

University of California, Berkeley
Policy Issued: December 5, 2011
Effective Date: January 10, 2012
Supersedes: March 3, 1999 Policy on
Course Notes and Recordings



Course Note-Taking and Materials

Responsible Executive: Executive Vice Chancellor and Provost George W. Breslauer

Responsible Office: Office of the Vice Provost-Teaching, Learning, Academic Planning & Facilities

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Policy Statement

The University of California, Berkeley encourages students to take notes in class and other instructional settings as part of their education. Note-taking is a means of recording information and helps students absorb and integrate what they learn. Note-taking or other recording of an instructor's presentation can also facilitate further discussion of the material with students and the instructor. However, class notes and recordings are based on the intellectual effort of the instructor, who has an interest in protecting this effort and ensuring the accuracy of any public representation of his/her work. When notes or other recording of instructors' presentations are sold or shared, they may infringe on the copyrights of the instructors and may violate the campus prohibition on unauthorized commercial activity. This policy sets forth the limitations on use of course notes and course materials and the making and use of recordings of instructors' class presentations.

Instructors' Copyrights. Individual instructors retain copyrights to lectures and class presentations, class materials they create, and related material pursuant to U.S. copyright law, California Civil Code § 980 (a)(1), and the University of California's [Policy on Copyright Ownership](#). Instructors may permit, limit, or prohibit the taking of notes, the recording of instructors' presentations, or the further distribution of class materials created by an instructor (class notes, recordings, exams, and class materials, collectively referred to as "Class Materials"). Instructors are encouraged to clearly communicate their preferences on recording and sharing Class Materials in their syllabi.

Class Notes and Class Materials. Unless otherwise informed by the instructor, students enrolled in a course may take notes and share them with other students currently enrolled in the class. Except as approved in advance by the instructor, students may not more broadly share their notes

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or other Class Materials. Furthermore, except as authorized below in [Campus Class Note Subscription Services](#), students may not reproduce, share, or distribute notes or other Class Materials made available by an instructor for commercial purposes or for compensation.

Recordings. Students may not make audio or visual recordings of lectures or class presentations without the advance written consent of the instructor. Recording of lectures or class presentations made with the instructor's advance consent is authorized solely for the purposes of individual or group study with students enrolled in the same class unless the instructor has given explicit written consent for other uses. The recording may not be reproduced or distributed in any manner, including the Internet, without the instructor's written consent.

Consequences. Unauthorized use of Class Materials may subject an individual to legal proceedings brought by the instructor as well as disciplinary and legal proceedings by the University. Violation of this policy is a violation of Section V.102.23 of the [Berkeley Campus Code of Student Conduct](#). Moreover, commercial use of Class Materials constitutes an unauthorized commercial activity in violation of Section 231 and 236 of the [Berkeley Campus Regulations Implementing University Policies](#), Section 42.40 of the [University of California Systemwide Policies Applying to Campus Activities, Organizations, and Students](#), [Business and Finance Bulletin 43, part 3, section X](#), and California law.

Further, Section 66450 of the California Education Code provides:

66450. (a) Except as authorized by policies developed by the University in accordance with subdivision (a) of Section 66452, 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 purpose, any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction by an instructor of record. The prohibition applies to a recording made in any medium, including but not necessarily limited to, handwritten or typewritten class notes.

The full text of [AB 1773](#), which includes [Section 66450](#), sets forth a description of civil penalties and the legal and financial remedies available to the University and to an individual instructor for violations of this State law.

Campus Class Note Subscription Services. Class note subscription services are permitted if authorized in advance by the University in consultation with the Academic Senate and if approved by the instructor. For such services, the note taker is approved in advance by the instructor and the instructor may review and approve the notes prior to their distribution and sale. In addition, the instructor of the course has the right to negotiate the terms and conditions of the service including, but not limited to, royalties.

Course Notes & Other Class Materials Available on Course Websites. Nothing in this policy precludes an instructor from making Class Materials prepared or authorized by the instructor available on the Internet, for instance, on a course web site. Students permitted by the instructor to review such Class Materials are reminded that the terms of this policy apply to their use of any such Class Materials.

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Who Is Affected by This Policy

All members of the campus community involved with the instructional mission of the campus.

Who Administers This Policy

The administration of this policy is dispersed. Please see the Responsibilities section below for a list of responsible entities and their role(s).

Why We Have This Policy

The Course Note-Taking and Materials policy is intended to (1) protect instructors' copyrights and the integrity of their intellectual property in the context of twenty-first century learning, commercial, regulatory, and technological environments; (2) restrict commercial note-taking services to those authorized by the campus; and (3) hold members of the campus community and commercial vendors responsible for complying with the policy.

Responsibilities

Vice Provost–Teaching, Learning, Academic Planning & Facilities:

- Reviews the policy periodically for its effectiveness and currency in consultation with campus legal counsel.
- Disseminates and communicates the policy to the campus community in collaboration with relevant units on campus.
- Refers questions regarding interpretation of policy to campus legal counsel.

Academic Senate:

- Advises on the development and oversight of the policy and on the authorization of note-taking services.

Associate Vice Chancellor–Business and Administrative Services:

- Authorizes and monitors commercial note-taking service(s) with the advice of the Academic Senate.

Individual Instructors:

- Accept responsibility for knowing, disseminating, and following this policy and its procedures.
- Take appropriate steps to protect their intellectual property rights.

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Academic Administrators and Staff:

- Accept responsibility for knowing, disseminating, and following this policy and its procedures.

Students:

- Accept responsibility for knowing and following this policy and its procedures.

The Center for Student Conduct & Community Standards:

- Processes complaints against individual students alleged to have violated this policy.

Procedures

Prevention

- Appropriate campus units will take steps to disseminate and communicate policy to all key constituents.
- Instructors will be encouraged to make their position on course note-taking and sharing of course materials clear to students on syllabi and other course materials.

Student Misconduct

- If students violate policy or clearly written instructor preferences, instructors should refer students to the Center for Student Conduct & Community Standards.

Protecting Your Copyright

- If course notes or course materials have been shared in violation of policy or clearly written instructor preferences and the violator is not readily identifiable, instructors should go to teaching.berkeley.edu for guidance on how to proceed.

Authorizing New Services

- If instructors wish to have the campus authorize a note-taking service, they should work through their departmental business officer to formulate an authorization proposal to the Business Contracts Office.

Web Site Address for This Policy

<http://campuspol.chance.berkeley.edu/policies/coursenotes.pdf>

Glossary

Class Materials: class notes, recordings, exams, and class materials.

Recording: refers to audio, visual, or written recording.

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Copyrights: the exclusive rights given to authors over the fixed expression of original ideas.

Commercial: a for-profit or compensated transaction.

Related Documents

University of California Copyright Education Web Site:

<http://www.universityofcalifornia.edu/copyright/>

United States Copyright Law:

<http://www.copyright.gov/title17/>

California Civil Code § 980 (a)(1):

<http://leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=00001-01000&file=980-989>

University of California Policy on Copyright Ownership:

<http://www.ucop.edu/ucophome/coordrev/policy/8-19-92att.html>

Berkeley Campus Code of Student Conduct:

<http://students.berkeley.edu/uga/conduct.pdf>

Berkeley Campus Regulations Implementing University Policies:

<http://uga.berkeley.edu/uga/regs.stm>

University of California Systemwide Policies Applying to Campus Activities, Organizations, and Students :

<http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/toc.html>

Regents' Business and Finance Bulletin 43, part 3, section X:

<http://www.ucop.edu/ucophome/policies/bfb/bus43p3.pdf>

Nash, Charles P. "On the ownership of academic presentations: the evolution of California Education Code sections 66450-66452." *McGeorge Law Review* 35.2 (2004): 205-225:

<http://www.ucdfa.org/NashIP.pdf>

The Digital Millennium Copyright Act of 1998, U.S. Copyright Office Summary (December 1998):

<http://www.copyright.gov/legislation/dmca.pdf>

47 U.S.C.A. § 230 (c) (1) (Protection for private blocking and screening of offensive material):

<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title47/html/USCODE-2009-title47-chap5-subchapII-partI-sec230.htm>

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<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title47/pdf/USCODE-2009-title47-chap5-subchapII-partI-sec230.pdf>

Appendices

Sample Digital Millennium Copyright Act Form*

Sample Cease and Desist Letter *

*Office of Legal Affairs' web site is under revision and these documents will eventually be available there.

Revision History

December 9, 2011: On page 1, the Policy Issued date was changed from November 21, 2011 to December 5, 2011. Also on page 1, the Effective Date was changed from September 1, 2011 to January 10, 2012. On page 4, under the Student Conduct portion of the Procedures section, the typographical error "instructosr" was corrected.