

2013-2014

Report of Conflict of Interest and Intellectual Property and Rights Committee 2013-2014

Committee Members:

Anne Wall, Faculty Representative (Chair)

Darren Michael, Faculty Representative

Stephanie Reeves, University Attorney (ex officio)

Andrew Shepard-Smith, Director, Grants and Sponsored Research (ex officio)

John Volker, Faculty Representative

Lisa Lewis, Faculty Representative

Phillip Hall, Faculty Representative

Tami Fraley, Staff Representative

Charge:

The committee shall evaluate conflict of interest disclosures as well as allegations or concerns raised relating to possible conflicts of interests and shall make determinations regarding what actions may be required to manage, reduce or eliminate conflicts of interests. The committee will also be responsible for reviewing disclosures submitted by employees concerning inventions, discoveries, and copyrightable materials which are derived from work supported by or through the institution, or which involve a significant use of the institution's resources. Recommendations of the committee concerning the rights and responsibilities of all parties will be referred to the President for final determination.

The committee was called to review three separate issues related to conflict of interest and intellectual property and rights during the 2013-2014 schools year. What follows is a summary of each of these issues and the committee's responses. All work of the committee was conducted through email, and the content of pertinent emails can be found at the end of the report.

The first issue came to the committee from Interim Provost Taylor on September 29, 2013. The issue concerned a book written by Dr. Steinberg in HHP and a disagreement he was having with the bookstore about its sale/rent. The following is an excerpt of an email Dr. Taylor received from the bookstore manager.

Dr. Steinberg uses a book he wrote, "Full Throttle," for his HHP 4040 and 5520 classes. It appears this textbook has been used and rented since the fall 2011 term and I assume he intends to use it for future terms as well. Dr. Steinberg wants the Bookstore to stop renting his book to students. Shonte, Bookstore

Manager, felt this was unfair to the students and the Bookstore advertises they rent "all" textbooks. But he insisted he didn't want his book rented and informed Shonte if she planned to rent it again, then he would stop providing the bookstore with the adoption information in future terms; which would be a violation of the bookstore contract. So, Shonte involved me as she is required to do.

After conversations with university attorney Stephanie Reeves, multiple emails among the committee members, and reviewing all pertinent materials, the committee was asked to answer the following questions:

Do you believe that Dr. Steinberg's request is a conflict of interest according to TBR policy?

The committee responded unanimously that a conflict of interest exists.

Do you feel we should make a recommendation to President Hall that he make an exception to the bookstore policy and require them to remove Dr. Steinberg's book, Full Throttle, from the rental option?

The committee responded unanimously that an exception not be made for Dr. Steinberg's book.

On October 8, 2013, we informed Dr. Steinberg of our decision and asked if he would like to meet with the committee. On October 10 he replied that he would like to meet with the committee to discuss the bookstores rental policies. I wrote him back on that day and told him we would be happy to meet with him about the conflict of interest decision, but that we had no jurisdiction over bookstore policies. I asked him to let me know if he still wanted to meet under those circumstances. He declined the meeting, and President Hall concurred with our decision.

The second issue came to my attention on October 9, 2013, when I received an email from President Hall regarding a book written by Michael Wilson of the GIS department. You can find the letter [here](#). The committee reviewed the information and determined that Mr. Wilson's work was not the product of University sponsorship or sponsorship through the University by agencies or persons outside the University. President Hall concurred with our decision.

The third issue came to my attention on October 18, 2013 when I received an email from President Hall about a request regarding the intellectual property of Art Professor Billy Renkl. The letter can be found [here](#). Professor Renkl was granted a Faculty Development Leave for the spring semester and wanted to make sure the work he created while on leave would not be the property of the University. The committee met

via email and unanimously determined that Mr. Renkl's work was a scholarly product and was not the product of University sponsorship or sponsorship through the University by agencies or persons outside the University.

If you have any further questions about the role of this committee or our decisions, please feel free to contact me.

Anne Sauder Wall, Ed.D.
Professor
Martha Dickerson Eriksson College of Education
Austin Peay State University
931.221.7509

Emails concerning the Steinberg decision

Dear President Hall,

I am writing this email to let you know of a recommendation reached by the Conflict of Interest and Intellectual Property and Rights committee concerning the APSU bookstore's rental policy of Dr. Gregg Steinberg's book Full Throttle. Dr. Steinberg requires his book for students in two of his classes and asked that the bookstore make an exception that this book not be available for rental. In an email to the committee, Dr. Steinberg wrote:

I use my book, Full Throttle, in two of my courses, Introduction to Sports Psychology (HHP 4040) and Sport and Exercise Psychology (HHP 5520). It has been approved to be used since its publication in 2009. My issue is that it is being rented.

My preference is that the book store only sells my book, new or used. I do not want it rented.

As I see it, the book store buys a certain volume of books, and then keeps them to rent to the students. This does lower the cost to the student, but the bookstore reported to me that the new purchase price is \$22.95 and renting it new is \$21.80, while the used purchase price is \$17.21 while renting it used is \$16.29. That is a savings of around one dollar.

If the student rents the book, they never can resell the book, or keep it. Tammy Silva, bookstore representative, also stated to me that the student makes up for the rental difference when they resell the book.

My main issue, however, is that when I publish a book with a publisher, I am now in business with that publisher. My publisher, John Wiley & Sons, is being hurt by the rental process, which I believe is not fair. I want to rectify this problem.

In terms of personal conflict of interest, the publisher gave me upfront monies when they bought my book. I need to sell approximately (and this is an estimate) 2000 more copies, before I see any royalties. Given that the book store sells approximately 50 Full Throttle books a year (another estimate), it would take 40 more years before I see any royalties from the purchase of my book.

Based on TBR and APSU policies on textbook availability and conflict of interest, the members of the committee responded to the following two questions.

Do you believe that Dr. Steinberg's request is a conflict of interest according to TBR policy?

The committee responded unanimously that a conflict of interest exists.

Do you feel we should make a recommendation to President Hall that he make an exception to the bookstore policy and require them to remove Dr. Steinberg's book, Full Throttle, from the rental option?

The committee responded unanimously that an exception not be made for Dr. Steinberg's book.

On October 8 we let Dr. Steinberg know of our decision and asked if he would like to meet with the committee. On October 10 he replied that he would like to meet with the committee to discuss the bookstores rental policies. I wrote him back on that day and told him we would be happy to meet with him about the conflict of interest decision, but that we had no jurisdiction over bookstore policies. I asked him to let me know if he still wanted to meet under those circumstances, and at this time, he has not replied to my email. I have copied the email correspondence at the bottom of this message.

Please don't hesitate to contact me if you have any questions.

Anne Sauder Wall, Ed.D.

Martha Dickerson Eriksson College of Education

Austin Peay State University

931.221.7509

From: Wall, Anne

Sent: Tuesday, October 08, 2013 12:33 PM

To: Steinberg, Gregg

Cc: Taylor, Jaime; Michael, Darren; Reeves, Stephanie R.; Shepard-Smith, Andrew P.; Volker, John; Lewis, Lisa; Hall, Phillip; Fraley, Tami S.

Subject: Conflict of Interest

Dear Dr. Steinberg,

The Conflict of Interest and Intellectual Property and Rights committee has responded to your request that an exception to the APSU bookstore rental policy be made for your book, Full Throttle. Based on the content of your email to me and TBR and APSU policies, the committee responded to these two questions. Following each question is a summary of the committee members' responses.

Do you believe that Dr. Steinberg's request is a conflict of interest according to TBR policy?

TBR defines conflict of interest as that which occurs when the personal interests, financial or otherwise, of a person who owes a duty to the Tennessee Board of Regents and its constituent Institutions (Regents and all employees) actually or potentially diverge with the person's professional obligations to and the best interests of the TBR and its Institutions.

The committee responded unanimously that a conflict of interest does exist. The committee believes that a faculty member's concern for profits to the publisher/ author of his/her book above the best interests of students of TBR institutions is a conflict of interest. Requesting a special exemption from a book store policy that is applied to all textbooks stocked, solely for the financial gain of the author/ publisher of that book, would be a disservice to students who opt for rental. The cost of textbooks is a reoccurring issue and the revelation that students were being forced into a non-rental position in order to help a specific author/ publisher's financial situation would certainly not be in the best interests of APSU students.

Do you feel we should make a recommendation to President Hall that he make an exception to the bookstore policy and require them to remove Dr. Steinberg's book, Full Throttle, from the rental option?

The committee responded unanimously that an exception not be made for Dr. Steinberg's book. APSU policy 2:017 states that a textbook should "provide a reasonable cost to a student." Exempting Full Throttle from the established and implemented rental policy would limit students from having access to cost savings that are available for other textbooks. Also in APSU policy 2:017 and relevant to this request is the statement "... faculty members should consider practices that reduce the cost of course materials, such as recommending the adoption of the least expensive option from the available products that meet the requirements of the course." If the rental option for this book is eliminated, the least expensive option for acquiring the book at the bookstore is also eliminated.

I have included a link to a flow chart that details the process of conflict of interest decisions. If you would like to request an opportunity to appear before the committee, please let me know by Thursday, October 10 at noon, and I will schedule a meeting for next week. Please don't hesitate to contact me if you have any questions.

Anne Sauder Wall, Ed.D.
Martha Dickerson Eriksson College of Education
Austin Peay State University
931.221.7509

http://www.apsu.edu/sites/apsu.edu/files/policy/5056_link_Conflict_of_Interest_Procedures_and_flow_chart_0.pdf

TBR defines conflict of interest as:

Conflict of interest - occurs when the personal interests, financial or otherwise, of a person who owes a duty to the Tennessee Board of Regents and its constituent Institutions (Regents and all employees) actually or potentially diverge with the person's professional obligations to and the best interests of the TBR and its Institutions.

APSU Policy 2:017, under Process for Adopting Textbooks,

Faculty members shall submit requests for all textbook adoptions to the appropriate chair/director (or department/school Textbook Selection Committee) in an adequate timeframe for consideration

Also in APSU Policy 2:017 under the heading "Criteria for Textbook Selection" is the statement that any proposed textbook should:

b. provide a reasonable cost to students. As a way of ensuring reasonable cost, faculty members should consider practices that reduce the cost of course materials, such as recommending the adoption of the least expensive option from the available products that meet the requirements of the course.

On Oct 10, 2013, at 11:42 AM, "Steinberg, Gregg" <SteinbergG@apsu.edu> wrote:

Anne,

Yes I would like to appear before the committee, I also found out this interesting fact as it seems that renting my book hurts the students financially:

Here is what I found about my book, Full Throttle:

You can buy it new for \$22.95 and rent it new for \$21.80 for a savings of a little more than a dollar

You can buy it used for \$17.21 and rent it used for \$16.29 for a savings of less than a dollar,

But.....according to Shonte in the bookstore, they buy my book back at half price (of the original sales price). Thus, students can sell their book back for about \$11.50 if it is new. This indicates that they are actually losing more than \$10 when they rent it!!

Yes they save in the front end but are hurt much more in the back end when selling it back.

I do not know about the other books, but I am sure there are many similar incidences that happen.

Sincerely,
Gregg Steinberg
HHP

Re: Conflict of Interest

REPLYREPLY ALLFORWARD

mark as unread

Wall, Anne

Thu 10/10/2013 3:03 PM

Sent Items

To:

Steinberg, Gregg;

Cc:

Taylor, Jaime;

Hi Gregg,

I do understand what you're saying, but I don't believe that is an issue for this committee. Our charge was to decide whether or not your request to exempt your book from the rental policy at the bookstore was a conflict of interest based on the argument that your publisher was being hurt by the rental policy.

The committee found unanimously that this was indeed a conflict of interest and decided not to recommend to President Hall that he request the bookstore make a rental policy exception for your book.

If you feel that the bookstore needs to change its policy regarding the rental of all required textbooks, you should contact the bookstore liaison, Tammy Silva, to see how to begin that process. Initiating changes in bookstore policies, however, are not the business of the Conflict of Interest committee.

If you would still like to meet with the committee to discuss the conflict of interest (that your publisher is being hurt financially by the bookstore's rental policy) we can schedule a meeting to do that. I don't believe it is a good use of the committee's time, however, to call everyone together to discuss bookstore policies over which we have no jurisdiction.

Please let me know as soon as possible.

Thanks,

Anne

Emails concerning the Wilson decision

From: <Wall>, Anne <WallA@apsu.edu>
Date: Thursday, October 17, 2013 3:40 PM
To: Tim Hall <hallt@apsu.edu>, Joanne Shepard <shepardj@apsu.edu>
Cc: "Reevers, Stephanie R." <reeverss@apsu.edu>
Subject: RE: Copyrightable Work Disclosure

Dear President Hall,

The committee determined that Mr. Wilson's work was not the product of University sponsorship or sponsorship through the University by agencies or persons outside the University.

Please let me know if you have any other questions.

Anne

Anne Sauder Wall
Associate Professor, Martha Dickerson Eriksson College of Education
Austin Peay State University
931.221.7509
From: Hall, Timothy
Sent: Thursday, October 17, 2013 2:43 PM
To: Wall, Anne; Shepard, Joanne
Cc: Reeves, Stephanie R.
Subject: Re: Copyrightable Work Disclosure

Dr. Wall, was the committee able to determine whether the work discolored by Mr. Wilson was the product of University sponsorship or sponsorship through the University by agencies or persons outside the University?

Timothy L. Hall
President

Austin Peay Logo

P.O. Box 4576
Clarksville TN 37044

(931) 221-7567 (office)

(931) 221-7297 (fax)

From: <Wall>, Anne <WallA@apsu.edu>
Date: Thursday, October 17, 2013 9:56 AM
To: Joanne Shepard <shepardj@apsu.edu>
Cc: Tim Hall <hallt@apsu.edu>, "Reevers, Stephanie R." <reeverss@apsu.edu>
Subject: RE: Copyrightable Work Disclosure

Dear President Hall,

The Conflict of Interest and Intellectual Property and Rights Committee has reviewed Michael Wilson's information and unanimously determined that no significant use of the University's resources were involved in his publication.

Please let me know if you have any questions.

Anne Sauder Wall
Associate Professor, Martha Dickerson Eriksson College of Education
Austin Peay State University
931.221.7509
From: Shepard, Joanne
Sent: Wednesday, October 09, 2013 9:21 AM
To: Wall, Anne

Cc: Hall, Timothy; Reeves, Stephanie R.
Subject: Copyrightable Work Disclosure

Dr. Wall,

Please see President Hall's referral to the Conflict of Interest and Intellectual Property and Rights Committee.

Joanne Shepard

Please refer to the committee.

Timothy L. Hall
President

From: Reeves, Stephanie R.
Sent: Thursday, October 03, 2013 6:18 PM
To: Hall, Timothy
Cc: Shepard, Joanne
Subject: Copyrightable Work Disclosure

Attached is a disclosure of a copyrightable work submitted by Mike Wilson. The policy <http://www.apsu.edu/files/policy/5019.pdf> indicates that the disclosure should be made to you or your designee and then referred to the IP/COI Committee.

Stephanie R. Reeves
University Attorney
Austin Peay State University
Post Office Box 4628
601 College Street
Clarksville, TN 37044
(931) 221-7580 Phone
(931) 221-7569 Fax
reeverss@apsu.edu

Hall, Timothy

Fri 10/18/2013 8:31 AM

Inbox

To:

Wilson, Michael;

Cc:

Wall, Anne;

Reevers, Stephanie R.;

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Mike, the Conflict of Interest and Intellectual Property and Rights Committee has reviewed your disclosure concerning the text you plan to publish. The committee determined that no significant use of the University's resources were involved in your work and that it was not the product of University sponsorship or sponsorship through the University by agencies or persons outside the University. I accept these findings of the committee and hereby waive any university claims in the text.

Timothy L. Hall

President

Emails concerning the Renkl Decision

Good Morning, Anne,

I am writing you because you are listed as the chair of the Intellectual and Property Rights Committee on the campus website. If you are no longer in that position, please let me know.

I have been granted a Faculty Development Leave for the Spring Semester. The project I proposed was to do a series of artworks in preparation for an exhibition at the campus museum at Auburn University (The Jule Collins Smith Museum of Art). The work will also be hung in a show next Fall at the Customs House Museum, and I expect some part of it will go on to other non-profit venues. I am writing to discover what my obligations to the University are after that.

Academic and non-profit exhibition venues typically want to show my newest work, and they are the best audience for much of what I make. After several years, though, I usually place some portion of the work with a commercial gallery. Several colleagues have suggested that the University might feel some ownership of the creative work that I do while I am on leave, and I'd like to be clear about that. (I will bear some considerable expense in framing the work for exhibition, in addition to the cost of making the work.) I am not so concerned about the copyright of the work – I don't foresee publication beyond exhibition catalogs and publicity materials, certainly not for any monetary gain. I would just like to confirm that I will own the physical works, and am free to consign some part of them to a gallery.

Could you advise me how to proceed?

My thanks, Billy Renkl

Dear President Hall,

The committee unanimously determined that Mr. Renkl's work is a scholarly product and is not the product of University sponsorship or sponsorship through the University by agencies or persons outside the University.

Please let me know if you have any questions.

Anne

Anne Sauder Wall
Associate Professor, Martha Dickerson Eriksson College of Education
Austin Peay State University
931.221.7509