



# COLLEGE OF THE NORTH ATLANTIC

## OPERATIONAL PROCEDURE

### TOPIC: INTELLECTUAL PROPERTY

<b>Procedure No.</b>	AC-111-PR	<b>Division</b>	Academics
<b>Supersedes</b>	N/A	<b>Board Policy Ref.</b>	GP-A-104
<b>Related Policy</b>	AC-111	<b>Effective Date:</b>	December 20, 2022 (R2)

## PROCEDURE

### 1.0 DEFINITIONS

- 1.1 CNA means College of the North Atlantic.
- 1.2 Curriculum means all materials for evaluating the attainment of educational objectives which includes but is not limited to materials which outline learning standards, teaching and learning strategies, learning objectives, learning outcomes, and course descriptions and requirements.
- 1.3 Employee means all persons employed by CNA on a full-time, part-time, auxiliary, casual and term basis and includes, but is not limited to faculty, professional support, administrative staff, operational staff and all others employed by CNA, including visiting faculty, contractors, consultants, students under contract conducting research as a requirement for their academic program, whether compensated by CNA or not.
- 1.4 Intellectual Property means all interests and rights arising out of the intellectual and artistic activity of CNA employees and includes, but is not limited to, inventions (whether or not patentable), works, technology, processes, formulae, designs, know-how, trade-secrets, discoveries, research, computer software, slogans, curriculum, teaching materials and all proprietary information; any improvements, updates or modifications related to the above; and all related copyright, trade-mark, industrial design, plant breeders' rights, and integrated circuit topography applications and registrations world-wide.

- 1.5 Moral Rights comprise the right of a creator or author of a work (that is subject to copyright) to be associated with the work as its author (or by pseudonym or to remain anonymous) and the right to the integrity of the work. Moral rights cannot be assigned but can be waived by the creator or author of the work, if so desired.
- 1.6 Student means anyone registered in CNA programs, and participating in college courses, programs, events or activities.
- 1.7 Teaching Materials mean materials used for instructional purposes including but not limited to course notes, classroom materials, teaching plans, assessment instruments, and other materials or processes normally prepared for instructional purposes.

## **2.0 STUDENTS**

- 2.1 Students will own all intellectual property created by them as part of their course requirements at CNA except:
  - a. where CNA pays the student for the intellectual property created, in which case, CNA will own the intellectual property;
  - b. where the student uses CNA equipment, resources, facilities and/or premises to create the intellectual property and the intellectual property is created outside the student's course requirements, in which case, the student will obtain the consent of CNA, in advance. The student and CNA will negotiate, in good faith, an agreement respecting the use, ownership, waiver or non-waiver of any moral rights, disclosure, commercialization and revenue allocation for the intellectual property.
- 2.2 The CNA will have a non-exclusive, royalty-free license to use all intellectual property created by students for internal, non-commercial use in addition to any intellectual property owned by the CNA.

## **3.0 EMPLOYEES**

- 3.1 Employees will own the intellectual property they create if pursued outside the course of their employment; and which does not make use of any CNA funds, equipment, resources, facilities or premises; and which does not arise from CNA commercial or development activities of which the employee is involved or has knowledge that could compromise CNA's opportunities for commercialization.

- 3.2 Unless otherwise indicated in a written agreement signed by the President or designate, CNA will own all generated intellectual property where an employee is specifically assigned, under contract or seconded in order to develop or contribute to the development of intellectual property by CNA. The employee and CNA will negotiate, in good faith, an agreement respecting the waiver or non-waiver of any moral rights, the disclosure, and any consideration for the intellectual property.
- 3.3 CNA is the owner of all intellectual property developed or contributed to by employees in the course of their employment, which constitutes curriculum.
- 3.4 CNA is the owner of all teaching materials. The employee will provide to CNA examples of teaching materials authored by the employee by the end of each spring term for the purpose of knowledge sharing, teaching and research through a knowledge repository of CNA. CNA has the right to further use, amend and develop the teaching materials within the college.
- 3.5 Unless otherwise indicated in a written agreement signed by the President or designate, CNA is the owner of all intellectual property developed or contributed to by employees, in the course of their employment, which is suitable for commercialization. The employee and CNA will negotiate, in good faith, an agreement respecting the waiver or non-waiver of moral rights including the disclosure, commercialization and any revenue sharing for any such intellectual property which is commercialized.
- 3.6 Where the intellectual property is owned by CNA, CNA will pursue, or elect not to pursue, at its sole discretion, commercialization of the intellectual property.

#### **4.0 VOLUNTARY ASSIGNMENT**

Students and employees may voluntarily transfer their ownership of intellectual property and/or waive their moral rights to CNA for commercialization or other purposes, if so desired.

#### **5.0 NAME ASSOCIATION**

Students and employees have the right to have their name associated, or not associated, with any intellectual property as an inventor, creator and/or owner, except as required by law for the registration of the intellectual property.

## **6.0 OTHER PARTIES**

Any agreement between CNA and a person or entity who is not an employee or student of CNA, to conduct research or develop intellectual property will be in writing and executed by the parties, where possible, in advance of the creation of the intellectual property. The agreement will provide for ownership, the waiver or non-waiver of moral rights, commercialization and risk/revenue sharing between the parties, for the intellectual property other than as required by this Policy.

## **7.0 DISCLOSURE AND CONFIDENTIALITY**

7.1 Except as otherwise provided, employees and students will disclose, as soon as possible, the creation of any intellectual property to CNA. All intellectual property shall be disclosed to the Vice President, Academics and Applied Research.

7.2 Other than as disclosed under this Policy or as set out in an agreement, CNA, students and employees have an ongoing obligation to maintain confidentiality respecting the intellectual property, and its development. Certain disclosures could affect intellectual property applications and registrations associated with the intellectual property.

## **8.0 RIGHTS OF THE COLLEGE**

8.1 Where the intellectual property is owned by CNA, CNA will pursue, or elect not to pursue, at its sole discretion, commercialization of the intellectual property.

8.2 In all other circumstances, the commercialization and any revenue sharing of the intellectual property developed under this Policy will be governed by agreements between the parties.

8.3 CNA may choose, at its sole discretion, to transfer its rights and interests in the intellectual property to another party, including but not limited to an employee or student, subject to the terms and conditions determined by CNA.

## **9.0 APPROVAL**

All agreements entered into by CNA respecting intellectual property will be in writing between the parties and signed by the President or designate.

**10.0 STUDENT DISPUTE RESOLUTION**

- 10.1 If a dispute arises under this Policy which cannot be settled by the direct parties involved, there will be a meeting among the student, a representative of the student (if the student so chooses), the Executive Team Member (or designate) of the Department responsible for the applicable functional area, and the Associate Vice President of Human Resources of CNA (or designate) with the purpose of attempting to resolve the dispute.
- 10.2 If the parties are unable to reach agreement, the parties will submit the dispute to arbitration. The arbitrator shall be appointed by mutual agreement between the student and CNA within fourteen (14) working days of receipt of the notice of referral.
- 10.3 If the parties are unable to agree upon an Arbitrator within fourteen (14) days, the appointment shall be made by the Minister of Education (or designate).
- 10.4 CNA shall pay the costs of the Arbitrator. Each party is responsible for any expenses related to its representatives, participants, witnesses and of the preparation and presentation of its own case.

**11.0 EMPLOYEE DISPUTE RESOLUTION**

- 11.1 If a dispute arises under this Policy which cannot be settled by the direct parties involved, there will be a meeting among the employee, their bargaining unit representative as applicable, the Executive Team Member (or designate) of the Department responsible for the applicable functional area, and the Associate Vice President of Human Resources of CNA (or designate) with the purpose of attempting to resolve the dispute.
- 11.2 If the parties are unable to reach agreement, the parties will submit the dispute to arbitration. The arbitrator shall be appointed by mutual agreement between the applicable Union and CNA within fourteen (14) working days of receipt of the notice of referral.
- 11.3 If the parties are unable to agree upon an Arbitrator within fourteen (14) days, the appointment shall be made by the Minister of Education (or designate).
- 11.4 The applicable Union and CNA shall each pay one half of the costs of the Arbitrator. Each party is responsible for any expenses related to its

representatives, participants, witnesses and of the preparation and presentation of its own case.

- 11.5 In the event that an employee is not a member of a bargaining unit, the same dispute resolution process will apply and, at the employee's discretion, they may elect to have legal representation participate in the dispute resolution process. Non-Union employees will be responsible for any expenses related to its representatives, participants, witnesses and of the preparation and presentation of its own case.

Note: CNA wishes to acknowledge Nova Scotia Community College for its support on the development of CNA's Intellectual Property Policy.

<b>Approval History</b>	
Approved by President	July 14, 2020
Revision 1	January 31, 2022
Revision 2	December 20, 2022