

Policy for Managing Intellectual Property at Bishop's University

1. PREAMBLE

Whereas professors, professional librarians, students, research assistants, research professionals/technicians, and postdoctoral fellows engage in teaching, study, research, and creative activities while carrying out the terms of their employment and duties at Bishop's University, Bishop's University hereby adopts the present policy on the management of intellectual property flowing from these activities.

This policy applies to every individual who holds the status of student, research assistant, research professional/technician, or postdoctoral fellow in compliance with Bishop's University regulations. The management of intellectual property flowing from professors' or professional librarians' work complies with the collective agreement signed by the Association of Professors of Bishop's University and Bishop's University.

Students who are registered at a university other than Bishop's and are being supervised by Bishop's University professors who hold the status of adjunct professor at the other university are subject to the policies and regulations of the university at which they are registered.

This policy specifies the application, within the Bishop's University context, of the *Copyright Act*, the *Patent Act*, and other legislation relating to intellectual property, to which all members of the academic community are subject.

General responsibility for disseminating, applying, and reviewing this policy attaches to the Office of the Vice-Principal of Bishop's University.

2. DEFINITIONS

Research assistant

The term research assistant refers to any student who receives a salary for carrying out research for a Bishop's University professor or professional librarian.

Student

Anyone registered at a university.

Inventor

It is understood that an inventor (author, creator) is the individual who has *both* generated an original idea or taken part in its handling during the process of creation *and* been involved in its explicit expression or realization. In cases where a single invention has several inventors, they are called co-inventors (co-authors, co-creators).

Intellectual property

Intellectual property is a concept that links the expression and realization of an idea or of knowledge (in the form, for example, of inventions) to the person who is the inventor of the idea or the knowledge.

Research professional/technician

Any individual who is not a student, who normally holds at least an undergraduate degree, and who receives a salary for carrying out research for a Bishop's University professor or professional librarian.

Postdoctoral fellow

To be granted the status of postdoctoral fellow, an individual must satisfy these conditions: have held a PhD or equivalent research degree and has not been employed as a postdoctoral researcher for more than five years; be accepted by a professor or professional librarian who undertakes to be responsible for him or her and offer him or her a full-time fellowship whose purpose is to permit the acquisition of more specialized or complementary expertise; and show proof of having sufficient financial means for the period of the postdoctoral fellowship.

3. PRINCIPLES**3.1 Intellectual probity**

Intellectual probity has to do with integrity and scientific/scholarly ethics in both teaching and research. Bishop's University considers students, research assistants, research professionals/technicians, and postdoctoral fellows to be responsible for matters of intellectual probity. It therefore expects them to display scientific/scholarly honesty in gathering and analysing research findings; provide the most precise possible account of the origin of their findings and of the concepts they use; recognize the intellectual property rights of the various parties; and respect the rules of ethics when they have recourse to human or animal subjects while conducting research.

3.2 Equity

Students, research assistants, research professionals/technicians, and postdoctoral fellows are considered to be integral members of the academic community. As such, Bishop's University recognizes the moral rights and the inventorship/authorship conferred on them, in the matter of intellectual property, by law and by the various mechanisms that exist for the protection of intellectual property.

3.3 Information and respect for the educational process

When choosing a research supervisor, a student must be informed by the research supervisor of all the conditions surrounding the carrying out of the student's research project, including any research contracts and any agreements not to divulge, or to maintain confidentiality, by which the research supervisor is bound to an outside partner. Anyone supervising a postdoctoral fellowship is under the same obligation to his or her postdoctoral fellow. It is only when apprised of the conditions surrounding his or her research that a student or postdoctoral fellow can choose to give free and informed consent and, where appropriate, undertake in writing to respect commitments made by his or her research supervisor or postdoctoral-research supervisor or refuse to undertake the research project in question. By the same token, the student or postdoctoral fellow has a duty to seek this information.

3.4 Recognition of intellectual contribution

Intellectual contributions by students, research assistants, research professionals/technicians, and postdoctoral fellows must receive recognition. When an intellectual contribution is significant, it confers the right to be designated as author (co-author), creator (co-creator), or inventor (co-inventor) and to any financial benefits associated with any of these designations, as provided for under this policy. If the contribution is deemed to be secondary, recognition may take the form, if appropriate, of mention as a collaborator or of an acknowledgement. In cases where an intellectual contribution has conferred the right to be called the author (co-author) of a work or the creator (co-creator) or inventor (co-inventor) of a research product, the individual is entitled, should the research product receive market-value enhancement by Bishop's University, to a share of the proceeds in proportion to the recognition of his or her intellectual contribution and of his or her participation in the process of market-value enhancement.

3.5 The right to recognition of authorship

Only a student, research assistant, research professional/technician, or postdoctoral fellow who has made a significant intellectual contribution to research that is published or presented in a paper has the right to be named as author (co-author) of the publication or paper. In the case of university assignments intended to permit assessment of the education received by the student in his or her program of study for purposes of promotion or awarding of the degree sought, the student is the sole author.

3.6 The question of collaboration

Any educational and collaborative relationship must be based on free and informed consent. Any request that a student, a research assistant, a research professional/technician, or a postdoctoral fellow give up his or her moral rights or surrender commercial rights must be approved by the Office of the Vice-Principal. Such surrendering of rights is the exception and must be recorded in a written agreement signed by all the parties in question.

3.7 Access to research materials and use of research materials

Students and postdoctoral fellows must have access to existing research materials available on the premises that enable them to carry out and complete their own research towards the successful fulfilment of their programs of study or postdoctoral fellowships. Research assistants and research professionals/technicians must also have access to existing research materials available on the premises that enable them to carry out and complete the specific research they are paid to conduct.

3.8 Preservation of research materials

When research conducted by a student, a research assistant, a research professional/technicians, or a postdoctoral fellow occurs in the context of research by his or her professor, professional librarian, research supervisor, or postdoctoral-research supervisor, the professor, professional librarian or supervisor is responsible for preserving the research materials the student, research assistant, research professional/technician, or postdoctoral fellow has used or created, for the period of time deemed necessary to allow for the answering of any questions about the accuracy of the data, their authenticity, their prevalence over other research materials, and their compliance with the laws and regulations that govern research.

3.9 Contract research

Bishop's University will see to it that nothing in any contract abridges a student's right to be assessed accurately and fairly regarding graduation and will uncompromisingly negotiate, while respecting the confidentiality of information supplied by a third party, for recognition by the third party of Bishop's University's members' rights to publish and use, for teaching and research purposes, any academic products that emerge from such a contract.

A professor, professional librarian, research supervisor, or postdoctoral-research supervisor who offers a student or postdoctoral fellow the opportunity to carry out research as part of a research contract must inform the student or postdoctoral fellow of the conditions in which his or her work will be carried out and the consequences as regards intellectual property. A student or postdoctoral fellow who gives free and informed consent must sign a contract specifying that he or she undertakes to respect commitments made by his or her professor, professional librarian, research supervisor, or postdoctoral-research supervisor.

Research entrusted to a student during the performance of contract projects must be tied to the objectives of the student's program of studies and entail no restrictions likely to do harm to the student's academic progress or assessment in view of graduation.

3.10 Commercial property rights

Commercial rights essentially allow for the market-value enhancement of a work, an invention, a product, or research results, and for developing the profitability of any investment associated with the work or invention.

In accordance with the Quebec government policy on intellectual property, it is up to Bishop's University to evaluate the market value of a work, an invention, a product, or research results and, as necessary, to develop the profitability of investments associated with such research results and manage the distribution of revenues among the various parties.

3.11 Disclosure, protection, and market-value enhancement

Any student, research assistant, research professional/technician, or postdoctoral fellow who is a creator or inventor while carrying out the terms of their employment and duties at Bishop's University and who (in cooperation with his or her co-creators or co-inventors if appropriate) wishes to confer on his or her invention the intellectual-property protection provided by a patent, with a view to market-value enhancement, must put his or her case before the Office of the Vice-Principal by filling out the form called *Invention Disclosure Form*.

3.12 Mechanisms for protecting intellectual property

Besides copyright and patents, which are the mechanisms for protecting intellectual property most often used in the academic setting, legal mechanisms exist for protection in specific cases. Each is covered by legislation that describes its nature and operation: *The Integrated Circuit Topography Act*, *The Trade-Marks Act*, *The Industrial Design Act*, and *The Plant Breeders' Rights Act*. Any student, research assistant, research professional/technician, or postdoctoral fellow to whom this policy applies and who wishes to be covered by one or more of the intellectual-property protection mechanisms mentioned above for purposes of market-value enhancement must bring his or her case before the Office of the Vice-Principal.

3.13 Distributing revenues from market-value enhancement

Following disclosure, an agreement for managing the intellectual property must be reached by the co-inventors to determine their respective contributions to the invention. When one of the co-inventors is a professor or professional librarian at Bishop's University, the co-inventors will share the net revenues resulting from the market-value enhancement of the work or invention, following the formula provided for by the Bishop's University collective agreements with faculty and professional librarians. If none of the inventors is a member of the Bishop's University faculty or a professional librarian, distribution of the net revenues from market-value enhancement will be carried out according to the same formula as for faculty members or professional librarians.

3.14 Settling differences

In the event of a disagreement about the application or interpretation of this policy, the students, research assistants, research professionals/technicians, and postdoctoral fellows concerned will be called upon to try to settle the difference informally by putting the case before the Office of the Vice-Principal. In the context of such an effort to reach a settlement, the various parties will be expected to cooperate and act in good faith. If the effort fails, a formal written complaint must be submitted to the Office of the Vice-Principal and will give rise to mediation. If mediation should fail, the difference will be settled through arbitration, through a process accepted by all parties.

4. APPROVAL

This policy was approved by Senate on November 22, 2004 (4/470/iv).