

BCIT Graduates Are Downloading My Course Material

Intellectual Property and the Pandemic



George Talbott, Senior Labour Relations Rep

Since forcing a shift to emergency remote teaching, the pandemic has generated concerns for many FSA members regarding intellectual property. Questions such as: What happens if a program shifts its teaching online? Or when a manager demands course materials be placed on the Learning Hub or other similar platforms?

Unlike many other workplaces, at BCIT the materials that FSA-represented instructors create while at work belong solely to the instructors. This is in line with many other academic institutions, and should not come as a surprise to managers at BCIT.

The FSA collective agreement has particularly strong language on intellectual property and new Associate Deans and Deans may need to be reminded of this on occasion. The relevant passage in the collective agreement reads as follows: [emphasis added]:

Article 7.4.1: An Employee's lecture materials, demonstrations, written or graphic materials, audio-visual materials and any other teaching aids which the Employee creates, develops, acquires or introduces into the Institute in support of that Employee's teaching or teaching-related functions **shall be the Employee's sole property and shall not be used by others without the Employee's permission.**

This is a strong and unambiguous property right that defaults to FSA members. The ownership right does not change or vary if students have graduated or are still at BCIT, despite a recent suggestion to the contrary by an Associate Dean suggested otherwise.

Sharing with Others: Get it in Writing!

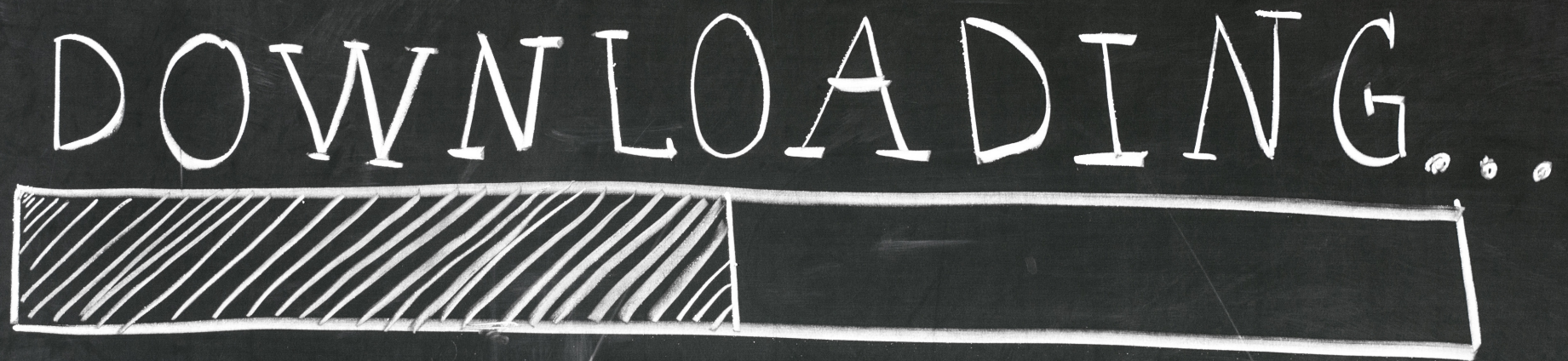
Intellectual property becomes more important where collegial governance and job security are threatened. Where members are on temporary contracts, PTS contracts, or are in positions that pay less than regular instructor salaries, their income and job security may be at stake in disputes over intellectual property. Intellectual property for some may also be vital to the ability to earn a living and instruct at BCIT and other institutions. If you are ever in doubt on these matters are concerned for your job security because you are asserting your right to your intellectual property, please contact the FSA office.

Before you share any material, you should get an understanding in writing (email suffices). Questions worth considering:

1. Am I giving away my entire ownership or just a right to use it? Am I donating it to BCIT? Or gifting it to members of my department? What if I want to use the materials in future at another institution?
2. Am I placing a time limit on the sharing? If so, for how long? One term? An academic year? Forever?
3. What rights do others have to add or modify the materials I've loaned or gifted them? What if those modified materials lead to profit for others? What if those individuals share the materials with others?
4. If asked to place this material on an online platform, does the online platform have a system of copyright labels and restrictions? *The Learning Hub, we are told, has such a feature.*
5. What rights do I have to cancel any understandings with another if I end up in a dispute with them? Have I been clear about when and how I will take my materials back and what will trigger the return?
6. Is it clear when, and how, the materials can be returned to me when I demand or when a time limit has expired? Have I been clear about the duty of the other to delete all copies when the material is returned?

This is simple — no more complicated than sending an email to the person who is going to receive your materials, explaining what they can and cannot do with the materials, and getting a response from them by email agreeing to the terms.





BCIT Graduates Are Downloading My Course Material

(cont.)

Sharing Materials with Students with Disabilities

Students who are able to substantiate a disability, and where that the disability requires an accommodation, may be entitled by law to various copies or recordings of lecture notes or materials.

Human rights law in this instance would override an instructors' absolute property rights, but only for a temporary period of time and for restricted personal use. Accessibility Services at BCIT can provide instructors with further information about the accommodation of students with disabilities.

Exceptions to Sole Ownership of Teaching Materials

If BCIT compensates instructors beyond their usual salary to produce materials, then BCIT will likely own them. This compensation can come in a few different forms, for example:

1. You are offered a curriculum development contract;
2. You are given specified release time to develop materials; or,
3. You are paid a sum of money above your usual salary to develop materials.

In these cases, BCIT is buying the right to own the materials by giving you something extra in exchange, above your usual pay and hours.

Negotiating these items with your manager requires clarity. Get it in writing! Mixing older materials produced in the past with new materials generated under a curriculum development contract, may lead to a dispute about who owns what, for example. Be clear about the rights to those old materials and specify in writing what it is BCIT is buying. Again if in doubt contact the FSA office for advice.

