Southern Academy of Higher Education (SAHE)

Intellectual Property Policy

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1. Policy Statement

The Intellectual Property Policy ('the Policy) defines the ownership, reporting, identification, management and commercialisation of Intellectual Property (IP) at Southern Academy of Higher Education ('SAHE' or 'the Academy').

1.1 Definitions

For definitions, please refer to the '*Dictionary of Terms'*

2. Scope

This Policy applies to:

a. SAHE staff (including academic, professional, sessional/casual and former staff);
b. SAHE students (including former students);
c. members of the Academy's Governing Council, Academic Board, Course & Industry Advisory Committee and other committees and sub-committees;
d. consultants and contractors engaged by SAHE.

3. Policy Principles

The key principles informing this Policy are to:

a. Encourage all staff and students, to consider matters associated with the creation, disclosure and protection of IP at the commencement of all projects.
b. Encourage and facilitate the effective use of all IP created at SAHE.
c. Ensure that staff and students who have created IP receive an agreed appropriate share of any benefits arising from its use.
d. Effectively manage IP by retaining ownership of IP generated in the Academy. In order to implement this principle, SAHE may invest in, and actively pursue the registration of, its IP and may enter into commercial agreements, including licenses and assignments, that authorise others to use that IP.

4. Ownership of IP

Any exceptions or alternate arrangements in relation to IP must be explicitly set out in writing and approved by the Dean/or nominee.

4.1 IP created by the staff

a. SAHE holds the legal and beneficial ownership rights of all material or works produced by staff derived from the work undertaken during the course of their employment apart from where there are specific agreements to the contrary or any further exemptions stated in this Policy.
b. Staff will retain ownership of all IP created by them where the condition of the IP is for scholarly or creative works such as books, journal articles, conference proceedings, performances or recordings (in written or any other form) unless the work is commissioned by the Academy.
c. Where a scholarly work is created using the Academy's resources including IP belonging to the Academy or through the opportunity provided by the Academy, the staff must disclose the IP to the Dean and discuss arrangements for shared ownership.

4.2 IP created by students

a. Students own IP created in the course of their studies, except when a student elects to participate in a project that:
    i. builds upon pre-existing SAHE IP; or
    ii. is being carried out for, or in conjunction with, an external third-party whether under a separate formal agreement or not.

b. SAHE will not require students to assign their IP to the Academy unless the students make an informed decision, freely and with consent.
c. If students decide to assign their IP to the Academy, it is the obligation of the Academy to ensure that the student(s) receives a share in any commercial benefits to which they are entitled.

4.3 Indigenous culture and IP rights

a. The Academy makes no claim to ownership of IP of Indigenous Works.
b. Where the creation of SAHE IP involves the traditional interests of Indigenous Australians then the Academy will consult with relevant Indigenous groups for the purpose of ensuring that the interests and/or knowledge are recognised and protected in accordance with Indigenous protocols and the Australian law.

4.4 Contractors and/or consultants

a. SAHE owns all IP created or generated by contractors or consultants in the course of, or in connection with, their services or contract with SAHE and any contracts or agreements must reflect this expectation.
b. A contractor or consultant is not entitled to any distribution of profits from the IP they create for the Academy.

4.5 Program(s) and related educational material

a. SAHE owns the IP (and other rights) for all programs and related educational materials that staff create as part of their employment.
b. SAHE does, however, grant the staff who created material, full access (via a free, perpetual and irrevocable licence) to use their own teaching and educational material anywhere.

4.6 Moral rights

a. SAHE is committed to respecting and observing the following personal rights, as defined in the Copyright Act 1968 (Cth) as amended by the Copyright Amendment (Moral Rights) Act 2000 (Cth). "Under the Copyright Act 1968 (Cth) moral rights mean:
    (a) a right of attribution of authorship; or
    (b) a right not to have authorship falsely attributed; or
    (c) a right of integrity of authorship.
b. Third parties negotiating agreements with the Academy may seek the consent of such staff or students for them to vary moral rights.
c. While SAHE will seek to preserve such moral rights of its staff and students, in these instances (and other occasions where commercialisation may occur), it may be required to seek the staff or student's consent to waive such moral rights.
d. The staff or student may freely grant or withhold such consent.

5. IP Storage and Treatment of Confidential Information

a. SAHE will ensure that data, information, and all other materials created by staff, student contractors and/or consultants are accurate, complete, authentic, reliable, and retrievable and accessible in accordance with the *Records Management Policy*.
b. Staff, students, contractors and/or consultants who receive SAHE's confidential information must not disclose that information without express consent from the Academy. If required by the operation of the law to make a disclosure, the concerned person will first inform the Academy prior to making the disclosure.

6. Remuneration from Commercialisation of IP

a. It is recognised that SAHE staff and students are a valuable source of innovation.
b. Staff and students whose IP leads to successful commercial development, resulting in benefits for the Academy, will be rewarded.
c. Commercialisation with respect to teaching and learning resources refers to where the sales of materials generate royalties or other revenues.
d. Commercialisation does not include fee-paying students or the delivery of programs through national or international partners.

7. Breach of IP Policy

a. Breach of this Policy will be grounds for disciplinary action, in accordance with the *Human Resource Management Policy* for staff, contractors and/or consultants and *Student Code of Conduct* for students.
b. SAHE will consider all avenues available to it and may take legal action, if necessary, against any person who is bound by this Policy and has, by his or her action or inaction, breached any of the terms of this Policy.

8. Dispute Resolution

a. The Academy wishes to resolve disputes arising with respect to matters covered by its Intellectual Property Policy promptly, fairly and, wherever possible, without resorting to litigation or other public dispute resolution process.
b. Should a dispute arise between the Academy and a person covered by this policy it will be addressed by either the Academy's *Student Grievance Management Policy* or *Human Resource Management Policy* – as appropriate.

9. Review

This Policy may be amended from time to time at which time staff and students will be alerted to any changes. A review will take place every two years according to SAHE *Policy Review Schedule.*

Version Control

Version	v1.0
Review	The Academic Board will review this Policy in accordance with the Southern Academy of Higher Education *Policy Documents Review Schedule*.
Approving Body	Academic Board
Approval and Effective Date	12 April 2021
Policy Custodian	Dean
Policy Contact	Dean
Higher Education Standards Frameworks (Threshold Standard) 2015 (Cth)	B1.1 "Higher Education Provider" Category Standard 4, ss 4.2 Standard 6, ss 4
Benchmarking Institutes	University of New South Wales University of Technology Sydney University of Southern Queensland The University of Sydney James Cook University
Related Document	Dictionary of Terms Student Grievance Management Policy Student Code of Conduct Staff Code of Conduct Academic Integrity Policy Scholarly Activity and Academic Freedom Policy Records Management Policy Human Resource Management Policy
Related Legislation	Patents Act 1990 (Cth) Trademarks Act 1995 (Cth) Designs Act 2003 (Cth) Copyright Act 1968 (Cth) Competition and Consumer Act 2010 (Cth)

Related Legislations	Higher Education Standards Framework (Threshold Standards) 2015 & 2021 (Cth)