**Commercial Use of Class Notes AA/PPS No. 02.03.31**

**and Materials Issue No. 3**

**Effective Date: 09/22/2022**

**Next Review Date: 09/01/2025 (E3Y)
Sr. Reviewer: Provost and Vice President for Academic Affairs**

**POLICY STATEMENT**

*Texas State University is committed to providing faculty members with guidance on ownership and copyright associated with lectures and instructional materials.*

1. **PURPOSE**
	1. The recent increase in commercial note taking, including the practice of posting class notes and handouts on the internet, has concerned both Texas State University's faculty and administration. These concerns include fears that these practices may misrepresent the content of lectures and fears that the practices may infringe on the copyright and privacy of faculty, who own the lectures (see [AA/PPS No. 02.03.02](https://policies.txstate.edu/division-policies/academic-affairs/02-03-02.html), Conduct of Classes for more information on the recording of classroom lectures and discussions).
	2. The purpose of this policy and procedure statement is to provide guidance for faculty members in meeting the challenges posed by commercial note taking and related services, including copyright and ownership rights associated with lectures and instructional materials.
2. **COPYRIGHT OWNERSHIP AND LAW**
	1. Ownership – Faculty members may own the copyright in their lectures and related instructional materials. The [Texas State University System (TSUS) Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html) and university copyright policy provide that Texas State retains a non-exclusive, non-transferable, perpetual, and royalty-free license to make educational uses of faculty-created instructional materials, but that, in most cases the faculty creators retain ownership of the copyright in their work. Additional information is available in [The TSUS Rules and Regulation, Chapter III, Section 11.2](https://www.tsus.edu/about-tsus/policies.html), and [UPPS No. 01.04.27](https://policies.txst.edu/university-policies/01-04-27.html), Intellectual Property: Ownership and Use of Copyrighted Works, Section 03.06 a.
	2. 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 (such as detailed outlines or notes), or it must be fixed in a tangible medium (such as a recording). A faculty member may register the lecture, or a series of lectures, with the United States (U.S.) Copyright Office. Forms for registration are found on the [U.S. Copyright website](http://www.copyright.gov/forms/). Case law continues to evolve in this area.
	3. 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, but it does protect the selection and arrangement of those facts, as well as the expression of the ideas. Student notes may not necessarily 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.
3. **PROCEDURES FOR RESTRICTIONS ON USE OF NOTES AND MATERIALS**

03.01 Syllabus Statement – If a faculty member wishes to restrict use of class materials and lectures, written instructions should be provided at the beginning of the semester on the course syllabus. This notice allows the faculty member to place a restrictive license on their work. A syllabus statement may include the following:

"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 class materials and notes to outside parties, or to make any commercial use of them without my express prior permission. Alternative provisions will be made for a student determined by the Office of Disability Services (ODS) to be entitled to academic accommodations."

03.02 Creative Commons License – Faculty may choose to include an icon on course materials that reflects a Creative Commons license. More information can be found in the [Creative Commons licenses website](https://creativecommons.org/share-your-work/).

03.03 Copyright Notice – Faculty members may choose to include a copyright notice on course materials to emphasize that they are protected. The form of the notice should contain the word “copyright” and the “©” symbol, the year the materials were created (multiple years may be listed when new material is added in different years), and the name of the faculty member. The instructor may want to add notations to the notice such as, "All rights reserved," or "Authorization is given to students enrolled in the course to reproduce this material exclusively for their own personal use." While copyright protection is not contingent on including a copyright notice on course materials, the notice reminds students of faculty ownership and copyrights and of their obligations to respect those rights.

03.04 Fair Use – Even with a copyright statement or Creative Commons license, students have a right to fair use. This is similar to an instructor’s fair use of the copyrighted work of others. For more information on fair use, see [UPPS No. 01.04.27](https://policies.txst.edu/university-policies/01-04-27.html), Intellectual Property: Ownership and Use of Copyrighted Works, Section 04.02 b.

1. **ENFORCEMENT AND SUPPORT**
	1. 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.
	2. 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.
	3. 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, including how frustrating it is to create something and have others use it as if it were their own, may be an effective strategy for faculty to use in protecting their rights.

04.04 Takedown Requests – Faculty may choose to send a copyright infringement notice to any individual or organization that is distributing course materials without prior authorization. U.S. copyright law allows copyright holders to demand that online service providers disable access to or remove material that has been posted on a website without the copyright owners' authorization and in violation of copyright law. These notices, sometimes referred to as [Digital Millennium Copyright Act (DMCA) notices](https://www.copyright.gov/reports/studies/dmca/dmca_executive.html), must contain specific information that is detailed by law in order to comply with statutory requirements. Faculty members may access information from the U.S. Copyright Office on effectively developing [Notifications of Claimed Infringement](https://www.copyright.gov/dmca-directory/). A service provider that receives a proper notice under the DMCA is legally obligated to remove or disable access to the specific material identified in the notice and to advise the person who provided the material of the infringement claim.

04.05 Faculty may contact the University Copyright Office at copyrightoffice@txst.edu for assistance with takedown requests and support regarding any aspect of this policy.

**05. REVIEWERS OF THIS PPS**

05.01 Reviewers of this PPS include the following:

Position Date

Provost and Vice President September 1 E3Y

for Academic Affairs

Associate Provost September 1 E3Y

Copyright Officer September 1 E3Y

**06. CERTIFICATION STATEMENT**

This PPS has been approved by the following individuals in their official capacities and represents Texas State Academic Affairs policy and procedure from the date of this document until superseded.

Provost and Vice President for Academic Affairs; senior reviewer of this PPS