

Intellectual property policy

Policy statement

Intellectual property (IP) is a form of expression or knowledge created by a person's intellect and encompasses a broad range of fields from literature and the arts to music to design to science, engineering and technology. IP may be protected through legally established mechanisms, but it may also be left unprotected. In Canada, legal protection is afforded through copyrights, patents, industrial designs, trademarks and integrated circuit topography. IP also includes intangible assets such as trade secrets and know-how that may not be protected and/or legally protectable but are maintained as proprietary or confidential.

Bow Valley College (College) recognizes that intellectual property is created in a variety of pursuits, including research, and that the contributions of and benefits to those participating in the creation of IP must be balanced by the contributions of and benefits to those commissioning and/or supporting the creation of the IP in cash and/or in-kind. Similarly, the College respects the rights and recognizes the responsibilities of those exploiting or using intellectual property.

Bow Valley College generally does not seek to exploit and commercialize IP developed in collaboration with external clients, but seeks to provide an attractive environment for external entities seeking to collaborate with the college on IP-generating activities. Thus, unless noted otherwise in this policy, all IP created by College employees, contractors, learners and volunteers in the execution of their duties or in collaboration with external partners under the auspices and authority of the College shall be the property of the College. It is important that the College owns all of the IP so that it can transfer the IP to clients without any caveats or encumbrances.

Purpose

This policy has been created to establish the IP rights of college employees, contractors, learners, clients, volunteers, vendors and all others who participate in the creation of, support the development of, or make available to the college the usage of IP. This policy guides the determination of ownership, assignment, exploitation and use of IP created or utilized under the auspices of the College.

Scope

This policy applies to all members of the college community who create, exploit or utilize IP under the auspices and authority of the College.

Bow Valley College assigns the responsibility for the administration and stewardship of IP to the Department of Research and Innovation (RI).

Principal objectives

1. Bow Valley College respects the rights and recognizes the responsibilities of all those involved in the creation, exploitation and use of IP.
2. Bow Valley College recognizes four categories of IP:
 - 2.1. Bow Valley College-generated IP is that created by the College through the efforts of its employees, learners, volunteers, and contractors for its own use. This includes copyrighted materials, curriculum, proprietary software, marketing and promotional materials, digital media, processes, procedures, templates, and scholarly activities.

- 2.2. Learner-generated IP is that created by learners as part of a course of study at the college or through an agreement with the college to use its facilities.
 - 2.3. Client-driven IP is that created by employees, learners, volunteers and contractors in applied research collaborations that address challenges and opportunities brought to the College by the client.
 - 2.4. Third-party IP is that provided to the College by vendors or other entities as goods, services or processes and for use by the College community as stipulated in any agreements regarding the use of the IP.
3. Bow Valley College claims ownership of all IP created by employees in the course of their employment and fulfillment of their responsibilities as employees, and by contractors in the execution of their contracts unless stipulated otherwise in any contract between the contractor and the College. As per the Copyright Policy (500-1-3), copyright materials are owned by the College, but moral rights are retained by the creators of the works.
 4. Learner IP created in fulfillment of course requirements such as artistic works, software and designs shall be owned by the learner with the exception of IP created in the execution of a Client-Driven Course-Based Collaborative Research (CDCBCR) project in collaboration with a College or external client, which will be owned by the College.
 5. IP created by volunteers due to their participation in College-sanctioned activities or using College equipment and infrastructure shall be owned by the College and any associated moral rights waived by the volunteers, except for the right to claim authorship or be acknowledged as the creator of the IP.
 6. In CDCBCR projects undertaken with an external client, background IP brought to the project by the client which was in the possession of the client prior to commencing the project belongs to the client while IP (client-driven IP) created in the execution of the project shall be owned by the College. CDCBCR projects are not considered the student's work.
 7. Bow Valley College recognizes that employees, contractors, volunteers, vendors, and learners retain certain rights in the IP they have created, regardless of the ownership of that IP. Unless noted otherwise in this policy, all IP created by College employees, contractors, learners and volunteers in the execution of their duties or in collaboration with external partners under the auspices and authority of the College shall be the property of the College.
 - 7.1. They shall have a non-exclusive right to use the research results for any non-commercial use in future research and teaching undertaken while they are still employees or learners at the College. On leaving the College, they lose this non-exclusive right and may not use the research for any purpose, unless, at the discretion of the College, they enter into a specific agreement with the College.
 - 7.2. Without disclosing any proprietary information, they shall be free to reference their participation in a project in a resume, portfolio, or curriculum vitae.
 - 7.3. Learners shall have the right not to have their academic progression delayed due to IP issues as a result of participating in CDCBCR projects.
 - 7.4. Researchers and learners may disseminate funded research results if the policy of a funder supporting the research allows for publication or knowledge dissemination. Dissemination must be approved by all parties and should not disclose protectable or proprietary information without the express, written consent of all parties.
 - 7.5. They have the right to be associated with, through acknowledgements and similar mechanisms, or disassociated from the IP they created.

8. Any IP created that is owned by the College and is potentially protectable must be disclosed to RI prior to any publication or public disclosure.
9. Bow Valley College recognizes that confidentiality is important to the protection of IP and will sign confidentiality agreements with external parties as requested and after appropriate review and negotiation.
10. Bow Valley College acknowledges that vendors and suppliers, in fulfilment of their contractual obligations to the College, typically provide goods and services containing IP (third-party IP) that has been protected or that is a trade secret. Bow Valley College expects all employees, contractors, learners, volunteers and others accessing those goods and services to comply with all confidentiality provisions contained in the purchasing or licensing agreements.
11. Bow Valley College maintains the right to be acknowledged, recognized or associated with any IP owned by the College or created by its college employees, contractors, learners, clients, volunteers, vendors, and all others who participate in the creation of the IP material. Conversely, it also has the right to be disassociated from such IP at its discretion. It confers the same rights on clients for IP that is created in collaboration with clients but that has not been transferred to the clients.
12. Bow Valley College acknowledges that ownership and control of Indigenous knowledge remains with the respective Indigenous community(ies) or Nation(s), thus no individual or institutional claims of ownership will be made. Moreover, no individual or institutional rights will be pursued to Indigenous knowledge or associated IP that has been accessed and used for any institutional purpose.

Compliance

Employees, contractors, learners and volunteers are responsible for knowing, understanding, and complying with College policies, procedures, and any other documentation that relate to their position, employment, enrolment or activities at the College.

Definitions

Assignment:

The transfer from the Assignor of their rights to intellectual property to the Assignee. Upon transfer of the IP rights, the assignor shall have no rights to use the IP except as denoted in the assignment agreement.

Client-driven course-based collaborative research:

Research undertaken by learners in collaboration with internal and/or external clients as part of an academic course for which the learners receive credit.

Employee:

Refers to any individual employed by Bow Valley College (i.e., exempt, faculty [under the Bow Valley College Faculty Association], and staff [under the Alberta Union of Provincial Employees]).

Funder:

Includes any person or organization providing funding to the College in support of research. Examples of a funder are granting agencies (such as NSERC and SSHRC), federal or provincial departments, foundations, donors and persons or organizations having research contracts with the College.

Intellectual property:

IP is a form of expression or knowledge created by a person's intellect and encompasses a broad range of fields from literature and the arts to music to design to science, engineering and technology. IP may be protected through legally established mechanisms, but it may also be left unprotected.

In Canada¹, legal protection of IP is afforded in five ways:

1. **Copyright** – protects the form in which original literary, dramatic, musical or artistic works are expressed. It provides the owner of the copyright the exclusive right to copy, produce, reproduce, publish or perform a work. Typically, an original work is automatically copyrighted from the moment of its creation; registration of a copyright provides legal protection against any other party using a work without the owner's permission. Generally, a registered copyright protects a work for the lifetime of the originator plus 50 years, at which time it becomes part of the public domain. Curriculum materials would be covered by copyright. Bow Valley College maintains compliance with the Canadian Copyright Act.
2. **Patents** – protect inventions which are products, methods (processes), machines or compositions that are new, useful and inventive. They can be granted for new products and processes or improvements to existing products and processes and last for 20 years from the date the patent application is filed.
3. **Industrial design** – protects distinctive-looking new products that are original and do not look like existing products. Protection through legally enforceable rights is afforded for up to 10 years. Creation of a stylized Bow Valley College coffee thermos that is a new design could qualify for an industrial design registration.
4. **Trademarks** – protect a combination of sounds, letters, words or designs that distinguish one organization's goods and services from others; a trademark is often associated with a brand. Protection is granted for 15 years and is renewable. A Bow Valley College logo could be protected by a trademark.
5. **Integrated Circuit Topography (ICT)** – ICTs are the three-dimensional configuration of electronic circuits found in integrated circuit products and layout designs. ICTs can be registered and are protected for ten years.

In addition to legal protection, organizations can have trade secrets, which include any invention or information that derives its value from being kept secret within an organization. Trade secrets may be eligible for legal IP protection, but for various reasons an organization may choose to maintain this IP as a trade secret.

Learner:

Any person registered in a program or course delivered by the College.

Licenses:

Legally binding agreements whereby one party, the owner and Licensor, agrees to transfer agreed-upon rights to use the IP defined in the license to a second party, the Licensee in exchange for an agreed upon consideration. The Licensor retains ownership of the IP and the Licensee can use the IP only in the manner specified in the license agreement.

1 Material sourced from <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr04055.html> and links therein.

Moral Rights:

The right to claim authorship of a work, and the right to oppose changes to that work that could harm the creator's reputation. Moral rights may be waived, that is the creator may agree to not enforce their moral right as a contractual condition, but not transferred.

Ownership:

The exclusive rights to and control over intellectual property

Volunteer:

Any person who has an agreement to provide services to the College without any expectation of remuneration or compensation or credit.

Policy data:

This information is to be included at the end of every policy on the following Data Sheet.

Data sheet

Accountable officer

Vice President, Academic.

Responsible officer

The Dean, Research and Innovation.

Approval

Academic Council
Board of Governors of Bow Valley College

Contact area

Research and Innovation

Relevant dates

Approved	
Effective	
Next Review	
Modification History	<ul style="list-style-type: none"> Rebranded 2021 Policy Committee reviewed and updated numbering format January 2022
Verified by	Office of the President, March 2022*

Associated policies

Applied Research and Innovation Policy 500-3-1
Copyright Policy 500-1-3
Delegated Signing Authority Policy 100-2-5
Integrity in Research and Scholarship Policy 500-3-3
Employee Code of Conduct Policy 200-1-1
Fraud Policy 200-1-4

Directly related procedure

Intellectual Property Procedures
Copyright Policy (500-1-3)
Ethical Business Practices Policy (200-1-5)

Directly related guidelines

Related legislation

Attachments (optional)