
Guidelines on Intellectual Property Interests for Students Involved in Research at the University of New Brunswick

Office of Research Services

Guideline

PLEASE NOTE: This content is under revision and edits are pending. The information contained does not take into account new collective agreements. However, *the sections on Scholarly Property and Data Derived from Research are current.*

1.0 Purpose

- 1.1 The University of New Brunswick, as an employer and a contractor, enjoys certain rights under the laws of Canada with respect to intellectual property matters (see page 9 for the Policy Statement). As an employer it has distributed some of these rights through collective agreements to the employees.
- 1.2 These guidelines are written to assist students at the University of New Brunswick in understanding their intellectual property rights resulting from their research activities at the University. Underlying the document is the presumption that all persons in the university community act in good faith. It is important to keep in mind that when more than one party have interests in intellectual property, that property cannot be exploited either scholastically or commercially by any single party without the permission of all the others.

2.0 Applicability

- 2.1 University-wide, Fredericton Campus, Saint John Campus

3.0 Definitions

- 3.1 **INTELLECTUAL PROPERTY:** Creative works within the University can be considered as being of primarily scholarly value or commercial value, or both.
- 3.2 **SCHOLARLY PROPERTY:** Scholarly property may include but is not restricted to the following:
 - Theses/Project Reports, essays, and other work done to satisfy course or program requirements
 - Courseware including notes, assignments, and handouts
 - Papers and other publications
 - Publications
 - Data of scholarly value
- 3.3 **COMMERCIAL PROPERTY:** Commercial property may include but is not restricted to the following:

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- Products (including unpatented inventions, processes, computer programs, maps, digital data, recorded works, and photographs)
 - Patents

4.0 Implementation

4.1 GUIDELINES FOR SCHOLARLY PROPERTY

4.1.1 Theses/Project Reports, Essays, and Other Work Done to Satisfy Course Requirements:

- 4.1.1.1** The University recognizes that the students hold copyright in the finished thesis/report resulting from their efforts. Copies of the thesis/report shall have an international copyright notice on the title page in accordance with the School of Graduate Studies guideline.
- 4.1.1.2** The University recognizes that the ideas expressed in an undergraduate honours, Masters, or PhD thesis/report will often arise from an interaction with others. In some cases this interaction will have been solely with the supervisor; in other cases, a larger research group will have been involved. Copyright refers only to the written document; ownership of the expression of ideas themselves, including any advances in theory, hypotheses, data, patentable ideas, or commercial exploitation of the work will normally be shared among those who have made material or significant contributions to the work.
- 4.1.1.3** In exceptional cases, researchers may agree to delay the dissemination of the results of contract research, or of work involving trade secrets, for a specified period of time. This delay may only occur if it is authorized by the University in writing, and shall not normally be for longer than four years. Where a student is to be involved in such contract work, the student must be advised of any restrictions to the general dissemination of the results and a written agreement shall be in place before the student begins the research.
- 4.1.1.4** Essays, project reports, and other work done to satisfy course requirements will normally be regarded as the student's intellectual property and the student may add a copyright notice if desired. In the case of joint projects among a number of students, the intellectual property will normally be divided according to the contribution of each.

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Where students are required to prepare written works for non-university parties as a consequence of related course-credit arrangements, intellectual property rights of the non-university party normally take precedence over any university, faculty, and student rights.

4.1.2 Data Derived from Research

4.1.2.1 Where data are acquired through the student's individual effort then they will usually be the property of the student making that effort. On the other hand, where the student collects data in University laboratories, or with University equipment or funding, or where, under the direction of the research supervisor, the student uses research instruments including interview schedules and questionnaires developed wholly or in part by that supervisor or by some other person or agency, the right to ownership and/or use of the data may be shared among the parties involved, including the University, where appropriate. However, where data are gathered for a students' thesis or report, the student is entitled to use the data in tables or appendices.

4.1.2.2 On occasion, ownership of the data will be determined by the terms of a research contract that has provided the funding to support the work.

4.1.3 Publications of a Scholarly Nature

4.1.3.1 The differing nature of contributions should be considered in assigning the authorship of a scholarly publication; for example, contributions include:

- Participation in the initiation or planning of a study and assent to its development.
- Making the reported observations and participation in the generation of the data.
- Development of a new hypothesis or theory.
- Interpretation of the observations or data.
- Participation in the writing of the manuscript.

4.1.3.2 "Author" implies, first and foremost, that the individual has contributed to the writing of a publication and has authoritative knowledge in the area of publication, and hence can defend the publication on scholarly grounds.

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- 4.1.3.3 Supervisors and students are strongly urged to determine their respective authorship rights concerning research in which they have collaborated as early as possible, and at least prior to either party leaving the University. If subsequent difficulties arise in locating former students, they do not negate the need to determine the parties' respective rights. A credited author should have read the entire contents of an article or other communication and assented to its publication.
 - 4.1.4 Courseware
 - 4.1.4.1 Individuals covered by the Collective Agreement between the University of New Brunswick and The Association of University of New Brunswick Teachers hold copyright in lecture notes, textbooks, articles, letters, and other similar material prepared as part of their duties.
 - 4.1.4.2 Ownership and copyright in courseware, including multimedia material, produced with contracts held by the University and/or using University facilities, are also covered by the terms of the Collective Agreement.
- 4.2 GUIDELINES FOR COMMERCIAL PROPERTY
 - 4.2.1 Products
 - 4.2.1.1 The following sections concern the commercial development of products (including but not restricted to unpatented inventions, processes, computer programs, maps, digital data, and photographs).
 - 4.2.1.2 The rights of faculty members to products developed using University facilities are addressed in the Collective Agreement, Articles 38 and 39.
 - 4.2.1.3 Wherever commercial benefits are anticipated from a project which is part of a student's thesis/report work, the student must be advised and there should be a written agreement in place. Circumstances are such that a variety of intellectual property ownership arrangements are possible. It is difficult to anticipate the relative contributions of the different members of a research team and, hence, care should be taken in such cases that the supervisors give appropriate credit and compensation to the student.
 - 4.2.1.4 Students who have an employment relationship with the University, including those who are supported by Research Assistantships, do not share in commercial property rights unless they have entered into an Agreement to the contrary.

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- 4.2.2 Patents
 - 4.2.2.1 The rights of Faculty and certain other research personnel with respect to patents are covered extensively in the Collective Agreement.
 - 4.2.2.2 The rights of students with respect to patents are subject to the same general guidelines as for other products described above.
- 4.3 EXTERNAL CONTRACTS:
 - 4.3.1 Students should be aware that the provisions of these guidelines do not apply if they are employed:
 - 4.3.1.1 On research projects carried out under contracts between the University and external clients, or
 - 4.3.1.2 By individual faculty on contracts not administered by the University
 - 4.3.2 It is the responsibility of faculty members to advise students where such a situation exists.
 - 4.3.3 All University-based external contracts must be arranged through the Office of the Vice-President (Research).
 - 4.3.4 As a general rule, students and faculty of the University are encouraged to enter into contractual arrangements which will allow the publication of significant results.
 - 4.3.5 Where a student's research is funded by means of an external contract to the University, the student's thesis/report cannot be a deliverable on the contract.
- 4.4 DISPUTE RESOLUTION
 - 4.4.1 Where a student and a faculty member are in dispute over the ownership of intellectual property, the following procedure may be used to attempt to resolve the dispute within the University.
 - 4.4.2 Assuming the student has reached an impasse with the faculty member, two steps are available:
 - 4.4.2.1 The student shall seek the assistance of the Department Chair/Faculty Dean in an attempt to come to an agreement.
 - 4.4.2.2 If an agreement is not reached in Step 1, the student may appeal the dispute to the Vice-President (Research), who will convene a committee to hear the appeal. The committee will be composed of a Faculty Dean appointed from the Board of Deans, the Dean of Students or Designate, and the Vice-President (Research), who will chair the committee. The

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panel shall render a decision to the parties no later than 60 days after receiving full documentation from the parties.

4.5 POLICY ON RIGHTS IN INTELLECTUAL PROPERTY

4.5.1 Excepting approved contractual arrangements* to the contrary, the University of New Brunswick reserves to itself the rights in all intellectual property developed by persons** in the course of their relationship(s) with the University.

4.5.1.1 * "Approved contractual arrangements" includes collective agreements

4.5.1.2 ** "Persons" includes individuals and corporations

5.0 Interpretation and Questions

5.1 For further information please contact: Dwight Ball Executive Director, ORS Tel: (506) 453-3558 Fax: (506) 453-3522 E-mail: fdball@unb.ca