

1.0 Preamble

The creation of knowledge and the communication of knowledge are a fundamental part of the mission of SKG. These endeavours commonly result in the creation of intellectual property.

The knowledge that is created and communicated in SKG's academic activities often concerns Anishinaabe history and communities. SKG is committed to respect principles governing the ownership, control, access, and possession of Anishinaabe and other Indigenous knowledge.

2.0 Purpose

This policy addresses two fundamentally different issues:

- Section 5 of this policy addresses principles and policies about ownership, control, access and possession of Indigenous data and information. SKG's data sovereignty and data governance principles will ensure that its data is safeguarded as Indigenous intellectual property and is of great value and meaning to its members and Anishinaabe and other Indigenous communities, and used effectively and positively for the benefit of these communities.
- Sections 6 and 7 of this policy address intellectual property and copyright issues in the context of Canadian law and its applicability to SKG. The goal of these sections of the policy is to encourage the creation of intellectual property, and to facilitate the development of intellectual property, while safeguarding the academic freedom and interest of SKG, its students, instructors, and other employees.

3.0 Definitions

"Copyright" means the sole rights granted for specified periods pursuant to the Copyright Act (Canada), as amended or re-enacted from time to time, or any successor legislation. These rights include the sole right to produce or reproduce an original literary, dramatic, musical, and artistic work in any form. Copyright also includes the sole right to perform a work in public, and to publish an unpublished work.

"Intellectual property" and "IP" is any form of original knowledge or expression created in part or whole with one's intellect and may include but is not limited to technical information, know-how, copyrights, and so forth. The three traditional intellectual property rights are patents, copyrights, and trademarks. They are all creations of statute, where, to encourage creativity and scientific spirit, the government recognizes and will enforce the public expression of an original idea for a limited period of time. Although the theory behind IP is that the inventor owns the monopoly, IP created pursuant to employment is presumed to belong to the employer subject to an agreement, common law, custom or practice to the contrary.

Definitions of other terms in this policy include:

“Academic Advisory Circle” or “Circle” means the group of individuals appointed by SKG’s board to provide guidance and advice to the board concerning SKG’s academic mission and its services and supports to students.

“Board” means SKG’s board of governors.

“Director of Academics” means the President of SKG, or an individual designated by the President, who is responsible to administer SKG’s academic mission, regardless of the title of that position.

“Director of Operations” means the senior executive in SKG responsible for SKG’s organizational administration, regardless of the title of that position.

“Employee” means a person who performs work for wages in any capacity for SKG.

“Instructor” means an employee of SKG who is responsible for teaching, evaluation, academic supervision, and/or related activities for credit and non-credit courses, and/or responsible for evaluation of students in any other activity that is part of SKG’s academic mission. It includes all such employees, whether faculty members or contract employees.

“Student” means an individual registered in a course or program of study at SKG, whether full-time or part-time.

“SKG” means Shingwauk Kinoomaage Gamig.

4.0 Applicability

This policy applies to all SKG employees and students who create or develop intellectual property.

This policy governs all external contractors (with the necessary changes) if the terms of their contracts with SKG do not specify intellectual property ownership.

This policy does not apply to intellectual property created by an employee’s independent effort in the course of demonstrably private research or private consulting to external organizations/ businesses, provided that these activities do not involve use of SKG infrastructure or support, and where these activities have been approved by SKG.

5.0 Ownership, control, access and possession of Indigenous data and information (OCAP principles)

For the purposes of this section,

- “Indigenous data sovereignty” refers to the right of an Indigenous Nation or community to govern the collection, ownership, and application of its own data; Indigenous data sovereignty means managing information in a way that is consistent with the laws, practices, and customs in which it is located.
- “Indigenous data governance” refers to the power and authority to make rules and decisions about the design, interpretation, validation, ownership, access to and use of data. Indigenous data governance, whether for a small group or a large nation, means

being capable of data leadership and stewardship, future-oriented planning, problem solving, evaluating outcomes, developing strategies, and taking remedial action.

- “OCAP” refers to a set of standardized principles known as ownership, control, access, and possession to ensure that the collection, sharing, ownership, and use of data and information from Indigenous communities are governed and controlled by communities and Nations themselves. OCAP is an important expression of Indigenous data jurisdiction in Canada. OCAP principles have been developed and promoted by the First Nations Information Governance Centre (FNIGC) and comparable organizations. These principles, and practices are intended to ensure that Indigenous people have control over data collection processes in their communities, and that they own and control how this information can be stored, interpreted, used, or shared.

SKG supports the principles of ownership, control, access and possession of Indigenous data and information (OCAP principles). Students, instructors, and other employees of SKG shall respect OCAP principles when collecting and using data about Indigenous people and communities in academic work at SKG.

SKG affirms and asserts its institutional data sovereignty as supported by its member communities. Data collected by SKG may be collected in various subject areas, including, but not limited to culturally relevant curriculum, programs and pedagogy, governance, and education research.

SKG shall be conscientious in the way it collects, stores, uses and shares its data, as well as the ways in which it protects its data, preserves its security, and manages information consistent with local Anishinaabe laws and cultural norms. SKG shall be conscientious in its evolving developmental and ongoing policy work in the area of Indigenous data sovereignty and Indigenous data governance, respecting the data and research principles of OCAP and other ethical research principles as required.

This conscientiousness is required to prevent both historic and continued practices of perpetuation of Indigenous data used to gather, analyze and disseminate information on Anishinaabe and other Indigenous communities as a means of systemic oppression, and as a means of creating barriers and unequal power relations. Explicit conscientiousness is also needed to prevent the use, collection and interpretation of Anishinaabe and other Indigenous data through a statistical lens which reflects disadvantage and negative stereotyping.

Finally, conscientiousness is required to prevent data on Anishinaabe and other Indigenous communities being collected by others which has little or no benefit to Indigenous communities.

Shingwauk Kinoomaage Gamig’s data sovereignty and data governance principles will ensure that its data is safeguarded as Indigenous intellectual property and is of great value and meaning to its members and Anishinaabe and other Indigenous communities. Such data and information shall be used effectively and positively for the benefit of these communities and SKG.

6.0 Ownership of intellectual property

Under Canadian law, the rights to intellectual property normally reside with the creator of the intellectual property when the creators are instructors or students.

Intellectual property created by non-academic employees or contractors of SKG normally resides with SKG because it is typically created as a result of the individual's employment with SKG or was commissioned by SKG.

6.1 Ownership

Instructors and students own the intellectual property that they create in the course of their teaching, research, and academic work, with the following exceptions:

- SKG will negotiate a contract that specifies the terms of ownership of intellectual property resulting from initiatives that are specifically commissioned by SKG that are outside the scope of the assigned duties of an instructor.
- Ownership of intellectual property in externally sponsored research or in contracted research activities may be determined in whole or in part by the regulations of the sponsor or the terms of the contract. An instructor who is the principal investigator (leader of the research project) must inform the Director of Academics of any such regulations or contract terms by the before participating in these research activities.
- When an instructor or student dies, their estate will retain all rights, responsibilities and obligations under this policy, unless the estate transfers the rights, responsibilities and obligations in writing to SKG or to another party.

SKG owns intellectual property that is created by non-academic employees in the course of their employment.

6.2 License

An instructor or student who creates intellectual property in the course of normal duties and responsibilities shall grant SKG a non-exclusive, perpetual, royalty-free, and non-transferrable license to use the work for non-commercial educational and research purposes, subject to copyright requirements of academic journals and other vehicles of scholarly publication.

(See also provisions below concerning copyrightable material intended for use solely by students registered in the course taught by instructor).

6.3 Responsibilities

Instructors or researchers have an obligation to ensure that their work is published or publicly disseminated. All contributors to a work share this responsibility. All creators must examine and accept responsibility for the contents and research results reported in a scholarly work.

6.4 Recognition

All members of the research team must ensure that appropriate credit is given for the contributions of all individuals that contributed to the work.

Those individuals who have made a significant intellectual or scholarly contribution to the work being reported, and without whose contribution the work would not be complete, must receive appropriate recognition for their contributions. The listing of contributors should be consistent with the traditions of the specific discipline.

Recognition may include recognition as a creator, recognition through citation, or through an acknowledgement.

6.5 Acknowledgement of SKG

SKG instructors shall acknowledge SKG for the support provided by SKG when reporting their scholarly work.

6.6 Use of SKG's name, trademarks, service marks, and logos

To protect the reputation of SKG, it must control the use of its name, trademarks, service marks and logos.

Under no circumstances may SKG be presented, directly or indirectly, as endorsing or warranting a particular product.

The use of SKG's name, trademark, service marks and / or logo may not be used in commercial advertising, product or product promotions, service, research project or work (apart from indication of the institutional affiliation of the creator[s]) without the prior approval of the Director of Operations.

6.7 Third-party rights

SKG's instructors, employees, and students are expected to respect third- party intellectual property rights.

See the subsection below concerning responsibilities in the section of this policy concerning copyright.

6.8 Collaborative Research

Collaborative research for the advancement and creation of knowledge is encouraged and supported by SKG. The process by which the rights of intellectual property that arise from the collaboration shall be determined prior to the commencement of the collaboration and must be specified in a written collaboration agreement. This is particularly important in collaborations that involve instructors, students and outside agencies/companies.

The rights of ownership shall be based on the extent and nature of the contribution and not on differences in power or rank. It is imperative that rights of students involved in research projects, including recognition and grades, be protected.

If SKG resources (whether physical, financial, or human) are used SKG must also be party to the collaboration agreement.

Any modification or waiver of rights in the collaboration agreement requires informed consent.

7.0 Copyright

7.1 Teaching and research materials

In addition to the provisions concerning ownership of IP set out above, SKG recognizes copyright ownership of scholarly works created by instructors and students in the course of teaching, research, and assigned duties, provided that the creator(s) grant SKG a perpetual,

non-exclusive, royalty-free, irrevocable license to copy and use such works (including in distance, online, and continuing education), research, and academic not-for-profit activities within SKG.

- An exception to this is where copyright ownership rests with the publisher and not the creator.

After seven years the creator(s) may discontinue SKG's license to the works if the content of the works is becoming out-of-date or in the judgment of the creator(s) SKG using the material inappropriately. The creator(s) must provide evidence to the Director of Academics to support the reason for the discontinuance. If the request for discontinuance is denied the creator(s) have the right to appeal the decision under the appeal provisions of this policy.

Creator(s) have the right to request exemption to some or all of the above provisions under special circumstances. These requests must be made in writing to the Director of Academics, providing details of the special circumstances necessitating the exemption. If this request for exemption is denied the creator(s) have the right to appeal the decision under the appeal provisions of this policy.

7.2 Databases

Databases developed as part of a research program are copyrightable and are subject to this copyright policy, and, where applicable, to the OCAP principles addressed above in this policy.

In addition to the extent that the creator(s) have rights in the data, the creator(s) grant SKG a perpetual, non-exclusive, royalty-free, irrevocable license to copy and use such data in teaching (including in distance, online, and continuing education), research, and academic activities within SKG.

This policy is not concerned with data from external sources that may be used in teaching or research at SKG except to state the obligation that publications or theses using these databases must recognize and fully document their sources.

Original data collected and measured in the course of teaching and research by instructors and students must be protected and preserved for a reasonable period of time (defined by the norms of the discipline). This data must be made available to other scholars and non-commercial users.

The ownership of data collected by instructors and students in the course of their research are subject to the norms of academic scholarship and must be considered open, subject to review, and where possible accessible via the widest means possible. All SKG personnel have a collegial obligation to allow the creator(s) of such data a first opportunity to exploit that data for published work.

The creator(s) shall make available the resulting data sets after completion and publication of the thesis or paper on which the data is based to other SKG personnel for royalty free, non-commercial use in teaching, research, and academic activities in SKG.

When the research is subject to confidentiality requirements because of contractual agreements with a sponsoring agency, or to publication delays associated with ethics constraints on research involving human or animal subjects, exceptions to this policy will be permitted. All

collaborators must be aware of and agree to in writing in advance to such contractual limitations.

7.3 Responsibilities of students, instructors, and other employees

SKG's instructors, employees, and students are expected to respect third-party intellectual property rights. This obligation precludes, for example, but is not limited to the infringing use, reproduction, modification, translation, or adaptation of software or photocopied works unless permission has been obtained from the copyright holder.

It is the responsibility of all students, instructors, and other employees to ensure that any distribution of copied materials follows the rules set out by law applicable to copyright.

The copying and distributing of published, copyrighted materials is permitted under certain circumstances. The concepts of fair dealing and educational exceptions in the Canadian Copyright Act, or licences that may be held by SKG, provide the legal framework for copying for educational uses.

The Director of Academics may develop guidelines or resources to guide interpretation of legislation.¹

8.0 Appeal

Disputes may arise between SKG and instructors, students, or non-academic employees with respect to the ownership of intellectual property and the implementation of these policies.

When an agreement cannot be reached between the Director of Academics and the creator, the dispute will be referred to SKG's Academic Advisory Circle for resolution.

- The board may delegate decision-making power to the Circle for the purposes of appeals under this policy.
- If the board has not delegated decision-making to the Circle for the purposes of this policy, the Circle shall make a recommendation to the board.

The Academic Advisory Circle may establish an ad hoc committee with responsibility to consider the appeal or refer the matter to a standing committee of the Circle.

An appeal committee established by the Circle shall include at least three members appointed to the Circle.

The Circle or the committee of the Circle:

- May have access to relevant information concerning the appeal;
- May meet with the creator, an advocate for the creator if the creator so chooses, and/or the Director of Academics;
- May seek and consider advice from experts external to SKG;

¹ For example, see the resource developed by the University of Waterloo and published on the Lakehead University library website [here](#).

- Shall consider:
 - The reasons for the appeal,
 - Perspective and advice of the Director of Academics, and
 - Other appropriate and relevant matters at the discretion of the Circle or its committee; and
- Shall either make a recommendation to the board, or render a decision if the board has delegated decision-making to the Circle.

If the board has not delegated decision-making to the Circle, the board shall consider the recommendation of the Circle and render a decision.

The decision of the Circle or the board (as applicable) shall be final.

9.0 Related Policies, Procedures & Documents

ACAD 14 Research

SKG's policies and procedures may be found on its website.

10.0 Responsible Officer

Director of Academics

11.0 Version history

Board's approval pending recommendation of Academic Advisory Circle: December 2023

Recommended by Academic Advisory Circle: ADD DATE when completed

Approved by Board: ADD DATE when approved

Original Approval Date: ADD DATE of first approval

Current Approval Date: ADD DATE when approved

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SKG gratefully acknowledges that parts of this policy are patterned on those of Kenjgewin Teg and Nipissing University.