



INTELLECTUAL PROPERTY POLICY

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| Higher Education Standard | HES_5.2.2 | | |
| Document classification <i>Select from the drop-down menu</i> | Corporate Governance | | |

1. PURPOSE

To identify, protect and manage the Intellectual Property owned by Morling College.

2. DEFINITIONS

| Key Term - Acronym | Definition |
|---------------------------|---|
| MC resources | includes, facilities, funds, services, equipment, paid leave, Staff time and support Staff. |
| Intellectual property | Those rights arising from the output of human intellect. This includes: (a) designs under the Designs Act 2003 (Cth) (b) trademarks under the Trade Marks Act 1995 (Cth) (c) new plant varieties under the Plant Breeder's Rights Act 1994 (Cth) (d) copyright under the Copyright Act 1968 (Cth) (e) computer programs under the Copyright Act 1968 (Cth) (f) patents under the Patents Act 1990 (Cth) (g) circuit layouts under the Circuit Layouts Act 1989 (Cth) (h) trade secrets and confidential information (protected by common law) |

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|---------|--|
| | (i) all other rights resulting from intellectual activity in the industrial, commercial, scientific, literary, and artistic fields |
| IP | Intellectual property |
| MC | Morling College |
| Staff | Employees of Morling College, including academic, professional, technical, or administrative staff whether employed on a full-time, part-time, contract, sessional, or casual basis and does not include. |
| Student | Any student, undergraduate or postgraduate, enrolled in a course at Morling College |
| Visitor | A person who is not a Staff member or Student of the College, who are physically located at Morling and who takes part in any research, teaching or other activity that would normally be conducted by a Staff member or Student and includes persons who hold conjoint, adjunct, emeritus, honorary and visiting appointment. |

3. SCOPE

This policy applies to all Morling College (MC) staff, and to all students. The policy applies to adjunct staff, consultants, visitors, and other persons generating Intellectual property (IP) in collaboration MC staff or students or engaged by the MC to undertake specific activities.

This Policy is incorporated by reference in the provisions of the contract of employment of staff, in the conditions of enrolment of students, in letters of appointment of visitors and in-service contracts with consultants and other persons contracting with MC from time to time.

4. POLICY STATEMENT

4.1 Except as otherwise agreed in writing by the Principal, or stated in this Policy, Morling College asserts ownership of all IP of works created by a staff, students, visitors, honorary research fellows, and volunteers where the works were created:

4.1.1 in the course of employment by Morling College

4.1.2 required the use of Morling College resources

4.1.3 used pre-existing IP owned by Morling College

4.1.4 as a result of funding provided by or obtained by Morling College

4.1.5 belongs to a set of IP generated by a team of which the person is a member and other members are College employees specifically by a commission by Morling.

4.2 In the context of Morling College IP includes, but is not limited to

4.2.1 Course and educational materials, including any materials used in, or in connection with, the provision of lectures, tutorials, seminars, workshops, field classes, on-line courses and units, assessments, practicum, and other

teaching activities conducted by the College. These materials may include, but are not limited to, slides, photographs, maps, diagrams, books and handbooks, manuals, teaching aids, course outlines, exercises, computer programs, video recorded lectures, radio broadcasts, audiovisual material, websites, and multimedia works that serve a teaching and/or learning function.

- 4.2.2 MC will own all IP that it has commissioned a Staff member, Student, Visitor and/or other party to create or develop for the College purposes. A commission will be evident if an arrangement or agreement has been signed in writing, and such an agreement may or may not include provision for a financial benefit or nonfinancial benefit (such as relief from teaching or other duties).
- 4.3 MC, at its discretion, may give a creator of commissioned works a non-exclusive licence to use the works for teaching purposes, provided that such a licence will not extend to the use of the work for any purpose which is in direct competition with MC.
- 4.4 MC reserves the right to transfer the ownership of its IP to third parties, following consultations, where possible, with the creator(s) of the IP, by written agreement.

5. PRINCIPLES

Teaching Material

- 5.1 If a staff member creates any course material in any medium (including multi-media) in the course of his/her employment at MC, MC will own the copyright and any other form of IP vesting in that course material. As such, MC has the right to use, reproduce, publish, communicate, perform, broadcast, adapt and disseminate that course material for its teaching purposes, research purposes and scholarly purposes.
- 5.2 Staff contracts include a waiver of the creator's moral right to be attributed as the creator of teaching material. See 5.8.
- 5.3 Where an MC staff member is subsequently employed at another institution, the course material he or she created while employed at MC must not be used for teaching purposes at the other educational institution without the express permission of MC and/or until such time as a written agreement is drawn up giving the previous employee of MC the right to use the material. See 4.3 above.

Exclusions

- 5.4 MC does not assert ownership of:
 - 5.4.1 pre-existing IP generated by a Staff member prior to that Staff member's employment with MC, provided that the Staff member advises the MC of the

existence of their pre-existing IP within 30 days of their employment

- 5.4.2 the IP in course and educational materials, or creative or scholarly works, developed by a Staff member where this IP was not developed for specific College purposes; and
- 5.4.3 IP created by a Student as part of his/her course or submitted for any award conducted by the College.
- 5.5 MC encourages its staff and students to publish their scholarly outcomes. Unless the work is specifically commissioned by MC or produced with the assistance of MC resources beyond those normally available to students or staff, the ownership of IP in scholarly books, articles, or other scholarly works or subject matter generated by Staff or Students is retained by the creator.

License

- 5.6 Subject to any pre-existing lawful confidentiality agreement, creators of scholarly books, journal articles, course materials, or other scholarly works or subject matter generated, shall grant MC a non-exclusive, royalty free, perpetual, irrevocable, world-wide licence (including the right to sub-license) to make available for consultation, loan, or copying, any copy of a thesis or any other scholarly or creative work deposited with MC for the purposes of advancing teaching, learning or research.
- 5.7 Upon request to the Chief Operating Officer, Staff, Visitors and Students may be granted permission to use MC's IP in course and educational materials, or creative or scholarly works, for non-commercial scholarly, creative, or other purposes.

Moral Rights

- 5.8 MC recognises the moral rights of the creators of IP, whether students, staff, or contractors.

These include the right:

- 5.8.1.1 to be acknowledged or attributed as the creator of the work
- 5.8.1.2 not to have their work falsely attributed, i.e., another person is acknowledged as the creator; and
- 5.8.1.3 not to have their work used in a derogatory or prejudicial manner.

These are personal rights, which exist independent of who owns the Copyright or the IP and cannot be reassigned.

- 5.9 In relation to teaching material, staff contracts include a waiver of the moral right to be attributed as the creator.

Copyright

5.10 All material in which MC owns the copyright must include the following copyright statement, unless it is not practical to do so:

© Copyright Morling College [insert year the work was first published]

Respecting Third Party Rights

5.11 All Staff, Students and/or Visitors are required to respect the rights of third parties in relation to IP, and members may be required to provide necessary information and otherwise co-operate in this process. This may involve:

5.11.1 Not infringing the moral rights of third parties; and

5.11.2 Not impinging upon the cultural, spiritual, or other interests of indigenous people.

Transfer of Ownership

5.12 MC reserves the right to transfer the ownership of the IP claimed under the above provisions to third parties, following consultations, where possible, with the creator(s) of the IP, by written agreement.

Dispute resolution

5.13 The Principal will be the arbiter over whether MC has legitimate claims over the IP developed by a staff member or student. Where the staff member or student feels they have legitimate grounds to contest MC's claim to ownership under this policy, they may use the provisions of the relevant MC grievance policy.

6. RELATED DOCUMENTS AND LEGISLATION

[Australian Code for the Responsible Conduct of Research \(Commonwealth\)](#)

[Copyright Act 1968 \(Commonwealth\)](#)

[Copyright Amendment \(Moral Rights\) Act 2000 \(Commonwealth\)](#)

[Copyright Regulations 2017 \(Commonwealth\)](#)

[Designs Act 2003 \(Commonwealth\)](#)

[Patents Act 1990 \(Commonwealth\)](#)

[Trade Marks Act 1995](#)

[Competition and Consumer Act 2010](#)

[Staff Code of Conduct](#)

[Staff Grievance Policy](#)

[Staff Grievance Procedure](#)

[Student Grievance Policy](#)

[Student Grievance Procedures](#)

7. REFERENCES

Australian College of Theology

Avondale Intellectual Policy [AR.04] May 2018

Excelsia Intellectual Property Policy 2015

8. VERSION HISTORY

| Version | Approved by | Approval Date | Effective Date | Changes made |
|---------|-----------------------|---------------|----------------|---|
| 2.01 | Policy Coordinator | Feb 2023 | Feb 2023 | Header table updated to latest version, including addition of keywords. |
| 2.00 | Morling College Board | 3 Feb 2021 | 3 Feb 2021 | Formatted to template Extensively revised and expanded. Added 2, 3, 5.1, 5.2, 5.3, 5.6, 5.7, 5.9, 5.10, 5.11. Expanded 4, 5.5, 5.8 |
| 1 | Morling College Board | May 2014 | May 2014 | |

Download this policy anew with each use, as it may have changed.