



UNIVERSITY COMMITTEE ON EDUCATIONAL POLICY (UCEP)  
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Assembly of the Academic Senate  
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April 16, 2019

**ROBERT MAY, CHAIR  
ACADEMIC COUNCIL**

**RE: INFRINGEMENT ON FACULTY INTELLECTUAL PROPERTY**

Dear Robert,

Intellectual property with course materials has been a recurring Senate question, particularly the posting of materials via websites such as Course Hero, Koofers, and Chegg to name a few. On March 4<sup>th</sup>, the University Committee on Education Policy consulted with Angus MacDonald, Principal Counsel on Intellectual Property, to discuss this topic from a systemwide legal standpoint. The following memo highlights some important concepts from that consultation. Our request is that this memo is shared with Academic Council membership so that this information can be shared at the Division-level and distributed to faculty and graduate students. Included are proposed steps that can be taken locally and also systemwide.

The following are highlights from this consultation:

- Copyrighted materials are placed on these websites and faculty have been advised that it is up to them to contact the companies about taking down the materials, which is a burden to faculty.
- Counsel MacDonald works with all UC campuses on a daily basis on issues related to intellectual property and consults with various groups across the nation, and this issue comes up frequently.
- OGC is not able to intervene on this matter due to policy and practical reasons. The Digital Millennium Copyright Act (DMC) as written requires the copyright owner or copyright agent (e.g. the lawyer for the owner or other agents) to submit the take down request.
- OGC are not authorized agents and cannot sign on behalf of faculty.

Given these factors, there are actions faculty and graduate students can take to mitigate this threat as much as possible. As described in UC's 1992 [Copyright Ownership policy](#) and 2003 [Course Material policy](#), course materials are generally owned by the faculty member. With ownership, faculty also have the responsibility to police their materials. Faculty should place copyright language on each page of any document created. A statement might also be added to the syllabus and an announcement made at the start of the year indicating that the materials are protected by copyright, the faculty member is the copyright owner, and students should not allow others to reproduce or distribute them.

Counsel MacDonald advised that the following sentence be added to all course materials to automatically block distribution: “This content is protected and may not be shared uploaded or distributed.” Course Hero said in nearly all instances, the filter will catch this sentence.

Faculty and graduate students can also inform students that selling and distributing course materials not only violates the student code of conduct, but probably also violates UC’s 2005 [policy on the Use of Recordings of Course Presentations](#). Faculty should take advantage of the take down portals on these websites which offer a straightforward process. Faculty can also submit a takedown request letter. The online service providers have a duty to expeditiously take down the materials once they receive the request but there is no clear definition of expeditiously.

Long-term, the Academic Senate could hire outside counsel or a legal consultant to be on retainer to handle copyright notices on behalf of individual Senate faculty or the Senate as a whole. That is a resource-intensive response; however, it can be labor-intensive to individual instructors to avoid this distribution and dissemination of course materials.

Another approach is to consider a resolution via the Academic Senate which would send a systemwide response to this legal conundrum. An example that UCEP would recommend is the California State University’s resolution on this subject:

<https://www2.calstate.edu/csu-system/faculty-staff/academic-senate/resolutions/2018-2019/3349.pdf>

Such a resolution could note the faculty welfare and instructional burdens to this legal situation while also promoting an understanding across campuses about levels of responsibilities (e.g. updating curriculum materials to note digital sharing, clarifying related factors in our code of student conduct policies, etc.).

Understandably, this situation with course material sharing is a complex legal matter. UCEP suggests that a system-wide response as well as promotion of information at the division-level will help this topic have a shared governance response – in which the Administration and Senate can partner to protect course materials as copyright and limit rampant cheating. We thank Academic Council for giving this information and set of suggestions consideration for continued planning.

UCEP appreciates the opportunity to comment on this matter. Please contact me if you have any questions.

Sincerely,



Anne Zanzucchi, Chair  
UCEP