To: CSU Presidents

From: David S. Spence

Date: February 23, 2004

Subject: Education Code Section 66450 Protection of Intellectual Property

This memorandum brings to your attention the need to add language to your mandatory catalog copy and class schedule bulletins.

Assembly Bill 1773, which was approved in September 2000, adds Section 66450 through 66452 to the California Education Code. Section 66450 prohibits the unauthorized recording, dissemination, and publication of academic presentations for commercial purposes.

The associated penalties for violations include probation, suspension, and expulsion. Executive Order 628, the Student Disciplinary Procedures for the California State University, outlines policy governing violations of Student Code (that is, the causes for disciplinary action specified in Title 5 Section 41301).

Education Code Section 66452(b) requires the Trustees to inform all students of these intellectual property regulations. This should be accomplished through mandatory catalog copy and class schedule bulletins. We trust that your campus will inform your students in a timely manner.

Thank you for your cooperation in this matter.

DSS/Ir

C: Vice Presidents for Academic Affairs
   Vice Presidents for Student Affairs

Encl: (1) Revision of Title 5—Student Discipline and Intellectual Property
      (2) Amendments to Title 5
COMMITTEE ON EDUCATIONAL POLICY

Revision of Title 5—Student Discipline and Intellectual Property

Presentation By

David S. Spence
Executive Vice Chancellor
and Chief Academic Officer

Summary

This item presents and recommends revising Title 5, California Code of Regulations, to meet the requirements set forth in Assembly Bill 1773, which was enacted into law in September 2000 and added as Education Code Sections 66450 through 66452. The revision to Title 5, Section 41301, would as specified in California Education Code Section 66452, prohibit any unauthorized recording, dissemination, and publication of academic presentations for commercial purposes.

Background

This revision of Title 5, California Code of Regulations Section 41301 is proposed in order to satisfy the requirements of Assembly Bill 1773, which was enacted into law in September, 2000, adding Sections 66450 through 66452 to the Education Code. The revision to Title 5, Section 41301, would prohibit any unauthorized recording, dissemination, and publication of academic presentations for commercial purposes.

Section 66450 states that: “... no business, agency, or person, including, but not necessarily limited to, an enrolled student, shall prepare, cause to be prepared, give, sell, transfer, or otherwise distribute or publish, for any commercial purposes, any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction by an instructor of record. This prohibition applies to a recording made in any medium, including, but not necessarily limited to, handwritten or typewritten class notes.”

Section 66452(a) states that: “... the Trustees of the California State University shall, ... in consultation with faculty, ... develop policies to prohibit the unauthorized recording, dissemination, and publication of academic presentations for commercial purposes.” To satisfy Section 66452(a), it is proposed that the Board of Trustees amend Title 5, Section 41301, to include the following cause for student disciplinary action:

(n) Unauthorized recording, dissemination, and publication of academic presentations for commercial purposes. This prohibition applies to a recording
made in any medium, including, but not limited to, handwritten or typewritten
class notes.

(1) The term “academic presentation” means any lecture, speech, performance,
exhibition, or other form of academic or aesthetic presentation, made by an
instructor of record as part of an authorized course of instruction that is not fixed
in a tangible medium of expression.

(2) The term “commercial purpose” means any purpose that has financial or
economic gain as an objective.

(3) “Instructor of record” means any teacher or staff member employed to teach
courses and authorize credit for the successful completion of courses.

The Academic Senate, CSU, has been consulted as directed by Education Code Section 66452(a)
and concurs with the proposed amendment to Title 5.

California Education Code Section 66452(b) states that: “...the Trustees of the California State
University shall, ...adopt or provide for the adoption of specific regulations governing a
violation of this chapter by students, along with applicable penalties for a violation of the
regulations.” The penalty requirement of this code section is already satisfied by Title 5,
California Code of Regulations, Section 41301, which specifies that a student may be “expelled,
suspended, placed on probation or given a lesser sanction” as penalty for any of the behaviors
listed therein. Executive Order 628, the Student Disciplinary Procedures for the California State
University, satisfies the Education Code Section 66452(b) requirement that regulations be
adopted governing a violation of the chapter by students. E.O. 628 establishes procedures that
are to be followed on the campuses, and it designates that probation, suspension, and expulsion
are the possible sanctions for violation of the Student Code, that is, the behaviors listed in Title 5,
Section 41301.

Finally, Education Code Section 66452(b) states that: “...the trustees shall, ...adopt procedures
to inform all students of those regulations, with applicable penalties, and any revisions thereof.”
Upon the amendment of Title 5 recommended in this item, the Chancellor will issue an advisory
memorandum to campus presidents, vice presidents for academic affairs/provosts, and vice
presidents for student affairs, requiring that the revised Student Code and its associated penalties
for violations be included in mandatory catalog copy and campus class schedules.

The following resolution is recommended for adoption:

**RESOLVED**, By the Board of Trustees of the California State University, acting
under the authority prescribed herein and pursuant to Section 89030.1 of the
Education Code, that the Board hereby amends Section 41301 of Article 2, Subchapter 4, Chapter 1, Division 5 of Title 5 of the California Code of Regulations as follows:

§ 41301. Expulsion, Suspension and Probation of Students.

Following procedures consonant with due process established pursuant to Section 41304, any student of a campus may be expelled, suspended, placed on probation or given a lesser sanction for one or more of the following causes which must be campus related:

(a) Cheating or plagiarism in connection with an academic program at a campus.

(b) Forgery, alteration or misuse of campus documents, records, or identification or knowingly furnishing false information to a campus.

(c) Misrepresentation of oneself or of an organization to be an agent of a campus.

(d) Obstruction or disruption, on or off campus property, of the campus educational process, administrative process, or other campus function.

(e) Physical abuse on or off campus property of the person or property of any member of the campus community or of members of his or her family or the threat of such physical abuse.

(f) Theft of, or non-accidental damage to, campus property, or property in the possession of, or owned by, a member of the campus community.

(g) Unauthorized entry into, unauthorized use of, or misuse of campus property.

(h) On campus property, the sale or knowing possession of dangerous drugs, restricted dangerous drugs, or narcotics as those terms are used in California statutes, except when lawfully prescribed pursuant to medical or dental care, or when lawfully permitted for the purpose of research, instruction or analysis.

(i) Knowing possession or use of explosives, dangerous chemicals or deadly weapons on campus property or at a campus function without prior authorization of the campus president.

(j) Engaging in lewd, indecent, or obscene behavior on campus property or at a campus function.
(k) Abusive behavior directed toward, or hazing of, a member of the campus community.

(l) Violation of any order of a campus president, notice of which had been given prior to such violation and during the academic term in which the violation occurs, either by publication in the campus newspaper, or by posting on an official bulletin board designated for the purpose, and which order is not inconsistent with any of the other provisions of this Section.

(m) Soliciting or assisting another to do any act which would subject a student to expulsion, suspension or probation pursuant to this Section.

(n) Unauthorized recording, dissemination, and publication of academic presentations for commercial purposes. This prohibition applies to a recording made in any medium, including, but not limited to, handwritten or typewritten class notes.

(1) The term “academic presentation” means any lecture, speech, performance, exhibition, or other form of academic or aesthetic presentation, made by an instructor of record as part of an authorized course of instruction that is not fixed in a tangible medium of expression.

(2) The term “commercial purpose” means any purpose that has financial or economic gain as an objective.

“Instructor of record” means any teacher or staff member employed to teach courses and authorize credit for the successful completion of courses.

(o) For purposes of this Article, the following terms are defined:

(1) The term “member of the campus community” is defined as meaning California State University and Colleges Trustees, academic, non-academic and administrative personnel, students, and other persons while such other persons are on campus property or at a campus function.

(2) The term “campus property” includes:

(A real or personal property in the possession of, or under the control of, the Board of Trustees of the California State University and Colleges, and
(B) all campus feeding, retail, or residence facilities whether operated by a campus or by a campus auxiliary organization.

(3) The term “deadly weapons” includes any instrument or weapon of the kind commonly known as a blackjack, sling shot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, switchblade knife, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(4) The term “behavior” includes conduct and expression.

(5) The term “hazing” means any method of initiation into a student organization or any pastime or amusement engaged in with regard to such an organization which causes, or is likely to cause, bodily danger, or physical or emotional harm, to any member of the campus community; but the term “hazing” does not include customary athletic events or other similar contests or competitions.

(e)(p) This Section is not adopted pursuant to Education Code Section 89031.

(p)(q) Notwithstanding any amendment or repeal pursuant to the resolution by which any provision of this Article is amended, all acts and omissions occurring prior to that effective date shall be subject to the provisions of this Article as in effect immediately prior to such effective date.

Note: Authority cited: Sections 66300, 66600, 66452, and 89030 and 89035, Education Code. Reference: Sections 66017, 66300; and 66450 et seq., 66600; 69810-69813, and 89030, Education Code; and Section 626.2, Penal Code.

And be it further

RESOLVED, That the Board of Trustees has determined that the adoption of the proposed revision to Title 5 will not impose a cost or savings on any state agency; will not impose a cost or savings on any local agency or school district that is required to be reimbursed under Section 17561 of the Government Code; will not result in any nondiscretionary cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts.

And be it further

RESOLVED, That the Board of Trustees delegates to the Chancellor of the California State University authority to further adopt, amend, or repeal this revision if further adoption, amendment or repeal is required and is nonsubstantial
or solely grammatical in nature, or sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.
TITLE 5. TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

NOTICE IS HEREBY GIVEN that the Board of Trustees of the California State University proposes to amend Section 41301 of Article 2, Subchapter 4, Chapter 1, Division 5 of Title 5 of the California Code of Regulations. A public hearing concerning these proposed changes will be held in the Glenn S. Dumke Conference Center at 401 Golden Shore, Long Beach, California 90802-4210 commencing at 9:00 a.m. on January 28, 2004, or as soon thereafter as the business of the Board will permit. Any person interested may present statements orally or in writing relevant to the proposed action at that hearing. Written comments must be received by close of business on January 28, 2004, addressed to Bruce M. Richardson, Office of the Chancellor, 401 Golden Shore, Long Beach, California 90802-4210.

INFORMATIVE DIGEST

A new cause for student discipline will be added to the causes for discipline listed in Section 41301: "Unauthorized recording, dissemination, and publication of academic presentations for commercial purposes." The amendment defines "recording" to include any medium, even handwritten notes; "academic presentation" to mean any lecture, performance or exhibition; and "commercial purpose" to include any purpose that involves financial gain. A student charged with this misconduct would have the right to a notice of the violation and an opportunity for a hearing before discipline is imposed. Discipline could include expulsion, suspension, probation, or a lesser sanction.

COST TO STATE AND LOCAL AGENCIES AND SCHOOL DISTRICTS

The adoption of the proposed amendment and repeal will not impose a cost or savings on any state agency; will not impose a cost or savings on any local agency or school district that is required to be reimbursed under Section 17561 of the Government Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; and will not impose a mandate on local agencies or school districts.

AUTHORITY

The regulations are being amended pursuant to Sections 66300, 66452, and 89030, Education Code.

REFERENCE

Section 66300 and 66450 et seq., Education Code.

CONTACT

Inquiries concerning the proposed change may be directed to Abraham Meltzer, Office of General Counsel, Office of the Chancellor, California State University, 401 Golden Shore, Long Beach, California 90802-4210 (telephone: 562/951-4474).

Copies of the text, the statement of reasons for and information supporting the proposed amendments, and all information upon which the proposal is based are available for viewing on our internet site (http://www.calstate.edu/Title5/index.shtml), or upon request of Bruce M. Richardson, Deputy General Counsel, Office of the Chancellor, 401 Golden Shore, Long Beach, California 90802-4210.

Board of Trustees of the California State University

Dated: December 3, 2003

By: ________________________________
Bruce M. Richardson

http://www.calstate.edu/Title5/StudentDisciplinePlagiarism.html 2/20/2004
§ 41301. Expulsion, Suspension and Probation of Students.

Following procedures consonant with due process established pursuant to Section 41304, any student of a campus may be expelled, suspended, placed on probation or given a lesser sanction for one or more of the following causes which must be campus related:

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(c) Misrepresentation of oneself or of an organization to be an agent of a campus.

(d) Obstruction or disruption, on or off campus property, of the campus educational process, administrative process, or other campus function.

(e) Physical abuse on or off campus property of the person or property of any member of the campus community or of members of his or her family or the threat of such physical abuse.

(f) Theft of, or non-accidental damage to, campus property, or property in the possession of, or owned by, a member of the campus community.

(g) Unauthorized entry into, unauthorized use of, or misuse of campus property.

(h) On campus property, the sale or knowing possession of dangerous drugs, restricted dangerous drugs, or narcotics as those terms are used in California statutes, except when lawfully prescribed pursuant to medical or dental care, or when lawfully permitted for the purpose of research, instruction or analysis.

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(k) Abusive behavior directed toward, or hazing of, a member of the campus community.

(l) Violation of any order of a campus president, notice of which had been given proper to such violation and during the academic term in which the violation occurs, either by publication in the campus newspaper, or by posting on an official bulletin board designated for the purpose, and which order is not inconsistent with any of the other provisions of this Section.

(m) Soliciting or assisting another to do any act which would subject a student to expulsion, suspension or probation pursuant to this Section.

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http://www.calstate.edu/Title5/StudentDisciplinePlagiarism.html 2/20/2004
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Note: Authority cited: Sections 66300, 66600, 66452, and 89030 and 89035, Education Code. Reference: Sections 66047, 66300; and 66450 et seq. 66600, 66810 66813 and 66830, Education Code; and Section 626.2, Penal Code.
Statement of Reasons for the Amendment of Title 5, California Code of Regulations, Section 41301

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