



PORTLAND STATE UNIVERSITY

American Association of University Professors

Promoting Quality Higher Education – An Investment in Oregon's Future

VIA EMAIL AND
PDF ATTACHMENT

Date: May 15, 2017

To: Shelly Chabon, PSU Vice Provost Academic Personnel, chabonr@pdx.edu
Julia Getchell, PSU Director Academic Employee Labor Relations, getchell@pdx.edu
David Reese, PSU General Counsel, dreese@pdx.edu
Annie Kirk, PSU Executive Asst to General Counsel, kids@pdx.edu

From: Phil Lesch, Executive Director

CC: Jose Padin, President jose.aaup@gmail.com
David Hansen, Vice President Collective Bargaining, hansend@pdx.edu
Amanda Byron, Vice President Grievances and Academic Freedom,
amanda@psuaaup.net
Wim Wiewel, PSU President via US Mail pursuant to CBA Article 39

Re: Comments and Demand to Bargain:
PSU COPYRIGHT OWNERSHIP POLICY

The University has provided PSU-AAUP with notice of its intent to promulgate the above policy. Aspects of this policy clearly fall within the definition of "Employment Relations" in ORS 243.650 (7) (a), and may already covered by Article 8 and/or Article 20 and or other areas of the collective bargaining agreement. As such, PSU-AAUP Demands to Bargain the decision and/or the effects of the decision to promulgate this policy. PSU-AAUP, further, reserves the right to make proposals beyond what is expressed in Appendix 1 about the policy based on input from AAUP members that has not yet been received.

We are mindful that as an interested party we have been invited to provide input to this policy as a draft. Our decision to provide input should not be interpreted by the University as a waiver of the party's obligation to bargain, nor shall it obviate our right to file grievances on the final policies.

Our issues of concern are detailed in Appendix 1. I look forward to hearing from you to schedule a time to discuss our concerns with the policy.

Appendix 1

PSU-AAUP Comments on Proposed Copyright Ownership Policy

1. We believe this policy falls squarely within AAUP's scope of bargaining, and any policy negotiated should become addendum to the CBA and incorporated in Article 20 as the parties determine appropriate at the time of re-printing of the CBA after completion of successor agreement negotiations.
2. We believe faculty will struggle with understanding how the policy applies to themselves. We recommend that the policy include examples from real situations about how the copyright policy would be applied.
3. Article IV Definitions, "Separate Agreement."
 - a. We find it problematic that an email exchange could constitute a contract, and we would not agree to allow an email to be interpreted as a contract when the Waiver of Work for Hire Rule is at stake. We want any Separate Agreement for Work For hire to be clearly articulated as a contract where both parties sign.
 - b. University resources needs to be defined. For the purposes of this policy and the MOU we contemplate, University Resources should not include release time for members. We believe faculty members should retain the copyright for the work they do on University release time, or on time provided by a faculty development grant.
4. Article IV Definitions, "Staff" are University employees who are not academically ranked. Article V, Section 1.4 designates as policy that Staff are subject to the Work for Hire rule, and Copyright Materials authored or created by Staff within the scope and course of their employment are PSU Copyright Materials.

"Staff" would, thus, include academic professionals. There is a population of Academic Professionals that provide instruction on occasion as part of their regular duties. There is also a population of Academic Professionals that create copyrighted material regarding their work at Portland State and submit that work for publication and to present at conferences and they may have been directed to do so during working hours. These academic professionals would not consider this work to fall under the Work for Hire rule; this policy would harm their intellectual property interests and would provide a disincentive for them to continue to create intellectual property.

PSU-AAUP would prefer to Academic Professionals receive intellectual property rights as ranked faculty in those circumstances where the provisions of 1.1 are more appropriate for the member. We propose the following changes:

1.4 University Ownership of Copyright Materials created by Staff. Staff are subject to the Work for Hire Rule, and Copyright Materials authored or created by Staff within the course and scope of their employment are PSU Copyright Materials except as follows:

1.4 Representation by Counsel- Stakeholders may be assisted by legal counsel, lay counsel, or a union official throughout this process, and may choose to have counsel advocate at any step of the process in their behalf.

6. Article VI, Section 2 Revenue as an initial proposal is received. We do not have a counter proposal at this time. PSU-AAUP will prepare a counter proposal for revenue.