

**HUMBOLDT STATE UNIVERSITY
University Senate**

Resolution on University Intellectual Property Policy

24-15/16-FAC – May 10, 2016 - Second Reading

RESOLVED: That the University Senate of Humboldt State University recommends adoption of the attached University Intellectual Property Policy in place of current policy P09-03.

RATIONALE: The current University Intellectual Property Policy, P09-03, passed by the Academic Senate in April 2009, is outdated and contains several ambiguities regarding the University's ownership interest in faculty creations such as course material and inventions. The 08/09 Senate resolution indicates that P09-03 was supposed to be an *interim* policy predicated on the idea that the CFA and CSU in bargaining the CBA would resolve differences in definitions of what constitutes faculty, staff, and student use of "extraordinary resources," which allows the University to claim a stake in faculty and staff creations. The CFA and the CSU agreed in Article 39 of the current CBA that each campus was tasked with creating policy for what constitutes extraordinary resources (called "extraordinary support" in the CBA). The HSU Senate never revisited what constituted "extraordinary support," so HSU has no current definition, which affects faculty, staff and students whose intellectual property activities are covered by P09-03.

Given the expansion of HSU's on-line educational offerings since 2009, HSU faculty object to Section 2.A.2.d of P09-03, which states, "In distance education courses the faculty owns the copyright but the University will receive a royalty free license to use the material". This clause could be interpreted as meaning when a faculty member creates an on-line course, she no longer owns the course, and if she cannot teach the course, the University can simply assign the course and all its materials to another instructor. This is not clear to faculty when they develop their on-line course materials, and discussion within Faculty Affairs Committee and the Senate indicate that faculty would like a separate agreement for each on-line course they develop specifying the rights they retain and the conditions under which the University is granted a royalty-free license to use the course and its materials. Further, any royalty-free license should be contingent on acknowledgement by faculty of receipt of "extraordinary support" for the development of the on-line course or materials. The College of eLearning and Extended Education (CEEE) Advisory Council is currently crafting a revision to the University e-Learning policy and it is important that the intellectual property rights groundwork be established in an up-to-date intellectual property policy before the University Senate considers the revised e-Learning policy.

Some of the key patent provisions pertaining to faculty in P09-03 are problematic. For example, section II.A.2.c of P09-03 states, "In the case of a patent, the title to an invention shall be assigned to the University. The University will share royalties from inventions assigned to the University with the inventor". This automatic assignment of patent to the University based on the employment status of the faculty member contradicts current patent law regarding faculty inventions, Article 39.2 of CBA, and Section II.B.2.b of P09-03, which states, "Patents will be assigned to the University regardless of the source of funding when there is extraordinary use of University resources".

Section III.A.2 of P09-03 establishes an Advisory Board for Research and Creative Projects, but this Board is no longer operational because it was suspended in 09/10 and no longer appears in Section 800 of the Faculty Handbook. Further, the composition of the Board established in P09-03 includes titles of positions that do not currently exist; for example, the Dean of Research, Graduate Studies & International Programs and Faculty Development Coordinator. The Faculty Affairs Committee recommends the re-instatement of a re-configured Board so that a dedicated committee is responsible for keeping the University's Intellectual Property Policy current and fair and that disagreements that are not grievable under current collective bargaining agreements can be heard in a process for resolution that involves faculty input. We also recommend that where applicable in P09-03, the position of "Dean of Research, Graduate Studies & International Programs" be replaced with the current "Dean of Research, Economic and Community Development".

In Spring and Fall semesters 2016, Faculty Affairs Committee researched and reviewed several CSU campus intellectual property policies, looking specifically for those that had been most recently updated. The Academic Senate of CSU-Chico passed a revised intellectual property policy in April 2014 that contained text and substance that FAC used to guide revisions of HSU policy. The Faculty Affairs Committee also consulted with relevant administrators such as Provost Enyedi, Dean of Research, Economic and Community Development, Rhea Williamson, and Associate Vice-President for eLearning and Extended Education, Alex Hwu in drafting the policy to replace P09-03.