ADELAIDE INSTITUTE of HIGHER EDUCATION

Procedure PRO15.1

INTELLECTUAL PROPERTY PROCEDURE

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Contents

Purpose 1
Scope 1
Identifying Intellectual Property and Determining Ownership 1
Documenting Intellectual Property Arrangements 2
Disclosure of Intellectual Property with Potential Commercial or Other Significant Value .. **Error! Bookmark not defined.**
Assessment and Protection of Intellectual Property 3
Publication and Public Disclosure 3
Commercialisation 4
Use and Modification of Intellectual Property 4
Indigenous Cultural and Intellectual Property 4
Records 5
Disputes 5
Related Documents 5
Definitions 6

Purpose

1. This Procedure gives effect to the AIHE Intellectual Property Policy and sets out the processes for identifying, managing, protecting and commercialising intellectual property at AIHE.

Scope

2. The Procedure applies to:
   - all AIHE staff and students
   - contractors, consultants, collaborators and other persons involved in AIHE activities, where relevant to their engagement or agreement with AIHE, and
   - intellectual property created, developed, acquired or used in connection with AIHE employment, study, teaching, research, scholarship or other institutional activities.

Identifying Intellectual Property and Determining Ownership

3. Where intellectual property is created, developed or proposed for use in an AIHE activity, its ownership and any relevant rights or restrictions should be identified as early as practicable.
4. Ownership must be determined in accordance with the AIHE Intellectual Property Policy and any applicable employment, funding, commissioning, collaboration, licence, assignment or other agreement.
5. In determining ownership, consideration must be given to:
    - whether the intellectual property was created by staff in the course of their employment or specifically commissioned by AIHE
    - whether staff-created material is a scholarly work or course or teaching material
    - whether the intellectual property was created by a student
    - whether any intellectual property existed before, or was created independently of, the relevant AIHE activity
    - whether the activity is externally funded, commissioned or collaborative, and
    - whether another person or organisation has ownership or other rights in the intellectual property.
6. Where intellectual property has more than one creator, or incorporates intellectual property owned by more than one party, the respective ownership and other rights of each party must be identified and, where they are not already clearly established, documented in writing.
7. Where ownership or other intellectual property rights are unclear, advice must be sought before the intellectual property is assigned, licensed, published, disclosed or commercialised. Advice on intellectual property arising from teaching, scholarship or research should be sought from the Head of School. Other significant or institutional intellectual property matters should be referred to the Chief Executive Officer.

Documenting Intellectual Property Arrangements

8. Intellectual property arrangements must be documented in writing where this is necessary to clarify or establish ownership, access, use, licensing, publication, commercialisation or other rights.
9. Appropriate written arrangements should be established before the relevant activity begins wherever practicable, particularly where:
    - an activity involves external funding, commissioning or collaboration
    - existing intellectual property will be contributed to or used in an activity
    - intellectual property may be created jointly by two or more parties
    - a contractor or consultant is engaged to create intellectual property, or
    - ownership of intellectual property created by a student will differ from the usual arrangements under the AIHE Intellectual Property Policy.
10. Written intellectual property arrangements should address, where relevant:
    - ownership of existing and newly created intellectual property
    - rights to access, use, reproduce, modify, license or otherwise deal with the intellectual property
    - confidentiality, publication and disclosure requirements
    - responsibility for protecting or commercialising the intellectual property, and
    - arrangements for recognising the contributions and interests of creators and other parties.
11. Where a student is asked to agree to an intellectual property arrangement that varies the usual ownership arrangements under the AIHE Intellectual Property Policy, the arrangement must:
    - be documented in writing, normally before the student begins the relevant activity
    - clearly identify the intellectual property rights affected and the purpose of the arrangement, and

- allow the student a reasonable opportunity to seek independent advice before agreeing to the arrangement.

12. The Head of School is responsible for ensuring that appropriate intellectual property arrangements are established for research, collaborative and other relevant academic activities. Significant arrangements, or arrangements involving substantial commercial, legal or institutional implications, must be referred to the Chief Executive Officer.

Disclosure of Intellectual Property with Significant Commercial or Other Value

13. Staff who identify intellectual property created through their AIHE employment that may have significant commercial or other value must notify the Head of School in writing before publication, public disclosure or commercialisation where disclosure could affect AIHE's ability to assess or protect that intellectual property.

14. Intellectual property that may require disclosure includes, for example, inventions, designs, software, processes, confidential know-how or other intellectual property that may be capable of protection, licensing or other commercial use, or otherwise be of significant value to AIHE.

15. A disclosure should include, where relevant:
    - a description of the intellectual property and how it was created
    - the names and contributions of the creators
    - any existing or background intellectual property involved
    - any external funding, collaboration, contractual or other third-party interests
    - any proposed publication or public disclosure, including relevant dates, and
    - any known or potential commercial or other significant value.

16. The Head of School will acknowledge the disclosure and coordinate its initial assessment. Matters involving significant commercial, legal or institutional implications must be referred to the Chief Executive Officer.

Assessment and Protection of Intellectual Property

17. The assessment of disclosed intellectual property should consider, where relevant:
    - ownership and the contributions of creators and other parties
    - contractual, funding or other obligations
    - potential commercial or other significant value
    - whether protection of the intellectual property is appropriate and practicable
    - the costs, benefits and risks associated with protection or commercialisation, and
    - any implications for proposed publication or public disclosure.

18. Specialist or legal advice must be obtained where necessary to determine ownership, protection options, contractual obligations or other significant intellectual property issues.

19. Information about intellectual property under assessment must be treated confidentially where disclosure could prejudice its protection or commercial value.

20. AIHE will complete its assessment as promptly as practicable and advise the creator or creators of the outcome, including whether AIHE proposes to seek protection, pursue commercialisation or take no further action.

Publication and Public Disclosure

21. AIHE supports the publication and dissemination of research and scholarship and will not restrict publication or public disclosure except where reasonably necessary to:
    - assess or protect intellectual property, or
    - comply with an applicable contractual, funding or other obligation.

22. Any delay to publication or public disclosure must be limited to the period reasonably necessary for the relevant assessment or protection to occur. The creator must be advised of the reason for the delay and, where practicable, its expected duration.

23. Where a creator has been advised that publication or public disclosure could prejudice the protection of intellectual property, the intellectual property must not be publicly disclosed until AIHE has completed the relevant assessment or advised that disclosure may proceed.

Commercialisation

24. Where AIHE decides that intellectual property should be commercialised, the Chief Executive Officer will ensure that appropriate arrangements are established, including specialist or legal advice where required.

25. Commercialisation arrangements may include licensing, assignment, development with an external party or another arrangement appropriate to the intellectual property and the circumstances.

26. Before commercialisation proceeds, arrangements must be documented to address, where relevant:
    - ownership and other rights in the intellectual property
    - the respective contributions and responsibilities of AIHE, creators and other parties
    - protection and commercialisation costs
    - the allocation of any financial or other benefits arising from commercialisation, and
    - any continuing rights or obligations relating to publication, confidentiality or use of the intellectual property.

27. Any allocation of benefits from commercialisation must be fair and appropriately recognise the contributions of the creator or creators and AIHE, taking account of the circumstances in which the intellectual property was created and the costs and contributions associated with its protection and commercialisation.

28. Where AIHE decides not to protect or commercialise intellectual property that it owns, it will advise the creator or creators. AIHE may consider assigning or licensing its rights to the creator or another party where this is appropriate and does not conflict with AIHE's legal, contractual or other obligations.

Use and Modification of Intellectual Property

29. Staff, students and other persons covered by this Procedure must ensure that intellectual property owned by AIHE or a third party is used only as authorised by law, licence, permission, agreement or other applicable arrangement.

30. AIHE may use intellectual property owned by a student where the student has provided an appropriate licence or consent, or where use is otherwise authorised by law or an applicable agreement.

31. Course and teaching materials owned by AIHE may be reproduced, adapted, updated or otherwise modified for AIHE purposes, subject to any applicable agreement and the moral rights of the creator.

32. Where intellectual property is modified or adapted, reasonable steps must be taken to ensure that attribution and other moral rights are appropriately addressed.

Indigenous Cultural and Intellectual Property

33. Where an AIHE activity involves, or may involve, Aboriginal or Torres Strait Islander knowledge or Indigenous Cultural and Intellectual Property, appropriate advice must be sought before the knowledge or material is used, disclosed, published or commercialised.

34. Arrangements relating to such knowledge or material should address, where relevant:
    - appropriate consultation and consent
    - cultural authority and any conditions or restrictions applying to access or use
    - appropriate acknowledgement and attribution
    - ownership and other rights, and
    - any benefits arising from use or commercialisation.
35. Any agreed permissions, conditions or restrictions relating to Aboriginal or Torres Strait Islander knowledge or Indigenous Cultural and Intellectual Property must be documented and observed.

Records

36. Appropriate records must be maintained for intellectual property matters, including, where relevant:
    - disclosures and assessments
    - determinations or agreements concerning ownership and other rights
    - assignments, licences, permissions and consents
    - decisions concerning protection or commercialisation
    - arrangements for the allocation of commercialisation benefits, and
    - specialist or legal advice.
37. Records must be retained and managed in accordance with the AIHE Records Management Policy and associated Procedure.

Disputes

38. Where practicable, disagreements concerning intellectual property should first be addressed through discussion between the parties and the relevant AIHE officer. This will normally be the Head of School for matters arising from teaching, scholarship or research, or the Chief Executive Officer for other significant or institutional matters.
39. Where a disagreement cannot be resolved informally:
    - matters involving staff will be dealt with under the AIHE Staff Grievances Policy and associated Procedure
    - matters involving students will be dealt with under the AIHE Student Grievances, Complaints and Appeals Policy and associated Procedure, and
    - matters involving contractors, collaborators or other external parties will be dealt with in accordance with any applicable agreement or other appropriate arrangements.
40. Specialist or legal advice should be obtained where necessary to assist in resolving a significant or complex intellectual property dispute.

Related Documents

41. Related documents include:
    - AIHE Intellectual Property Policy
    - AIHE Scholarship and Research Policy (and associated Procedure)
    - AIHE Freedom of Intellectual Inquiry Policy
    - AIHE Research Ethics Clearance Policy (and associated Procedure)
    - AIHE Staff Grievances Policy (and associated Procedure)
    - AIHE Student Grievances, Complaints and Appeals Policy (and associated Procedure)
    - AIHE Records Management Policy (and associated Procedure)
    - AIHE Delegations Policy and Procedure

- AIHE Staff Code of Conduct
- AIHE Student Code of Conduct

Definitions

42. Definitions for terms used in this Procedure are contained in the AIHE Glossary of Terms.

Document Control		
Version #	**Date**	**Changes**
1.0	17/09/2026	Procedure approved by CEO

** This Procedure will be reviewed on this date but will be reviewed and updated before this date if circumstances require. If formal review is delayed beyond this date, this Procedure will apply until formal review is possible.*