



2020

# Intellectual Property Rights (HE15)

 **Partnership**  
Training • Education • Careers

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### Change Control

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### Revision History

<b>Version</b>	<b>Type</b>	<b>Date</b>	<b>History</b>
V1	New	15/05/2012	New
V1	Review	15/05/2014	Update
V2	Review	March 18	Update
V2.1	Review	January 2020	Update to reflect TEC Partnership

### Introduction

TEC Partnership is committed to maximising the value of intellectual property for the benefit of all involved in its creation. This policy is intended to promote the recognition, protection and exploitation of potentially valuable intellectual property produced by any student of TEC Partnership.

## 1. What are Intellectual Property Rights?

- 1.1 Intellectual Property (IP) Rights, very broadly, are rights granted to the originator, creator and/or owner(s) of works (or materials) that are the result of human intellectual creativity or 'creations of the mind'.
- 1.2 As defined by the World Intellectual Property Organisation (WIPO 2010) IP is divided into two categories:
  - i. **Industrial property:** this includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and
  - ii. **Copyright:** this is pertinent to nearly all types of student work and includes literary and artistic works such as essays, novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright also include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs.

## 2. What is Copyright?

- 2.1 Copyright protects the expression of ideas but not the idea itself.
- 2.2 For a work to gain copyright protection, it has to be original and should be expressed in a fixed material form, for example, in writing. Copyright is therefore effective upon the creation of the work. ***It arises automatically and in the UK an individual does not have to register the copyright in the work before it is protected.***

## 3. Works Protected by Copyright

- 3.1 The types of Copyright works are broadly categorised into:
  - i. Original literary, dramatic, artistic or musical works;
  - ii. Sound recordings, films or broadcasts; and
  - iii. The typographical arrangement of published editions.
- 3.2 Literary work also includes:
  - i. A table or compilation other than a database;
  - ii. A computer program;
  - iii. Preparatory design material for a computer program; and
  - iv. A database.
- 3.3 Dramatic work includes:
  - i. A work of dance or mime.
- 3.4 Musical work includes:
  - i. Any work consisting of music. However, the words accompanying the music have separate Copyright (for example, the lyrics of a song are protected as literary works), as does the singing which may attract performance rights or rights in the sound recording.

## 4. Ownership and Transfer of IP Rights

### ***Ownership between TEC Partnership and the 'student originator' of the intellectual property***

- 4.1 **In general, ownership of IP is vested in the student** (i.e. the originator, creator, deviser or inventor) or student(s) where in such instances joint student ownership is likely to exist.

- 4.2 **TEC Partnership staff are not permitted to pass on student work to third parties\*** (unless a formalised written agreement exists and is signed by the student(s) as the originator(s) of the work).

*\* This excludes any individual who is integral to the assurance of standards and quality such as External Examiners, Moderators, Reviewers etc.*

### **Transfer of IP Rights**

- 4.3 Any transfer of IP rights from the student to TEC Partnership must be formalised in a written agreement and signed by both parties. (See Appendix 1 for exemplar license agreement template).
- 4.4 TEC Partnership does not accept the application of “abandonment” as a means to interpret that a student has transferred their IP rights. For example, a student as an IP rights owner may post copyright protected material on the Internet or on another open site such as TEC Partnership’s Virtual Learning Environment. In such circumstances this does not mean that a student has abandoned their IP rights.
- 4.5 Where a student (either within or outside of the course of their studies) works with a member of TEC Partnership staff, for example, on a specifically commissioned project, at the outset of the work, TEC Partnership may request ownership of all IP but this must be set out in a written agreement and signed by both parties. The student has the right to decline such a request.
- 4.6 Occasionally TEC Partnership may wish to make use of student work as learning materials with other students. In such instances an agreement must be drawn up to cover all uses and potential future uses which will be subject to principles of fairness and agreed by the Associate Principal (or equivalent) and the student (as the originator of the work). The agreement must be signed by both parties.

### **Specific Issues Relating to IP Rights**

- 5.1 Students and staff should be aware that in relation to any IP rights and/or the transfer of those rights, particular issues may arise in a number of areas:
- i. **Work-based Learning and IPR:** section 11(2) of the Copyright, Designs and Patents Act 1988, deems the employer as the first owner of copyright in materials created in the course of employment. In such instances the student may not be able to claim IP rights. Similarly, the student may not be permitted to grant or assign rights to TEC Partnership. In such cases an agreement with the employer may be required where a transfer or modification of IP rights is desired.
  - ii. **Apprentices and IPR:** in order for an Apprentice to enter into an agreement with TEC Partnership around Intellectual Property Rights, a Service Level Agreement must be signed by both their employer and a member of the Senior Management Team.
  - iii. **Other third parties:** this involves work that is submitted and which includes material subject to third party IPR, particularly third-party copyright material. In many cases, the submission of third-party copyright material will be part of a student assessment. This is likely to be a permitted act by virtue of section 32(3) of the Copyright, Designs and Patents Act 1988.

In other cases, the student may be relying on a license held by TEC Partnership, a specific grant of permission to use, or one of the copyright exceptions.

Beyond copyright, there may be instances of students submitting work containing

material with third party database rights.

In such instances TEC Partnership recognises that IP cannot be claimed from that which the student is not permitted to grant agreement or license rights of the third-party material included in his or her work.

- iv. ***The sale of completed assignments:*** is strongly discouraged in all instances to avoid allegations of abetting or inciting plagiarism.
- v. ***Student-written submissions to online communication tools:*** where work has been submitted to, for example, TEC Partnership discussion boards and TEC Partnership chat rooms, TEC Partnership will treat these as the Copyright works of TEC Partnership but only for a limited purpose; usage will only relate to matters relating to the approval, development and review of teaching, learning and assessment activities.

## **6. Moral Rights**

- 6.1 Moral rights refer to the inalienable rights of the author or creator of a copyright work to be recognised as such; the right to object to derogatory treatment of the work; and the right not to be falsely attributed with the authorship of a work. For example, a student may assert his or her right to be acknowledged as the author of an original report which he submits. Any reuse of this work would need to include credit to the student.

### ***References***

*JISC Legal Investigation into Student Work and IPR  
Intellectual Property Office ([www.ipo.gov.uk](http://www.ipo.gov.uk))*



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