

# De Anza College Academic Senate

## Statement on Adoption of Course Materials

### Choice of Course Materials

Faculty members recognize the importance of the following factors when selecting course materials: academic freedom; students' progress through courses; students' financial resources; and the balance, quality, and academic soundness of the materials.

Principles of academic freedom, as applied to faculty individually and collectively, are of primary importance in the selection of course materials. While it is presumed that faculty members' individual and collective decisions about such materials are pedagogically sound, faculty members have a responsibility to articulate their reasoning to colleagues and to participate in collegial discussions of these issues.

Deans do not select course materials. There may be occasions when a chairperson or dean is reasonably concerned about course materials and takes up the matter with a faculty member. However, the resolution of issues of course materials selection is ultimately a faculty concern.

Departments are required to review course materials for course outlines. While all faculty are encouraged to recommend such materials, the final list of departmental course materials should reflect the consideration of multiple ideologies, perspectives, and pedagogies.

In general, faculty members are free to select materials for courses for which they are individually responsible, without having their decisions reviewed by faculty colleagues or subject to the veto of a department chair, dean, or other administrative officer.

The Academic Senate recognizes that sequential courses (e.g., Courses numbered 1A, 1B, 1C) may warrant exceptions to the practices described above. Such courses may be joint enterprises requiring significant coordination, the imposition of a certain degree of structure, and agreement on such matters such as general course content, syllabi, examinations, and course materials. In these circumstances, faculty may jointly agree to the use of common course materials such as a single selection or selections from an approved list.

While there are precedents for faculty deciding to use a common text in sequential courses, this cannot be done without significant and compelling reasons. Department faculty majorities who agree to use common course materials recognize that their decision-to enforce conformity will raise significant issues of academic freedom, and that the majority view will be subject to a very high level of scrutiny in this regard. Opportunity must be afforded to all instructors involved in the course to participate meaningfully in the decision-making process. The significant benefits to students must clearly outweigh the right of the individual faculty to choose how and what to teach. There must be an overwhelming majority agreement among the faculty teaching the courses using the material(s) proposed for joint adoption. All reasonable attempts to reconcile the situation must be made and all other options must be fully explored.

In such cases in which the department does choose to adopt common course materials, it is ultimately the responsibility of the majority group to demonstrate that an individual faculty member's textbook choice has jeopardized the course objectives as stated in the course outline of record. Otherwise, in recognizing the value of academic freedom not only in protecting faculty rights but in ensuring that a wide variety of ideologies, perspectives and pedagogies is offered to students, a faculty member must still be allowed to select his/her own textbook.

It is the position of the Academic Senate that textbook decisions should normally be made by faculty in the departments using those texts. Department faculty resolve disputes themselves in normal circumstances. Recognizing the important principles involved in decisions concerning text adoption, Senate recognizes that department faculty may not always be able to mutually resolve disagreements about text selection. Unresolved cases should be directed to the Academic Senate for consultation, discussion, and resolution. A decision by the Senate concerning textbooks for a particular course could support the use of a single textbook or multiple textbooks for the course in question. Any decision by the Senate limiting textbook choice will apply only to the textbook in question.

## **Cost**

While the quality and effectiveness of teaching materials are of primary importance, faculty bear in mind that the cost of course materials is an issue for students.

Faculty recognize

- the value of providing copies of texts and other course materials in the library.
- that lower-cost alternatives, such as paperback editions, frequently provide the same value to students as more expensive versions.
- that the practice of publisher “bundling” of unnecessary course materials can increase costs to students.
- the effect on cost of publishers’ commitments to extending the time that a particular edition remains in print.
- that accepting older editions of equivalent high quality texts may discourage publishers from marketing new editions containing merely trivial changes.
- that buy-back options at the end of the term may have a significant effect on cost to students.
- that the cost of course materials may be negotiable.
- that providing appropriate materials online may reduce costs.
- that the use of high quality public domain and similar resources may reduce costs.

Faculty, collectively and individually, do not accept mandates intended to lower costs if they have the effect of limiting academic freedom and/or compromising the quality of texts and course materials.

## **Faculty-Authored and Faculty-Published Course Materials**

Faculty-authored materials embody the accumulation of knowledge and best practices that an instructor has acquired over time. Many faculty also believe that the currently available materials do not serve the needs of students, so they create materials that enable them to teach their students more effectively. Faculty who use their own materials in their classes should be cognizant of Board Policy 4185 (Appendix #1) which reiterates California Education Code 78900, particularly the following clauses:

1. All materials prepared for sale on the campus—whether they carry the name of the District or not—must have prior administration approval.
2. No employee of the District may receive profit or royalties on materials which are reproduced for use only in the District.

Nationwide college and university policies on the sale of faculty-authored texts are very diverse, including encouragement of faculty authorship, no official policy, recognition of “ethical considerations,” expectation that some percentage of royalties from sales to the author’s students will be donated to charity, and policies forbidding faculty to require their own texts in classes they teach.

A primary consideration is the avoidance of intentional or unintentional coercion of students whose grade is determined by the author of the text. Ethical concerns about lack of peer review, coercion, etc., become less relevant when texts and other course materials are chosen by more than one faculty member.

Faculty authors are understandably enthusiastic about their creations. They are sensitive about promoting their commercial materials to colleagues unless specifically asked, so that colleagues not feel obliged to adopt such works. They are particularly mindful about this with regard to part-time and untenured faculty

Faculty-authored and faculty-published materials should be priced competitively to comparable materials. Faculty should consider making course materials available to students at no cost, for example on an instructor web page.

Faculty who author and/or publish their own materials should be cognizant of District policy regarding copyright ownership, particularly if materials are produced on campus, using District materials and/or equipment. See Board Policy 4185.4 (Appendix #1) for further clarification.

# **Bookstore**

## **Prices in the bookstore**

Faculty support Bookstore policies that reduce costs for students, such as the Bookstore's "best price guarantee" program to match competitors' prices.

## **Bookstore textbook availability**

Faculty expect the Bookstore to periodically verify that its ordering policies (which are based partially on previous sales) ensure that sufficient text books and other materials are available to students at the start of the term.

Faculty expect the Bookstore to respond to their requests for sufficient and/or additional materials.

Faculty expect the Bookstore to communicate with them about text book and course materials orders. Examples of good practice include the following:

- The Bookstore contacts faculty members who have not turned in a requisition/request form by the ordering deadline.
- Contacting the faculty member's division should be a last resort only when there is no response from the individual faculty member, when new sections are added, and/or when the instructor is listed as "staff."
- The Bookstore obtains consent from the instructor before altering a faculty member's text or course materials request.
- The Bookstore will notify faculty when new editions replace those they have been using and will not substitute a new edition of a text without contacting affected faculty members first.
- The Bookstore serves as a resource for information about the availability and costs of textbooks and other course materials.

## **Timely orders**

Faculty recognize that timely submission of text and materials orders ensures that materials will be available for students at the start of the term, helps keep costs down for students who wish to sell their texts at the end of the term, and ensures sufficient lead time for Disabled Student Services to prepare accessible versions of course materials.

## **Reserve Materials in the Library**

Faculty support a partnership between the Bookstore and the Library to make materials available in the reserve collection.

### **Campus-run Bookstore**

Faculty recognize the value of and support maintaining an on-campus bookstore run by the College for the benefit of the campus community.

## **Ethical Issues**

In addition to issues addressed elsewhere in this Statement (including Faculty-Authored and Faculty-Published Course Materials and Choice of Course Materials), faculty recognize the significance of other ethical issues related to the selection, sale, and use of course materials.

### **Collecting money from students**

Faculty recognize that Board Policies, Title 5 regulations, other laws and regulations, and potential conflicts of interest restrict the selling of course materials (whether self-authored or not) directly to students and/or the collection of money directly from students.

### **Potentially offensive course materials**

While academic freedom prevails, faculty are sensitive to the potential of some course materials to be taken as offensive and/or demeaning to the values, beliefs, or standards of individuals or groups. Faculty strive for sensitivity in the presentation of such course materials.

### **Requiring course materials**

While recognizing that access to and use of course materials is generally regarded as critical for student success, faculty do not refuse admittance to or continuation in a class if a student does not purchase course materials.

## **Library**

Faculty recognize the critical role of the Library, support the acquisition and maintenance of a current and high quality Library collection, and expect the Library to collaborate with faculty in the development and maintenance of the collection, including the removal of older materials and the inclusion of current texts.

Faculty may provide students with short-term on-campus access to course support materials by placing them on reserve in the Library. Placing required course materials on reserve may help reduce costs for some students.

Faculty may be responsible for obtaining copyright permission for certain materials placed on reserve for more than one term. Faculty provide the Library with the highest quality materials possible and ensure that materials follow Library guidelines for readability and conversion into alternate formats for students with print impairments.

See Appendix #2 for Frequently Asked Questions.

## **Printing Services**

Faculty recognize that Printing Services provides a critical service by producing and duplicating a variety of course materials including syllabi, tests and quizzes, class handouts, and course materials packets.

Faculty recognize that copyright laws affect which materials may be duplicated by Printing Services and the circumstances under which permission for use may need to be obtained.

While providing necessary course materials for students, faculty recognize that copying has financial and environmental consequences which may be diminished by using alternatives such as online publication.

## **Copyright Issues**

Faculty recognize the fundamental value and importance of intellectual property and understand that copyright laws and regulations apply to course materials.

Copyright is a complicated issue and constantly evolves based on new legislation and ongoing case law. Although it is beyond the scope of this Statement to offer legal advice, specific rights governing academic “fair use” of copyrighted material apply in certain cases. Faculty acquire copyright permission when required.

Further information, intended not as legal advice or encouragement to use copyrighted materials, but as clarification of these issues is provided in Appendices #2 and #3.

# Appendices

## Appendix #1

(Excerpted from Board Policies as of May 16, 2005. See [http://www.fhda.edu/about\\_us/board/policy](http://www.fhda.edu/about_us/board/policy) for electronic copies.)

### Publication of Instructional Materials 4185

The Board encourages the writing and publishing of auxiliary instructional materials for use in the Foothill-De Anza Community College District when appropriate commercially published materials are not available. The administration will establish controlling regulations with the following points as guides:

1. Materials defined as syllabi, manuals, workbooks, etc., will be sold to students after an initial trial printing. During the trial quarter such materials will be issued free.
2. All materials prepared for sale on the campus—whether they carry the name of the District or not—must have prior administration approval.
3. No employee of the District may receive profit or royalties on materials which are reproduced for use only in the District.
4.
  - a. Copyrights on instructional media developed by an employee of the District as part of the employment contract with the District, belong to the District.
  - b. Copyrights on materials unrelated to the employee's employment with the District shall belong solely to the employee.
  - c. If the District furnishes equipment or supplies but the employee creates the work on his/her own time, the employee shall retain the right to copyright the material but shall grant to the District an unrestricted license to use the material without cost.
  - d. The District may claim the right to copyright material if the project was commissioned by the District, if the project is "work for hire" (i.e., the work was created by the employee within the course of employment), or the work is an institutional effort.
  - e. Any exceptions to the policy shall only be made through a specific contract negotiated with the District.

Education Code Section 78900 Approved 12/4/61 Amended 6/20/74; 11/18/96

## Appendix #2

### Reserve Collection Frequently Asked Questions

QUESTION: Where is the reserve collection located?

ANSWER: The reserve collection is located behind the circulation desk, immediately on

your left as you enter the library building.

QUESTION: What do students need to check out a reserve item?

ANSWER: Students need a valid identification card from either De Anza or Foothill College to check out reserve items.

QUESTION: How many reserve items can a student check out at one time?

ANSWER: The maximum number is two reserve items at one time.

QUESTION: Can students take reserve items outside the library?

ANSWER: You can decide whether an item can leave the building or not.

QUESTION: Can students renew a reserve item?

ANSWER: Not immediately. Thirty minutes must elapse in order to give other students in the class an opportunity to check out the item.

QUESTION: Who is responsible for a lost item?

ANSWER: If the item is checked out to a student, the student is responsible for the lost item. The library will replace the item when the student pays the replacement fee. If the lost item is not checked out to a student, the library is responsible for the lost item and will replace the item immediately.

QUESTION: What kind of material can I put on reserve?

ANSWER: You can put textbooks, books from your or the library's collection, videocassettes, DVDs, class readers, and other material that can support classroom instruction. Any copied materials, such as articles from a magazine or journal, must comply with the U.S. Copyright Office's fair use guidelines.

QUESTION: How much time does it take for material I submit to reserves to become available to my students?

ANSWER: The library's policy is to process your material within three working days. Please understand that the first few weeks of a quarter are extremely busy. Reserves is happy to receive your material before the beginning of a quarter.

QUESTION: How can my students find the materials that I put on reserve?

ANSWER: Students can use the library catalog to search for your materials by instructor name, course name, and course number. Tell your students to go to the library web site (<http://www.deanza.edu/library>) and click on the link on the left for the library catalog. Once inside the library catalog, click on the blue box labeled reserve desk to search for reserve materials.

QUESTION: How long can reserve items circulate?

ANSWER: You can choose a circulation period when you submit your material. Circulation periods vary from one hour to seven days. You can designate whether an item can be checked out overnight or not.

QUESTION: What copyright issues should I be aware of when submitting materials?

ANSWER: (See Appendix #3.) In general, there are two types of materials to consider:

originals and duplicates. Examples of originals include textbooks and books, music, and film purchased from the publisher. Original materials can remain on reserve for more than one quarter duration. Duplicate materials include photocopies of articles in magazines and journals. Such duplicate material can be put on reserve if the material meets the four factor fair use test provision of Section 107 of the Copyright Law of the United States of America (<http://www.copyright.gov/title17/92chap1.html#107>). Duplicate materials will be removed from the reserve collection at the end of every quarter.

QUESTION: What resources are available so I can better understand copyright and fair use issues?

ANSWER: (See Appendix #3.) The library has several books, which discuss copyright issues for educators. One such title available at the circulation desk is *Copyright Essentials for Librarians and Educators* published by the American Library Association. There are many good Internet sites as well. The U.S. Copyright Office is the authoritative site (<http://www.copyright.gov/>). You may also want to read from other colleges and universities, which reflect differing interpretations of fair use at educational institutions. One such site is called a *Crash Course in Copyright* developed by the University of Texas system (<http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm>). Additional views are offered at Stanford University's *Copyright & Fair Use* (<http://fairuse.stanford.edu/>), and Indiana University's *Copyright Management Center* (<http://www.copyright.iupui.edu/>).

QUESTION: Who can I contact if I have additional questions or comments?

ANSWER: Contact the Library Coordinator of Reserves

### Appendix #3

Copyright is a complicated issue and constantly evolves based on new legislation and ongoing case law. While faculty should acquire copyright permission when required, there are specific rights governing academic "fair use" of copyrighted material. As the Copyright Act of 1976 states,

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified in that section, for purposes such as criticism, comment, news reporting, teaching (*including multiple copies for classroom use*), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is

made upon consideration of all the above factors. (ibid).

Section 107 [emphasis added]

Clarifying fair use criteria:

In addition, the following practices may help reinforce that the copyright material is intended for non-profit, classroom use only:

1. Access. Materials should be restricted to only those students enrolled in the class for which such material is provided. Photocopies should be limited in number, and access to electronic material should be limited to the students in the class (e.g. a password controlled web page).
2. Duration. Such materials should not be used term after term. Any copies remaining at the end of the term (including electronic materials) should be destroyed. Copyright permission should be sought for materials used repeatedly, in successive academic quarters.
3. Alternative Delivery. Faculty may avoid placing themselves at risk by placing “one-time-use” materials on reserve in the library (see “Library” in main document and Appendix #2), or by directing students to pre-existing materials on the internet (such as full-text articles available to students through the academic indexes to which the library subscribes).

Faculty may wish to consult web resources including the following for additional information about copyright issues:

U.S. Copyright Law website:  
<http://www.loc.gov/copyright/>

State Academic Senate Website on copyright:  
<http://www.academicssenate.cc.ca.us/Publications/Papers/Intellectual.htm>

U.S. Copyright Office’s “Reproduction of Copyrighted Works by Educators and Librarians”:  
<http://www.copyright.gov/circs/circ21.pdf>

CETUS (a national consortium of state and city universities, of which CSU is a member):  
<http://cetus.org/fairindex.html>

University of Texas: Guidelines For Classroom Copying of Books and Periodicals  
<http://www.utsystem.edu/OGC/IntellectualProperty/clasguid.htm>

University of California at Berkeley’s “Copyright, Intellectual Property Rights, and Licensing Issues”  
<http://sunsite.berkeley.edu/Copyright/>

Stanford University Library’s “Copyright & Fair Use.”  
<http://fairuse.stanford.edu/>

## **Frequently-needed names and numbers**

Bookstore textbook buyer: Diane Hawley x8907

Library Coordinator of Reserves: Atousa Farhadtooski x8759

Director of Printing Services: Jose Menendez x8405

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*Approved by the Academic Senate Executive Committee on June 20, 2005*