

**Policy No. & Title: A205: INTELLECTUAL PROPERTY***Policy Sponsor:* Dean, Centre for Research & Innovation*Effective:* 2022-12-08*Next Review:* 2027-12-08*Approvals:* 2022-12-08

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**1. PURPOSE**

The purpose of this policy is to clarify and describe the creation, ownership, and use of Intellectual Property at Fanshawe College.

**2. DEFINITIONS**

See Standard 1: Intellectual Property Definitions

**3. POLICY**

The College promotes innovation and discovery by its employees, faculty, students, and Industry Partners in all aspects of Scholarship, Research, and Creative Activities by recognizing that the ownership of Intellectual Property, (hereinafter “IP”), rests with the creator(s) of that property. Identification of the Intellectual Property Creator(s) and the benefits resulting from Intellectual Property are described in subsequent addenda.

**3.1. Scope**

- 3.1.1. This Policy applies to all Members of Fanshawe College, including faculty, employees, staff, and students, and establishes the principles and guidelines for the creation, identification, development, acquisition/ownership, use, maintenance, and management of Intellectual Property at Fanshawe.
- 3.1.2. This Policy applies to all types of Inventions, Works, and Creations as a result of educational, research, or other activity by the College and its Members. This includes, but is not limited to, those protected by Patent, Copyright, Trademark, Design, and Trade Secret laws.
- 3.1.3. Unless expressly set out in a separate agreement, this Policy applies to IP developed independently and/or individually while employed by Fanshawe or in collaboration with external entities.
- 3.1.4. Fanshawe College applies different considerations to IP that is created in the course of Teaching and Learning activities at the College compared to IP that results from Research activities.

**3.2. Principles**

- 3.2.1. The College defines the ownership, use, and control of IP and IP rights created by Members of the Fanshawe community as a result of using Fanshawe resources.
- 3.2.2. The College defines the ownership of IP created during Funded Research activities, thereby encouraging Sponsors (e.g. government, business organizations, individual donors) to provide resources to, or engage in collaborations with, Fanshawe that will advance research and education at the College and employment opportunities for graduates.

- 3.2.3. The College sets out the responsibilities of researchers at Fanshawe regarding Disclosure of novel ideas, discoveries and creations with commercial potential.
  - 3.2.4. The College encourages Commercialization of IP arising from Applied Research conducted at Fanshawe.
  - 3.2.5. The College establishes practices for Sharing of Proceeds arising from Intellectual Property that is commercialized.
- 3.3. Administration
- 3.3.1. Associated addenda to this policy may be amended by authority of the Policy Sponsor.
  - 3.3.2. Nothing in this Policy is intended to prevent a complainant from using the grievance procedure available in the collective agreement, if applicable.

#### **4. REFERENCES**

##### College Policy

A201: Scholarship, Research, and Creative Activity

[Report: Intellectual Property in Ontario's Innovation Ecosystem](#)

#### **5. ADDENDA**

Guideline A: INTELLECTUAL PROPERTY OWNERSHIP

Guideline B: INTELLECTUAL PROPERTY CREATION

Standard 1: INTELLECTUAL PROPERTY DEFINITIONS

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*Policy No. & Title:* A205: INTELLECTUAL PROPERTY

*Addendum:* **Guideline A: INTELLECTUAL PROPERTY OWNERSHIP**

*Policy Sponsor:* Dean, Centre for Research & Innovation

*Effective:* 2022-12-08

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## 1. PURPOSE

The purpose of this Guideline is to describe the process of determining ownership of Intellectual Property and the rights of the Creator(s).

## 2. DEFINITIONS

See Standard 1: Intellectual Property Definitions.

## 3. OWNERSHIP

Ownership of Intellectual Property (hereinafter “IP”) is and shall be vested with the College or with the Creator(s) depending on the form of IP and the circumstances under which the IP was created.

Ownership as a concept revolves around the ability to publish IP. Common law and certain statutes and acts (e.g., Canadian *Patent* and *Copyright Acts*) are the legal means by which IP is defined and through which IP rights can be protected. The following sections relate to ownership and address the method by which ownership of published IP is determined.

### 3.1. Creator(s) shall own IP that is:

- 3.1.1. Copyrightable Material created by an Employee in the support of Teaching and Learning activities (unless subject to the terms outlined below).
- 3.1.2. Research results, inventions, or copyrighted material created by an Employee outside their duties at the College.
- 3.1.3. Research results, inventions, and copyrightable material created by an Employee or student without use of college funds, facilities, or information and equipment owned or administered by Fanshawe, subject to section 4.2.2 below.
  - 3.1.3.1. College facilities includes the use of all laboratories, machine shops, studios etc. excluding computer laboratories which are used exclusively for the purposes of student homework.
  - 3.1.3.2. Instances where the Creator(s) utilized college facilities and/or resources are subject to 4.3.2.
- 3.1.4. IP resulting from research funded by grants awarded to the Creator, including those administered by the College (unless subject to the terms in Section 3.3).
- 3.1.5. Scholarly Works, e.g. copyrightable works such as a paper in a journal or a textbook intended for students.
- 3.1.6. IP that the College has specifically assigned to the Creator(s).
- 3.1.7. Research results and work produced by Fanshawe students in the course of their studies (unless such work is based on Fanshawe’s proprietary information)
- 3.1.8. IP created by an Employee while on a Professional Development leave - unless a written agreement has been made with the Creator(s), giving Fanshawe or a partner ownership rights to such works.

3.2. Fanshawe College shall own IP that is:

- 3.2.1. The result of any work that is specifically assigned or commissioned by the College of an Employee, pursuant to a written contract of employment, and/or when release time from the Employee's normal duties has been designated for Other Duties as Assigned/Assigned Tasks.

3.3. TPE shall own IP that is:

- 3.3.1. The result of work sponsored by a Third-Party Entity, completed under the terms of an Applied Research Services Agreement or other written agreement, between Fanshawe and a TPE (unless specified otherwise).
- 3.3.2. As outlined in Guideline B: Intellectual Property Creation, when Applied Research, Scholarly Work, and/or Creative Activity is funded and/or is undertaken pursuant to a contract or Applied Research Services Agreement, the ownership of IP rights may be determined in whole or in part by the terms of the contract or Applied Research Services Agreement or the rules created by the funder and/or Third-Party Entity.

3.4. General Ownership

In the event that ownership considerations are in conflict with normal practice or policy established by a discipline or professional association, the Creator(s) should refer the matter to the Dean, Centre for Research & Innovation who will determine the course of action to adopt. Disputes may be resolved in accordance with the dispute resolution mechanism as outlined in Guideline B.

#### **4. MANAGEMENT OF INTELLECTUAL PROPERTY**

4.1. Use of Scholarly Works resulting from Teaching and Learning Activities

- 4.1.1. When the ownership of Scholarly Work resulting from Teaching and Learning activities at Fanshawe rests with the Creator(s):
- 4.1.2. Fanshawe College and members of Fanshawe are encouraged to use Scholarly Works that other members of Fanshawe have created for the purpose of Teaching, Scholarship, Research, and/or Creative Activities at Fanshawe. This includes the making of derivative works from or modifications and improvements to same. Such use shall ideally be undertaken with the Creator's permission and only for the purposes of teaching, learning, and administration carried on at Fanshawe. Such use must be Royalty-free and Non-Commercial and will be subject to suitable safeguards administered for IP.
- 4.1.3. As a courtesy, Members of Fanshawe shall aim to provide timely notification and attribution to the IP Creator(s) whenever the occurrence of subsection 4.1.1 occurs.
- 4.1.4. Members of Fanshawe are not permitted to use the Scholarly Works of others to perform consultative, commercial, or contract work without the express written consent of the IP Creator(s) of the Scholarly Works (unless the works have been specifically and explicitly prepared with this purpose).
- 4.1.5. Members of Fanshawe are not authorized to distribute, license, commercialize, or make available to anyone outside of the College the Scholarly Works of others without the written Consent of the Creator(s).
- 4.1.6. In the event that a textbook or manual that has been created during the course of Teaching and/or Research activities at Fanshawe is specified by the Author(s) as a required course text, the Author(s) must declare to the Responsible Office the Conflict of Interest arising from this situation.
- 4.1.7. Refer to Guideline B, Section 3.3. for IP which arises from Teaching and Learning activities funded by a Third-Party Entity.

#### 4.2. Contribution to Scholarly Work and IP Generation

- 4.2.1. Suitable recognition shall be given to all Contributors of Scholarly Work created at Fanshawe, regardless of their status at the College.

Such recognition includes, but is not limited to:

- Recognition as a Creator; and
- Recognition in the form of a citation or acknowledgement

- 4.2.2. In the spirit of collegiality, members of Fanshawe are encouraged to recognize the College's contribution/role in the creation of IP and Scholarly Work.

Recognition should occur when:

- IP and Scholarly Work was created on Fanshawe property and/or using Fanshawe resources. In such an instance Fanshawe shall be recognized by the Creator(s) as the location where the work was undertaken, begun, or completed.
- Indirect support (use of resources, infrastructure) was provided by Fanshawe to the Creator(s)/developer(s) of the IP and Scholarly Work.

- 4.2.3. Exclusive ownership of IP that has been created in whole or in part by others is not possible unless those Creators/Contributors have expressly assigned their rights to the IP. If rights have been assigned in this manner, it is possible for the remaining Contributors to have exclusive ownership of such IP.

#### 4.3. Sharing of Proceeds

- 4.3.1. All Contributors to the IP should be entitled to share in the proceeds in proportionate to their contributions, unless the entitlement to share has been willingly waived through informed consent. Fanshawe will not partake in any dispute resolution as to the mechanism to calculate the proportionate share contributions of Creators, all such items should be decided by the Creators.

- 4.3.2. In cases where the Creator(s) owns the IP, but has utilized college resources (e.g. laboratories), Sharing Ratio to the proceeds shall be; 75% for the Creator, 20% to the Creator's School or Department, and 5% to the Centre for Research.

- 4.3.3. As indicated in Section 5.8, the Member or Creator of Fanshawe is responsible for the preparation and prosecution of any Intellectual Property application in order to protect their rights at their own expense.

- 4.3.4. In the event that the Creator wishes to obtain support for the Prosecution of a Patent application to protect their IP rights, the Creator(s) must demonstrate the following: 1. Review of prior art demonstrating novelty, industrial relevance and 2. commercialization potential of the IP. This should be provided in a report by a qualified person (i.e. Lawyer, Patent Agent, or Market Analyst).

- 4.3.5. Fanshawe and/or Sponsor may also be granted a share in the proceeds at the discretion of the owners of IP rights. The College will aim to use these proceeds to reinvest in further research.

- 4.3.6. Commercialization and revenue generated from College-owned IP:

4.3.6.1. Fanshawe will share the proceeds with the Creator(s);

4.3.6.2. Unless the parties agree otherwise, the Sharing Ratio shall be 55% to the Creator(s), 25% to the Creator's School or equivalent Department, and 20% to the Applied Research Office;

4.3.6.3. The Sharing of Proceeds described in this Section applies only if a Third-Party does not have rights to the IP (e.g. IP rights granted through a research agreement).

4.4. Inventions

4.4.1. For Inventor-owned technology, net revenues from license fees, royalties, and/or equity are shared in accordance with section 4.3.2 above.

4.4.2. For College-owned technology, net revenues from license fees, royalties, and/or equity are shared 60%/40% between the Inventor(s) and the College.

4.5. Disclosure and Protection

4.5.1. Members of the College who have developed IP and intend to pursue Commercialization must disclose their intention.

4.5.2. Disclosure must be made sufficiently in advance of any publication, presentation, or other public disclosure to allow time for possible action that protects rights to the IP for the Creator(s) and the College. This may include an agreement regarding Sharing of Proceeds. Initial disclosure may be done informally (i.e. verbally to Centre for Research).

4.5.3. Creators of IP are responsible for the protection of their IP at their own cost.

4.5.4. If it is determined that the IP is owned by the College, and the College expresses an interest in commercializing the IP, a formal written IP Disclosure will be required.

4.5.5. If, after evaluation, the College decides not to commercialize the disclosed IP, it shall promptly offer to assign its ownership interest in the IP to the Creator(s), thereby enabling the Creator(s) to release the information into the public domain or to pursue commercialization independently.

4.6. Obligations to Others

4.6.1. Fanshawe, Members of Fanshawe, and other Fanshawe-affiliated individuals shall respect the IP rights of others. As well, Members of Fanshawe and other Fanshawe-affiliated individuals shall comply with any and all obligations embodied in a License and/or other agreements to which Fanshawe is a party.

4.7. Third-Party Agreements

4.7.1. Where there is an agreement between Fanshawe and a Third-Party Entity that addresses IP arising from the collaboration, creation, development, acquisition, ownership, use, maintenance and management of said IP, this shall be dealt with in accordance with the terms of such agreement.

4.7.2. In the event of an Applied Research Services Agreement from which IP may be created, it must be specified in advance and in writing the manner in which ownership rights to the IP will be determined.

4.7.3. The costs associated with creating, maintaining, monitoring, licensing, and defending the IP must be specified. Such determination should be based not on differences of negotiating power, but on the extent of the Contribution. Such rights may be waived/modified through Informed Consent.

4.8. Respect of law and regulations

4.8.1. Fanshawe, Members of Fanshawe, Third-Party Entities, and other Fanshawe-affiliated individuals shall abide by all applicable provincial and federal laws, regulations, and statutes.

## 5. AUTHORSHIP

This section applies to Scholarly Works that are protectable by Copyright and that have been disseminated in some manner by Fanshawe or externally.

At Fanshawe, all Intellectual Contributors to Scholarly Works must share in the responsibility for its contents, and must receive appropriate credit for their Contributions.

Unless otherwise defined through a contract with an Author or Creator(s), materials prepared for a course will follow the same General Principles in section 5.1 below.

### 5.1. General Principles

- 5.1.1. Authors shall be listed in order of significance of their contributions;
  - 5.1.2. Authorship credit is not earned through financial support;
  - 5.1.3. Authorship credit is not given simply on the basis of the employment status of the Contributor;
  - 5.1.4. An administrative relationship to the Authors of a Scholarly Work does not earn authorship credit;
  - 5.1.5. Students are the initial Authors of publications that are based on their thesis and/or capstone project;
  - 5.1.6. Students shall retain IP rights to the content of the thesis/capstone project, and such rights can only be modified or waived through Informed Consent;
  - 5.1.7. Students shall have the right to list any work on their resume, portfolio or CV as appropriate while respecting any Non-Disclosure or Confidentiality Agreements that have been signed in good faith, and;
  - 5.1.8. Any publication or commercial exploitation of the thesis and/or capstone project must acknowledge its Contributors.
- 5.2. While this Policy recognizes the Contributors to a Scholarly Work based on the extent of their contributions, IP law does not determine IP rights on this basis. Author(s) should inform themselves of the IP rights defined in the appropriate legislation.
- 5.3. In the event that the information in this section is in conflict with normal practice or policy established by a discipline, legislation, statute, law or professional association, the Author(s) of such Scholarly Work should refer the matter to the Dean, Centre for Research & Innovation who will determine the course of action.
- 5.4. All considerations of authorship must also comply with Standard 2 of policy A201: Scholarship, Research and Creative Activity.

## 6. COPYRIGHTABLE INTELLECTUAL PROPERTY

### 6.1. Determination of Rights to Copyrightable IP

- 6.1.1. The Creator of Copyrightable IP will retain his or her rights, and Fanshawe will not assert ownership rights, except as outlined below.
- 6.1.2. In the event, Fanshawe may wish to use copyrightable material for solely educational purposes, Fanshawe will aim to provide Creators with ownership Attribution.
- 6.1.3. The College will assert ownership rights to Copyrightable IP developed under the following circumstances:
  - Development of the material was funded completely or in-part as an externally-sponsored research program under an agreement which allocates rights to the College.

- The material was specifically assigned or commissioned by the College, pursuant to a written contract of employment, and/or when release time from the individual's normal duties has been designated for Other Duties as Assigned/Assigned Tasks.

6.2. Disclosure of Copyrightable Material

- 6.2.1. College members are not obligated to Disclose the creation of Copyrightable material, even when the product might have commercial value, unless the material was developed under one of the circumstances listed above in Section 6.1, in which case, the Creator is responsible for timely Disclosure. Failure of Disclosure may cause loss of ownership rights or termination of research grant.
- 6.2.2. All other uses of Copyrightable IP will conform with the requirements set in A202: Copyright.

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*Policy No. & Title:* A205: INTELLECTUAL PROPERTY

*Addendum:* **Guideline B: INTELLECTUAL PROPERTY CREATION AND REGISTRATION**

*Issued by:* Dean, Centre for Research & Innovation

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## 1. PURPOSE

The purpose of this document is to describe the methods by which IP is created and registered by Fanshawe Members.

## 2. DEFINITIONS

See Standard 1: Intellectual Property Definitions.

## 3. COLLABORATIVE RESEARCH AND PURSUITS

3.1. Fanshawe supports Applied Research and Scholarly Research undertaken in collaboration with Third Party Entities. To minimize any potential IP complications, Fanshawe establishes the following principles:

- 3.1.1. Informed Consent is required from all parties before Collaborative Research pursuits are undertaken.
- 3.1.2. In the event that a Member of Fanshawe is considering entering into an agreement which alters in any manner the IP rights given under this Policy, such an agreement must be reviewed by the appropriate administration (e.g. Centre for Research) at Fanshawe.
- 3.1.3. In Applied Research projects that involve an agreement on the sharing of rights to IP, such an agreement may not be modified without the Informed Consent of all parties involved, including the appropriate administration at Fanshawe.
- 3.1.4. Any agreement on the attribution of IP rights in Applied Research projects must be negotiated with due consideration given to Canadian and foreign IP law.
- 3.1.5. In projects that involve outside parties working at Fanshawe, such parties will be subject to Fanshawe policies and procedures regarding the work being conducted and utilizing any Fanshawe resources. It is the responsibility of the Principal Investigator and/or the Centre for Research staff who are involved in the project to inform outside parties of this requirement.
- 3.1.6. In projects that involve Fanshawe researchers working at other institutions, such individuals will be subject to the policies of that institution for research work undertaken there, subject to the existence of any agreement to the contrary.
- 3.1.7. Students will have the right to disclose the project on their resume, portfolio or CV with the proviso that proprietary and confidential information is not disclosed as per the terms of any signed Nondisclosure and Confidentiality Agreement and/or Applied Research Services Agreement.

### 3.2. Applied Research

- 3.2.1. Applied Research may generate IP and lead to products and services that can be exploited/commercialized in the near or longer term. The creation of any such IP shall be promptly Disclosed by the Creator to Fanshawe's Centre for Research and steps shall be taken to prevent Disclosure that may jeopardize the ability to protect the IP.
- 3.2.2. Fanshawe's steps to protect IP from Disclosure do not imply that Fanshawe will assume any costs associated with preparing, filing, maintaining or monitoring the IP. Efforts to protect IP will be made to respect the IP rights of all parties, and may be subject to separate Collaborative or contractual agreements.

- 3.2.3. The ownership of any IP generated from an Applied Research project shall be determined by the agreement Fanshawe has with the participants of the project.

### 3.3. Scholarly Research

- 3.3.1. While, under this Policy, Fanshawe researchers own IP rights to the Scholarly Work that they create, (subject to the exceptions outlined in this Policy), in cases involving funded or contract-based work, this may sometimes not be possible.

- 3.3.2. In such situations, Fanshawe establishes the following Principles:

- Initial publication rights to the Scholarly Work will remain with Fanshawe Members who are responsible for its creation; and
- Fanshawe Members will adhere to the academic standards of the relevant discipline at all times.

- 3.3.3. Fanshawe also adopts the following Guidelines:

- Any arrangement entered into by Members of Fanshawe that limits their enjoyment of rights under this Policy must be entered into with Informed Consent;
- Where research is funded by a Third-Party Entity that retains the ownership of IP rights in the Scholarly Work produced, a form of academic benefit (i.e. enhanced student learning and/or enriched curriculum) should, ideally, result.
  - Exception: Research outcomes which are bound by Non-Disclosure or Confidentiality Agreements will be assessed on a case-by-case basis by the Dean of Research & Innovation in order to determine the feasibility of curricular inclusion.

## 4. TRADEMARKS

A Trademark is defined in Standard 1: Intellectual Property Definitions.

Trademarks can arise in many different contexts. The key consideration is whether the proposed mark comprised of words, designs, phrases, or a combination of these elements is distinctive and used with the intention of associating with Fanshawe's activities.

The most common way to secure Trademark rights is through an Application seeking a Trademark registration before the Canadian Intellectual Property Office.

All potential creation and use of Trademarks, which associates collaboration with Fanshawe College, will be managed by Reputation and Brand Management.

## 5. PATENTS

Patents apply to newly-developed technology as well as to improvements on products or processes. In order for a patent to be eligible for patentability it must fulfill the following conditions: novelty, utility and inventiveness. Patent-eligible subject matter can be any art, process, machine, manufacture of composition of matter. Scientific principles, abstract theorems, or mere discoveries are not patent-eligible. Fanshawe strongly encourages its Members to consult a lawyer or patent agent when determining whether their subject matter is patentable.

### 5.1. Ownership and Rights to a Patent

- 5.1.1. Fanshawe acknowledges that it has no direct interest in the ownership of any patent developed by a member of Fanshawe, subject to the exceptions below.

- 5.1.1.1. These exceptions include:

- When the patent might have been intellectually conceived in the course of teaching and learning, research or creative activities at Fanshawe.

- Requirements imposed by contractual obligations arising from any agreement to which the Creator(s)/Inventor(s) is/are a party or participant.
  - In the case of Assigned Tasks, where ownership rests solely with Fanshawe.
- 5.1.2. In most cases, members of Fanshawe are responsible for the preparation and Prosecution of a Patent application to protect their IP rights at their own expense.
- 5.1.3. In the event that a Creator wishes to obtain financial support from the College (e.g. in the form of a Research & Innovation Grant) for the Prosecution of a Patent application to protect their IP rights, the Creator(s) must demonstrate the following:
1. Review of prior art demonstrating novelty, industrial relevance, and
  2. Commercialization potential of the Invention.
- 5.1.4. The items in subsection 5.1.3 must be provided in a report by a qualified person (i.e. Lawyer, Patent Agent, or Market Analyst).
- 5.1.5. Any Member of Fanshawe or other Fanshawe-affiliated person who believes he/she has developed a patentable invention should review the IP Disclosure Mechanism procedural document (below).

## **6. OTHER TYPES OF INTELLECTUAL PROPERTY**

- 6.1. In addition to copyright, trademarks and patents, other types of intangible rights recognized at common law and embodied in various statutes and regulations exist.
- 6.2. These include, but are not limited to, Plant Breeders' rights, Integrated Circuit Topography rights, Industrial Design rights, Trade Secrets and know-how.
- 6.3. If any members of Fanshawe or other Fanshawe-affiliated person believes that their intellectual endeavours have yielded rights apart from copyright, trademarks or patents, they are encouraged to contact Fanshawe's Centre for Research for more information and to assess the existence of additional rights or protections on a case-by-case basis.

## **7. DISPUTE RESOLUTION**

- 7.1. Fanshawe recognizes the possibility of conflicts arising from the inability to reach an agreement pertaining to the rights in IP created at Fanshawe.
- 7.2. In the event of a conflict, the individuals involved can find assistance from their Associate Dean, Dean, and/or legal counsel. It is recommended that the first attempt to resolve the conflict be at the informal level. In the event a conflict cannot be resolved through informal means, it may be referred to the legal counsel for review and recommendation. The appropriate Dean shall decide the dispute.
- 7.3. Academic Employees are also referred to Article 32 of their Collective Agreement, which outline the mechanisms and procedures for addressing grievances. However, this IP Policy does not form part of the Collective Agreement.

## **8. RESPONSIBLE OFFICES**

The Responsible Offices of this Policy shall be the Centre for Research. For any questions please contact [research@fanshawec.ca](mailto:research@fanshawec.ca).

*Policy No. & Title:* A205: INTELLECTUAL PROPERTY

*Addendum:* **Standard 1: INTELLECTUAL PROPERTY DEFINITIONS**

*Issued by:* Dean, Centre for Research & Innovation

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## 1. PURPOSE

This document is a list of definitions utilized throughout the above policy.

## 2. DEFINITIONS

*Applied Research:* Research and development activities directed at solving a specific challenge faced by an external partner or TPE. Applied Research at colleges is typically carried out by teams of students working under the guidance, supervision and mentorship of faculty, and in collaboration with partner organizations or under agreement with TPEs. Applied Research includes grant-funded and industry-sponsored Applied Research, curriculum-based research projects in collaboration with an external organization and Applied Research carried out by faculty and staff on paid professional development leave.

*Applied Research Services Agreement:* An agreement between the College and a TPE whereby the College agrees to provide Applied Research Services to the TPE.

*Arising IP:* IP that is developed by one or more parties in the course of Applied Research activities which did not previously exist. It is also referred to as “Foreground IP”.

*Assigned Tasks:* Duties that are related to an individual’s employment or Contractor relationship with Fanshawe. These may include but are not limited to: the preparation or creation of letters; memoranda; administrative reports; Course Materials (as defined herein); laboratory manuals; inventions; Plant Varieties; business processes, Integrated Circuit Topographies; Industrial Designs; minutes of meetings; and administrative Computer Programs; all prepared or created to support Fanshawe’s operations or administration, and/or management. Assigned Tasks would not normally include Scholarly Works (as described below) but shall include Fanshawe Trademarks.

*Assignment:* A transfer of complete ownership to another party (the “Assignee”). Assignment involves an outright sale of Intellectual Property to the Assignee. However, partial assignments are allowed. For example, an assignment may be restricted by geographical locations.

*Author:* An individual who has made a significant contribution to a Scholarly Work, and without whose contribution the Scholarly Work would be incomplete.

*Basic Research:* Also known as Fundamental Research, this is research which is typically curiosity-driven in nature and does not have immediate commercial objectives (although it could), and may not result in an invention or a solution to a practical problem.

*Centre for Research and Innovation or CRI:* means the Applied Research Office (ARO) and research administration office of the College or equivalent.

*College:* refers to Fanshawe College.

*College Affiliate/Personnel:* Refers to College faculty, support and administrative staff, students, visiting faculty, contractors, consultants and all other persons whose primary work affiliation is with the College, whether compensated by the College or not, and whether the work is done in a physical or virtual environment.

*Commercialization:* The process of taking an invention or scientific discovery (for example, new technology or new and improved manufacturing process) or other IP to one or more commercial markets.

- Commercialization may include licensing, manufacturing or production of IP, as well as the protection of IP, including, but not limited to, obtaining patent protection and copyright registration, with the goal of financial return.

- The 3 main ways IP owners Commercialize IP rights are to: use them (create a product or service), assign them (transfer all or part of the rights to another individual who will exploit them), or license them (transfer all or in part to a “licensee” in exchange for a fee).

*Computer Program:* A sequence of instructions, stored in any medium that can be interpreted and executed by a computer.

*Confidentiality Agreement:* an agreement that binds one or more parties to non-disclosure of confidential or proprietary information. A confidentiality agreement is often used in situations wherein sensitive corporate information or proprietary knowledge is not to be made available to the general public or to competitors.

*Conflict of Interest:* A situation that exists when a Member of Fanshawe has the opportunity to advance or protect one’s own personal interest, or the interest of others with whom one has a familial, personal or business relationship, the advancement of which may be harmful to the integrity or fundamental mission of Fanshawe. This Conflict of Interest may be actual, potential or perceived.

*Contractor:* A person or business entity who provides goods and/or services to Fanshawe under terms specified in a written agreement, and who does not have an employment relationship with Fanshawe.

*Contributor:* A person or agency who contributes to the creation of IP.

*Copyright:* Copyright is a property right to publish, produce, reproduce, translate, broadcast, adapt or perform a work, as defined by the Copyright Act (R.S.C. 1985, c. C-42, as amended.) Copyright gives rights to creators and/or owners while providing access to IP by users. Canadian copyright law, which is intended to strike a balance between two interest groups—the creators/owners of IP and the Users, applies to all original literary, scholarly, dramatic, musical, and artistic works and recordings and software. For creators/owners, the law is intended to ensure that they have control over the use of their IP.

*Course Materials:* Materials that are necessary for the proper administration of an academic course, such as course outlines, assignments, exams, evaluations and academic feedback.

*Creative Activity:* The process of research leading to scholarly or creative products and the active participation in one's discipline or in interdisciplinary work.

*Creator(s):* Creator(s) refers to the individual or group of individuals who create Intellectual Property at the College.

*Disclosure:* The sharing of content of a patent application or any description of the innovation.

*Employee:* A person under the employ of Fanshawe either:

- On a full-time, ongoing basis either under the terms of the Academic Employees Collective Agreement, the Support Staff Collective Agreement, or the Terms and Conditions of Employment for Administrative Employees; and/or
- On a less than full-time, and/or temporary basis under the terms of an employment agreement.

*Fanshawe:* refers to the abbreviated form of Fanshawe College and referred as such throughout the IP Policies.

*Geographical Indication:* A form of Intellectual Property protection, this is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.

*Idea:* Any conception that exists as a result of mental understanding, awareness or activity.

*Individual Research:* Research which is often administered/managed by College, but the primary accountability lies with the individual (e.g. Fanshawe employee serves as Principal Investigator).

*Independent Research:* Research undertaken by an individual without institutional affiliation, funding, or administration/management.

*Industrial Designs:* An industrial design is the features of shape, configuration, pattern or ornament (or any combination of these features) applied to a finished article made by hand, tool or machine. It may be, for example, the shape of a table or the shape and ornamentation of a spoon. The design must have features that appeal to the eye. ([Canadian IP Office, Industry Canada](#))

*Informed Consent:* An acknowledgement, agreement, approval, or consent to take action or to allow something to take place only after knowing all the relevant facts.

*Innovation:* Innovation means doing something new that improves a product, process, or service. Many innovations can be protected through Intellectual Property rights. An example of this is an invention which can be protected by a patent. As such, an innovation has the potential to be commercialized.

*Institutional Research:* Research that is focused on internal evaluation and program quality improvements where the primary accountability lies directly with the college and the Ministry.

*Instructional Material:* Material that is used for the purposes of teaching and/or instruction of Fanshawe students and pedagogical preparation of faculty at Fanshawe, and includes, but is not limited to lectures, slideshows and/or PowerPoint presentations, instructor's notes, manuals, and guides.

*Integrated Circuit Topography:* Protectable subject matter, these are innovative, three-dimensional circuit designs used in many different products. Examples of such products are automobiles, industrial robots, cameras, spacecraft and computers ([Canadian IP Office, Industry Canada](#)).

*Intellectual Property (IP):*

- Any form of knowledge or expression created by one's intellect that can be legally protected.
- Intellectual Property (IP) is the tangible or communicable results of literary, artistic and scientific endeavour. It includes, among others, works in the form of books; monographs; papers; journal and magazine articles; theses and technical reports; paintings; drawings and sculpture; artistic performances; film, video and audio recordings; computer software; Internet website pages; inventions; industrial design; trademarks; plant breeders' rights; know-how; and biological materials.
- Most intellectual property can be protected under copyright, trademark or, in the case of inventions, through patents, such as industrial design or utility patents. Intellectual property may be held individually, collectively as one group or entity, or jointly shared between persons or other entities.
- Protected intellectual property may, like any other asset, be bought or sold, leased, and/or shared.
- Licensing is the mechanism by which owners of the property lease and share the rights to use that property. Generally, creators are the owners of their own intellectual properties. In other cases, those who commission or purchase original works of art, or employers who contract or employ staff who invent works, will own the right of the IP through purchase, employment agreements or other arrangements.

*Invention:* A tangible or intangible concept, system, device, process, machine, scientific discovery, work or creation, which is unique and original, as well as any related Intellectual Property. Inventions can be issued a patent under the Patent Act (Canada).

*Inventor(s):* For the purposes of Canadian Patent law, this is a person/group of persons who conceives of a "new and useful" art, process, machine, manufacture or composition of matter, or any "new and useful" improvement thereto. The inventive concept under Canadian Patent law must be "reduced to a definite and practical shape" for its creator to be considered an Inventor. As used in this Policy, "Inventor" includes analogous concepts as recognized under the Intellectual Property laws of jurisdictions outside of Canada.

*Joint Ownership:* Intellectual Property rights developed together by two or more parties, where the list of inventors includes individuals from both parties and where the parties share the cost and risk of the research and development work and its results.

**Moral Rights:** Moral rights are a provision within Canadian Copyright law intended to codify and protect an Author's association with the Creative work by preserving the integrity of the work and intent behind the work. Moral rights can be divided into two categories: rights of attribution and association and rights of integrity.

**Net Royalty Income:** Gross royalties received by the College, in the form of cash or cash proceeds, whether from the sale of equity or obtained in licensing transactions, milestone payments or royalty payments, unless otherwise agreed, less commercialization costs of the Centre for Research (including but not limited to billed costs for protection of IP, marketing, legal fees and other licensing costs).

**Non-Disclosure Agreement:** An agreement by which one or more parties of a project agree not to disclose confidential information that they have shared with each other. The contract may also indicate when/how the information can be shared with others in a way which does not jeopardize the project.

**Novel:** As defined by patent law, this refers to the originality of an idea or invention.

**License:**

- A License is one way an IP owner can commercialize IP, by transferring all or part of his or her the IP rights to another party in exchange for a fee (usually called a "Royalty").
- A License of IP rights does not transfer IP ownership; it gives permission for the licensee to use the IP within the terms of the IP Licensing Agreement (a legal contract).
- The College may enter into a Licensing Agreement with a Third-Party Entity, meaning that the College grants the rights to use materials that are proprietary to the College or others (if the College has rights to do so).

**Patent:** A right granted by the federal government to the inventor (or a person to which the inventor has assigned her rights) to stop others from making, using and/or selling an Invention from the day the patent is granted to a maximum of 20 years after the day on which the patent application is filed.

**Plant Breeder's Rights:** A form of Intellectual Property protection that allows plant breeders to protect new varieties of plants, similar to the way an Invention can be protected with a Patent. In Canada, an application for a Plant Breeder's Rights (PBR) certificate may be filed with the Plant Breeder's Rights Office (PBRO) at the Canadian Food Inspection Agency (CFIA).

**Prosecution of a Patent:** The process of writing and filing a Patent Application and pursuing protection of the Patent Application with a patent office located in Canada or elsewhere.

**Public Disclosure:** The communication of information relating to IP to external parties, including students who are not presently contractors or employees of the College. Public Disclosure includes, but is not limited to, disclosure in written or oral form; communication by email; posting on a web blog or social media platform; disclosure in a news report, press release or interview; publication in a journal, abstract, poster, or report; presentation at a conference; demonstration of an Invention at a trade show; or the industrial application of an Invention.

**Research:** The systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions.

**Research Project:** Any research project that is not classified as an Institutional Research Project and includes, without limitation, (a) Applied Research; (b) any project involving a Partner, with or without funding from such Partner; (c) any project using Fanshawe resources (e.g. people, equipment, space) to conduct the project activities; (d) student projects (such as capstone or final year project); (e) curriculum-based projects (i.e. project occurring within certain courses for academic marks); or (f) independent projects (i.e. projects done outside of normal academic activities with signed agreements).

**Responsible Office:** An area and/or office of Fanshawe that is responsible for developing and administering a policy, and/or drafting and maintaining procedures, and/or implementing the business of Fanshawe under the



direction of a Responsible Executive (President or Vice-President). More than one Responsible Office may be designated for a particular policy or procedure.

*Revenue (or Gross Revenue):*

- Cash derived from the Commercialization of IP (by the Creator if commercialized by the Creator, or by the College if commercialized by Fanshawe) including, without limitation, proceeds from royalties, profit-sharing, lump sum payments, and sale of equity shares. Revenue does not include funding for sponsored research projects.
- There are 3 main ways owners of IP can generate Revenue from their IP rights: use the IP rights themselves to produce a product or service; assign (sell) the rights to another party to produce a product or service; or license the IP rights to another party (the “Licensee”) to do so.

*Royalty:* For purposes of this Policy, this is a payment made to an owner(s) of Intellectual Property for the use of his/her/their property, especially Copyright material, Patents and Trademarks. Royalties when defined by an enforceable contract or other arrangement are legally binding. Royalty payments are typically made by those who wish to use licensed IP.

*Scholarly Work:* Work which is created in the course of Teaching and Learning and/or Research at Fanshawe. A list of Scholarly Works may include, but is not necessarily limited to the following: books, published papers, research reports, instructional material, and academic work submitted by students. These works are eligible for protection under Canadian and/or foreign IP law.

*Scholarship:* The pursuit, creation and dissemination of knowledge.

*Student:* Any individual who is admitted, enrolled or registered for study at Fanshawe. Individuals who are active in a program, but not enrolled in classes for a particular term (e.g. on vacation or co-op term) are considered to have a continuing student relationship and are included in the definition of Student.

*Sponsor:* A party providing funding for a research project, facility or equipment, including granting agencies, foundations, private donors, government departments, corporations, municipalities, and Fanshawe itself.

*Teaching and Learning Activities:* A wide range of processes that may be utilized to impart educational knowledge to Students at Fanshawe in order that they may meet curriculum-based objectives.

*Technology Transfer:* The process of conveying results stemming from scientific and technological research to the market place and to a wider society. In a post-secondary environment, this usually refers to a transaction which knowledge developed within the institution is communicated to firms in the private sector for industrial and commercial purposes.

*Technology Transfer Office:* Also known as Technology Licensing Offices, these offices are responsible for technology transfer and other aspects of the commercialization of research that takes place in a post-secondary institution. Technology transfer offices act as a liaison between university or college inventors and industry partners.

*Third-Party Entity or “TPE”:* An industry or community partner with which the College has contracted to provide Applied Research Services that could result in Arising IP.

*Third-Party Rights:* Legal and/or commercial rights of any other party under any Patent, Trademark, Copyright, Trade Secret, confidential information or other intellectual property.

*Trademark:* A form of Intellectual Property protection, this refers to the mechanism which allows words, symbols, pictures or designs (or combination of these) of goods or services of one person or organization to be distinguished from those of others in the marketplace.