assign or transfer its interest in the Intellectual Property to the Creator(s) at the sole discretion of the President of the College.
- 1.6 Owners of Intellectual Property may voluntarily assign or transfer any interest in the Intellectual Property to the College.

2 Agreements Between/Among Creators

- 2.1 Prior to starting a research collaboration, Creators involved in the joint creation of Intellectual Property will be required to develop an intellectual property research plan that outlines how intellectual property matters will be handled. This research plan will be filed with the Aurora Research Institute (ARI). In cases where commercialization is potentially involved, this collaboration must be in the form of a written agreement also to be filed with the ARI.
- 2.2 In cases where the co-Creators include students and supervisees, supervisors have special responsibility to ensure that their student(s) are informed of the relevant policies and considerations and that the resulting arrangements are fair and equitable.
- 2.3 If co-Creators cannot come to a written agreement, the Vice President, Research) will assist them in reaching an agreement before the research is started.
- 2.4 If an agreement cannot be reached by these informal means, the President, with the consent of the co-Creators, will appoint an independent person to act as mediator. Research will not begin until a written agreement is in place.

3 Intellectual Property and Contractual Agreements

- 3.1 The College may commission an Employee or contractor to prepare work under a written agreement on terms acceptable to both parties. Rights to and ownership of the resulting Intellectual Property will be specified in the written agreement.
- 3.2 The College may enter into a contractual agreement with an external organization to conduct applied research and/or development projects. Rights to and ownership of the resulting Intellectual Property will be specified in writing and agreed to by Aurora College, with the approval of the President, and the external organization before the research or development project is started.
- 3.3 The College will not enter into arrangements which restrict its member Creators from communicating the results of scholarly activities, unless otherwise agreed to by the member Creators.

4 Responsibility for Protecting and Commercializing Intellectual Property

- 4.1 As soon as the commercial potential of Intellectual Property becomes apparent, Creators must disclose this potential in writing to the Vice President, Research, who will advise the President immediately.
- 4.2 Upon disclosure, the President, with advice from the Vice President, Research, will work with the Creator to evaluate the potential commercial viability of the Intellectual Property

and to determine the ability and/or desire of the College to pursue commercialization. This section only applies where the College has full or joint ownership in the Intellectual Property.

5 Commercialization and Revenue Sharing

- 5.1 The College has a right to share in the net revenues earned from commercialization of the Intellectual Property developed using College facilities and support, as set out in the *Procedures Relating to the Intellectual Property Policy I.06*.

Circumstances in Which Revenue Sharing Applies

- 5.2 The Creator and the College will share in the net revenues resulting from the commercialization of Intellectual Property when:
- 5.2.1 Funds from the College's special purpose funds, endowments, or specific budget allocations supported the creation of the Intellectual Property; or
 - 5.2.2 The Intellectual Property was created using the specialized research facilities and services of the College, including the College's research laboratories, major capital equipment, and technical facilities and services. Specialized research facilities and services do not include the use of offices and office equipment, limited office services, personal computers, the library, or other services commonly available to all College community members; or
 - 5.2.3 The College actively participated in the commercialization process of Intellectual Property, including the development, financing, manufacture, license, and sale of the Intellectual Property.

Circumstances in Which Revenue Sharing Does Not Apply

- 5.3 The College will not share in the net revenues resulting from the commercialization of Intellectual Property when:
- 5.3.1 The Intellectual Property was created as the result of unsponsored activities and without using the College's specialized research facilities and services; or
 - 5.3.2 The Intellectual Property was created in the course of outside professional or non-College activities; or
 - 5.3.3 The Intellectual Property is placed in the Public Domain; or
 - 5.3.4 The President, on behalf of the College, has made a written prior agreement to forgo revenue sharing.

6 Use of College's Revenues

6.1 Normally, the College's share of revenues from the commercialization of Intellectual Property will be distributed as follows:

- 6.1.1 40 percent to a fund for the enhancement of the College's academic and research programs and resources. The fund will be administered by the President;
- 6.1.2 40 percent to a fund for the School, Program, and/or other unit in which the work was carried out. The funds will be divided between the School, Program and/or units concerned, in a manner determined by them;
- 6.1.3 20 percent to a fund for the development and commercialization of Intellectual Property, including investment in new ventures, and the evaluation, protection, licensing, development, and promotion of properties arising from College-based work. The fund will be administered by the Vice President, Research.

6.2 The College retains the right, if it so chooses, to enter into other arrangements to accommodate unusual cases or creators who want to direct their share of commercial revenues to an agreed use within the College.

7 General

- 7.1 The College must be consulted prior to any use of the College's name, facilities, or resources in any commercial arrangement and may approve or prohibit any such use.
- 7.2 The College will make all reasonable efforts to maintain the confidentiality of any proprietary and/or business information of Creators when discussing intellectual property and commercialization plans with College Employees. Creators will make all reasonable efforts to maintain and not disclose proprietary or business information of the College.
- 7.3 Intellectual Property will be marked and identified according to the provisions of applicable laws, and the Creator(s) will also be identified as appropriate, unless they have waived their moral right to be associated with the work.
- 7.4 References to Aurora College staff members in authority (e.g. President or Vice President, Research) may include a designee acting on her or his behalf.

PROCEDURES, FORMS, AND RULES

The Vice President, Research (or designee) is responsible for managing the supporting procedures, forms, and rules for this policy.

Forms are available on SharePoint and at <http://www.nwtresearch.com>.

RELATE POLICIES

B.17 *Traditional Knowledge*

B.18 *Copyright*

I.03 *Integrity in Research and Scholarship*

RELATED AURORA COLLEGE BYLAWS

None

FACT SHEET**DATES:**

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| 2013-06-11 | New policy issued. Policy and Planning Committee Motion #PP06-2013. Board of Governors Motion #BG13-2013. Implemented July 1, 2013. |
| 2014-12-15 | Policy released with finalized pdf fillable forms. |
| 2018-06-08 | Policy revised. Approved by Public Administrator Ref.#Admin-28-2018. Implemented July 1, 2018. |
| 2021 | Next scheduled review |