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SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

May 17, 2023

Susan D. Cochran, Chair
Academic Council

RE: Systemwide Review of Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer

Dear Susan,

The Santa Cruz division of the Academic Senate has completed its review of the proposed Policy on Inventions, Patents, and Innovation Transfer with the Committees on Research (COR), and Privilege and Tenure (CPT) responding.

CPT noted a lack of clarity and precision in the definition of University Intellectual Property (IP). The first clause in the definition of University IP in the draft policy refers to the “course *or* scope of employment” (emphasis added). The Committee observed that this differs from the Patent Acknowledgement Form that all faculty sign as a condition of employment, where the wording is “course *and* scope of employment” (emphasis added). The first clause would appear to cover more ground since only “course” or “scope” needs to be met for the proposed clause to be true. For consistency with the Patent Acknowledgement Form, CPT proposed that the conjunction should be “and.”

CPT is also noted the absence of descriptive language for the term “scope.” A faculty member’s field, and therefore the scope of their employment, are not clearly defined. Nor are their working hours or course of employment. The University should either delineate the boundaries of this clause clearly in the policy, or cite a supplementary document with sufficient examples.

Both CPT and COR noted the removal of the following language from the proposed amended policy: “An additional 15% of net royalties and fees per invention shall be allocated for research-related purposes on the inventor's campus or Laboratory” (page 4). CPT wonders if this signifies that the campus is assigned the full 65% of net royalties and fees (not paid to the Inventor), and is free to use all these funds for non-research purposes? COR is curious to know if this 15% will remain at the inventor’s campus, or does it go elsewhere? If it remains at the inventor’s campus, is it still earmarked to support research?

Finally, COR would like to know how software Intellectual Property (IP) is treated under the new policy. The software IP landscape is very different from that of other forms of inventions, they observe, and may be worth treating separately if the University does not already do so.

On behalf of the Santa Cruz division, I thank you for the opportunity to comment on this proposed policy.

Sincerely,

A handwritten signature in black ink that reads "P. Gallagher". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Patty Gallagher, Chair
Academic Senate, Santa Cruz Division

encl: Senate Committee Responses (Bundled)

cc: Michael Hance, Chair, Committee on Research (COR)
Onuttom Narayan, Chair, Committee on Privilege and Tenure (CPT)
Matthew Mednick, Director, Academic Senate

April 14, 2023

PATTY GALLAGHER, Chair
Academic Senate, Santa Cruz Division

Re: Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer

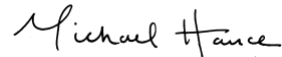
Dear Patty,

Thank you for the opportunity to provide input on the Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer. The Committee on Research has two questions about the proposed changes to the policy.

First, the new policy removes the 15% allocation to the campus or laboratory. Does this 15% still remain at the inventor's campus, or does it go elsewhere? Is it still earmarked to support research?

Second, we have a more general question about how software IP is treated under UC policy. The software IP landscape is very different from that of other forms of inventions, and may be worth treating separately (if it is not already).

Sincerely



Michael Hance, Chair
Committee on Research

cc: Roger Schoenman, Chair, Committee on Academic Freedom (CAF)
Stefano Profumo, Chair, Committee on Academic Personnel (CAP)
Steven Ritz, Chair, Committee on Career Advising (CCA)
Alexander Sher, Chair, Committee on Faculty Welfare (CFW)
Abraham Stone, Chair, Committee on Library and Scholarly Communication (COLASC)
Onuttom Narayan, Chair, Committee on Privilege and Tenure (CPT)
Eleonora Pasotti, Chair, Committee on Rules, Jurisdiction, and Elections (CRJE)

March 21, 2023

PATTY GALLAGHER, Chair
Academic Senate, Santa Cruz Division

RE: Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer

Chair Gallagher,

Thank you for the opportunity to provide input on the Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer. The Committee on Privilege and Tenure (P&T) has two primary areas of concern it would like to recommend be clarified before the policy is finalized.

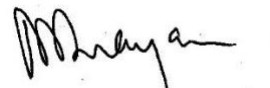
The first clause in the definition of University IP in the draft policy refers to the “course or scope of employment”. This differs from the Patent Acknowledgement Form that all faculty sign as a condition of employment, where the wording is “course and scope of employment.” Since “or” must cover more ground than “and”, at a minimum, the wording of the policy should be changed to “and”.

More broadly, we are unsure how expansively this provision in the policy — and in the Patent Acknowledgement Form — would apply to faculty. A faculty member’s field, and therefore the scope of their employment, are not clearly defined. Nor are their working hours or course of employment. What situations does the University wish to capture with this clause that are not covered by the second and third clauses defining University IP? For instance, is IP that is created as a consultant at a company (consistent with APM 025), or when a faculty member is not being paid by the University (e.g. for a 9-month employee not earning a University salary during the summer), or is on sabbatical leave, included in University IP? How is one to interpret “scope”? The University should either delineate the boundaries of this clause clearly in the policy, or cite a supplementary document with sufficient examples. On the other hand, if this clause does not add anything significant to the other two clauses, the University should consider deleting it.

As a related point: does the obligation to promptly report and *fully* disclose (emphasis added) all inventions to the University include inventions that are clearly or probably not University IP?

P&T also notes that the line “An additional 15% of net royalties and fees per invention shall be allocated for research-related purposes on the inventor's campus or Laboratory” (page 4) has been deleted from the previous version. Essentially, 15% has disappeared in the policy, but it is not flagged in the policy that it was reallocated to some other purpose. Does this signify that the campus is assigned the full 65% of net royalties and fees (not paid to the Inventor), and is free to use all these funds for non-research purposes? If not, more detail is needed.

Sincerely,



Onuttom Narayan, Chair
Committee on Privilege and Tenure

cc: Roger Schoenman, Chair, Committee on Academic Freedom
Stefano Profumo, Chair, Committee on Academic Personnel

Steven Ritz, Chair, Committee on Career Advising
Alexander Sher, Chair, Committee on Faculty Welfare
Abraham Stone, Chair, Committee on Library and Scholarly Communication
Michael Hance, Chair, Committee on Research
Eleonora Pasotti, Chair, Rules, Jurisdiction and Elections
Matthew Mednick, Executive Director, Academic Senate