

Resolution for December FS Meeting

From the Educational Policies Committee

Whereas an effective educational environment requires an atmosphere of trust among the participating students and faculty, and

whereas the faculty member in charge of a course is responsible for the accuracy of the material disseminated, and

whereas materials created by a member of the faculty in preparing courses should be considered the intellectual property of that faculty member,

therefore be it resolved that it be Cornell policy that

lectures and course materials presented, transmitted or distributed by Cornell faculty and/or class participants are intended exclusively for use by students enrolled in the subject class in furtherance of their academic pursuits;

... and that ...

students are not authorized to replicate, reproduce, copy or transmit such materials, or "derivative" materials, including class notes, for sale or general distribution to others without the written consent of the faculty member or class participant who is the original source of such materials;

... and that ...

violations of the above constitute academic misconduct as described in the Code of Academic Integrity and may result in withdrawal from the course in question and appropriate disciplinary action, as prescribed in that Code;

... and that ...

the Dean of the Faculty see that this policy is clearly brought to the attention of faculty and students through publication in the Courses of Study, in the Policy Notebook for the Cornell Community, in student and faculty handbooks, and in registration materials such as the Course/Room rosters and further that he see that the Code of Academic Integrity be modified to specifically include these actions as an example of academic misconduct.

Rationale and Comments

December 1999

At Dean Cooke's suggestion, this background note has been updated and expanded.

The proposed resolution is in *italics*.

This resolution stems from the recent activities of web-based providers of class notes who have, in general,

not obtained the approval of the faculty member in charge of the course to place the notes on the web. [See, e.g., <http://www.versity.com>]. Hopefully we have made it a little broader than that, without watering it down. University Counsel **has** been involved throughout the process of drafting this resolution.

We do not see this resolution as being the "last word" on the subject: (i) technology will advance and the faculty will be faced with new challenges of this type in upcoming years; (ii) we hope to generate a statement of student rights and responsibilities to help foster the proper classroom environment. However we feel it will serve as an effective deterrent, minimize the problem, and give the faculty a basis for action in these matters.

The three "whereas" clauses cover the three most commonly heard concerns about these Internet providers

Whereas an effective educational environment requires an atmosphere of trust among the participating students and faculty, and

Note that this does not limit our concern to just the faculty but to the overall environment of the classroom setting. We all need to work on improving this environment and not simply come up with a list of do's and don't's and punishments.

whereas the faculty member in charge of a course is responsible for the accuracy of the material disseminated, and

At the November Senate meeting it was suggested that we include in the resolution a disclaimer to avoid possible litigation stemming from harm cause by inaccuracies in copied notes and such. Counsel has assured us that faculty members are already protected and that adding such a disclaimer would give the false impression that they were not already covered.

whereas materials created by a member of the faculty in preparing courses should be considered the intellectual property of that faculty member,

We have used the words "should be", not "are". Counsel has made it clear that attempts to bring legal action based on intellectual property rights have **not** been upheld in the courts; articles in the *Chronicle of Higher Education* also indicate that such legal claims are hard to defend in court. Further questions of a legal nature should *please* be directed to Counsel directly.

To our understanding, any "durable" form of lectures (prepared notes, audio tape, etc.) are automatically copyrighted. How to effectively *use* this fact is less clear to us. Interested faculty should pursue this avenue with Counsel directly.

therefore be it resolved that it be Cornell policy that

While there is an issue of academic **trust**, violations of academic integrity typically involve misrepresenting someone else's work as your own - clearly **not** the case here. Conversations with the Chair of the Academic Integrity Hearing Board (Prof. Long) and others have led us to properly classify violations as being "academic misconduct" which is described in the Code of Academic Integrity, paragraph I.C.3.b.

lectures and course materials presented, transmitted or distributed by Cornell faculty and/or class participants are intended exclusively for use by students enrolled in the subject class in furtherance of their academic pursuits;

We specifically included other class participants to protect students from having their contributions to the discussion similarly abused. Cornell policy already allows the faculty to evict from the classroom **anyone** not registered in the course; even auditors need faculty permission to attend. As pointed out in the November Senate meeting, we specifically include all students enrolled in the class as being the intended users of such materials.

... and that ...

students are not authorized to replicate, reproduce, copy or transmit such materials, or "derivative" materials, including class notes, for sale or general distribution to others without the written consent of the faculty member or class participant who is the original source of such materials;

The word 'original' is somewhat important so that one does not take the narrow reading that the source of the written notes is the **student** who took them. The word "general" should assure students that they can give a friend *in that class* a copy of their notes without consulting the faculty member in charge. We have rejected specific language that would make it 'OK' to sell notes within your class.

One common complaint heard is that this resolution attacks the student and not the companies involved. But we do *not* have an educational compact with the companies, only with the students. The intention of the legislation and its thorough dissemination is to dry up the supply of notes to such companies, not to go on witch-hunts for students.

... and that ...

violations of the above constitute academic misconduct as described in the Code of Academic Integrity and may result in withdrawal from the course in question and appropriate disciplinary action, as prescribed in that Code;

Counsel and the committee have spent a long time on this phrasing. Note that we are not **requiring** withdrawal as part of the resolution. Given that the role of the AIHB is defined in the Code, Counsel urged against including that role specifically again. Note that the Code (paragraph I.C.3) allows for "grade penalties" and it is not clear (to Counsel or to us) that "withdrawal" *is* a grade penalty; that is why the phrase indicating possible withdrawal was left *in* the paragraph ... presumably students would prefer a "W" to an "F". Also note that paragraph I.C.3.b spells out the appeals process for the student

Individual faculty members who are concerned about this activity in their classrooms should also include this policy as part of their course handouts and make appropriate announcements at the beginning of the semester.

and that ...

the Dean of the Faculty see that this policy is clearly brought to the attention of faculty and students through publication in the Courses of Study, in the Policy Notebook for the Cornell Community, in student and faculty handbooks, and in registration materials such as the Course/Room rosters and further that he see that the Code of Academic Integrity be modified to specifically include these actions as an example of academic misconduct.

An example of the modifications might be a specific example as paragraph I.C.3.c. Included in this modification could be, as suggested by Prof. Long, that records of such misconduct be kept in a similar "locked file" as records from convictions of violations of academic integrity.