

## OFFICIAL

Policy and Procedure Statement 4.13  
Review Cycle: Sept. 1, E3Y  
Review Date: 09/01/2019  
Reviewer: Provost

Commercial Use of Class  
Notes and Materials  
(10 paragraphs)

## BACKGROUND

1. Background. The recent increase in commercial note taking, including the practice of posting class notes and handouts on the internet, has concerned both Texas State's faculty and administration. These concerns include fears that these practices may misrepresent the content of lectures and fears that the practices may violate the copyrights of faculty, who own the lectures. [See PPS 4.02 for more information on the recording of classroom lectures and discussion.](#)

## PURPOSE

2. Purpose. This PPS's purpose is to provide guidance for faculty members in meeting the challenges posed by commercial note taking.

## COPYRIGHT OWNERSHIP AND LAW

3. Ownership. Faculty members are owners of copyright in their lectures and related instructional materials. The Rules and Regulations of the Board of Regents, Texas State University System, provide that neither the system nor its institutions claim ownership in these works. (See Regents' Rules, Chapter III, Section 10.3).
4. Lectures Must Be In Fixed Medium. Copyright protects only works that are fixed in a tangible medium of expression. A lecture, in and of itself, is not fixed. In order to be protected by copyright, a lecture must either be a performance of an underlying work that is fixed or it must be fixed in a tangible medium. So, if a faculty member lectures from notes or an outline, copyright law does not protect the lecture unless the lecture is recorded or otherwise fixed. A faculty member who wants to protect the copyright of his/her lecture should record the lecture when it is given. A faculty member may register the lecture, or a series of lectures, with the U. S. Copyright Office in Washington. Forms for registration are found on the U.S. Copyright website at <http://www.copyright.gov/forms/>
5. Lecture Notes Permitted. Even if a lecture is fully protected by copyright law, the author can prevent only certain uses of it. Copyright law does not protect facts and ideas. Student notes often do not infringe on a faculty member's copyright because they do not capture the faculty member's expression. Further, academic tradition expects students to take notes; so, as a condition of employment, faculty implicitly license students to create a "derivative work" from their lectures.

## RESTRICTIONS ON USE OF NOTES AND MATERIALS

6. Syllabus Statement. If a faculty member wishes to restrict use of class materials and lectures, written instructions to this effect should be provided at the beginning of class. A sample form for a syllabus statement could look something like this:

"My lectures are protected by copyright law. They are my own original expression and I record them at the same time that I deliver them in order to bring them under the protection of the U.S. copyright laws. Although you are authorized to take notes in class and create a derivative work from my lecture, the authorization extends only to making one set of notes for your own personal use and no other use. [Add, if appropriate: "You are authorized, however, to share notes with other students in the class."] You are not authorized to record my lectures, to provide your notes to anyone else, or to make any commercial use of them without my express prior permission."

## ENFORCEMENT

7. Some Faculty Do Not Oppose. This policy takes into account the fact that some faculty members do not oppose commercial use of their notes. Determining whether particular student notes would infringe on faculty copyrights is complex. Enforcing any restriction or regulation is costly and time-consuming.
8. Faculty Costs. A faculty member who desires to enforce a copyright is responsible for all costs associated with that enforcement. Texas State does not provide funds or legal services to faculty members under these circumstances.
9. Value of Education. This policy suggests that faculty members consider the educational potential of this issue. Helping students understand how important copyright protection is to the owner of the rights and how frustrating it is to create something and have others use it as if it were their own may be the best that faculty can do to protect their rights.

## CERTIFICATION STATEMENT

10. This PPS has been approved by the reviewer listed below and represents Texas State's Division of Academic Affairs policy and procedure from the date of this document until superseded.

Review Cycle: \_\_\_\_\_ Review Date: \_\_\_\_\_

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Gene Bourgeois  
Provost and Vice President for Academic Affairs