

**Reference Number:** S01-215

**Senate Approval Date:** Monday, January 01, 2001

## **SAN FRANCISCO STATE UNIVERSITY**

### **INTELLECTUAL PROPERTY POLICY AND PROCEDURES**

#### **FOR THE DEVELOPMENT OF ONLINE INSTRUCTIONAL MATERIALS**

##### **Academic Senate Policy #S01-215**

At its meeting of May 15, 2001 the Academic Senate approved the following policy on

##### **Intellectual Property and Procedures for the Development of Online Instructional Materials.**

This document sets forth a statement of policy and procedures concerning the intellectual property associated with the creation of online instructional materials in any format. There are many other forms of intellectual property associated with the creative and scholarly activities of faculty, students, administrators, and staff. This document does not address these additional areas.

## **DEFINITION**

Intellectual property in the context of online instructional materials includes:

1. Any trademarkable, copyrightable or patentable matter used for online instruction.
2. Any intellectually created tangible product including, but not limited to online materials such as
  - syllabi, study guides, laboratory manuals, work papers, software;
  - videotaped lectures, databases, web pages, the content of all materials contributed to delivery systems such as those produced by Real Education and other vendors, books, texts, monographs, glossaries, bibliographies and articles in progress;
  - lectures, musical and/or dramatic compositions, unpublished scripts, films, filmstrips, charts, transparencies, other visual aids;
  - video and audio tapes and cassettes;
  - computer programs;
  - live video and audio broadcasts;
  - programmed instruction materials;
  - drawings, paintings, sculptures, photographs.
3. Any other works included in online courses created by faculty, students, administrators, and staff.

## **INTRODUCTION**

The faculty, staff, students and administrators of San Francisco State University recognize the value of the intellectual property created as a result of the educational mission of the University. All members of the University community benefit from the development of instructional materials in any format, and the creation of such materials is encouraged and supported.

The University seeks to benefit the entire community of scholars and to provide a means of supporting and encouraging others in their creative endeavors by asserting the appropriate interests and rights to intellectual property created with extraordinary University resources and support.

The University President is responsible for overseeing policy matters relating to intellectual property and affecting the University's relations with inventors and creators, public agencies, private research sponsors, industry and the public.

# GOVERNING PRINCIPLES

The following principles should guide the application and interpretation of this Policy and Procedures:

1. Academic Freedom and Preeminence of Scholarly Activities. The missions of teaching and scholarship have preeminence over that of the transfer and commercialization of research results. The University's commitment to its education mission is primary, and this policy does not diminish the right and obligation of faculty members to disseminate the result of research and creative activity for scholarly purposes. This policy continues to recognize the present exemption of scholarly texts and articles from the rules governing proprietary interest in intellectual property.
2. Reasonableness and Fairness. This policy sets forth general principles and procedures and is not designed to address every conceivable circumstance. Under the principle of fairness, the creators and the University mutually operate so that no one will be allowed either to deliberately create or exploit inadvertent exceptions to this policy to her/his own advantage. If the need for corrections or exceptions to this policy is identified, appropriate recommendations shall be made by the Academic Senate to the President.
3. Transparency. The principle of transparency promotes both the disclosure and avoidance of actual and apparent conflicts of interest associated with external commercial activities, by requiring that such activities be disclosed in advance. If the activities are consistent with this policy and its principles, the creators should have no reason to avoid disclosure.

## POLICY

1. It shall be presumed that intellectual property associated with online instructional materials created without extraordinary University support is the sole and exclusive property of the creator.
2. Extraordinary University support shall mean extra resources (including but not limited to internal grants, staff or other support personnel, university facilities) provided beyond "normal and customary" and used directly for the development of the online material. Sabbatical leaves are for faculty development hence not normally considered as extraordinary support.
3. The University will actively assert its interests and rights to intellectual property created with extraordinary University resources and support. The University also acknowledges that the creators have an equal right to actively assert their interests and rights to intellectual property. If extraordinary support has been provided, the creator and the University may enter into a contractual agreement. The actual interest will vary in proportion to the degree of University investment in or support for the creation or development of that property.
4. Nothing in this Policy changes the rights and obligations a faculty member has with respect to the substantive content contained or conveyed by a faculty member in a specific academic course, nor does it change the rights and obligations of the University to respect academic freedom and intellectual property rights.
5. Nothing in this Policy changes the rights and obligations of both the University and the creators who are online course developers to control and safeguard the academic integrity of the course offerings and academic programs.

## PROCEDURES

1. Identification of extraordinary resources - The unit or units that provide extraordinary support will be responsible for identifying the extent of extraordinary University resources and report the extraordinary support to the college dean with copy to support recipient(s). Alternatively, the creators may initiate the process by identifying extraordinary support and report that to the college dean with copy to the supporting unit(s). All such reports must be in writing and done before the period of support commences, and before the project is underway.
2. Dean's recommendation - The college dean, in consultation with the creators, will then make a recommendation to the Vice President for Academic Affairs as to the ownership interests retained by the University for specific creative works or inventions.
3. Agreement - The Vice President for Academic Affairs in consultation with the Vice President for Business Affairs will determine if a written agreement defining the ownership rights is necessary. The written agreement should be signed by both the creators and the University President or his/her designee before the commencement of the agreed upon enterprise.

## RE-EXAMINATION OF THE POLICY

This policy shall be re-examined by the Educational Technology Advisory Committee (ETAC) two years after its implementation. After the re-examination, ETAC shall report findings and recommendations to the Academic Policies Committee.

**\*\*\*APPROVED BY PRESIDENT CORRIGAN ON MAY 25, 2001\*\*\***

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