

Policy

POLICY TITLE: Indigenous Intellectual Property
CATEGORY: Academic
OWNER: Academic
APPROVED BY: Academic Council
APPROVED DATE: February 10, 2023
LAST REVIEWED: N/A

Introduction

This policy is being introduced in order to clarify the rights to Indigenous Intellectual Property that is collected and used by members of First Nations University of Canada and the obligations of Members to the University, third parties and other members with respect to the transfer and commercialization of such Intellectual Property.

The First Nations University of Canada is committed to upholding the rights and ownership of Indigenous intellectual property as it relates to Indigenous cultural heritage and the unique societies that they stem from. This policy outlines the manner in which all research and collection of Indigenous knowledges and products of Indigenous cultural heritage is to be respected and used.

Definitions

Indigenous cultural heritage: Land, objects, information and other forms of tangible and intangible heritage that is vital to the continuity and survival of distinctive Indigenous societies and cultural identities.

Policy

Protections for Indigenous cultural heritage have not been incorporated into Canadian copyright law. In accordance with the [First Nations University of Canada's Research Policy](#), all research is to be completed with the highest possible ethical standards as outlined in the [Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans](#). Researchers who are working with Indigenous communities and organizations should also pay particular attention to

the [TCPS 2 – Chapter 9: Research Involving the First Nations, Inuit and Métis Peoples of Canada](#).

The First Nations University of Canada recognizes and acknowledges the [United Nations Declaration on the Rights of Indigenous Peoples](#), and respects Article 31:

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

As such, researchers from the First Nations University of Canada will follow data sovereignty principles such as [OCAP®](#) (Ownership, Control, Access, Possession) principles or OCAS (Ownership, Control, Access, Stewardship) principles when collecting data or information from Indigenous communities, when possible. It is the duty of the researcher to seek out and obtain appropriate training in these protocols.

With this in mind, Article 28 of the [First Nations University of Canada URFA Collective Bargaining Agreement](#) includes the following statement:

Intellectual property (IP) means any result of conceptual or artistic activity that is created by an academic staff member and can be owned by a person. This includes all works that can be protected under copyright, patent, trademark, or other equivalent legislations.

Article 28 encourages the development of strong Indigenous academic research and researchers and the protection of Indigenous cultural heritage with respect to the ownership and dissemination of Indigenous knowledge. While the IP and copyright of materials that have been developed by academic staff members at the First Nations University of Canada will remain with that staff member, the IP or ownership of Indigenous cultural heritage and knowledge collected from the Indigenous community partners will remain with the community. As stated in Article 28, academic staff members with the First Nations University of Canada are to also acknowledge and recognize that Indigenous peoples are the “primary guardians and interpreters of their cultures, arts, and sciences” and “must exercise control over all research conducted within their territories.” This applies to past knowledge and knowledge that will be developed by them in the future.

In keeping with the principles of this policy, researchers at the First Nations University of Canada are encouraged to create a Research Agreement and/or a Data Sharing Agreement between the research team and involved Indigenous community partners. This agreement should explicitly state that the researcher(s) from the First Nations University of Canada will develop their projects in conjunction with Indigenous communities, organizations, or partners to ensure proper, free, prior, and informed consent has been given. It should also be explicitly stated how the gathered material relating to Indigenous cultural heritage may be used by the research team.

Roles and Responsibilities

1. Vice-President (Academic)

The Vice-President (Academic) will oversee this policy and will be the final arbiter for exceptions

2. Individual Researchers

At a minimum, a researcher is responsible to conduct his/her research in an ethically responsible manner in accordance with all University policies (noted above) and, if applicable, an appropriate collective agreement.

3. Research Office

The First Nations University of Canada Research Office will serve as the procedural office for this policy and advise researchers on the development of Research Agreements and Data Sharing Agreements as requested.

Consequences for Noncompliance

Noncompliance could negatively impact the reputation of First Nations University of Canada within its community and stakeholders. If approval has been given through the (forthcoming) FNUniv Indigenous Research Ethics Board, this approval may be suspended or revoked.