

Intellectual property procedures

Parent policy

Intellectual Property Policy.

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 Bow Valley College (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).

Procedures

1. Employees and contractors seeking to create IP.
 - 1.1. Employees seeking to create IP outside of their employment, or contractors outside of their contracts with the College, but using College equipment and infrastructure, must sign an agreement with the College governing the use of College facilities, equipment, digital storage, and ownership of any IP created. If no such contract has been signed, the IP created is deemed to be the property of the College.
2. For learners in Client-Driven Course-Based Collaborative Research (CDCBCR) projects.
 - 2.1. Before commencing a CDCBCR project, learners shall provide the College with a waiver, in a format determined by the College, stating that in consideration of the experience they will receive in working with a client on a practical project and the contributions made by the client to the project, the learners are assigning all rights to any IP and waiving associated moral rights created during the project to the college.
 - 2.2. Learners seeking to create IP outside of their course or program of study using College equipment and infrastructure must enter into an agreement with the College governing the use of College facilities, equipment, digital storage, and ownership of any IP created. If no such contract has been signed, the IP created is deemed to be the property of the College.
3. For external clients in Client-Driven Course-Based Collaborative Research (CDCBCR) projects. In projects wherein IP (client-driven IP) was created in the execution of the project shall be owned by the College. The IP shall be assigned to the client subject to two conditions:
 - 3.1. The client is party to a valid research contract entered into by the client and the College and duly authorized by client and the College representatives, and
 - 3.2. The client has fulfilled all of the terms and conditions of the research contract including the payment of fees, re-reimbursement of claimable expenses incurred in carrying out the project, and verification of in kind contributions made in support of the project.On fulfillment of these conditions, the College will supply the client with a notice transferring the ownership of the IP from the College to the client.

4. Bow Valley College directs that non-College entities seeking access to the College's facilities for research purposes shall be required to sign an agreement covering the use of College property and reimbursement of any expenses incurred by the College as well the ownership of any IP resulting from the research. Where practical, these entities will be strongly encouraged to enter into collaborative research contracts with the College and utilize staff and learners in the execution of the project.
5. 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. RI, with the assistance of the Copyright Officer, will conduct a review of the disclosure and make an assessment on how the College should deal with it. The only exception is for copyrightable material as copyright protection is in force from moment of creation; this material must be disclosed only if copyright registration is desired.
 - 5.1. For protectable IP created in collaborative research projects with external clients, the clients will be given the first right of refusal to protect the IP. If they decline, the College at its discretion can seek to protect the IP, negotiate with a third-party to protect and exploit the IP, or enter into an agreement with the employees and/or learners who created the IP to protect and exploit it.
 - 5.2. For protectable IP created in collaborative research projects with internal clients or in the course of College operations, the College shall determine the business cases for the college pursuing protection and exploitation, contracting with a third-party to protect and exploit the IP, or entering into an agreement with the employees and/or students who created the IP to protect and exploit it.
 - 5.3. If none of the options in 9.a. and 9.b. are viable, the IP shall remain unprotected, though it may still be exploited by the external client or college, respectively.
 - 5.4. If the disclosed IP in 9.b. is determined not to be protectable but may be a trade secret that confers an advantage to the College, the College may take the necessary steps to protect its disclosure outside of the College.
 - 5.5. Bow Valley College recognizes that public disclosure of protectable or protected IP through knowledge dissemination activities, including publications and promotions by the College, may be desirable from time to time. In these instances, approval of the client must be obtained, and consultations undertaken with any employees or learners who participated in the creation of the IP, prior to any publication or promotion.
6. 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.
 - 6.1. Bow Valley College shall offer clients a College template that can be signed by an authorized representative of the College without further review if left unmodified. The template will be created by RI, with the assistance of the Copyright Officer.
 - 6.2. A confidentiality clause shall be included in all research contracts, unless removed by the client.
 - 6.3. All employees participating in collaborative research projects with external clients will be expected to maintain the confidentiality of information about the client and all proprietary IP provided by the client or created during the research. Employees who breach confidentiality will be subject to discipline as provided for in other college policies.
 - 6.4. Bow Valley College acknowledges the impracticability of monitoring and addressing breaches of confidentiality made by learners and volunteers participating in collaborative research while at and after having left the College. Accordingly, learners and volunteers are not included in any confidentiality agreements signed between the College and a client. Clients, learners, and volunteers are encouraged to sign confidentiality agreements between themselves that would be monitored and enforced by the client. The College can

provide an appropriate template for a “Confidentiality Agreement” that has been vetted by its legal counsel and non-legally binding guidance to learners, volunteers and clients.

7. For vendors and suppliers. In fulfilment of their contractual obligations to the College, the vendors and suppliers typically provide goods and services containing IP (third-party IP) that has been protected or that is a trade secret.
 - 7.1. Bow Valley College employees, learners or volunteers creating an enhancement to vendor IP shall disclose this to RI, which shall review the IP created and determine if it should be disclosed to the vendor for potential assignment or license. Enhancement of vendor IP must be done in a way that does not infringe on that vendor’s IP.

Compliance

Employees, contractors, learners and volunteers are responsible for knowing, understanding, and complying with Bow Valley 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 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.

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.

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

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

Intellectual Property Policy
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

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

Directly Related Guidelines

Related legislation

Attachments (Optional)