NIAGARA COLLEGE OF APPLIED ARTS AND TECHNOLOGY

PRACTICE TYPE: Human Resources
PRACTICE TITLE: Ownership of Intellectual Property

A. Introduction
Niagara College is committed to providing an environment conducive to the pursuit of scholarship, applied research and creative activity for its faculty, staff and students. Although not the original intent, the results of such pursuits may lead to the development of intellectual property that may have commercial value. This practice governs the ownership and procedures for the protection of intellectual property, and identifies the rights and responsibilities of various stakeholders. The Vice-President, Academic has responsibility for the interpretation and implementation of this practice.

B. Definitions
Intellectual Property includes technical information, know-how, inventions, models, patents, drawings, specifications, prototypes, computer software, curriculum and teaching materials, and other creations that can be protected under patent, copyrights, or trademark laws.

Intellectual Property may be licensed (giving someone temporary permission to use the item subject to a royalty) or assigned (transferring ownership to another person for compensation of some kind).

Niagara College staff members refers to administrative, faculty or support staff employed on a full-time, part-time, or contract basis. Niagara College students refers to all students working with or without monetary compensation on any project under the direction and control of the College.

C. Exclusions
The practice is in keeping with the intellectual property provisions within college collective agreements. However, if any part of this practice conflicts with a collective agreement, the provisions of the collective agreement will prevail.

Similarly, if any part of this practice conflicts with a signed agreement between the College and a creator of intellectual property or between the College and a third party, the provisions of the signed agreement will prevail.
D. General Framework

Intellectual Property Developed by Staff Members
With respect to Intellectual Property developed by Niagara College staff members within the scope of their employment, or staff employed by a researcher on funds administered by the College, ownership rests with the College, unless a specific agreement is made to the contrary.

When intellectual property is developed on the staff person’s own initiative, outside the scope of his or her College responsibilities, and without any reliance on College support or resources, the intellectual property resides with the individual. Where the intellectual property bears a reasonable relationship to the person’s employment responsibilities at the College, it will be the employee’s responsibility to show that the intellectual property was developed entirely on his or her own initiative without use of College resources.

Intellectual Property Developed by Students
With respect to Intellectual Property developed by a student, ownership remains with the student. If the student has utilized College property or facilities to develop a marketable product, the student is required to grant the College a royalty-free license to use such Intellectual Property for internal uses.

Intellectual Property by Third Party Agreements
Ownership by a third party is specified in the signed agreement as to the nature of ownership, method of protection of intellectual property, payment of royalties or fees, etc.

Ownership of intellectual property developed jointly by both Niagara College and a client or partner in performance of a research project shall rest jointly with the College and its client or partner. In the event of such joint ownership, Niagara College and its client or partner agree to sign a Memorandum of Understanding recognizing the relative ownership of both parties and assigning the ownership of the jointly owned intellectual property between the two parties.

E. Proceeding

1. All potential intellectual property should be disclosed by the creator to the College in a timely manner. Creators must also disclose to the College any financial and/or other relationship that may affect the protection of such intellectual property.

2. If the College chooses not to pursue a patent, license or copyright, the College may enter into an agreement with the creator of the intellectual property under which the staff member may apply for patent or copyright. For intellectual property owned by the College, the College may elect to transfer ownership to a third party for appropriate compensation.
3. An agreement with the creator will specify the rights of the College and the creator related to ownership, term of ownership, royalties and fees, and the responsibilities of each party to apply for copyright or patent, and to protect the intellectual property.

4. Occasionally, intellectual property that belongs to a staff member or client is made available to the College during the course of a research project or other activity. In these cases, the staff member or client’s intellectual property is returned at the conclusion of the project.

5. College research projects that develop “tools and techniques” during the course of the project for a specific client are to be regarded as building blocks or components of the project. Such tools and techniques are the property of the College and may be used by the College in other projects for other clients.

6. Any dispute arising under this practice will be submitted to the Vice-President, Academic in writing. The Vice-President may elect to form a task group to research the dispute and recommend a resolution to the Vice-President. The decision of the Vice-President is binding on all parties.

F. Review of Practice
The Intellectual Property practice will be reviewed at a minimum, every three years.