



## INTELLECTUAL PROPERTY POLICY

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| <b>Responsible Officer</b> | Head of School   |  |             |
| <b>Related Documents</b>   | Scholarship and Research Procedure<br>Human Resources Manual<br>Staff Grievances Policy (and related Procedure)<br>Student Grievances, Complaints and Appeals Policy (and related Procedure)<br>Higher Education Standards Framework (Threshold Standards) 2021 (TEQSA Act 2011) |  |             |

\* Unless otherwise indicated, this Policy will still apply beyond the review date.

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### Document Control

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| 1.0       | 24/05/2018 | Approved by Council   |
| 1.0a      | 6/05/2019  | Format updated  |
| 1.0b      | 16/09/2021 | Reference the revised TEQSA Higher Education Standards Framework (Threshold Standards) 2021 added. Editorial changes to clarify clause 3.2. |

## **1. PURPOSE**

1.1 The Intellectual Property Policy provides the framework and processes for the identification, clarification of ownership and appropriate management of intellectual property created at Adelaide Institute of Higher Education (AIHE).

## **2. SCOPE**

2.1 The Intellectual Property Policy applies to all AIHE staff and students. The Policy also applies to any consultants, contractors and other persons generating Intellectual Property in collaboration with AIHE staff or students, or engaged by AIHE to undertake a specific activity, and it may also apply from time to time to other persons by agreement.

## **3. POLICY STATEMENT AND PRINCIPLES**

3.1 AIHE values the creation of intellectual property as a means of demonstrating the impact and relevance of AIHE's research and teaching, promoting opportunities for collaboration and providing our researchers with freedom to operate.

3.2 AIHE will provide a clear understanding of the rights and responsibilities of staff, students and other persons covered by the Scope of this Policy in the creation and protection of intellectual property. AIHE will provide processes to safeguard its intellectual property and ensure it complies with Australian law and international agreements applying to Australia.

3.2.1 Intellectual property entails both rights and responsibilities.

3.2.2 The Intellectual Property 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.

3.3 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 AIHE's Learning Management System and computer programs.

## **4. OWNERSHIP OF INTELLECTUAL PROPERTY**

### **4.1 Staff**

4.1.1 Subject to this Policy, AIHE owns any intellectual property developed, acquired or contributed by its staff, in the performance of their duties and/or using AIHE's 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 casual staff who are engaged as consultants, this provision will form part of the contractual arrangements with those staff.

4.1.2 AIHE and staff 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 AIHE as set out in this Policy.

4.1.3 AIHE 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.

4.1.4 Any staff member whose research or scholarly activities as an employee of AIHE, undertaken using the AIHE's resources, leads to an intellectual property outcome that might

reasonably be regarded as being of potential commercial value is obliged to advise the Head of School in writing prior to any publication, dissemination or commercialisation of the intellectual property. The Head of School will advise the staff member promptly whether AIHE wishes to become involved in the process of commercial exploitation of the intellectual property.

## **4.2 Students**

4.2.1 AIHE does not automatically claim ownership of intellectual property that students generate through their studies or associated activities within the Institute. However, where extensive use is made of AIHE's facilities and/or background intellectual property, AIHE may seek shared ownership of intellectual property with a student.

4.2.2 Any sharing of ownership of intellectual property would involve an agreement that assigns a student's ownership rights to AIHE. Any reference in this Policy to AIHE having rights to the intellectual property of a student/s is understood to be only in the circumstance of the student/s assigning ownership rights to AIHE by written agreement.

4.2.3 AIHE retains the right to use student work for educational and/or promotional purposes through appropriate agreements with the student.

## **5. MORAL RIGHTS**

5.1 AIHE 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.

5.2 Where AIHE 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 that has been modified or adapted, AIHE will take reasonable steps to respect that wish, and to ensure that others respect it.

5.3 An originator must take reasonable steps to ensure due acknowledgment of AIHE's contribution of facilities and resources used in the creation of intellectual property in any subsequent use of it that they may make.

## **6. DISPUTE RESOLUTION**

6.1 The resolution of disagreements and disputes of matters related to this Policy will be dealt with as set out in:

- the Staff Grievances Policy and related Procedure for staff; and
- the Student Grievances, Complaints and Appeals Policy and related Procedure for students.

## **7. LEGISLATION**

7.1 Australian legislation relevant to intellectual property includes the:

- 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. ROLES AND RESPONSIBILITIES**

8.1 Council will oversee and monitor implementation of the Intellectual Property Policy.

8.2 The Head of School will:

- in accordance with clause 4.1.4, receive written notifications from a staff member whose research or scholarly activities as an employee of AIHE, undertaken using AIHE's resources, leads to an intellectual property outcome that might reasonably be regarded as being of potential commercial value; and
- advise the staff member promptly whether AIHE wishes to become involved in the process of commercial exploitation of the intellectual property.

8.3 Academic staff will in accordance with clause 4.1.4 notify the Head of School in writing of any intellectual property outcome, arising from their research or scholarly activities undertaken as an employee of AIHE or using AIHE's resources, that might reasonably be regarded as being of potential commercial value prior to any publication, dissemination or commercialisation of the intellectual property.

## **9. DEFINITIONS**

9.1 See the AIHE Glossary of Terms for definitions.