



## Resolution

### Regarding the Chancellor's Office Draft Policy on Intellectual Property

**Whereas**, on March 15, 2017, the CSU Chancellor's Office sent the Statewide Academic Senate (ASCSU) a Memo and Report and Recommendations regarding a draft policy on intellectual property, with the request to provide input in no later than 60 days; and

**Whereas**, the San Jose State University Academic Senate (SJSUAS), the CSU East Bay Academic Senate (CSUEBAS), the Humboldt State University Senate (HSUS), and the CSU San Bernardino Faculty Senate (CSUSBFS) sent responses to the ASCSU and CSU, expressing their concern over the content of the draft policy and the process by which the policy was drafted; and

**Whereas**, California's Higher Education Employee Employer Relations Act (HEERA) states that *"The legislature recognizes that joint decision making and consultation between administration and faculty or academic employees is the long-accepted manner of governing institutions of higher learning and is essential to the performance of the educational missions of these institutions, and declares that it is the purpose of this chapter to both preserve and encourage that process."*; and

**Whereas**, the American Association of University Professors Committee A on Academic Freedom and Tenure noted in its 2013 Statement on Intellectual Property:

*"Faculty members have a collective interest in how university inventions derived from academic research are managed. Through shared governance, they also have a responsibility to participate in the design of university protocols that set the norms, standards, and expectations under which faculty discoveries and inventions will be distributed, licensed, and commercialized. The faculty senate, or an equivalent governing body, should play a primary role in defining the policies and public-interest commitments that will guide university-wide management of inventions and other knowledge assets stemming from campus based research. These management protocols should devote special attention to the academic and public-interest obligations traditionally central to the university mission. Governing bodies should also consider the formation of a specially assigned faculty committee to review the university's invention-management practices regularly, represent the interests of faculty investigators and inventors to the campus as a whole, and make recommendations for reform when necessary."*; and

**Whereas**, the Statement on Academic Government for Institutions Engaged in Collective Bargaining from the AAUP, indicates that effective collective bargaining “must allow parties to confront all aspects of their common problems” without “externally imposed barriers” such as those that have been erected in discussions of Academic Freedom and Intellectual Property (e.g. an item that is negotiated in the collective bargaining agreement cannot be part of shared governance); and

**Whereas**, the SJSUAS, CSUEBAS, HSUS, CSUSBFS, and CSU Fullerton Academic Senate (CSUFAS) have noted the lack of faculty involvement in the writing of the draft policy; **therefore be it**

**Resolved** that the CSUFAS endorses the response of the SJSUAS, the CSUEBAS, HSUS, and CSUBFS; and be it further

**Resolved** that the CSUFAS expresses its strong objection to the process used to write the draft policy on intellectual property, specifically the lack of faculty involvement; and be it further

**Resolved** that the CSUFAS strongly objects to the following items in the draft policy:

1. The definition of “Extraordinary Support” is far too broad;
2. The very broad license for instructional materials. In particular, granting the University license to materials beyond the course approval documents (e.g. lectures, quizzes, recordings of lectures), which could result in those materials being used in perpetuity by the University.
3. The recommendation that the CSU adopt apply the Bayh-Dole Act to all inventions, not just those created with federal funding, is too far reaching (see the extensive discussion in the AAUP document: *Defending the Freedom to Innovate: Faculty Intellectual Property Rights after Stanford v Roche*:

[https://www.aaup.org/sites/default/files/files/aaupBulletin\\_IntellectualPropJune5.pdf](https://www.aaup.org/sites/default/files/files/aaupBulletin_IntellectualPropJune5.pdf));

and be it further

**Resolved** that the CSUFAS feels the proposed policy will having a negative effect on faculty recruitment by creating an environment unfriendly to innovation both in and out of the classroom; and be it further

**Resolved** that the proposed policy be revised to include the AAUP “Intellectual Property Principles Designed for Incorporation into Faculty Handbooks and Collective Bargaining Agreements contained in: *Defending the Freedom to Innovate: Faculty Intellectual Property Rights after Stanford v Roche*

[https://www.aaup.org/sites/default/files/files/aaupBulletin\\_IntellectualPropJune5.pdf](https://www.aaup.org/sites/default/files/files/aaupBulletin_IntellectualPropJune5.pdf) ); and be it further

**Resolved** that a group of CSU faculty, including faculty with expertise in intellectual property, be included in further discussion and development of this policy; and be it finally

**Resolved** that this resolution be distributed to the Chancellor, to the Executive Vice Chancellor and General Counsel, the Executive Vice Chancellor for Academic and Student Affairs, to the ASCSU, and to all campus Academic Senates.

Source: Faculty Research Policy Committee