

INTELLECTUAL PROPERTY POLICY

Policy owner	Executive Management Committee
Policy category	Operational
Policy status	Approved
Approval body	MIECAT Council
Last amended	28 th August 2023

PURPOSE:

The purpose of this policy is to ensure that the legal rights known as intellectual property are managed in a way that best preserves the ownership of copyright of staff and students in the production of art works, scholarly articles papers, presentations and theses, computer software and visual recordings. 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 is not intended to prevent flexibility in individual circumstances. 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 MIECAT in preserving its ability to: deliver courses; publish research; enter into collaborative arrangements with other educational institutions and manage contractual relations with third parties.

SCOPE

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

POLICY AND PROCEDURES

MIECAT recognises the moral rights of its staff and students in accordance with the *Copyright Act 1968*. These include the right of attribution, the right not to have authorship falsely attributed, and the right of integrity of authorship.

1. Website

The MIECAT website contains a variety of copyright material of which some is the intellectual property of individuals or organizations (as named) and some is owned by MIECAT itself. Other material is in the public domain. Except for material which is unambiguously and unarguably in the public domain, only material owned by MIECAT, and so indicated, may be copied, provided that textual and graphical content are not altered and that the source is acknowledged. MIECAT 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 this 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.

2. Original works

Copyright exists in original written works (whether in printed or electronic form), musical works, dramatic works, works of art, films, 'broadcasts', computer programs and multimedia works. Copyright gives no control over the use of original ideas contained in a work.

2.1 Copyright in a work created by any employee of MIECAT vests in MIECAT, except for works produced by an employee outside the scope of his or her employment without the use of MIECAT resources or the services of MIECAT staff.

2.2 MIECAT assigns its copyright in literary, dramatic, musical and artistic 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 MIECAT
- copyright in a work specifically commissioned by MIECAT remains vested in MIECAT

- ownership of copyright in works produced by members of MIECAT under an agreement between MIECAT and an external organization shall be subject to the terms of the particular agreement.

2.3 In exercising its rights to copyright, MIECAT will respect the moral rights of creators in accordance with Part IX of the *Copyright Act 1968*

3. Teaching Materials

Copyright in teaching materials developed by employees of MIECAT is owned by MIECAT. 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; and
- 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.

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.

4. MIECAT's access to staff materials is necessary to enable MIECAT to deliver the courses in which staff materials are used. If staff materials are used in the course of the staff member's employment at MIECAT the staff member must grant a perpetual, worldwide, royalty-free, non-exclusive licence to MIECAT to use staff materials for all purposes connected with delivery of courses and teaching programs by MIECAT, even after the staff member ceases to be employed by MIECAT.

5. Staff who bring pre-existing intellectual property to MIECAT to be used in the course of their duties or otherwise, need to provide evidence of ownership to MIECAT when using that pre-existing intellectual property for teaching, research,

scholarship or in relation to commercialisation. This ensures the staff member's ownership and contribution to the scope of knowledge held at MIECAT is recognised and that there is no dispute as to prior encumbrances over that pre-existing intellectual property.

6. Ownership of intellectual property generated by students

6.1 In accordance with general law principles, students personally own the intellectual property of which they are the creator.

6.2 However, there are some exceptional circumstances where, in order to participate, or continue to participate in certain activities, students may be requested to assign to MIECAT their interest in the intellectual property they create and transfer data and other information, in particular, where:

- the student participates in a MIECAT project
- the activities are externally funded, or
- the activities have contractual obligations with third parties, or
- the activities have clear commercialisation potential or objectives.

6.3 It is intended that requests for students to assign their intellectual property will be done where necessary to enable MIECAT to meet its legal obligations to industry partners, or to achieve the objective of deriving appropriate benefits from innovation at MIECAT by commercialising intellectual property.

6.4 The terms of any assignment of intellectual property by a student will be agreed with the student. In general, the student will:

- (a) share in net commercialisation revenues along with all other creators
- (b) retain copyright in the student's thesis
- (c) not be unreasonably impeded in submitting a thesis for examination and completing requirements for the award of a degree
- (d) observe obligations of confidentiality in relation to the project, and
- (e) consent to the student's thesis and other scholarly works being reproduced and communicated online via MIECAT's institutional repository.

6.5 Intellectual property matters should be clearly documented at the commencement of a higher degree by research program. Responsibility for

identifying circumstances when the assignment of student intellectual property may be appropriate rests with the research thesis supervisor and the Course Co-ordinator.

7. Research Data

MIECAT research generally gives rise to 'raw data', which becomes the focus of the MIECAT procedures of inquiry. Researchers' rights to hold records of research data arising from research are set out in the Guidelines for MIECAT 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 utilizing the data or make the data available to other scholars for their use.

8. Commissioned works

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

9. Sharing the benefits of income from copyright

It is possible that MIECAT 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 MIECAT.

10. Indigenous knowledge rights

Where the creation of MIECAT intellectual property involves the property of Indigenous peoples and/or the use of Indigenous knowledges, MIECAT will take all reasonable steps to consult with the relevant Indigenous peoples and groups to ensure that any decisions taken on the protection, development and commercialisation of that intellectual property conforms with the relevant Indigenous protocols and ethical guidelines. MIECAT does not assert ownership over Indigenous knowledges.

11. Ethical considerations associated with intellectual property in copyright

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

RESPONSIBILITY FOR IMPLEMENTATION

The MIECAT Education Committee and Executive Management Committee has responsibility for:

- decisions under this policy
- interpreting the policy
- decisions in relation to copyright matters not otherwise dealt with under this policy.
- appeals related to intellectual property issues
- policy review

KEY STAKEHOLDERS

All staff and students at MIECAT

SUPPORTING DOCUMENTS

Copyright Act 1968 (Commonwealth)

MIECAT Student Grievance Handling and Resolution Policy

MIECAT Human Research and Ethics Committee Guidelines

VERSION HISTORY

Date of Issue	Version	Author	Summary of changes
9 th June 2023	1.0	J. Mitchell	Draft for approval

Document uncontrolled when printed