

**FACULTY SENATE MINUTES
SAM HOUSTON STATE UNIVERSITY**

6 March 2014
3:30 p.m. – 5:00 p.m.
Austin Hall

Members present:

Tracy Bilsing (CHSS); Don Bumpass (COBA); Donna Cox (COE); Tom Cox (CHSS); Mark Frank (COBA); Randall Garner (COCJ); C. Renée James (COS); James Landa (CHSS); Paul Loeffler (COS); Sheryl Murphy-Manley (COFAMC); Diana Nabors (COE); Debra Price (COE); Lisa Shen (NGL); Stacy Ulbig (CHSS); Mary Anne Vincent (COHS); Anthony Watkins (COFAMC)

Members not present: Nancy Baker (CHSS); Helen Berg (COE); Jonathan Breazeale (COBA); Madhusudan Choudhary (COS); Kevin Clifton (COFAMC); James Crosby (CHSS); Richard Henriksen (COE); Joan Hudson (COS); Mark Klespis (COS); Hayoung Lim (COFAMC); Jeff Littlejohn (CHSS); Dennis Longmire (COCJ); David McTier (COFAMC); Dwayne Pavelock (COS); Doug Ullrich (COS); Pam Zelbst (COBA)

Called to order: 3:30 p.m. in Austin Hall by Chair Renee James

Special guests: William Angrove, Associate Vice President for Distance Learning; and Rhonda Beassie, TSUS Attorney

Approval of minutes: February 20 minutes approved.

Intellectual Property Rights of Faculty

Dr. Renee James began today's meeting with a discussion between the senators and the two special guests, William Angrove and Rhonda Beassie, on the topic of intellectual property rights among faculty.

Specifically, Mr. Angrove and Ms. Beassie were asked to address questions concerning ownership of work conducted and produced by faculty while an employee of SHSU.

Ms. Beassie distributed the Texas State University System (TSUS) policy affecting SHSU. A discussion ensued concerning the "ownership" of work (art, research, publications, inventions, etc.) developed while a faculty member was employed at SHSU. Ms. Beassie made the following points about the current policy:

1. If the work was developed during the normal course of contractual employment, then the faculty member owns it.
2. If the faculty member was asked to "work for hire," then SHSU owns the material.
3. In instances of shared contribution (ex: SHSU gave a grant or other financial support), ownership might be shared, but this depends on the amount of the contribution and what "oversight" was provided.
4. It is always best to have some form of agreement ahead of time when work might be shared or construed as "work for hire." This will clarify the situation at the start.

5. Research components that are “normal” work (such as the expected research requirement for tenure) is within the “normal” course of employment (tenure track) at SHSU.
6. The patent policy is covered under the policy; see the sponsorship agreement under Section 12.

The senators then discussed with Ms. Beassie and Mr. Angrove the ownership of on-line courses.

Beassie and Angrove explained that **SHSU holds the license for the material and the faculty member who created the online course holds the copyright. SHSU has the copyright to the course and license to use the content but this does not prohibit a faculty member from taking the “course” with him/her if s/he vacates the position. Course materials developed for class are not considered “work for hire.”**

Mr. Angrove stated that it is the dean’s decision to pay a stipend (bonus) to a faculty member who develops a first-time on-line course. As the senators discussed this, it became clear that not all colleges/departments handle the stipend in a unified manner. **Some departments pass the stipend directly to the developer, others did not pay any stipend but held the funds in the department or otherwise distributed the funds. The formula for on-line course development is to be derived from a formula using adjunct faculty pay within each college.**

One senator asked Ms. Beassie to clarify if the words “stipend” versus “incentive” are considered interchangeable. Ms. Beassie explained that the word “incentive” implies “work for hire,” but course development is not considered “work for hire.”

Mr. Angrove asked the senators what they would like to do about the intellectual property rights policy. One senator volunteered to work with Mr. Angrove to modify SHSU policy since he had just attended a state meeting dealing with collegiate rules. Three others volunteered to submit **suggestions or drafts** to Angrove.

A senator inquired whether a copyright must be registered to be considered a legally binding copyright; it was determined that a copyright does not have to be registered. A written agreement regarding copyright is wise to have if faculty members are developing very specific course work.

Another senator asked if summer incentives or a summer hire due to research can be construed as “work for hire.” Ms. Beassie countered with the question, would the results would be available for publication? She said that, if faculty members move after conducting the research, SHSU could claim rights to the work (or, at a minimum, publication identification that the author was employed at SHSU when the research was conducted). Beassie emphasized once more that it is best to work out these potential issues before the work begins.

One senator questioned the ethics/legality/ownership when senior faculty are “asked” to develop on-line courses for the greater benefit of the department but the course, after being developed, is turned over to an adjunct faculty member to teach (with or without the knowledge of the person who created the course). The senator asked if this is a routine request throughout SHSU, and, if so, what recourse does the faculty member who developed the course have? Who retains “ownership” of the material? Other senators agreed that this was a concern and currently a prevalent practice on campus.

More than one senator asked Ms. Beassie if she and the provost could provide rules for the chairs concerning the writing and delivery of on-line courses and address whether this practice is legal.

Questions arose regarding the ethical issues of “pushing” courses from one faculty member’s Blackboard account to another’s, especially without the developer’s knowledge. A senator pointed to the University of Texas at Austin policy, according to which work is available for use only for one year after the departure, death or retirement of the faculty member who developed the course materials.

The deadline for policy changes in the on-line services is March 28 to the provost.

A senator brought up the issue of who owns work developed with State of Texas resources (or property considered to be owned by the State). For example, if a faculty member were asked to develop a graphic for a university event and uses university property and the SHSU logo to do so, adding his/her own ideas, who owns the graphic? It was concluded that this could become a very gray area, although it was presumed the author owns the image.

Ms. Beassie reminded the senators that “no privacy is to be assumed” with the use of university telephones, computers or servers. SHSU has access to all information over the intra/Internet systems owned and operated by the university.

Meeting adjourned at 5.00 p.m.

Revised 04-07-14; 11:04 am