
INTELLECTUAL PROPERTY POLICY

INTRODUCTION

RACMA, through its various activities, creates and contributes to a wide range of policies, research, publications, seminars and documents and needs to ensure that it can freely use all intellectual property created by it or for it.

The introduction of an intellectual property policy provides for clarity in the delineation of ownership, commercialisation and general use or dealings with intellectual property.

RACMA does not seek to claim ownership of legitimate rights of researchers (whether funded by RACMA or not).

However, this Policy seeks to outline the issues that need to be considered when intellectual property is created, and to guide further decisions (if any) necessary to ensure clarity and certainty of intellectual property use, recording and management.

If in doubt, queries about the rights of Fellows, researchers, contractors and collaborators working with RACMA should be directed to the office of the CEO.

OBJECTIVES

The purpose of this Policy is to:

- Secure and protect the intellectual property (IP) of RACMA.
- Clarify rights to access and use the intellectual property of RACMA.
- Clarify ownership of IP of Employees of RACMA
- Clarify the permitted use of any of RACMA IP material by third parties, Fellows and Candidates.
- Clarify ownership over IP attributable to Fellows.
- Attribute moral rights to original authors/creators.
- Clarify dealings between authors and third parties.

It is recognised that existing College IP needs to be identified, recorded and collated. Some existing College IP will be difficult to establish clearly and to identify proper provenance. This policy is therefore directed to ensure that as much as possible of the existing College IP is appropriately protected, and that, for the future, College IP is treated in accordance with this policy.

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RACMA INTELLECTUAL PROPERTY POLICY

Acknowledgement of Ownership

All intellectual property of the College will be denoted “© Copyright – Royal Australasian College of Medical Administrators. All rights reserved” or “© Copyright –RACMA. All rights reserved” and thus clearly acknowledge the College’s ownership and that the right to use any intellectual property may be restricted.

Moral Rights of Author[s]

The College recognises that the moral rights in intellectual property should be vested in the original creators or authors of works. The author has the right to be identified as the author of the intellectual property, reproductions and adaptations of that intellectual property. The author has the right not to have the intellectual property subject to derogatory treatment including material distortion, alteration, mutilation of the intellectual property, or any other action that is prejudicial to the author’s honour and reputation.

EMPLOYEES OF THE COLLEGE

Given that resources of the College are ordinarily expended in the course of employment by Employees, the College has beneficial and legal ownership of all existing or future intellectual property created or developed by Employees in the course of employment unless agreed otherwise. It is the position at the law, generally, that intellectual property created by an employee in the course of their work will be the property of the employer.

Ownership of existing or future intellectual property created beyond the course of employment, in the author’s own time, and at the author’s own cost, will remain entirely with the author.

College staff are required to sign a standard Agreement as part of their acceptance of employment at the College. That agreement recognises that any information obtained, any secret or invention discovered, or any document created, during the employee’s engagement by the College, and which it would be of commercial importance or advantage to the College to have, shall vest in and be the property of the College (including all copyright therein).

FELLOWS OF THE COLLEGE

Other than in respect of funded research, ownership of existing or future intellectual property which has been created or developed by Fellows as a result of the full or partial contribution or use of the resources of the College may be vested in the College or subject to joint authorship between the author and the College.

In circumstances where intellectual property may be vested in the College or subject to joint authorship between the author and the College, matters including the proportions of ownership, rights attached to ownership and any other matters which may be relevant can be jointly decided through a written agreement between all relevant parties.

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The College may require Fellows who participate in College funded activities to sign an agreement or give a written acknowledgement that intellectual property will vest in the College. A form of acknowledgement is attached.

Sometimes external parties, providing funding (eg. government funding), will require that Fellows or College representatives agree and acknowledge that intellectual property will vest in either the funder (eg. government) or the College.

RESEARCH

If research is commissioned by the College on a contract basis, for the benefit of RACMA, it will be usual to require in the contract commissioning the work, that IP created will be owned by the College.

CANDIDATES

During their training with the College, Candidates acquire the appropriate information, knowledge and skills to graduate with FRACMA or other designation. Ordinarily the College has no controls or rights over the manner in which an individual trainee may subsequently use or develop information, knowledge and skills acquired during training.

However, where the College (or others) provides specific documentation and/or materials to Candidates, that documentation and/or materials are likely to be subject to copyright protection, and therefore should not be utilised by Candidates or others more broadly than intended, without potentially incurring liability.

As part of Candidates agreeing to participate in the training program of RACMA, they will also sign an acknowledgement that specific documentation and/or materials provided to Candidates during the course of the training program are owned by the College and subject to intellectual property protection.

BOARD AND COLLEGE COMMITTEE MEMBERS

Board and Committee Members are often the Fellows who contribute significantly to the development of materials for the College. As directors of an organisation, Board and Committee Members are required to protect the intellectual property of the College and ensure that they comply with College policies on the disclosure of College information.

Materials created by Board Members for the College will usually be regarded as having been created by them as agents for the College. Accordingly, the College will usually retain intellectual property rights in that material.

There may be occasions, however, when joint authorship and/or other arrangements between the College and a Board Member is appropriate. In these special cases, the Board Member should raise a request at a Board meeting that joint ownership be recognised, to obtain explicit approval from the Board of this joint ownership, and an appropriate agreement or arrangement will be documented to confirm future use, etc.

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CONTRACTORS, CONSULTANTS AND VOLUNTEERS

Contractors, consultants and volunteers are not employees of the College, and accordingly will not be covered by the usual position at law.

As with Fellows, specific arrangements will need to be made with each contractor, consultant and volunteer in relation to Intellectual Property that may be developed by them, either with or for the College. In particular, commercial contractors and consultants should have formal agreements that clarify the position in relation to IP and, preferably, ensure that any Intellectual Property developed will become the property of the College.

PERMITTED DEALINGS WITH INTELLECTUAL PROPERTY

- *Employees, Fellows and Candidates of the College*

Generally, Employees, Fellows and Candidates of the College are able to deal with any intellectual property belonging to the College, save for situations where dealings are of a commercial or financial purpose or nature or travel beyond the meaning of dealing as defined in this policy.

Employees of the College may communicate intellectual property to Employees, Fellows or Candidates of the College for the purposes of administration, research, review, training or teaching. All documents will carry the description “© copyright – RACMA. All rights reserved”.

In some cases, it may be necessary to require those accessing intellectual property to sign a formal acknowledgment or licence agreement.

- *The College*

The College may seek a right to use intellectual property, whether or not ownership is vested in the College. The College may consult with the owner of intellectual property, and agree in writing as to the manner and extent of such licensing.

NOTIFICATION OF DEALINGS WITH INTELLECTUAL PROPERTY

Should Employees, Fellows or Candidates be required to engage in dealings, other than as defined in this policy, or dealings of a commercial or financial nature with intellectual property in which the College may have an interest, then notification must be given to the College.

Formal agreement or acknowledgements may be required. All works provided will carry the description “© Copyright – RACMA. All rights reserved”.

Notification must be given prior to dealing with any intellectual property in which the College may have an interest. Written notification must provide a full and frank disclosure of the details of the proposed dealings.

Upon the College receiving notification, the College and the relevant parties shall discuss whether the intended dealings are permitted, and expressly agree in writing as to the manner and extent to which such intended dealings may be carried out. The College is not obliged to permit the intended dealings.

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PROHIBITED DEALINGS WITH INTELLECTUAL PROPERTY

Unless by prior agreement with the College, dealings with intellectual property in which the College may have an interest are generally prohibited, except in accordance with this policy, particularly where they are dealings of a financial or commercial nature.

Prohibited dealings in relation to intellectual property which the College may have an interest in may include, but are not limited to, distributing or licensing or communicating intellectual property in any form to any third parties to which the College has not consented; publishing intellectual property in any form; making copies or reproductions of intellectual property in any form; making adaptations of intellectual property; entering into commercial arrangements; or causing intellectual property to be heard or seen in public; other than for the purposes of normal College activities and processes.

DEFINITIONS

- **“Employees”** – Persons who are employed under contracts of employment by the College whether on full-time, part-time, casual, temporary, seasonal or one-off basis.
- **“Fellows”** – Fellows of the College.
- **“The College”** – The Royal Australasian College of Medical Administrators (RACMA)
- **“Candidates”** – Candidates of the College.
- **“Author”** – The original creator[s] or author[s] of intellectual property.
- **“Third Parties”** – Parties other than “Employees”, “Fellows”, “Candidates” and “The College”, as the case may be.
- **“Intellectual Property” “IP”**– includes any thing, matter or right which may give rise to interests under the *Copyright Act 1968* (Cth), *Designs Act 2003* (Cth), *Trade Marks Act 1995* (Cth), *Patents Act 1990* (Cth), trade secrets or confidential information at Common Law. This includes all existing and future intellectual property interests.
- **“Access”** – Access to intellectual property in both physical or electronic forms or forms which will allow for the use of intellectual property or the general viewing, listening or consumption of the intellectual property.
- **“Use”** – Use of intellectual property includes, but is not limited to, all rights that are legally attached with the type[s] of intellectual property at hand, communication to persons in any form, all dealings as defined in this policy and licensing or assignment to third parties. The purposes of use may include research, teaching, review, training, commercial exploitation, trading and financial.
- **“Dealings”** or **“Deal”** – Dealing with intellectual property means viewing, listening, reproduction or copying, communication to Fellows, Candidates or Employees for the purposes of employment, studying or expressly agreed purposes. Dealings do not include financial or commercial purposes unless agreed otherwise.
- **“Resources”** – May include financial resources, non-financial resources such as the College’s premises, equipment, tools, human resources or general academic resources and any valuable consideration.

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ASSIGNMENT OF INTELLECTUAL PROPERTY

TO: Royal Australasian College of Medical Administrators (“the College”) or “RACMA”

I,:

(Name).....

of:

(Address).....

in connection with the Project

.....
.....
.....

(identify project, activity, publication)

agree and acknowledge that ownership of all ownership of intellectual property (including copyright) in all materials created for the Project will vest in the College.

DATED:

SIGNED: