

HUMBOLDT STATE UNIVERSITY
University Senate

**Sense of the Senate Resolution on Adoption of “Guidelines on Intellectual Property
Agreements Resulting from Extraordinary University Support”**

20-16/17-FAC – March 7, 2017

RESOLVED: That the University Senate of Humboldt State University recommends to the President adoption of the attached document: “Guidelines on Intellectual Property Agreements Resulting from Extraordinary University Support”; and be it further

RESOLVED: That these Guidelines shall take effect upon the date of their approval by the President, shall be shared appropriately with the CFA and the HSU community, and shall be made accessible through the University’s Intellectual Property policy web page.

RATIONALE:

A definition of “Extraordinary University Support” was intentionally omitted from the interim Intellectual Property Policy adopted in 2009 through Senate Resolution #05-08/09-FA (Revised).

These Guidelines were created: 1) to provide a framework for defining Extraordinary University Support for those entering into intellectual property agreement, and 2) in response to the CSU Collective Bargaining Agreement 2014-2017, Section 39.6, which stipulates that Extraordinary University Support “be addressed by separate individual agreements at the campus.” They represent an effort to address long-standing uncertainties and questions about Extraordinary University Support and how it is defined through intellectual property agreements and in University policy.

These Guidelines were written to conform to CBA language on intellectual property (Article 39). The HSU faculty are the principal audience for these Guidelines; Extraordinary University Support as it relates to staff and students is addressed only in brief. The principal function of these Guidelines is to set boundaries on what should be considered Extraordinary University Support; this is evident in the section that indicates what *does not* constitute extraordinary support for Faculty. These Guidelines are intended for use until such time as the CSU and/or HSU adopt permanent policies addressing this aspect of intellectual property.

Additional Background:

Extraordinary University Support has been addressed by the Senate through resolutions, debate, and policies going back more than ten years.

In 2004, Resolution #20-04/05-EP, *General University Policy on Distance Learning*, was introduced and approved by the Senate in 2005-06. It states:

Extraordinary institutional support is defined by situations wherein the institution incurs actual resource costs associated with the creation or delivery of a DL course that go above and beyond the normal costs of mounting traditional courses delivered without DL. Extraordinary support includes, but is not limited to, release time for the development of the course, time invested by other HSU employees, and equipment purchased exclusively to support the course in question. Extraordinary support does not include support that would be given towards traditional classes in the normal course of university business, for example: use of Blackboard or Moodle, technical support and equipment for smart classrooms, or the use of campus computer labs to write papers or perform calculations.

In 2009, the Senate recommended revision of HSU's Intellectual Property Policy (*Resolution on Draft HSU Intellectual Property Policy #05-08/09-FA (Revised)*) upon successful CSU/CFA negotiation of a definition of "extraordinary support":

That the Academic Senate of Humboldt State University recommends to the President that the interim period shall end when the CSU Administration and the California Faculty Association (CFA) successfully negotiate the definition of "extraordinary support" in the Collective Bargaining Agreement (CBA), at which time the policy must return to the Academic Senate for revision and ratification as a permanent policy.

Subsequently, the CSU Collective Bargaining Agreement 2014-2017, Section 39.6, stipulated that the Agreement "does not apply to those materials created with extraordinary University support, which shall be addressed by separate individual agreements at the campus."

On April 21, 2015, the question of extraordinary support was again addressed in Senate discussion of draft eLearning policy. Senate minutes indicate:

The College of eLearning and Extended Education Associate Vice President, Alex Hwu, spoke on behalf of the eLearning Policy, stating that the intention of the policy is to support the needs of faculty and students, to protect faculty's Intellectual and Property Rights and to support faculty's Right of First Refusal.

Comment on the policy draft included: "Needs to be a specific list and clear language about what defines extraordinary support."

Faculty Affairs was charged in 2015/16 with drafting a revised Intellectual Property policy that would include a clear definition of extraordinary support.

In spring 2016, a revised Intellectual Property policy (24-15/16-FAC) passed the Senate unanimously but was not approved by the President, who cited CSU legal counsel and development of a system-wide policy in declining to approve the new policy.