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| C:\Users\lschnell\Pictures\NWIC Logo.jpg | Intellectual  Property Policy | POL-404 |
| Prepared By: | Preparer’s Name/Title:  Greg Mahle, Department Chair CARE Progam | Date Prepared:  mm/dd/yyyy |
| Approved By: | College President’s Signature | Date Approved: mm/dd/yyyy |
| Effective Date:  mm/dd/yyyy | Board of Trustees Chair’s Signature | Date Approved:  mm/dd/yyyy |

404.1 POLICY STATEMENT

It is the policy of the Board of Trustees that NWIC supports appropriate ownership of intellectual property based upon inherent and acquired rights as the acceptable practice in the Honorable House of Learning (NWIC). Further, it is policy whereby faculty, staff, students, and all others acting within the purview of NWIC are expected to act in accordance with certain protocols and to protect and ensure the sustainability of Indigenous Knowledge. Faculty, staff, and, when appropriate, students, must follow the established acceptable practices relating to inherent and acquired intellectual property in all aspects of research, scholarship, teaching, and publication, and be committed to the highest ethical standards in their teaching, research, scholarship, artistic creation, and service.

404.2 PURPOSE

The purpose of the Intellectual Property Policy is to inform and give guidance to faculty, staff, students, and other individuals and institutions working with NWIC, as to how the determination of Intellectual property ownership and copyright are practiced at NWIC.

404.3 SCOPE

This policy applies to faculty, staff, students, and others who collaborate with NWIC in teaching, research, internships, or other activities that may include the exchange of information or the creation or use of intellectual property.

404.4 BACKGROUND

In Western academia, intellectual property refers to ownership by individuals or other entities, which are determined by certain criteria. This policy addresses ownership of intellectual property within an Indigenous framework, thus protecting property, whether that refers to knowledge or physical objects, that are owned as the result of a family’s or communities’ inherent rights. Protection of inherent property rights are applied before any consideration is made whether NWIC or individuals within NWIC may own intellectual property.

404.5 RESPONSIBILITY

Faculty, staff, students, and external researchers or teachers collaborating with NWIC must know the contents of this policy in order to properly understand and respectfully support appropriate ownership, particularly of cultural intellectual property.

404.6 INTELLECTUAL PROPERTY POLICY STATEMENT

Cultural Intellectual property and ownership are based upon the Indigenous context, framework, and paradigm, through understanding the relationship between cultural knowledge and the communal responsibility to share knowledge with the Indigenous people of that place in the appropriate ways. It is not viewed as a commodity and is only used to preserve knowledges for future generations. Intellectual property from a Western perspective describes knowledges as owned by an individual or institution. The term intellectual property refers to thoughts and ideas, print or electronic materials, literary works, artistic designs, symbols, and images that are to be used in commerce or for profit. NWIC is committed both to the development of strong Indigenous academic research and researchers, and to the protection of the heritage of Tribal Peoples. When considering questions about the rights of individual faculty, staff, and students regarding intellectual property, NWIC must take into account the following principles: that the effective protection of Tribal Peoples heritage will be of long-term benefit to all; that Tribal Peoples are the primary guardians and interpreters of their cultures, arts, and sciences, whether created in the past or developed by them in the present or future. All people associated with NWIC must understand that there is cultural knowledge that can be shared, and there is knowledge that is private to Tribal individuals and families. Ownership in this context means that either a Tribal family or community owns the cultural knowledge so the consent of those owners is required in order to access that knowledge. It may not be owned by NWIC or individuals within the college and must be protected.

Tribal Peoples’ inherent ownership and custody of their heritage is collective, permanent, and inalienable as prescribed by the customs, rules, and practices of each people. As described in this policy, in order to protect their heritage, Tribal Peoples must exercise control over all research conducted within their place, or which uses their people as objects of study. This control extends over all aspects of Indigenous intellectual property.

The free and informed consent of the traditional owners is an essential precondition of any agreements that may be made for recording, studying, using, or displaying any Tribal Peoples heritage. The traditional owners must be determined in accordance with Tribal Peoples' own customs, laws, and practices.

Within the above context, NWIC endorses the lively interest of faculty, academic staff members, and students in research, scholarship, and professional activities and will assist and enhance their ability to pursue these aims, when possible.

NWIC encourages the development, writing, invention, or production of intellectual property designed to improve the capacity of NWIC in fulfilling its mission, to enhance the teaching and learning environment, and to contribute to the betterment of Tribal communities. Intellectual property includes, but is not limited to, intellectual and creative works that can be copyrighted or patented, such as print or electronic materials, literary, dramatic, musical and artistic works, computer software, multimedia presentations, and inventions.

When determining ownership of any intellectual property it must first be determined whether it is the inherent property of any Tribal person or Tribal Peoples. If the intellectual property is not the inherent property of any Tribal Peoples then the appropriate ownership by individuals or NWIC of the intellectual property may be then be determined, in accordance with the criteria presented below.

NWIC faculty, staff, and students own all rights to copyrightable or patentable independent works created by that person without college support that does not infringe on inherent Tribal People’s ownership. Unless otherwise provided in an agreement, NWIC owns all rights to a copyrightable or patentable work created by any person using college support. The ownership of a copyright or patent resulting from the development of intellectual property, and any rewards or recognition attributed to the copyright or patent, will be determined according to the following conditions:

Ownership resides with the employee or student if all of the following criteria are met:

1. The work is the result of individual initiative, not requested by NWIC;
2. The work is not the product of a specific contract or assignment made as a result of employment or enrollment at NWIC;
3. The work is not prepared within the scope of the employee’s job duties or the student’s enrollment expectations; and
4. The work involves insignificant use of College facilities, time, and/or other resources.

Ownership resides with the NWIC if the above criteria are not met or if one of the following criteria applies:

1. The work is prepared within the scope of the employee’s job duties or the student’s enrollment expectations; or
2. The work is the product of a specific contract or assignment made in the course of the employee’s employment with NWIC or the student’s enrollment; or
3. The development of the work involves significant facilities, time, and/or other resources of NWIC including but not limited to release time, grant funds, college personnel, salary supplement, leave with pay, equipment, or other materials or financial assistance; or
4. NWIC and the employee or student may enter into an agreement for an equitable arrangement for joint ownership, sharing of royalties, or reimbursement to NWIC for its costs and support. When it can be foreseen that commercially valuable property will be created, NWIC and the employee or student shall negotiate an agreement for ownership and the sharing of benefits prior to creation of the property. In all such cases, the agreement shall provide that NWIC will have a perpetual license to use the work without compensation to the employee or student for such use; or
5. If an employee is granted full or partial leave with pay (e.g., release time or educational leave) to write, develop, produce, or invent intellectual property, the employee and NWIC will share in any financial gain; and NWIC’s share will be negotiated prior to the time the leave is taken.

* *This policy statement is based upon and adapted from the First Nations University of Canada Faculty Contract (2015-2018), the United Tribes Technical College Faculty Handbook (2017), and the paradigm document, third draft, by Greg Mahle.*

404.7 RELATED INFORMATION

* + 1. Research Agenda, Indigenous Research Policy, Academic Responsibility and Freedom Policy
    2. Publication, TEK, Cultural objects, Culturally-appropriate
    3. Institutional Review Board Manual: Purpose and Policies
    4. Framework for Indigenous Evaluation

404.8 REVIEW DATE

This policy will be reviewed every three years.

Attachment: Greg Mahle Paradigm, Third Draft