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DOC 2012-01 Revision to the University of Dayton Intellectual Property Policy and Procedures, August 24, 1994 to Include Faculty Ownership Rights Regarding Online Course Materials

University of Dayton. Faculty Affairs Committee

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PROPOSAL TO THE ACADEMIC SENATE

TITLE: Revision to the University of Dayton Intellectual Property Policy and Procedures, August 24, 1994 to Include Faculty Ownership Rights Regarding Online Course Materials

SUBMITTED BY: The Faculty Affairs Committee of the Academic Senate

DATE: January 20, 2012

ACTION: Legislative Concurrence

REFERENCE: Senate Document 94-8 University of Dayton Intellectual Property Policy and Procedures, August 24, 1994 (approved by the Academic Senate, December 16, 1994)

1.0 Background

In 2009, the Executive Committee of the Academic Senate (ECAS) asked the Faculty Affairs Committee of the Academic Senate (FACAS) to clarify the ownership of online course materials developed by University of Dayton faculty relative to the current University of Dayton Intellectual Property Policy and Procedures document. The Office of the Provost presented this policy issue to the Academic Senate. For this reason, the action of the Senate is legislative concurrence.

At the request of ECAS, FACAS formed an ad hoc committee to investigate the issues and prepare an addendum to the current policy. The purpose of the addendum was to clarify ownership rights and thereby offer security to faculty who are interested in the development of online course materials. The minutes of the April 24, 2009 meeting of the Academic Senate refer to this charge.

In the fall of 2009, the ad hoc committee, chaired by Dr. Shawn Swavey, College of Arts and Sciences, convened. Members, invited to participate based on their area of expertise and/or responsibilities regarding intellectual property, included the following:

Dennis Greene, School of Law
Kelly Henrici, School of Law
John LeComte, Udit
Jim Rowley, School of Education and Allied Professions
Lisa Sander, Legal Affairs
Tom Skill, Udit
Eric Suttman, College of Arts and Sciences
Kathy Webb, University Libraries
Mathew Willenbrink, UDRI
David Wright, Udit

The Academic Senate approved the University of Dayton Intellectual Property Policy and Procedures statement, Senate Document 94-8, in 1994. It states:

Section 3.1

The policy covers all intellectual property conceived, first reduced to practice, written or otherwise produced by faculty, staff, students, or visitors to the University using University funds, facilities, or other resources.

Section 3.3.1.1

When intellectual property is developed by faculty...using significant UD funds or facilities, UD will own the patent, copyright, or other intellectual property...

Textbooks, manuals, or training materials developed in conjunction with class teaching are excluded from the "significant use" category, unless such materials were developed using UD-administered funds paid specifically to support the development of such materials.

The use of commonly provided resources, including libraries, offices, classrooms, and clerical support, does not constitute significant use of UD funds and facilities. ¹

While the 1994 policy is currently in force, the document is under revision. The process of revision originated with the University of Dayton Research Institute and UDRI legal counsel has assumed this responsibility.

2.0 Proposal

This proposal consists of three recommendations that are numbered for identification.

2.1 Considering the investigation of the ad hoc committee and discussions with those having direct responsibility for issues related to intellectual property, the FACAS proposes that Section 3.3.1.1 of the University of Dayton Intellectual Property Policy and Procedures document dated August 24, 1994 be revised to read:

Textbooks, manuals, training materials, and other course materials for traditional and online courses developed in conjunction with teaching are excluded from the "significant use" category, unless such materials were developed using UD administered funds paid specifically to support the development of such materials. The formal development of online course materials initiated by departments or units, supported by UD resources,

¹ University of Dayton Intellectual Property Policy and Procedures, August 24, 1994

and intended for purposes beyond the efforts of a single faculty member for his or her own teaching constitutes significant use.

2.2 Once approved, this revision will become part of the University of Dayton Intellectual Property Policy and Procedures document. As such, it will be subject to UDRI's current process of revision. Any revisions to this revised statement should fully integrate its intent and substance. The policy document, once rewritten, should be presented to the Academic Senate for purposes of legislative concurrence.

2.3 The Academic Senate should review and assess any ownership issues or challenges regarding the application of this revision no later than the 2014 – 2015 academic year. This review is expected whether or not a newly revised policy regarding intellectual property is in place.

3.0 Rationale

In the opinion of the FACAS, materials developed for online courses should be excluded from the “significant use” category just as materials developed by faculty for the classroom are excluded. The process used by faculty to develop materials for online courses is largely the same as the process used for classroom materials. While the method of delivery may differ, online compared with classroom, the development of intellectual content is the same in both cases. Consistent with the current policy, ownership of materials developed for online courses remains with the faculty member unless otherwise determined based on "significant use" and/or specific funding, and agreed to by the faculty and the University.

4.0 References

University of Dayton Intellectual Property Policy and Procedures, August 24, 1994

5.0 Other Concurrences & Approvals

The University of Dayton Intellectual Property Policy and Procedures document and this addendum are subject to the review of the Office of Legal Affairs.