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Assembly of the Academic Senate, Academic Council
University of California
1111 Franklin Street, 12th Floor
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April 13, 2005

M.R.C. GREENWOOD
PROVOST AND SENIOR VICE PRESIDENT – ACADEMIC AFFAIRS

Re: Proposed Policy on Use of Recordings of Course Presentations

Dear M.R.C.,

Based on the outcome of the Academic Senate's general review, the Academic Council believes certain changes are necessary before it can support the proposed policy. Clearly there is a need to address the unauthorized distribution of course lectures, particularly by commercial notes enterprises. Moreover, the University's copyright policy should be updated as needed to respond to evolving course formats and technologies used in the presentation and distribution of course content. The Council finds, however, that the proposed policy as written is in some respects insufficient and in others over-reaching. Our recommendations are as follows:

Unnecessary and/or undesirable restrictions

- The term "Chancellor" should be expanded to "Chancellor's designee," both to be consistent with other policies and to make the consent process easier. Berkeley's Committee on Computing and Communication suggests that the approval of the instructor alone should suffice.
- The policy should be revised to facilitate academic discourse among students and to accommodate students with disabilities.
- Students should be given the right not to appear in a recording; however, it should be clarified that a student's choice does not dictate whether the recording should take place at all.

Party privacy

- Would students sharing audio recordings or videos with one another be bound by the same privacy provision?
- How will students and others be informed of the privacy policy and how will permission be obtained?
- The policy should clarify whether a professor must get permission from *each* student if a lecture is posted on the web in audio or video format.

- While UC can protect itself through contract law when it signs an exclusive contract with one entity that excludes any other entity from being involved in the recording of presentations, it is not clear that the amended policy is legally enforceable.
- In Section B.1, the Council recommends eliminating the phrase “or for other non-commercial purposes reasonably arising from participation in the course.” As now worded, Section B.1 would allow students to transfer recordings to non-commercial interests, including groups outside of the University and with agendas extending beyond the educational elements of the course. Any communications to individuals not enrolled in the course should necessitate the appropriate written consents.

Application to inter-institutional courses and new technologies

- The policy presumes that courses are taught at a single UC campus. What are the implications for courses that involve multiple campuses?
- Does the policy as written cover live transmission, e.g., through a cell phone, without a recording aspect?
- The policy should address more fully the use of previously copyrighted materials within course presentations.

Other

- To specify current enrollment, section B 1 of the policy should read: “students currently enrolled or approved to audit that course...”
- Specific examples would add clarity in sections B and C.

In light of what we see as significant shortcomings with this draft, the Academic Council urges that these recommendations be used in redrafting the proposed Policy on Use of Recordings of Course Presentations so that it will adequately control unauthorized commercial recordings and address new technologies and innovative means for instruction, while accommodating the legitimate needs of both students and faculty.

Best regards,



George Blumenthal, Chair
Academic Council

Copy: Academic Council

GB/bgf