

OTAGO POLYTECHNIC MANAGEMENT POLICY		Number: MP1100.01	
Title:	Intellectual Property		
ITPNZ Standard:	11 Research		
Policies Committee:	Approval Date: 12 Feb 09	Effective Date:	12 Feb 09
Previous Policy Number:	n/a	Review Date:	12 Feb 11
Contact Authority:	Deputy Chief Executive	Status:	Current

Purpose

Otago Polytechnic wishes to foster research and development that advances knowledge and scholarship; and to support projects where that leads to marketable products or services.

The polytechnic:

- has a preference for the open sharing of information, knowledge and resources
- recognises that intellectual property (IP) is owned by the creator, unless there are specific agreements to the ownership of IP by others, and
- wishes to foster the empowerment of individuals in their endeavours in a protective and/or promotional framework for individual creators associated with Otago Polytechnic.

The policy recognises that the polytechnic will accrue benefits from the outcomes of the IP created by the intellectual activity of its staff and students and the dissemination and sharing of these outcomes.

The polytechnic wishes to support free and open access to IP generated through the “Creative Commons” attribution process.

All IP that is brought into the polytechnic belongs with the creators/owners of that IP.

Otago Polytechnic also has a *guardianship role* for intellectual property that ensures students’ rights are protected.

Otago Polytechnic is committed to its Treaty obligations as outlined in the Te Kura Matatini ki Otago Maori Strategic Framework 2007 – 2011. This is that Otago Polytechnic recognises its “*guardianship role*” as holder of Māori knowledge and that Māori IP is protected and recognised.

Statutory Compliance

Copyright Act 1994
Trade Mark Act 2002
Patents Act 1953

National Guidelines Not applicable.

Policy and Procedures

DEFINITIONS OF IP

- In this policy, “intellectual property” includes the rights to all created work
- Outputs are the products that are created by an individual or group of individuals. This may include, for example, artworks,
- Outcomes are the consequences or results arising from the development of, or use of, IP other than products that are created from IP. Examples may include a publication such as a book or, an exhibition.



POLICY

1. Ownership of IP and outputs arising from intellectual activity

In general all IP and the outputs and outcomes arising from that IP are owned by the creator. While Otago Polytechnic will derive benefits from the outcomes; there are exceptions to this, as follows:

“Co-ownership” refers to those materials that are jointly owned by the polytechnic and a staff member where such activities are identified within the employment agreement, in this policy, or subject to specific agreement for co-ownership:

Teaching materials created by staff are co-owned through the contractual obligations in the employment agreement.

“Exclusive ownership” refers to IP that is created when the polytechnic has specifically commissioned work or is part of a staff members’ employment contract to undertake specific work that will result in the development of IP as part of the employer’s business. Examples would include creating marketing or advertising materials, computer software developed specifically for the employer’s business and course or programme development.

“Ownership by a third party” refers to IP created through work that is undertaken for an external party. All such work will be managed by contractual arrangements which will include an agreement to undertake work, defining the basis of that work, and including how IP will be managed and owned in advance of the work being undertaken.

Note: Unless specifically contracted to do so, nothing in this policy is to be interpreted as the polytechnic claiming any form of ownership over research outputs.

2. Students’ IP

The polytechnic does not wish to make any claim over the ownership of outputs or outcomes of students’ work. These belong to the creator.

- (i) The polytechnic will act in the role of a guardian of students’ activity to protect students’ rights to IP.
- (ii) For a staff member or any other party to claim any interest in a student’s work this must be agreed and specified prior to the engagement in the activity.

3. Māori IP

Māori knowledge that is brought to Otago Polytechnic remains the property of Māori.

- IP created from Māori knowledge is owned by both Māori and the creator but is held by the polytechnic as “guardian” of that knowledge as agreed in Te Kura Matatini ki Otago Māori Strategic Framework 2007–2011. Refer to policy *MP1103 Intellectual Property - Matauranga Māori*.

4. Attribution of Ownership of IP

The polytechnic supports free and open access to IP and will make freely available through Creative Commons Attribution IP it owns or co-owns with the following exceptions:

- (i) The polytechnic may make exceptions to the sharing of IP it owns on a



case by case basis with detailed reasons for limiting the free access to material; any such restrictions should be time dependant.

- (ii) IP the polytechnic owns that it considers is commercially sensitive may also be restricted.

The polytechnic encourages staff and students to support free and open access to IP and also to apply the Creative Commons Attribution framework to work created. Where a staff member co-owns IP by virtue of their employment relationship to Otago Polytechnic the staff member may request an exception be made to the use of the Creative Commons attribution licence. Any such exception must be approved by the Deputy Chief Executive and will require a valid case to be put for the variation to be approved.¹

5. Disputes

Where there is a dispute over ownership, including co-ownership of IP, and/or the commercialisation of any co-owned IP, the following disputes process will apply:

- 5.1 The matter will initially be referred to the Chief Executive who will rule on the dispute. The Chief Executive may constitute a review or expert panel to assist with reaching a decision. The outcome of the dispute process will be provided within seven working days of the Chief Executive reaching a decision.
- 5.2 If the applicant wishes to appeal the decision then this must be done within seven working days of receiving the decision of the Chief Executive. The appeal must be lodged with the Deputy Chief Executive who will ensure that the dispute is mediated or arbitrated according to the principles of natural justice with an independent party.

6. Plagiarism

In the case of an allegation that a member of staff or a student has used another staff member's or student's IP without attribution, the following process will apply:

- 6.1 The HOS will consider the matter to ascertain the seriousness of the claim and will consult with the Deputy Chief Executive.
- 6.2 If the allegation is serious then the matter will be referred to the Chief Executive to be considered under section 5 of this policy.

Referral Documents

Te Kura Matatini ki Otago Maori Strategic Framework 2007 – 2011
MP1103 Intellectual Property - Matauranga Maori
<http://www.creativecommons.org.nz/>

¹ Guidelines for copyright and publications are referred to in the Copyright Policy AP0200

