

INTELLECTUAL PROPERTY POLICY

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| Policy number | 28 | Version | 5 |
| Approved by ABG on | 14 February 2019 | Scheduled review date | February 2021 |

1. Purpose

The purpose of this statement is to set out the policy and procedures relating to ownership of copyright as it applies to written works (whether in printed or electronic form); aesthetic works and printed course materials; as well as computer software and visual recordings. created by staff and students of NIODA, and the ethical implications of the policy and review and appeals processes.

2. Scope

This policy applies to all NIODA teaching, study and research activities undertaken by its staff and students.

3. Policy Statement

The NIODA policy on intellectual property is based on the assumption that the legal rights known as intellectual property (IP) should be managed in a way that best preserves the creative and intellectual endeavours of staff and students in the production of scholarly articles, papers, presentations and theses, and allows NIODA to operate effectively within the Higher Education sector. This policy is not intended to prevent flexibility in individual circumstances, where appropriate and compliant with all copyright laws.

3.1 Ownership of Copyright

Copyright protects how an idea or thought is expressed, not the originality of the idea or thought. The originality requirement for protection is that the author of the work must have used some skill and labour in creating the work and not simply copied it. An idea is not protected until it is presented in a material form.

This policy, as it relates to copyright, is directed towards preserving the values of scholarly work, while at the same time providing for the legitimate interests of NIODA in preserving its ability to: deliver courses; publish research; enter into collaborative arrangements with other educational institutions and manage contractual relations with third parties.

3.1.1 Website

The NIODA website contains a variety of copyright material, of which some is the intellectual property of individuals or organisations (as named) and some is owned by NIODA. Other material is in the public domain.

Except for material that is unambiguously and unarguably in the public domain, only material owned by NIODA, and so indicated, may be copied, provided that textual and graphical content are not altered and that the source is acknowledged. NIODA reserves the right to revoke that permission at any time. Permission is not given for any commercial use or sale of this material.

No other material anywhere on the website may be copied (except as legally allowed for private use and study) or further disseminated without the express and written permission of the legal holder of that copyright. Where there is any ambiguity about the ownership of copyright material on the NIODA website, NIODA management should be consulted and the need for permission clarified.

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3.1.2 Original Works

Copyright exists in original written works (whether in printed or electronic form), and aesthetic and multimedia works. Copyright gives no control over the use of original ideas contained in a work.

Copyright in a work created by any staff of NIODA in the course of their employment vests in NIODA, excepting for works produced by a staff member outside the scope of his or her employment without the use of NIODA resources or the services of NIODA staff.

NIODA assigns its copyright in literary, aesthetic and multimedia works to academic staff who are the authors or creators of those works, except in the following circumstances:

- copyright in teaching materials remains vested in NIODA;
- copyright in a work specifically commissioned by NIODA remains vested in NIODA;
- ownership of copyright in works produced by members of NIODA under an agreement between NIODA and an external organisation shall be subject to the terms of the particular agreement.

Copyright in a work created by a NIODA student in the course of their studies in any NIODA program vests in the student, subject to a grant to NIODA of a perpetual, worldwide, non-exclusive, royalty-free licence including the right to use, reproduce, modify, adapt the Student's original work for purposes related to NIODA's aims.

In exercising its rights to copyright, NIODA will respect the moral rights of creators in accordance with Part IX of the *Copyright Act 1968 (Cth)*.

3.1.3 Teaching Materials

Teaching materials include: reading lists, subject plans, curriculum outlines, computer programs and visual aids. Teaching materials also include any analogue or digital audio or audio-visual recordings seminars and workshops; but do not include a staff member's personal notes.

Copyright in teaching materials developed by staff members of NIODA is owned by NIODA. This includes, without limitation:

- a right to license others to use teaching materials, for example in collaborative arrangements with other education providers;
- a right to reproduce and adapt them;
- a right to use them in any course irrespective of where and when the course is delivered, the mode of delivery, and by whom and to whom it is delivered, provided always that authorship will be acknowledged (unless the author declines to be acknowledged) and the use or adaptation will not harm the reputation of the author.

3.1.4 Author's Rights to Use Teaching Materials After Leaving NIODA

Authors are not able to use any teaching materials developed specifically for the NIODA programs after their employment ceases at NIODA for any purposes.

3.2 Research Data

NIODA research generally gives rise to 'raw data', which becomes the focus of the NIODA procedures of inquiry. Researchers' rights to hold records of research data arising from research are set out in the

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Guidelines for NIODA Human Research and Ethics. These Guidelines also recognise an obligation by researchers to ensure that a copy of data is stored and retained to ensure its availability for scrutiny by other scholars. Research students may have unrestricted rights to use the data records and may retain them for their own use, during and after candidature (as described in signed consent form returned by the research participants).

An agreement between the student and supervisor should also be made detailing the period after candidature within which the student will have the opportunity (if desired) to publish findings drawn from the data. Failing publication by the student within this agreed period, the supervisor may, with proper acknowledgement, publish utilising the data or make the data available to other scholars for their use.

3.2.1 Commissioned Works

Copyright in works produced for NIODA by persons who are not engaged under a contract of employment normally shall vest in NIODA. When a service is commissioned involving the production of a work, the ownership of copyright will be specified in a written agreement.

3.2.2 Sharing the Benefits of Income from Copyright

It is possible that NIODA may obtain income from the licensing or assignment of copyright, or the external sales of copyright works which, under this Policy, it owns or in which it has an ownership interest. Unless otherwise agreed, net proceeds will be shared with academic author(s) or creators, and NIODA.

3.2.3 Research done Collaboratively with other organisations

Where NIODA staff members conduct research collaboratively with other organisations, the ownership of copyright will be specified in a written agreement.

4. Ethical Considerations

In deciding whether to assert or enforce a claim to own copyright NIODA will consider the broader ethical implications apart from the goal of realising commercial gain. In line with the guidelines of the NIODA Human Research and Ethics Committee, NIODA will endeavour to respect the rights of persons and communities to enjoy and preserve their own cultural heritage.

4.1. Review and Appeals Process

The Academic Governance Board has responsibility for policy approval

The NIODA Education Committee has responsibility for:

- decisions under this Policy
- interpreting the Policy
- decisions in relation to copyright matters not otherwise dealt with under this section of the Policy
- policy review.
- student or staff grievances relating to the NIODA IP Policy

For grievance processes refer to Academic Honesty and Integrity Policy

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5. **Related Documents**

Staff Grievance and Dispute Resolution Policy

Student Grievance Policy

Ethics Guidelines

Academic Honesty and Integrity Policy