

Intellectual Property FAQs for Employees

Please note: All capitalized terms are defined in Sheridan's Intellectual Property (IP) Policy. Sheridan's IP Policy is effective September 15, 2017.

A. General Questions

1. Why is an IP Policy needed?

The primary goal of the IP Policy is to support and encourage innovation and creativity at Sheridan. The Policy is designed to clarify and facilitate the protection or assignment of IP for all Members of Sheridan.

2. Who does the Policy cover?

The IP Policy applies to all Members of Sheridan as defined in the Policy: "Employees, Students, volunteers, consultants, Contractors, visitors, and any other persons at Sheridan."

Part-time employees are covered by the IP Policy, unless expressly set out in a separate agreement.

3. What is the difference between Academic Freedom and the Intellectual Property Policy?

Academic Freedom gives Members of Sheridan the right to: research and pursue knowledge without reprisals from Sheridan or third parties, communicate acquired knowledge and the results of their research freely, discuss and explore ideas in an environment of tolerance and mutual respect, and promote and protect creativity at Sheridan.

The IP Policy gives creators the right to own their IP, delineates the ways in which Sheridan can use IP created at Sheridan, gives Sheridan recognition for any assistance in creating IP, and provides guidelines on IP ownership.

4. What does the Collective Agreement say about IP?

The current Collective Agreement states that all assigned tasks pursuant to an employee's normal duties, which includes anything produced in order for an employee to do their professional duties (such as teaching), belongs exclusively to Sheridan. Any other works produced outside of employment belong to the employee. The current Collective Agreement only applies to OPSEU members.

The current OPSEU Collective Agreement (Article 13) states: "Except as may be otherwise mutually agreed between the employee and the College, a work commissioned by the College, or produced pursuant to an employee's normal

administrative or professional duties with the College, shall be and remain the property of the College. Other works produced by an employee shall be and remain the property of the employee. Nothing contained herein shall adversely affect any rights an employee may have under the Copyright Act (Canada) and in particular the subsection addressing “work made in the course of employment.”

Sheridan exceeds the IP rights set forth in Article 13 by essentially giving Members of Sheridan outright ownership of their Scholarly Work and other IP creations.

5. Does the Policy have retroactive application?

No, it will apply going forward from the effective date of September 15, 2017.

B. Ownership and Sheridan License

1. How will ownership of IP be decided?

IP ownership will be decided based on the delineation described within the IP Policy, unless there is an agreement expressly stating an alternate arrangement.

The IP Policy clearly delineates that Members of Sheridan own the IP to their own Scholarly Work, inventions, Instructional Materials, etc.

Sheridan owns the IP to work done in the course of an employee’s Assigned Tasks, or duties related to an individual’s employment or contract relationship with Sheridan (i.e., creation of letters, memoranda, minutes of meetings, business processes, Course Outlines, exams, lab manuals, etc.).

Sheridan retains a worldwide, non-exclusive, non-transferable, irrevocable, fully paid-up and royalty-free license to copy and use Scholarly Works created at Sheridan. This license includes the right to make derivative works from, or modifications or improvements to such works for the purposes of teaching, learning, scholarship and creative activities at Sheridan.

2. How will it be determined if the application of a Sheridan license is for a non-commercial purpose?

This will be determined on a case-by-case basis. As a general rule, Sheridan and/or a Member of Sheridan cannot receive monetary gain when using material due to the use of IP under a Sheridan license. This Sheridan license can only be used for the purposes of teaching, learning, scholarship, and creative activities.

3. Will Sheridan still retain a license when the faculty member leaves Sheridan?

Yes, Sheridan will retain a license for a faculty member's Scholarly Work when a faculty member leaves Sheridan. However, faculty members are free to take any Scholarly Work created and owned by them for any purpose whatsoever.

For example, a faculty member could take their own Instructional Material (i.e., PowerPoint presentations, manuals, guides, instructor's notes, lectures, etc.) created for the instruction of students to a different College and use this material for teaching there. A faculty member could also take their own Instructional Material and commercialize it to sell outside of Sheridan.

4. How long will Sheridan retain a License?

Sheridan retains a perpetual license, which does not expire. It would be the responsibility of different faculties to determine when certain materials are out of date and should no longer be used for teaching purposes at Sheridan.

5. Can Sheridan make modifications or create derivative works based on the IP it uses under the Sheridan license?

Yes, the license given to Sheridan will allow Sheridan to make modifications or create derivative works based on the IP. Any modifications or derivative works will still give attribution to all creators and/or Contributors to the development of the IP.

6. Does Sheridan's license extend to include classroom materials NOT posted on SLATE?

Yes, SLATE is a course management online tool. Sheridan's license would extend to all Instructional Materials created by a faculty member to teach a course regardless of where it is posted.

7. If Sheridan does not support the creation of IP through course release or financial support for the creation of original work, can Sheridan claim ownership?

This scenario would depend on the specific details of the case. If an original Scholarly Work is being created by a Sheridan Employee outside of their Assigned Tasks, then the IP would be fully owned by the Employee.

If Sheridan has provided any direct or indirect contributions (i.e. location, work space, laptop, WiFi, etc.), Sheridan should be given attribution and acknowledgment.

8. If affiliation with Sheridan is listed in a publication by a faculty member, does this mean that Sheridan would somehow have a partial copyright?

No, Sheridan would not have a partial copyright because this publication would be the Employee's Scholarly Work. Employees own all IP rights for their own publications and creations outside of Assigned Tasks.

Sheridan would only retain a Copyright if an Employee has created something pursuant to their Assigned Tasks, or if there is a Contract or Agreement expressly stating that Sheridan would retain a Copyright.

Employees are encouraged to list their affiliation with Sheridan in all publications.

C. Use of Scholarly Works at Sheridan

1. Where does ownership of course materials or outlines fall?

Course Management Materials are considered to be an Assigned Task and would be owned by Sheridan. This includes Course Outlines, assignments, exams, evaluations and academic feedback.

Instructional Materials would be owned by the faculty member who created them. Instructional Material means material that is used for the purposes of teaching and/or instruction of Students and pedagogical preparation of faculty at Sheridan. This includes, but is not limited to lectures, PowerPoint presentations, instructor's notes, manuals, and guides. Sheridan would have a license to Instructional Materials.

2. There are times when a faculty member develops a course outline and base reading materials, but they are not given the opportunity to teach this course and it is assigned to someone else. What rights do faculty members have in this case?

If a faculty member develops a Course Outline and other Course Management Materials, it would be owned by Sheridan because this is an Assigned Task. Any other material created by a faculty member, such as Instructional Materials, would be owned by the faculty members with a license to Sheridan.

3. What does the IP Policy state about book publishing?

If a book is published at Sheridan, appropriate attribution should be given to Sheridan. Other Contributors or authors should also be given credit for their contributions. Any textbook published by a Member of Sheridan (or faculty member) would be provided to other Members of Sheridan at no cost for non-commercial, teaching and learning purposes. This does not prohibit the Author(s) of the textbook to pursue commercialization outside of Sheridan.

4. What happens if a book is self-published?

If a book is self-published, then the textbook should be provided by the Member of Sheridan (or faculty member) to other Members of Sheridan at no cost for non-

commercial, teaching and learning purposes. This would not prohibit the Author(s) of the book to pursue commercialization outside of Sheridan.

5. What is the principle of Conflict of Interest regarding textbook publishing?

If Scholarly Work, such as a textbook, has been created during the course of teaching and/or research at Sheridan, and is specified by its Author as a course text in the class that they teach at Sheridan, a Conflict of Interest must be declared to the Responsible Office, as per the Conflict of Interest Policy.

D. Authorship

1. How will we ensure Contributors receive credit?

Sheridan's IP Policy states that all Contributors should receive attribution. We rely on the integrity of all Members of Sheridan to ensure that all Contributors receive appropriate attribution, acknowledgment and credit.

If there is a dispute where a Contributor feels they have not received sufficient attribution, there is a dispute resolution mechanism outlined in the IP Procedure.

2. Which Contributors will receive attribution?

All Contributors will receive attribution. Sheridan will also receive attribution and/or acknowledgment for any direct or indirect support.

3. How will attribution be delineated when working in a team?

Attribution will be delineated by Agreement of all members of the team. Names may be listed by the amount of work completed or contribution given to the particular project, or in another mutually agreeable manner.

Sheridan will also receive attribution for any direct or indirect support.

4. What is considered sufficient recognition of Sheridan?

Sufficient recognition may vary on a case-by-case basis. Sheridan should receive any acknowledgment or attribution which would reasonably be considered to be sufficient recognition.

For example, a scholarly article written by a faculty member may state: "I would like to acknowledge all support received from Sheridan College in writing this article."

5. What is considered sufficient attribution of other Contributors?

This may also vary on a case-by-case basis. Sufficient attribution and acknowledgment may contain an acknowledgment statement or list a Contributor's name. Further guidance is provided in the IP Procedure.

E. Copyright

1. Who owns the creation of a unique course?

Unless there is an express agreement to the contrary, creation of Course Management Material for a unique course is owned by Sheridan since this is an Assigned Task. Creation of Instructional Material for a unique course is owned by the Creator, with Sheridan retaining a license.

2. What happens if a Student uploads a faculty member's materials on a website?

If a Student uploads materials owned by a faculty member on a website, it would be the responsibility of the faculty member to protect their own IP rights.

3. How are creative works, such as plays, treated under the IP Policy?

If these creative works are coming from an external organization, such as a theatre company, there may be a contract or agreement that would govern the IP rights of the work or play.

Otherwise, creative works would be owned by the Creators with a license being given to Sheridan. All Contributors to the creation of this work will be given attribution.

For example, if a play is created by a group of theatre Students and they leave Sheridan, a second cohort of Students may build on that original play or create derivative works from it for non-commercial, teaching and learning purposes using the Sheridan license. All Students and/or Contributors would receive attribution.

4. Can faculty member sell other work done outside of their hours of employment at Sheridan to Students?

It is true that a faculty member would retain ownership of work done outside of their hours of employment at Sheridan. It may be possible for this faculty member to commercialize their work outside of Sheridan; however, sale of this work to Sheridan Students would constitute a conflict of interest. Faculty members cannot sell any work to Students at Sheridan.

5. Who will own lab manuals?

Lab manuals are included in the definition of "Instruction Material." These would

be owned by the Member of Sheridan, but Sheridan would retain a license to use lab manuals.

6. How is this IP Policy compatible with online platforms and digital copyrights if a Member of Sheridan posts their Scholarly Work or material elsewhere?

This scenario is outside the scope of Sheridan's IP Policy because the IP Policy delineates IP rights between Sheridan and Members of Sheridan.

If a Member of Sheridan posts their own Scholarly Work and/or material on a third party online platform, they will be accepting the Terms and Conditions for use of that specific online platform. As stated previously, a Member of Sheridan is free to commercialize or use Scholarly Work and material they own in any way whatsoever. It is the Member of Sheridan's responsibility to protect their IP rights for such material.

When a Member of Sheridan deals with Scholarly Work or material owned by Sheridan, the Member of Sheridan must follow Sheridan's policies, procedures and guidelines.

F. Capstones and Curricular-Based Research

1. How does the IP Policy apply to Capstone Projects and other curricular-based research?

Capstone Projects and other curricular-based research is governed by the IP Policy. Please refer to Section 9 of the IP Procedure.

Students shall enter into agreements directly with a company or external organization involved in a capstone or other curricular-based research where the company or external organization wishes to retain any IP generated. Such agreements are between a Student and the company/organization, and Sheridan is not a party to such agreements.

Students must enter into any arrangement that limits their enjoyment of rights under the IP Policy with Informed Consent.

Students enrolled in courses identified as including a capstone or other curricular-based research shall complete a Student Acknowledgment of Informed Consent for Intellectual Property via My Student Centre.

2. If one group of Students is working on a project and leave Sheridan, and then a second cohort of Students come and continue work on that same project, can the second cohort of Students commercialize their work?

This is a very specific case example. Certain situations will be dealt with on a case-by-case basis. In this scenario, the second cohort of Students may be able to commercialize their work if the first cohort of Students signed a waiver or release relinquishing any IP ownership rights to the project. Another possibility may be that the two cohorts of Students reach an Agreement about how IP ownership will be delineated between them.

Regardless of IP ownership, all Students and/or Contributors will receive attribution for their work and contribution to the project.

3. How can faculty members protect their IP rights when teaching students and giving them ideas for their Capstone Projects?

The answer to this question comes down to the philosophy and principles regarding the role of a faculty member in providing guidance to students. If a faculty member has a proprietary idea that they are considering commercializing outside of Sheridan, then perhaps that faculty member needs to consider how privileged and confidential they want to keep their idea before sharing it with others.

The role of faculty members at Sheridan is to encourage Students and guide them through their postsecondary education in a collegial environment. Sheridan wants to foster innovation and creativity, but wants to avoid creating a litigious environment where agreements and waivers are signed each time faculty members and students work collaboratively on projects.

G. Collaborative Pursuits and Research

1. How will we deal with IP co-created with community partners?

IP may be co-created with community partners through express contracts and agreements. Informed Consent is required from all parties before Collaborative Research pursuits are undertaken. Any arrangement entered into by Members of Sheridan that limits their enjoyment of rights under the IP Policy must be with Informed Consent.

2. What happens if I am part of a Sponsored/Funded Research project?

Please refer to Section 9 of the IP Procedure. You may be required to sign an Employee Participation Agreement waiving any rights you have to IP to the external party. In this instance, Sheridan's default IP Policy may not apply. Where research is funded by third parties that retain the ownership of IP rights in the Scholarly Work produced, some form of academic benefit must result.

3. What happens if I am part of other research projects requiring a formal agreement?

Please refer to Section 9 of the IP Procedure. In such circumstances, employees may be required to sign an Employee Participation Agreement waiving their IP Rights to the company/external party. In this instance, Sheridan's default IP Policy may not apply.

H. Trademarks

1. What will happen to IP rights where there is a contest held to create a trademark (e.g. a logo)?

In this particular scenario, the contest may have its own set of rules which participants agree to when submitting their entry into the contest. This would be an example of an arrangement which is governed by an alternate and express set of provisions delineating IP rights, and would not be covered by the IP Policy.

I. Patents

1. Could a faculty member have IP rights if they help a Student develop a patent?

This would have to be decided on a case-by-case basis. It may be possible for a faculty member to have IP rights if they help a Student develop a patent. The onus would be on the faculty member to protect their own IP rights and interests.

2. Will Sheridan assist with protecting patents?

No, Sheridan will only protect patents owned by Sheridan. It is the responsibility of Members of Sheridan to protect patents owned and/or created by them.

J. Dispute Resolution

1. What are the Dispute Resolution mechanisms for the IP Policy?

Dispute Resolution mechanisms are embedded in the IP Procedure. We hope that disputes can be resolved at a local level among faculties before issues are escalated.

2. Does Dispute Resolution have a mechanism for determining who owns the IP and/or how much of the IP?

Yes, if disputes arise regarding who owns IP rights and/or how much of the IP is owned, the Dispute Resolution mechanisms will be used to resolve such disputes.