



COMMERCIALIZATION POLICY

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REAMBLE

In July 2020, in response to the recommendations of the Expert Panel established in Spring 2019 to help Ontario become more strategic in its approach to generating, protecting and commercializing intellectual property (IP), the government of Ontario released the province’s first Intellectual Property Action Plan. One of the key action items of the Plan is to clarify the commercialization mandates of post-secondary institutions. In response, the Ministry of Colleges and Universities released a Commercialization Mandate Policy Framework in early 2022 directing each post-secondary institution to develop a Commercialization Policy focused on the objective of harnessing the IP generated with the institution’s resources to achieve Ontario’s goal of ensuring that innovations developed in Ontario benefit Ontarians.

George Brown College (GBC, or “the College”) offers a comprehensive program of career-oriented, postsecondary education and training to assist individuals in finding and keeping employment, meet the needs of employers and the changing work environment and support the economic and social development of our local and diverse community. Through the College’s Research and Innovation activities, GBC plays a critical role in supporting industry and community partners, fostering competitiveness and innovation, and contributing to Ontario’s economic growth.

This policy has been developed within the unique Research and Innovation funding context for Ontario colleges. The operating funding provided to colleges by the province is designed to support the core education and training mandate of colleges and does not reflect the overhead costs of exploring, developing and overseeing Research and Innovation projects. This policy recognizes that George Brown, like most colleges in the Province of Ontario, is neither equipped to assess the commercial potential of Arising IP nor to manage a portfolio of Intellectual Property rights. As such, these tasks are left to other actors in the Ontario innovation ecosystem. This policy provides a framework for the College’s role of supporting these actors and facilitating the commercialization by them of Arising IP.

PURPOSE

George Brown College has developed this policy in conformity with the requirements of the Ontario Commercialization Mandate Policy Framework, giving due consideration to the specificities of Research and Innovation in a college environment, GBC’s other policies relating to Intellectual Property and the current legislative framework. By adopting this policy, the College aims to foster an environment in which the commercialization potential for the IP derived from Research and Innovation services rendered to Third Party Entities (TPEs) can be maximized for the benefit of Ontarians. By adopting this Policy, George Brown College seeks to:

- Promote the appropriate use and protection of IP arising from GBC’s Research and Innovation activities
- Maximize the socioeconomic benefits of such IP to Canada and Ontario

- Promote individual and collective compliance with GBC and third-party expectations regarding applicable legislation and regulations
- Define the roles and responsibilities of the various stakeholders in the management of Arising IP
- Promote the use and dissemination of research results in subsequent teaching or research activities at George Brown College.

SCOPE

This policy applies to all GBC employees and contractors and all GBC students involved in paid research activities who generate IP via government-funded Research and Innovation activities. Other IP (for example, copyright in literary works authored by the foregoing persons) is addressed in George Brown’s Intellectual Property Policy.

Nothing in this policy restricts an employee exercising their rights under a relevant collective agreement.

DEFINITIONS

Arising IP: IP that is developed by one or more parties during Research and Innovation activities which did not previously exist. It is also referred to as “Foreground IP”.

Commercialization: the process of taking an Invention or scientific discovery (for example, new technology or new or improved manufacturing processes) or other IP to one or more commercial markets.

Creator: any employee, including all faculty, staff, administrators or students, who create IP at the College.

Invention: a tangible or intangible concept, system, device, process, machine, scientific discovery, work or creation, which is unique and original, as well as any related Intellectual Property. Inventions can be issued a patent under the Patent Act (Canada).

Intellectual Property (IP): any form of knowledge, or expression created by one’s intellect that can be legally protected, including technical information, inventions, models, drawings, photographs, specifications, prototypes, computer software, curriculum and teaching materials and other creations that can be protected under patent, copyright, trademark, integrated circuit topography, plant breeders rights and industrial design laws. For the purposes of this policy, confidential information having a commercial value is to be considered Intellectual Property.

Literary Work: work consisting of text such as books, pamphlets or computer programs.

Non-Disclosure Agreement (NDA): a contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of engaging with each other.

Patent: in Canada, a right granted by the federal government to the inventor (or person to which the inventor has assigned their rights) to stop others from making, using and/or selling an invention from the day the patent is granted to a maximum of 20 years after the day on which the patent application is filed.

Public Disclosure: the communication of information relating to IP to external parties, including students who are not presently contractors or employees of the College. Public Disclosure includes, but is not limited to, disclosure in written or oral form; communication by email; posting on a website or social media platform; disclosure in a news report, press release or interview; publication in a journal, abstract, poster or report; presentation at a conference; demonstration at a trade show; or industrial application.

Research and Innovation: research and development activities directed at solving a specific challenge faced by an external partner or TPE. Research and Innovation activities include grant-funded and industry sponsored activities, curriculum-based research projects in collaboration with external parties and Research and Innovation activities carried out by faculty and staff on paid professional development leave related to work funded or sponsored by an external partner or TPE.

Research Services Agreement: an agreement between GBC and a TPE whereby the College agrees to provide Research and Innovation services to the TPE.

Third-Party Entity (TPE): an industry or community partner with which the College has contracted to provide Research and Innovation services that could result in Arising IP.

POLICY

1. Principles

1.1. IP Policy

- This policy is to be read in conjunction with George Brown College's Intellectual Property Policy which addresses the ownership of IP developed by its employees and students.

1.2. Disclosure

- All Creators have an obligation to promptly disclose IP with commercial potential to the College. The College shall establish a procedure to facilitate such disclosure to the Office of Research & Innovation (ORI) or relevant TPE. This may include the use of a disclosure form, or it may be included in a report provided to the TPE that describes the IP, the Creators, and any existing agreements related to the IP. For clarity, such disclosure is not considered Public Disclosure.

- Given that the responsibility to disclose rests with the individual Creators, the College will educate potential Creators on the importance of thorough and timely disclosure.

1.3. Non-disclosure and confidentiality

Non-disclosure of IP is equally as important as disclosure. Creators should be aware that Public Disclosure may result in loss of IP protection rights. This is especially true of Inventions as, generally, a patent is difficult or impossible to obtain if Public Disclosure of the Invention has occurred. Care must therefore be taken to avoid premature disclosure before a patent application has been filed. Creators are strongly encouraged to make all reasonable efforts to identify and protectable IP as early as possible and consult the ORI before making any Public Disclosure of IP.

1.4. Confidentiality

- Research partnerships and collaborations with TPEs often involve the communication of confidential proprietary information, some of which is likely to implicate IP. Any Research Services Agreement must contain confidentiality clauses, and any relevant College employees and students must be made aware of such confidentiality provisions to ensure that they are respected.
- Individuals engaged in Research and Innovation activities are required to sign Non-Disclosure Agreements (NDAs), often prior to the College and TPE entering into a Research Services Agreement. Individuals engaged in Research and Innovation activities shall treat as confidential all relevant information received in the context of Research and Innovation activities that is designated as confidential by the party disclosing it.

1.5. Use of appropriate binding agreement

- Research Services Agreements that could result in the creation of new IP must be documented in a written contract which:
 - a. protects the interests of the College and its employees, for example by minimizing the potential for and the consequences of a breach of the agreement and saves it harmless from future IP-related claims; and
 - b. retains rights for the College to use the IP for educational and research purposes.

In all instances, the contract shall explicitly or implicitly provide that the decision to commercialize Arising IP will rest with the TPE.

1.6. Rights retained

- The College must endeavour to maintain the right to use any Arising IP resulting from a Research Services Agreement for internal academic and teaching purposes, including for the purposes of enhancing curriculum relating to the subject matter thereof and of providing case studies and examples of research-driven IP and the management thereof.

2. Roles and Responsibilities

2.1. The College

- As an institution supporting and facilitating the commercialization of IP created in Ontario, the College's role is to ensure that IP created with the use of its physical and human resources (i.e., Arising IP) will be identified, protected from disclosure and transferred to TPEs or, if so directed by them, to third parties capable of addressing the commercial potential of the IP.

2.2. Office of Research & Innovation (ORI)

- The ORI is responsible for the administration of all matters relating to IP at the College. These functions include:

- Ensuring and promoting compliance with this policy and other IP policies of the College, namely by informing relevant stakeholders of their rights, roles and responsibilities
- Responding to questions regarding the application, interpretation and implementation of this policy
- Managing agreements signed with TPEs, including NDAs, assignments and licenses, including establishing, negotiating and reviewing all such agreements, with the assistance of legal counsel if necessary, before they are signed by any employee, contractor or student of the College
- Serving as the repository for the foregoing agreements
- Reviewing all written IP disclosures in a timely manner
- Where possible, supporting GBC employees, students and partners with any issue related to IP protection and commercialization
- Making Research and Innovation stakeholders aware of the terms and conditions of the relevant research agreement that could impact them (for example, disclosure and confidentiality provisions)

The ORI is not responsible for identifying Inventions or confirming the ownership of IP that have not been disclosed as per Section 1.2 above.

2.3. Provost and Chief Financial Officer

- In accordance with GBC policies, the Provost and Chief Financial Officer, or their designates with authority to legally bind the College, must sign all agreements that could result in Arising IP including all Research Services Agreements.

2.4. Employees

- All College employees are responsible for abiding by this policy. All employees of the College whose work may involve the creation of IP have a duty to both disclose and protect such IP.

2.5. Creators

- All Creators have an obligation to promptly disclose IP with commercial potential as per section 1.2 of this policy. Creators shall collaborate with TPEs to identify and protect third-party IP rights as well as any rights that the College may have in relation to IP.
- Creators recognize that ownership of Arising IP resulting from projects involving third parties depends on the terms of the agreement between the College and the third party. Creators may be asked to sign a waiver, an assignment of rights or any other document relating to ownership and protection of the Arising IP (see section 5 below).

3. Education and Awareness

- To promote the objectives of this policy, the College may:
 - provide all employees with access to IP education resources made available by the IP office of the Province of Ontario (IPON);
 - organize information sessions during which participants are introduced to the contents of the College's IP policy and this commercialization policy;
 - provide access to IP training, education and information materials;
 - raise awareness about IP and commercialization; and/or
 - take any reasonable steps to further the objectives of this policy.

4. Providing Net Benefit to Ontarians and Institutional Engagement with the Ontario Innovation Ecosystem

- To build institutional capacity to conduct Research and Innovation activities and thereby develop and enhance Ontario-based IP, the College will continue to build and maintain

relationships with local innovation ecosystem partners such as incubators, accelerators, innovation centres, and research networks without impacting obligations of federal research funding received by the College.

- Partnering with Ontario businesses will result in a net benefit to Ontarians by keeping IP development and enhancements in Ontario. To optimize the commercial potential of the College's Research and Innovation activities, GBC will:
 - a. Make a summary assessment of the TPE to confirm that it has a minimum level of viability prior to entering into a Research Services Agreement; and
 - b. Transfer and/or confirm the transfer of Arising IP to the TPE following the completion of a Research Services Agreement.
- 5. Discrepancies and Exceptions**
 - In the case of discrepancy between this policy and the terms of a Research Services Agreement, the terms of the Research Services Agreement shall prevail. Any other exception to this policy requires prior approval from the ORI.

RELATED POLICIES

Intellectual Property Policy

RELATED MATERIALS

[Report: Intellectual Property in Ontario's Innovation Ecosystem](#)

[Intellectual Property Ontario](#)

NON-COMPLIANCE IMPLICATIONS

This policy, sanctioned by George Brown College, is an institutional regulation requiring compliance across the college. Failure to comply with this policy may result in disciplinary measures commensurate with the offence in accordance with relevant academic and administrative codes of conduct and collective bargaining agreement