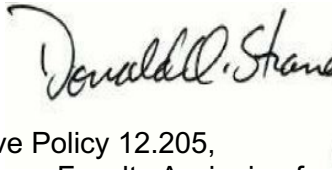




September 28, 2020

MEMORANDUM

TO: David Tsugawa, Hawai'i CC Faculty Senate Chair
Michelle Nathan, Honolulu CC Faculty Senate Chair
Candy Branson, Kapi'olani CC Faculty Senate Chair
Jonathan Kalk, Kaua'i CC Faculty Senate Chair
Michael Oishi, Leeward CC Faculty Senate Chair
Janet Ray, UH Hilo Faculty Senate Chair
Paul McKimmy, UH Manoa Faculty Senate Chair
Rosie Vierra, UH Maui College Faculty Senate Chair/ACCFSC Co-Chair
Tom Hirsbrunner, UH West O'ahu Faculty Senate Chair
Nicolas Logue, Windward CC Faculty Senate Chair

FROM: Donald O. Straney, Ph.D.
Vice President for Academic Planning and Policy 

SUBJECT: Consultation Regarding an Amendment to Executive Policy 12.205,
Administration of the Patent and Copyright, to Address Faculty Assigning for
Purchase their Works to Their Students

On June 15, 2020, I forwarded to you for consultation a proposed new EP 5.____, *Faculty Assigning for Purchase Their Works to Their Students*.

By way of brief background, EP 5.____ was developed to address anonymous complaints to the Hawai'i State Ethics Commission regarding the subject issue. The Commission recommended the University institute a policy regarding this practice after the most recent complaint. The issue was also recently brought to the attention of the Senate of the Hawai'i State Legislature, who asked that "professors refrain from requiring their students to purchase their published works until such policy has been established and adopted."

We received very useful comments from both Faculty Senates and the University of Hawai'i Professional Assembly. Therefore, I am withdrawing the proposed new policy EP 5.____ from further consideration.

In its place, based the comments we received, I submit for consultation the following amendment to EP 12.205, by adding to the existing language the underlined text below under section III.C:

3. Rights to Classroom, Educational and Professional Materials:

- a. Faculty and staff members shall own all rights to materials prepared on their own initiative for classroom, educational or professional purposes, and shall be exclusively entitled to the benefit of any royalties derived there from; provided that, faculty or staff members shall not profit from materials that are assigned by the faculty or staff author to their own students for purchase.

Attached is a Ramseyer formatted version of EP 12.205, showing the above amendment.

This amendment intends to remove questions raised by the Ethics Commission under Hawai'i Revised Statutes sections 84-13 (Fair treatment) and 84-14 (Conflicts of interests) about the practice of faculty authors assigning their textbooks as required reading for their courses. When this issue was brought to our attention by the Ethics Commission, we surveyed how other public colleges and universities address this practice under their similar state ethics codes. They, too, limit or prohibit profit from textbooks by faculty authors assigned to their students.

We would appreciate your review and comments on the attached proposed amended EP 12.205. The University will also be consulting with the University of Hawai'i Professional Assembly.

Accordingly, we respectfully request that a response and/or questions from your respective Faculty Senates be submitted to Associate Vice President Debora Halbert via email at halbert@hawaii.edu **by Monday, November 2, 2020.**

Thank you for your cooperation in this matter, and we look forward to hearing from you.

Attachment

- c: Thomas Conway, Co-Chair, All Campus Council of Faculty Senate Chairs
Dr. Debora Halbert, Assoc. Vice President for Academic Programs and Policy
Jesse Souki, UH Associate General Counsel
Sarah Hiramami, UH System Office of Human Resources