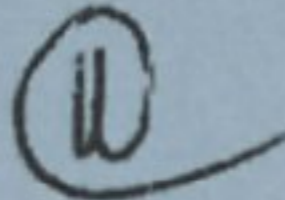


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MEMORANDUM

Date: January 30, 2000

To: Brenda Killingsworth, Ph.D.
Chair of the Faculty

From: Rose L. Allen, Ph.D. 
Chair, Teaching Effectiveness Committee
Member, Subcommittee on note selling

RE: Internet use of classroom notes for financial gain

Introduction:

It has recently come to the attention of the Faculty Senate's Teaching Effectiveness Committee and University administration that ECU students are being offered employment opportunities that require them to make their classroom notes available to internet companies who intend to use the notes for profit. Since this practice raises issues that are relevant to faculty, students and University administration, a joint subcommittee was formed and convened on January 28th which included members of the Teaching Effectiveness Committee, the Intellectual Property/Copyright Committee and the University Attorney's Office. Representation from the Student Government Association was not immediately available for this first meeting.

Discussion:

Three internet-sites have been identified that solicit students to become employed note takers: **versity.com; studentu.com; study24-7.com**. Students are paid a salary and/or bonuses to take detailed notes in their classes and then forward the notes within 24 hours to their employer for posting on the Internet. Although it is recognized that the practice of sharing or selling notes among individuals in a classroom has been ongoing over time, commercialization of class notes via the Internet raises new concerns about legal, educational, and ethical considerations. Many of these issues are described succinctly in the appended January-February, 2000 ACADEME article by Jonathan R. Alger, entitled "Classroom Capitalism".

Recommendation:

The subcommittee recognizes that the issues surrounding commercialization of classroom activities are complex and could become emotionally charged. Any policies developed in this regard must consider legal as well as ethical rights of the faculty, students and University. Since this issue will affect all affiliated campuses of the University of North Carolina, advice should be sought from such organizations as the University of North Carolina Intellectual Property Task Force and the University of North Carolina Faculty Assembly.

Classroom Capitalism

BY JONATHAN R. ALGER

IVIVIDLY REMEMBER TAKING detailed notes as a first-year law student on the days I was assigned to prepare a class outline. Students organized these outlines, and the copy center reproduced them, selling the packets back to students for review and use during open-book final exams. I suppose faculty members knew about this practice, but I don't recall any discussion of their rights in this context. Student notes have been available for sale for a long time. The emergence of the Internet, however, has allowed entrepreneurs to take this practice to a new level of commercialization and has raised vexing legal, ethical, and educational issues in the process.

For-profit Web site operators now pay students from colleges around the country to post notes from their courses. The sites make money from advertising. Professors and universities are not necessarily asked for permission, nor do they receive the profits.

Faculty members and educational institutions alike are questioning the legality and morality of this practice on several grounds. First, what about the intellectual property rights of faculty members in their lectures? Citing common law dating back at least as far as an 1825 English case, the AAUP noted in its 1915 *Declaration of Principles* that "the utterances of an academic instructor are privileged, and may not be published, in whole or part, without his [or her] authorization." In its 1999 *Statement on Copyright*, the AAUP reiterated the importance for academic freedom of faculty ownership of course materials. Such ownership was recognized by a state appeals court in a 1969 California

case, but in 1996 a federal appellate court upheld the dismissal of a copyright infringement suit brought by the University of Florida against a commercial note-taking company.

Founders of the new Internet-based companies claim that student notes represent nothing more than one person's recording of facts and impressions of a class, not theft of a professor's ideas. Some sites even include disclaimers indicating that the postings are not official lecture notes. As any faculty member knows, however, the creativity involved in developing a course includes countless decisions regarding how materials and ideas are presented. Thus institutions such as Kansas State University have established policies indicating that unauthorized note selling infringes on professors' copyright.

Professors have other legal reasons to be concerned about the proliferation of these note-taking services. Faculty members who offer controversial opinions about current events or public figures may not want their statements published in a format over which they have no control and in which they could be taken out of context. Professors seeking tenure or considering positions at other campuses may not want review committees to cast judgment on their work by logging on to the Internet and examining unauthorized notes from their courses that reflect nothing more than the quality of the note takers.

Above all, paid note taking and Internet dissemination can have invidious consequences for learning. If professors and students suspect that someone is selling notes from their class, they may be less likely to engage openly in discussions on sensitive topics. Faculty members may become less willing to discuss

new and untested theories or ongoing research that has not yet been published. And the note takers themselves may be focused more on the details of their notes than on the larger purposes and ideas of the course or on contributing to class discussions.

Faculty members and educational institutions can respond to this form of classroom entrepreneurship on a number of fronts. Purdue University professor Mathieu Deflem, for example, is turning the tables on these companies by taking advantage of a Web site and the Internet—the very same technology used by the note takers—to raise questions about their practices. A public awareness campaign by Ball State University's AAUP chapter led to the shutdown of a local note-selling business. Iowa State and other universities have developed policies stating that the sale of class notes without an instructor's permission violates academic ethics. Through collective action, professors can encourage their institutions to adopt such policies.

On the legal front, the University of California system has already filed a lawsuit against a traditional note-taking company that produces and sells lecture notes without university permission, and its Berkeley and Los Angeles campuses have sent cease-and-desist letters to two Internet-based companies engaged in this practice.

Despite the pervasiveness of marketplace models, not everything in higher education should have a price tag. The sharing of student notes is not inherently evil; it can serve valid pedagogical purposes. But faculty members and their institutions owe it to their students to insist that the essence of the classroom dynamic cannot be bought or sold. ✍

Jonathan Alger is AAUP counsel.

Parking and Traffic Policy Administrative Committee

**FACULTY SENATE PRESENTATION
February 1, 2000**

GOOD AFTERNOON LADIES & GENTLEMEN OF THE SENATE. ON BEHALF OF THE DEPARTMENT OF PARKING & TRANSPORTATION SERVICES, I THANK YOU FOR THIS OPPORTUNITY TO ADDRESS THIS BODY ON A SUBJECT THAT IS NEAR AND DEAR TO EVERYONE'S HEART- PARKING AT ECU. TODAY I'D LIKE TO TAKE ABOUT 10-15 MINUTES OF YOUR TIME TO GIVE YOU AN OVERVIEW OF WHERE WE ARE, HOW WE GOT THERE, AND SOME INSIGHT INTO WHERE WE ARE POSSIBLY GOING. AND THEN, DARE I SAY, OPEN IT UP TO A SHORT QUESTION AND ANSWER SESSION.

FIRST OF ALL, PARKING & TRANSPORTATION SERVICES MUST OPERATE AS AN AUXILIARY DEPARTMENT OF THE UNIVERSITY. ALL OVERHEAD, EXPENSES AND CAPITAL IMPROVEMENT MUST BE FUNDED THROUGH FEES AND FINES. NO PUBLIC MONEY IS

AVAILABLE TO BE USED FOR CONSTRUCTION OR MAINTENANCE OF PARKING FACILITIES.

OUR CURRENT INVENTORY OF PARKING SPACES ON THE EAST CAMPUS IS APPROXIMATELY 7724. AS YOU ALL HAVE NOTICED, THE CAMPUS IS GROWING AS EVIDENCED BY THE AMOUNT OF NEW CONSTRUCTION AND RENOVATIONS CURRENTLY TAKING PLACE ON THE CORE. THIS CONSTRUCTION HAS CAUSED THE ELIMINATION OF 107 PARKING SPACES AND ANOTHER 25 DESIGNATED AS CONSTRUCTION PARKING ONLY. MOST OF THIS CONSTRUCTION PARKING IS SCHEDULED TO TERMINATE BY MARCH 31.

AS PART OF THE LOSS OF PARKING SPACES, BOTH STAFF AND STUDENT, WE HAVE REDESIGNATED SOME PARKING AREAS. HARDEST HIT HAS BEEN RESIDENT PARKING. IN ADDITION TO REDESIGNATING SOME LOTS TO STAFF PARKING, THE CENTRAL MOTOR POOL NOW OPERATES THE FACULTY AND STAFF TRANSPORT (FAST) SHUTTLE SERVICE.

IT PICKS UP AT THE DOWDY FICKLEN STADIUM PARKING LOT CLOSEST TO BERKELEY DR. AND DROPS OFF EAST OF AUSTIN, BREWSTER/FLETCHER AREA, JOYNER LIBRARY. A SECOND ROUTE COVERS THE WEST SIDE OF THE CORE CAMPUS. THIS SERVICE IS VERY

FLEXIBLE IN THAT IF YOU NEED TO GET FRONT DOOR SERVICE TO YOUR BUILDING, IT CAN BE ARRANGED. THIS IS ESPECIALLY SO IF YOU ARE THE ONLY RIDER AT THE TIME. SINCE THIS SERVICE IS NEW, WE ARE OPERATING SET MORNING, LUNCH, AND EVENING HOURS. WE HAVE INCORPORATED OUR PARKING CONTROL OFFICER FORCE IN THE EVENING AFTER 6 PM. A CALL TO ECU PD AND TELLING THEM WHO AND WHERE YOU ARE WILL GET YOU A RIDE TO YOUR VEHICLE IF YOU MISS THE LAST SHUTTLE.

ALSO ALREADY IN PLACE IS THE ECU STUDENT TRANSIT SHUTTLE SERVICE THAT OPERATES FROM THE PARK & RIDE LOT AT MINGES. FACULTY AND STAFF ARE AUTHORIZED TO USE THIS SERVICE. ITS STOPS ARE IN FRONT OF CHRISTENBURY GYM AND JOYNER LIBRARY. \$2 FROM EVERY STAFF PERMIT SOLD IS PAID TO STUDENT TRANSIT TO COVER YOUR USE SINCE WE DO NOT PAY ANY FEES. I RIDE THIS SHUTTLE ROUTINELY TO CHECK ON IT AND 9 OF THE 10 TIMES I'VE USED IT, IT'S TAKEN 15 MINUTES FROM THE TIME I LEAVE MY VEHICLE TO WALKING INTO MY OFFICE. IT WILL TAKE LESS IF

YOU NEED TO GET TO THE CLASSROOM AREA. THERE ARE ALTERNATIVES TO DRIVING AROUND LOOKING FOR SOMETHING THAT DOESN'T EXIST AND PROBABLY WILL NOT CHANGE IN A TIMELY MANNER.

OUR CURRENT CAPTURE RATE FOR ENFORCEMENT IS ABOUT 88-89 %. IT BECOMES LESS WHEN WE ARE SHORT STAFF OR ENGAGED IN A SPECIAL EVENT TRAFFIC CONTROL REQUIREMENT. WHILE THIS IS BY NO MEANS ACCEPTABLE, IT IS PRETTY GOOD GIVEN THE ENFORCEMENT STAFF WE HAVE. WE ARE CONTINUOUSLY WORKING WITH OUR STAFF TO IMPROVE PUBLIC RELATIONS WITHOUT CREATING AN ENVIRONMENT WHERE THEY ATTEMPT TO ANALYSE EVERY VIOLATION.

WE HAVE RETAINED THE SERVICES OF CHANCE MANAGEMENT ADVISORS, SPECIALISTS IN UNIVERSITY PARKING AND TRANSPORTATION PROGRAMS TO CONDUCT A STUDY OF OUR CURRENT ENVIRONMENT AND ASSIST US IN DEVELOPING VIABLE COURSES OF ACTION TO ACCOMMODATE THE PENDING GROWTH OF THE ECU. THEY HAVE BEEN TO ECU A

COUPLE OF TIMES ALREADY AND WE HAVE SUFFERED SOME SETBACK IN TIMING DUE TO INCLEMENT WEATHER. HOWEVER, THEY WILL BE HERE TOMORROW AND THURSDAY.

TOMORROW WE WILL BE CONDUCTING A RETREAT WITH VARIOUS CONSTITUENCIES FROM AROUND CAMPUS AND THE CITY FROM 10 – 2 AT THE CLUB LEVEL, DOWDY FICKLEN STADIUM. THEY WILL BE PRESENTING SOME FINDINGS AND GATHERING ADDITIONAL INPUT FROM THE REPRESENTATIVES PRESENT. DR. FERRELL HAS AGREED TO ATTEND IN THE AFTERNOON AND I INVITE THE SENATE TO SEND ANOTHER REPRESENTATIVE, IF POSSIBLE, TO PARTICIPATE DURING THE MORNING.

THERE ARE MANY CHANGES ON THE HORIZON. OUR CONSULTANT WILL HELP US ARRIVE AT SOME VIABLE SOLUTIONS TO BECOME MORE EFFECTIVE IN OUR MANAGEMENT OF PARKING AT ECU. WE WILL ALL HAVE TO CHANGE DURING THIS GROWTH PROCESS. WE NEED YOUR INPUT AS USERS TO HELP DEVELOP POLICIES AND PROCEDURES.

EVERYTHING THAT REQUIRES SIGNIFICANT CHANGES MUST BE VOTED ON BY THE

PARKING & TRAFFIC COMMITTEE AND APPROVED BY THE BOARD OF TRUSTEES. JUST ABOUT EVERY ELEMENT OF THE PARKING PROGRAM AT ECU HAS BEEN THROUGH THAT PROCESS AND WILL CONTINUE TO DO SO.

LADIES AND GENTLEMEN, PLEASE FEEL FREE TO CALL ME OR E-MAIL ME WITH YOUR CONCERNS AND RECOMMENDATIONS. I AM YOUR PRIMARY POINT OF CONTACT FOR ISSUES REGARDING PARKING ON CAMPUS.

ARE THERE ANY QUESTIONS?

AGAIN I THANK YOU FOR YOUR TIME AND PATIENCE.