

Governance Policy

What guides us:

Living Te Tiriti o Waitangi
Ensuring ākongā are at the centre of everything we do
Delivering high-quality, future-focused teaching and learning

Poipoi – Kauawhi – Tāuteute – Pūnaha Auaha – Ārahi
Nurture - Include - Engage - Innovate - Lead

INTELLECTUAL PROPERTY, COPYRIGHT AND OTHER RELATED RIGHTS GOVERNANCE POLICY

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| Date of approval | : 6 December 2023 |
| Date first created/This version no. | : 2023/1 |
| Next review date (3-year cycle) | : November 2026 |
| Owner | : DCE Curriculum; Manager Creative Services; Senior Intellectual Property Advisor |
| Who does this policy apply to | : All kaimahi |

Outcome statement

The Board recognises its responsibility to ensure that Te Kura's position relating to the ownership of creative works developed for use for Te Kura or used by Te Kura, complies with the relevant provisions of the Copyright act 1994 and amendments, the Trade Mark Act 2002 and the Privacy Act 2020.

Copyright law applies to literary, artistic, dramatic, and musical works, films, recordings including audio and video recordings, broadcasts, performances and computer software. Within Te Kura this includes but is not limited to educational resources, computer programming, code, text, charts, diagrams, illustrations, music, photos, videos, presentations in any media.

Te Tiriti o Waitangi

Te Kura is a major education provider, and both our leadership and organisational approach is focused on living Te Tiriti o Waitangi. This policy aligns with [Te Tiriti o Waitangi Policy](#) which recognises and upholds the obligations and commitments of Te Tiriti o Waitangi.

This policy recognises the constitutional status of Māori as the first inhabitants of Aotearoa/New Zealand which gives rise to the expectation of equal treatment, mutual benefit and tino rangatiratanga. Te Kura acknowledges our obligation under Te Tiriti o Waitangi to actively protect mātauranga Māori (traditional Māori knowledge), interests, values and other taonga. Te Kura specifically acknowledges and respects the relationship of Māori as kaitiaki of their taonga and the mātauranga which underlies it. For this policy, the taonga includes Māori words, symbols, designs, and images.

Any use of any Māori taonga work by Te Kura will be in accordance with the recommendations set out in Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity, Te Taumata Tuatahi (Waitangi Tribunal Report 2011) linked [here](#).

Cultural inclusivity

Cultural safety and responsiveness are paramount to Te Kura for kaimahi, ākonga and whānau. This policy acknowledges the right of other cultures and cultural contexts to their cultural knowledge, interests, values and tāonga, and to have input in decisions regarding these.

Definitions

Culture: Culture includes, but is not limited to, age or generation, gender, sexual orientation, occupation and socio-economic status, cultural and epistemological frame of reference, ethnic origin, or migrant experience, religious or spiritual belief, and disability.

Cultural safety and responsiveness: Effective delivery as applied to a person, family, or group from another culture, and as determined by that person, family, or group. The role delivering the service will understand and recognise the cultural origins, assumptions, and limitations of certain forms of delivery within some cultural contexts. They will also have undertaken a process of reflection on their own cultural identity and will recognise the impact that their personal culture has on delivery.

In the course of employment: When kaimahi create intellectual property as part of, or for the use in, their job. It also means for the duration of their employment whether during or outside of their normal working hours.

Māori taonga work: a creation of the pre-existing and distinctive body of knowledge, values, and insights called mātauranga Māori and is a result of the effort and creativity of actual people whether in modern times or the distant past.¹ Has a whakapapa (genealogy) and, often, naturally has a kaitiaki because of this whakapapa.

Related rights: The right of the registered owner of a trademark to control the use of that trademark (Trade Marks Act 2002;). The right of an individual to control the use by others of any image that identifies that individual (the Privacy Act 2020).

Delegations

The Board delegates to the Chief Executive the responsibility to ensure that kaimahi are aware of the terms of this policy and how it relates to learning resources they develop in the course of their employment at Te Kura.

Expectations and limitations

- Te Kura will respect copyright and related rights and will comply with applicable legislation and contracts.
- Original created work is intellectual property. All such work produced in the course of employment at Te Kura or while under contract to Te Kura, is the intellectual property of Te Kura unless otherwise agreed in the contract. This is in accordance with the Copyright Act 1994, section 21(2) which recognises the copyright ownership rights of school boards of works produced by their employees in the course of their employment.
- The intellectual property of Te Kura is to be safeguarded at all times.
- The Board enables the sharing of learning resources and other materials in which it holds copyright by providing written permission, on a case-by-case basis, through Creative Services on request.
- Intellectual Property not owned by Te Kura is recognised as such and negotiation for its use will be entered into.
- The Board does not make any claim over the ownership of copyright works produced by ākonga – the copyright in these works remains with the creator.
- The Board recognises that the copyright in works created by kaimahi other than in the course of their employment at Te Kura, remains the property of that kaimahi. Where this is unclear, the process for dispute resolution outlined below shall apply.
 - Example: If kaimahi were creating resources for Te Kura ākonga and it was outside their working hours, the copyright in that work would belong to Te Kura (the Board).

¹ as defined in the “Ko Aotearoa Tēnei” report, page 30.

Resolution of Disputed Copyright Ownership

Where the first ownership of copyright in a given work is disputed or unclear, the following process will apply:

1. In the first instance, the dispute should be documented and presented to the Chief Executive.
2. If the dispute is still not resolved, the documentation should be presented to the presiding member (Chair) of the Board.
3. If the dispute is still not resolved following steps 1 and 2, mediation with an appropriate authority will be undertaken.

Monitoring

Any matters or risks in relation to this policy shall form part of the Chief Executive's report to every Board meeting, taking care that individual ākongā cannot be identified.

Procedures/Supporting documentation

- Employment agreements
- Code of Conduct
- Conflict of Interest Policy
- Procurement Policy and Staff procedures (Procurement Hātepe Kaimahi – in development)

Legislative compliance

- [Copyright Act 1994](#)
- [Copyright \(New Technologies\) Amendment Act 2008](#)
- [Copyright \(Infringing File Sharing\) Amendment Act 2011](#)
- [Trade Marks Act 2002](#)
- [Education and Training Act 2020](#)
- [Privacy Act 2020](#)

Approved by Nicola Ngarewa, Chairperson, Te Kura Board of Trustees