

Policy Redesign Project

All policies and procedures are being reviewed as part of this project. This document is pending review, but remains in effect until the review is carried out.

Procedures Relating to Student Intellectual Property, Confidentiality and Contractual Agreements

Establishment: Council, 28 March 2007

Last Amended: EDA, October 2007

Nature of Amendment: Consequential amendments arising from a restructure of Central Administration / VCs office and the creation of new senior executive positions replacing the EDA and Registrar

Date Last Reviewed: November 2011

Responsible Officer: Director, Research Services Office

Flinders University has adopted the following procedures to ensure compliance with policy requirements relating to student intellectual property (IP), confidentiality and contractual agreements.

The procedures have been approved by the Vice-Chancellor under executive authority. Responsible officers are required to comply with the procedures at all times to ensure that the provisions relating to student intellectual property in the Intellectual Property Policy and the Research Higher Degrees Policy and Procedures are fulfilled.

Student Intellectual Property

The University Intellectual Property Policy specifies the rights and responsibilities of research higher degree students and staff in relation to intellectual property (IP) issues. These issues may arise in relation to existing IP that a student uses in their candidature and/or to IP that is developed by a student, the student's supervisor and other co-researchers during the candidature.

The policy:

- requires the University to ensure that students and staff are aware of the policies and their rights and responsibilities relating to IP;
- acknowledges that ownership of intellectual property developed by a student in the course of his or her studies at the University rests in the originator on creation, unless a student explicitly assigns his or her intellectual property rights to another person or an organization; and

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- requires that, before signing any agreement which affects their IP rights, students will be counselled about the effects of the agreement to ensure that it is signed with informed consent.

Awareness

All research higher degree students receive a copy of the Intellectual Property Policy at enrolment and are required to acknowledge in writing that they are aware of the policy and their rights and responsibilities. The University provides information about intellectual property matters for students at induction and regularly conducts training sessions for students and supervisors.

Assignment of IP and Confidentiality

A number of the University's postgraduate research students are working in collaboration with an industry partner, often with their stipend and/or research maintenance and facilities provided by the industry partner.

The funding body or the industry partner may, as a condition of providing funding, require the student to assign their intellectual property and/or enter into a confidentiality agreement. These agreements may require that results from the research remain confidential for a period of time after the research has finished to assist in the commercialisation of the research or to ensure certain information remains confidential for other legal or policy reasons. Such restrictions may apply to the student's higher degree thesis, to publication through papers and to presentations in other forms [such as seminars].

Because unavailability of research results for public dissemination, either in publications or through seminars, is potentially a significant impediment to future career prospects, the University requires students to receive formal counselling from someone other than their supervisor before entering into an such agreement. The student is advised to seek independent legal advice before signing.

Contractual Agreements

In addition to ensuring that students are informed about IP and confidentiality issues, to ensure compliance with its policies the University has developed procedures:

- to identify at an early stage when a student may be required to enter into an agreement affecting their IP; and
- to ensure that a student who is required to enter into an agreement is counselled in advance of signing about the operation of the agreement and the implications of any confidentiality restrictions, and where appropriate, is advised to seek independent legal advice.

These procedures are in place to ensure that the agreement is made on fair and reasonable terms and with the informed consent of the student. Failure to comply with these procedures creates a risk of liability in the event of a dispute between the researchers or with a third party, and can jeopardise the commercial value of the IP.

Procedures

1. Prior to approval of the candidacy, the Principal Supervisor is required to indicate on the Proposal for Candidature form whether or not the student will be required to sign an agreement before the commencement of the research project.
2. The Principal Supervisor and the student will be required in the Research Proposal, in each Annual Review of Progress and at any other time during the candidacy when it becomes apparent that

there are significant IP issues, to consider whether the student will be required to sign an agreement.

3. Where the need for a student to sign an agreement has been identified under 1 or 2 above, the student will be counselled by a designated faculty officer (who is not their supervisor) prior to signing the agreement. In this case, entries will be made on the student's record: to note that the student is required to sign an agreement; to record that counselling has been provided in accordance with University policy; and to include any relevant information about the circumstances of the case to assist in managing the IP issues.
4. Before signing on behalf of the University an Agreement that affects a student's IP, the responsible officer will confirm that the student has been properly counselled in accordance with University policy, and a record will be made of such confirmation.
5. **Responsibilities**
 - (i) The Dean of a School will ensure that academic staff in their School who supervise research higher degree students are aware of and comply with the Procedures.
 - (ii) The Faculty Executive Dean, through the Faculty General Manager, will ensure that the faculty responsibilities under the Procedures are undertaken.
 - (iii) The Deputy Vice-Chancellor (Research), through the appropriate officers, will provide the necessary advice and support to academic staff and other faculty officers to enable them to comply with the Procedures.
 - (iv) Supervisors will meet their obligations under the Procedures and will take appropriate steps to ensure that students are aware of, and comply with, their obligations.
 - (v) Students will take appropriate steps to inform themselves of their responsibilities relating to IP under University policies and will cooperate with their supervisors and other University officers in relation to the Procedures as required.