

Guidance Document
For McMaster University faculty mentoring Faculty of Engineering
students for completion of program course requirements

The enclosed provides guidance for McMaster University (“University”) faculty members regarding mentoring students during courses at both the undergraduate and graduate levels and, more specifically, how projects with student-developed intellectual property (“IP”) should be managed by faculty.

1. **Intellectual Property**

Courses that require completion of a project requirement may result in student developed IP. Therefore, it is important for faculty members to understand the applicable federal laws and University policies as referenced below. For the purposes of this Guidance Document, and with respect to the type of projects that students are involved with, the two main types of intellectual property that are would be developed as part of a course are patents and copyright.

a. **Patent**

Patents cover new and useful inventions (product, composition, machine, process) or any new and useful improvement to an existing invention. While inventions that result from research being done at the university are covered by the McMaster Joint IP Policy (and are owned by the university), inventions that result from course-based projects are owned by the creator(s) of that invention.

b. **Copyright**

Copyright protects many different types of work such as articles, databases, and software. Unlike with patents, copyright protection is triggered as soon a work is created. Therefore, copyright does not protect an idea, but rather the tangible way in which the idea is expressed. Additionally, the *Copyright Act* provides that the first owner of any copyrightable work is the person who created that work, unless created under an employment situation whereby the employer may own the copyrightable work, or where there is an agreement to the contrary. Therefore, in the case of an undergraduate or graduate student course project, the owner of a copyrightable work is the student. If a faculty member wanted to use a copyrightable work created by a student during a course for any reason, in whole or in part, the faculty member would need to seek the permission of the student to do so.

Patent and copyright law can become more complex if and when the student is modifying university owned intellectual property. In such a case it is important for faculty members to understand that should this occur, the university may not exclusively own any student modification or developments that may arise out of the project. In this case, or any case where faculty members will be involved in any collaboration of student projects where intellectual property could be developed, it is recommended that faculty members should, before any work commences, have a conversation with the student about the involvement of both the student and the faculty member and what that would mean with respect to ownership.

2. **Conflict of Interest**

Faculty are often required to help students on the progress of projects related to their program requirements and must be wary to avoid receiving any personal benefit, financial or otherwise, from that interaction. Students reasonably assume that they submit their project work to faculty for grading in confidence and there is no intention on the part of the students to allow faculty to take such work for their own profit or uses without permission. Therefore, a faculty member who takes a student's work (where the student has solely produced the content without input or financial compensation) and publishes it, uses it in their research in some fashion or attempts to commercialize it, without permission, would risk violating one or several of the University policies as referenced below.

3. **Resources**

The McMaster Industry Liaison Office ("MILO") can assist with understanding patentable and copyrightable works and can work with the parties involved to understand the ownership structure and the uses each party can make of the work. MILO can also assist faculty and students in documenting their understanding of how ownership will work in cases of collaboration.

Additionally, it is helpful to know and understand how conflict of interest and intellectual property is dealt with generally within the University. The following University policies should be reviewed with respect to this Guidance Document:

- [Ownership of Student Work Policy](#)
- [Conflict of Interest Policy for Employees](#)
- [Code of Conduct for Faculty and Procedure for Taking Discipline](#)
- [Research Integrity Policy](#)
- [McMaster IP Policy](#)

Respect for the integrity of a student's course work is an important precept of higher education and at the University. If there are any questions regarding this Guidance Document or a specific circumstance regarding a student's project work and the application of this Guidance Document, please contact the Associate Dean of Graduate Studies (adeangse@mcmaster.ca) or the Associate Dean, Academic (adeaneng@mcmaster.ca), as applicable.