



## INTELLECTUAL PROPERTY POLICY

### 1. DEFINITIONS

Terms in this document, for which definitions are not provided in the text or may not be self-evident or for which usage at ACC may differ to that in other higher education institutions are as follows:

**College** - Refers to the ACC

**Commercialisation** - To use, apply, publish, manufacture, assign, licence, sub-licence, franchise, exploit, market, or otherwise use or dispose of the IP for the purpose of generating financial or other commercial returns.

**Commercialisation expectation** - Where the ACC has an expectation that it will manage commercialisation of the IP. The ACC will not have an expectation to commercialise IP that is solely developed by a student and is not subject to a contract with an external organisation.

**Commercialisation expenses** - Expenses incurred by the ACC in the production, development, protection, marketing and commercialisation of the ACC intellectual property.

**Commercialisation revenue** - The gross cash revenue received by the ACC from the commercialisation of its intellectual property and does not include payments pursuant to a research or consulting agreement or payments used to subscribe for equity in a company.

**Contributor** - Any other staff member, student or visitor who has substantially assisted with the development of the ACC intellectual property other than a creator, as determined by the Academic Dean.

**Copyright** - The legal right of the owner of intellectual property. Copyright law gives creators of original material the exclusive right to further use and duplicate that material for a given amount of time, at which point the copyrighted item becomes public domain. The Copyright Act 1968 (Cth) regulates copyright in Australia in relation to original literary, dramatic, musical and artistic works, and subject matter other than works.

**Creators** - Those persons who produce, invent, design, enhance, generate, discover, make, originate or otherwise bring into existence IP.

**Intellectual Property (IP)** – Refers to the products of faculty, staff, and student scholarship and research. It falls into two groups—work covered by patent law and work covered by copyright law and which relate to:

- literary and scientific works;
- computer programs and algorithms;
- multimedia subject matter;
- inventions in all fields of human endeavour;
- scientific discoveries;
- industrial designs;
- trade secrets and confidential information; and
- trademarks, service marks and commercial names and designations;

**Scholarly works** – Refers to IP in the form of conference papers or articles (refereed or un-refereed), books or book chapters, manuals, or any digital or electronic version of these. Computer programs, educational resources or administration material are not treated as scholarly works under this Policy.

## 2. PURPOSE

This policy provides guidance on the approach taken by the ACC in relation to Intellectual Property (IP), including its ownership, protection and commercialisation. It is also intended that this policy will guide the ACC's interactions with project collaborators, such as funding bodies, other higher education institutions and industry partners.

## 3. SCOPE

The ACC IP Policy is applicable to the ownership and use of intellectual property created by ACC staff, students and visitors.

## 4. POLICY STATEMENT

The ACC is committed to fostering a culture of scholarship in the ACC community in the field of Chiropractic studies. This commitment is embedded in its Strategic Plan and the ACC Ethos and Values.

The ACC may undertake development activities with practical benefits for the ACC, its community and its partners. Benefits may include new developments in education program design and delivery and scholarly activity, as well as financial and reputational benefits.

The ACC may develop and implement strategies to commercialise its outputs, to promote knowledge transfer and to encourage the uptake of its scholarly output and innovations by other users.

This may be achieved in a variety of ways including consultancies, customised education, and the pursuit of scholarly works or material that positively engages with the higher education sector and wider community.

## 3. POLICY PRINCIPLES

The ACC is committed to taking decisions regarding the protection and the exploitation of College IP in a manner that is accountable, ethical, and socially responsible. It also aims to create an environment that encourages the ACC community to develop ideas, and to support the commercialisation of these ideas where appropriate.

Notwithstanding that the ACC is a 'teaching' rather than a 'research' or 'teaching and research' institution, this policy has been developed with regard to the National Principles of Intellectual Property Management for Publicly Funded Research and the Australian Vice-Chancellors' Committee publication "AV-CC Ownership of Intellectual Property in Universities".

## 4. ROLES AND RESPONSIBILITIES

**The Academic Services Manager** leads the development and review of this Policy and its implementation working closely with the Academic Dean.

**All staff, students and visitors** generating intellectual property in the course of their employment or association with the ACC have an obligation to comply with the specific requirements of this Policy and other relevant policies.

It is the responsibility of all staff members (and students and visitors where applicable) to avoid premature disclosure of project outputs and to notify the Academic Dean of new IP development. Where commercialisation of IP is contemplated, staff (and students and visitors where applicable) should not act in a manner which would result in the loss of the opportunity to protect or commercialise ACC IP.

**The Academic Dean** has a general role in developing the ACC's innovation and scholarship capacity and ensuring that any innovations with commercial relevance are exploited to their full potential.

As part of this role, the Academic Dean, together with the Academic Services Manager, has oversight of protocols and guidelines for implementation of this Policy, and for the management of any disputes arising under this policy.

## 5. OWNERSHIP OF IP

### 6.1 Ownership of IP generated by staff

In accordance with general law principles, the ACC as an employer owns all intellectual property created by senior staff, academic and professional staff members in the course of their employment.

IP created in pursuance of, or incidental to the performance of a staff member's ACC employment contract is considered to have been created in the course of employment whether or not a staff member's express duties include a duty to develop IP.

This ownership exists as a matter of law, and does not require any further documentation from staff members. However, staff may be required to formally sign documents to more fully record the ACC's ownership of the ACC IP where necessary, for example to support formal application processes in support of commercialisation of IP.

The ACC does not own intellectual property created by staff members outside the course of their employment.

### 6.2 Copyright in Scholarly works

Provided that the ACC does not have contractual obligations to a third party which would prevent the College affecting such a transfer of rights, the ACC:

- Assigns the right to publish scholarly works to the creator(s) of that work. This assignment is subject to a perpetual, irrevocable, world-wide, royalty-free, non-exclusive licence in favour of the ACC to allow the College to use that work for educational, innovation and commercialisation purposes; and
- Grants each staff member a non-exclusive, royalty free, perpetual, irrevocable, world-wide transferable right to use, adapt or modify their scholarly works.

In appropriate circumstances, the ACC will sign documents to more fully record the staff member's assignment of copyright in a scholarly work and ownership of the right of publication, and the College's non-exclusive licence to that work.

### 6.3 Intellectual property in the ACC education resources

The ACC owns the intellectual property in its education resources (including online education resources), subject to any contractual or licensing obligations to a third party. This ensures that the College has the unrestricted ability to use its education resources to meet its teaching responsibilities.

The College consents to the use of its education resources by staff to fulfil their teaching and related responsibilities. This use does not include any use for commercial purposes nor does it involve a transfer of ownership of the College's intellectual property in its education resources.

Unless subject to a confidentiality or separate legal constraint, the ACC recognises that staff may personally use knowledge that they have developed in the course of their employment at the College, once that employment ceases. That right does not extend to the reproduction of the College's education resources unless released under a separate license.

Guidelines for any licensing of the ACC education resources as open education resources or under other types of non-monetised licences are developed by the Academic Services Manager in consultation with Academic Dean.

In its use of educational resources, the College will consider the reputation of the creators. The College will use its best endeavours to consult the creators on updates, the appropriateness of continued use of material, and attribution of material used in College program delivery.

#### **6.4 Intellectual property generated by students**

Students personally own the IP that they generate. In some contexts, the ACC may ask students participating in a project to assign any IP they generate in the course of the project to the College.

#### **6.5 Intellectual property created by visitors**

Ownership and rights relating to intellectual property brought to the ACC or generated while at the College by a visitor (that is, any person other than a staff member or student who takes part in any innovation or scholarly activity at the College) should be resolved through negotiation between the College and the visitor or other third parties such as the visitor's employer before the visit or appointment commences at the College. This process should be initiated by the College, and may necessitate negotiation between the College and the owner of the intellectual property.

### **6. COMMERCIALISATION AND COMMERCIALISATION REVENUE**

#### **7.1 Obligations of creators and contributors**

All creators of and contributors to the ACC intellectual property with commercialisation potential must identify, keep confidential, be involved in and facilitate the commercialisation of intellectual property. In particular, all have a specific duty to fully disclose the ACC intellectual property with potential commercial value, to the Academic Dean, who will advise the President/CEO.

#### **7.2 Commercialisation of the ACC intellectual property**

Any commercialisation of the College's education resources or other IP will be determined by the Academic Dean, in consultation with the College President/CEO.

Any distribution to creators and contributors from commercialisation revenue received from commercialisation of education resources or other College IP will be determined by the College President/CEO following recommendation by the Academic Dean.

Unless specifically agreed otherwise, the distribution of revenue shall be one third to the originator (single or as a group) and the balance to the College.

## 7. MORAL RIGHTS

The moral rights of a creator of works as specified in the Copyright Act 1968 (Cth) are, in summary:

- the right of attribution of authorship in respect of the work
- the right not to have authorship of the work falsely attributed; and
- the right of integrity of authorship in respect of the work.

THE ACC shall take reasonable steps to respect moral rights and to ensure that others respect moral rights. Notwithstanding, the College is not obliged to take action if the moral rights of authors are infringed from sources external to the College.

## 8. TRADITIONAL KNOWLEDGE

If the creation of the ACC IP involves the traditional interests and/or the use of traditional knowledge of Aboriginal, Torres Strait and/or South Sea Islander peoples, the College will take reasonable steps to ensure that decisions regarding the protection and use of that IP align with relevant guidelines and ethical practices. This includes consulting with relevant groups and communities.

## 9. DISPUTE RESOLUTION

Determinations on matters relating to this Policy are made by the Academic Dean. A person who does not agree with an intellectual policy determination, action or inaction on a matter relating to this Policy must, in the first instance, notify the Academic Dean in writing of the dispute. Further information on procedures is outlined in the ACC's *Grievance Management (Staff) Policy and Procedures* and *Grievance Management Non Academic (Students) Policy and Procedures*.

## 10. BREACHES OF THE POLICY

Any breach of this policy or associated protocols by a staff member may be subject to disciplinary action in accordance with the ACC's provisions on disciplinary action for misconduct or the relevant Enterprise Agreement for academic and/or professional staff.

Any breach of this policy or associated protocols by a student may be subject to disciplinary action in accordance with the ACC's *Academic Integrity Policy and Procedures* or other relevant policy.

## 11. POLICY REVIEW

The ACC's Intellectual Property Policy is reviewed by the Board every three years, or sooner as indicated by changes in relevant legislation and as determined by the Board.

## 12. RELATED POLICY DOCUMENTS:

- Grievance Management (Staff) Policy and Procedures
- Grievance management Non-Academic (Students) Policy and Procedures
- Academic Integrity Policy and Procedures

## VERSION CONTROL

Document: C001 Intellectual Property Policy
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<b>Responsible Officer:</b> President/CEO		
<b>Initially Approved by:</b> Board of Directors		<b>Date:</b> 19 October 2016
<b>Reviewed and approved by:</b> Board of Directors		<b>Date:</b> 23 March 2021
<b>Version:</b> V1.1	<b>Replaces Version(s):</b> V1.0	<b>Next Review:</b> March 2024
<b>Nature of Change</b>	February 2021 <ul style="list-style-type: none"> <li>Edited to up-date and bring into line with ACC's revised P&amp;P format as well as delegated authorities</li> </ul>	