



## Intellectual Property Policy

<b>Policy Category</b>	Administration
<b>Policy Code</b>	ADM-HE-02
<b>Policy owner</b>	Chief Executive Officer
<b>Responsible Officer</b>	Chief Executive Officer
<b>Approving authority</b>	Board of Directors
<b>Contact Officer</b>	Registrar
<b>Approval date</b>	4 August 2017
<b>Commencement date</b>	7 August 2017
<b>Review date</b>	3 years
<b>Version</b>	2017.1
<b>Related Documents</b>	Staff Grievance Policy Staff Grievance Procedure Student Code of Conduct Staff Code of Conduct Student Complaint and Appeal Policy Student Complaint and Appeal Procedure

### 1. Purpose

This Policy establishes the commitment of the Australian Institute of Higher Education Pty Ltd ('the Institute') to fostering an innovative culture which values and safeguards intellectual property.

### 2. Principles

The key principle informing this Policy is the recognition that intellectual property entails both rights and responsibilities.

This Policy reflects the law relating to Intellectual Property at the time this policy is published. Changes in the law arising after this Policy comes into effect will prevail over this policy. Any content within this policy that deals with the laws relating to Intellectual Property are not intended to be relied on as legal advice by any person.

### 3. Context

This Policy has been developed to ensure that intellectual property created within the Institute is identified and managed appropriately; and to provide a clear understanding of the rights and responsibilities of staff and students.

This Policy covers Intellectual Property rights in relation to Copyright of literary works, artistic works, video clips, sound recordings, published editions of works, content on the Institutes Learning Management System (Moodle) and computer programs.

### 4. Scope

This Policy applies to all staff and students at the Institute.

### 5. Definitions

See the *AIH Glossary of Terms* for definitions.

## 6. Policy Details

### 6.1 Ownership of Intellectual Property

#### 6.1.1 Staff

Subject to this Policy, the Institute owns any intellectual property developed, acquired or contributed by its staff, in the performance of their duties and/or using Institute facilities and resources. The provisions of this Policy are deemed to be part of the terms and conditions of employment of all staff. In the case of sessional staff who are engaged as consultants, this provision will form part of the contractual arrangements with those staff.

The Institute and staff members will execute, in a timely manner, all assignments of intellectual property necessary to give effect to the ownership provisions set out in this Policy and to allow for the use and commercialisation of the intellectual property by the Institute as set out in this Policy.

The Institute acknowledges its obligation and responsibility to ensure all staff are aware of the rights and obligations relating to intellectual property, moral rights and the application of this Policy.

Any staff member whose research or scholarly activities as an employee of the Institute, undertaken using the Institute's resources, leads to an intellectual property outcome which might reasonably be regarded as being of potential commercial value is obliged to advise the Executive Dean in writing prior to any publication, dissemination or commercialisation of the intellectual property. The Executive Dean will advise the staff member promptly whether or not the Institute wishes to become involved in the process of commercial exploitation of the intellectual property.

#### 6.1.2 Students

The Institute does not claim ownership of intellectual property which students generate through their studies or associated activities within the Institute. However, where extensive use is made of Institute facilities and/or background intellectual property, the Institute may seek shared ownership of intellectual property with a student. Any sharing of ownership of intellectual property would involve an agreement which assigns a student's ownership rights to the Institute. Any reference in this Policy to the Institute having rights to the intellectual property of students is understood to be only in the circumstance of the students assigning ownership rights to the Institute by written agreement. The Institute retains the right to use student work for educational and/or promotional purposes through appropriate agreements with the student.

#### 6.1.3 Moral Rights

The Institute will take all reasonable steps to respect the right of an originator to be acknowledged as the creator of intellectual property, and to ensure that others respect that right. Where the Institute uses intellectual property created by an originator it must take reasonable steps to consult with the originator before modifying or adapting that intellectual property. Where an originator wishes not to be acknowledged as the creator of intellectual property which has been modified or adapted, the Institute will take reasonable steps to respect that wish, and to ensure that others respect it. An originator must take reasonable steps to ensure due acknowledgment of the Institute's contribution of facilities and resources used in the creation of intellectual property in any subsequent use of it that they may make.

### 6.2 Dispute Resolution

The resolution of disagreements and disputes of matters related to this Policy shall be dealt with under the Institute's **Staff Grievance Policy** and associated Procedure for staff or the **Student Complaint and Appeal Policy** and associated Procedure for students.

### 6.3 Allegations of Misconduct

Allegations of misconduct in relation to this Policy will be dealt with in accordance of the **Student Code of Conduct** for students or **Staff Code of Conduct** for staff.

## 7. Legislation

This Policy and the associated Procedure comply with Higher Education Standards Framework standard 4.1 (Research), which specifies that:

- “1. Research and its associated activities are conducted in accordance with a research policy framework that is designed to achieve:
- a. ethical conduct of research and responsible research practice
  - b. clarification of ownership and management of intellectual property
  - c. successful management of research partnerships
  - d. clarification of requirements for publication and authorship, and
  - e. resolution of allegations of misconduct in research.”

Other legislation includes:

- Patents Act 1990
- Trade Marks Act 1995
- Designs Act 2003
- Copyright Act 1968
- Copyright Amendment (Moral Rights) Act 2000
- Competition and Consumer Act 2010

## 8. Version Control

This Policy has been endorsed by the Australia Institute of Higher Education Board of Directors as at 4 August 2017 and is reviewed every 3 years. The Policy is published and available on the Australian Institute of Higher Education website <http://www.aih.nsw.edu.au/> under 'Policies and Procedures'.

<b>Change and Version Control</b>				
<b>Version</b>	<b>Authored by</b>	<b>Brief Description of the changes</b>	<b>Date Approved:</b>	<b>Effective Date:</b>
2016-2	Registrar	Updated template.	6 July 2016	6 August 2016
2017-1	Ms. McCoy	Revised content.	4 August 2017	7 August 2017