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**FROM:** Rodney A. Erickson *Rodney A. Erickson*  
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**TO:** John S. Nichols, Chair  
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**SUBJECT:** Instructional Intellectual Property Taskforce

I am writing to ask you to serve on a task force that will assess Penn State's current policies and practices regarding faculty and University interests in and rights to the intellectual property that is created in the instructional realm. While policies and procedures are long-established and well-accepted with respect to research and invention, this is not generally the case with respect to instructional materials and classroom lectures beyond the traditional areas of book authorship and certain instructional materials (journal article copyrights having typically been signed over to publishers in past years, at least). However, the instructional realm is arguably the most rapidly changing segment of the University mission with the increasing use of online instruction and other forms of distance delivery that have been made possible with the revolutionary changes in information technologies. Thus, most universities—Penn State among them—are faced with the task of reassessing their policies and practices to ensure that an appropriate and equitable balance of interests is served.

To the extent that Penn State has addressed issues of copyright holding, intellectual property rights, and reproduction/use of course materials and classroom lectures, it has been done in a rather piecemeal manner over a period of several years—some might even say decades. Many policies have been adopted to address the issues that have arisen in the context of copyright and use of faculty-developed and faculty-delivered course materials and lectures. Among those that touch on the matter, at least to some degree, are the following policies:

- AD40 Classroom Note-Taking Services
- AD17 Royalty Payments for Course Materials
- FN14 Use of University Tangible Assets, Equipment, Supplies and Services and, most recently, and perhaps most directly
- RA17 Courseware

Yet, none of these policies adequately addresses emerging issues confronting Penn State, such as who owns the rights and/or controls the use of taped lectures and the materials used therein that are later re-broadcast to students or other constituencies as a part of either resident or distance education. Similarly, what, if any, rights might students and other participants have that would need to be relinquished or assigned to the university in order to enable the taping and/or rebroadcasting of such classes, seminars or programs for simultaneous or later access online or in distance-education.

We are asking the task force to examine emerging issues related to instructional materials and delivery to ensure that University policies are equipped to deal with contemporary and prospective situations. In the course of that analysis, we would also like the task force to review existing policies to assess whether or not they are both responsive to current practices and situations and consistent internally in terms of how issues of instructional courseware and lectures and the associated intellectual property ownership, control, and use are handled. As noted above, there are currently University policies that bear upon these issues that are lodged in the Administrative, Finance, and Research policy domains; the task force should consider whether it is appropriate to consolidate these existing policies into a single domain such as Administrative policies. We also request that the task force consider how peer institutions are approaching these matters, as well as the legal background that has evolved, while recognizing that there are elements to policy that go well beyond legal rights of employers and employees, including the culture of the institution that has evolved over time.

We are appointing a joint Faculty Senate-Administration task force to ensure that all relevant perspectives are addressed in the work of the group. We ask that the task force submit its final report to the Senate chair and the executive vice president and provost by November 1, 2008. Professor John S. Nichols, Associate Dean for Graduate Studies and Research in the College of Communications, has graciously agreed to chair the task force. Staff support will be provided by the Office of Planning and Institutional Assessment. We will meet with the task force to discuss the charge and respond to any questions that might arise at the time of the first meeting.

Thank you for your willingness to serve on this important task force.

cc: Faculty Senate Officers  
Graham B. Spanier