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Academic Senate Minutes

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Spring 4-6-2016

### Senate Meeting, April 6, 2016

Academic Senate  
*Illinois State University*

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## Academic Senate Minutes

April 6, 2016

(Approved)

### *Call to Order*

Chairperson Kalter called the meeting to order.

### *Roll Call*

Secretary Lonbom called the roll and declared a quorum.

### *Chairperson's Remarks*

**Senator Kalter:** Thank you. And, I'm just going to make a very brief chairperson's remarks. Because we have a lot on the agenda tonight, if there are no objections, I may rearrange the agenda slightly just to make sure that the major items needing attention are attended to first, and also that we end by 8:30 tonight. So, the Withdrawal Policy and Economic Interest Disclosure Policy may be carried over to a later meeting since those two are not very urgent, but we'll see how it goes. And that's my remark, and we'll move on. Does anybody have any questions or objections to any of that? Alright, so we'll move on to Student Body President Remarks, and I believe these are the last.

**Senator Powers:** Yes and no. I'll be giving the new President's Remarks at the next meeting, but I'll still be at Senate. So this will be my final remarks for the Senate. This past week I attended IBHE SAC. The main discussion was, of course, the budget and Lobby Day. Lobby Day will be held April 20th, and hopefully multiple universities will be going to Springfield to lobby on behalf of students. And, lastly, the election results. This last week, the election results were made public, and I'd like to introduce the next Student Body President, Kyle Walsh, the next Vice President, Zach Schaab, and, lastly, the Chief of Staff, Mr. Alex Goldstein. The new Association will be taking office Monday, after passing the gavel this Sunday. And with that, I yield for questions.

**Senator Kalter:** Are there questions for Senator Powers? Senator Goldstein knows what a good chief of staff does. He stays anonymous by not having his nametag up. So, congratulations to about-to-be Senator Walsh, and I will say it has been a sincere pleasure to serve with you.

**Senator Powers:** Thank you. It has been the same.

### *Administrators' Remarks*

#### ● *President Larry Dietz*

**Senator Dietz:** Thank you very much. I, too, will be brief. I want to say congratulations to Senator Powers on a successful year. We have appreciated your good and hard work, and your team. I also want to say congratulations to Kyle and his team. I look forward to working with all of you.

In terms of budget, it's kind of like Groundhog Day again. Not much has changed. I do go tomorrow to Springfield, and I'm meeting tomorrow with the Republican leadership, and also with the Chair of the Illinois Board of Higher Education and the Executive Director of Illinois Board of Higher Education, and I'll be representing all the public universities tomorrow at those meetings, so it's more informational and trying to get a sense of where they are headed right now. Also, going down again the following week on the 14th to appear before the Senate Appropriations Committee, so send good vibes to me that day if you would. It would be much appreciated. Also, I want to make an announcement about the Vice President for Student Affairs position. There will be an announcement tomorrow. We've offered, and the offer has been accepted, and the announcement will come out tomorrow. I want to say thank you for all that served on that search and screen committee. You did a wonderful job, and we're going to have a wonderful new Vice President for Student Affairs. I will bring that person to this meeting in the future, and the start date will be July 1, though, so it will be a little while.

This morning we had a Community Partners breakfast that we do every semester. We had about 150 people here, business leaders and public servants from throughout the community, and Professors Mohammadi and Beck made a terrific presentation today on the economic impact of Illinois State University in this community, and it was a great report. They did a wonderful job of putting all of that together, and the multiplier effect for the work that we do here and the budget that we have is about 1.5 in the overall surrounding communities. So the impact of Illinois State University on the surrounding communities is \$832 million, and that was a significant amount, and I wanted to thank the professors for putting that together, and we'll make that available to the legislators, and I'd be happy to make it available to this group, too, if you have an interest in seeing that. Thank you.

**Senator Winger:** Was that just the economic impact of the standing budget, or was that report on sort of the long-term impact of having a community that has a more highly educated workforce and a more innovative set of graduates out there creating new businesses?

**Senator Dietz:** It really was the impact of our budget on goods and services that are both prepared for the university and also purchased by individuals in the university, as well as those that are providing us the goods and services. So it's about grocery stores and restaurants, landlords, and all of that, but it does not include any special sporting events, or Homecoming, or anything of that nature. It's a relatively conservative report, and it's still an \$832 million impact, so the point that I'm making tomorrow with the Republican leaders, and I'll do the same next week, is that not only are we as a university impacted by this impasse on the budget, but the entire communities are impacted whenever we're not filling positions, other institutions are laying off and furloughing staff and faculty. We're not doing that, but when you do that, it impacts the entire community. It's not just a university issue.

**Senator Winger:** Thank you.

● **Provost Janet Krejci:**

**Provost Krejci:** Thank you. My congratulations to Ryan Powers. It will be fabulous to have him as Student Board of Trustee, and also to Kyle Walsh. We are looking forward to his leadership, and the rest of the new electees. I also want to do some congratulations. We had Commitment to Diversity awards here in this room on Sunday, and we had some fabulous award winners, and I will just remind people, every year we do that, an amazing impact on our university. We've also had a special tribute in the last week where there is an honor society for transfer students that choose universities to be on the honor roll to providing the best transfer experience. There are 40 universities nationwide that get this honor, and Illinois State has been awarded this. The only other university in Illinois is DePaul University, and we will have quite a celebration on this in the coming weeks.

I also would like to identify that ACE – American Council on Education – along with the Department of Education has held a roundtable with presidents about diversity of campuses, and they've decided to also hold a roundtable to invite a selected group of people from universities across the country to meet in Washington DC on April 25th, and I've been invited, along with my designee, and asked to bring one faculty member, so Dr. Doris Houston will be representing us at the roundtable in Washington DC on April 25th, and given my own inability to be there, Dr. Sam Catanzaro will be there, so we will look forward to that information in the near future. I also would like to just say we have Latina Festiva on April 15th. The Spanish Club sponsors that. I'd like to spread the word. I told them I would, and that's going to be a lot of fun, and we can get you more information if you'd like.

The Associate Vice President for Research and Graduate Studies will be announced within the next week, we hope, and we will have a wonderful candidate to be filling that role. We have a verbal offer out and accepted, and we are excited about that. The Cross Chair, as you know, has been filled by Dr. Jen Friberg, and we're very excited about that. Some of you know that Dean Perry Schoon has been selected as an American Council of

Education Fellow, which means he will spend a residential year hosted by another campus, and spend the year studying higher education. I have been interviewing leadership in the College of Education, and we hope to name an acting dean within the next couple of weeks. I would also like to tell you that we kicked off the search for the Dean for the College of Applied Sciences and Technology, and met with their leadership group so that we can kick off that search starting late summer/early fall.

In terms of enrollment, we have some good news. Nearly 3000 new students have confirmed their enrollment by putting down a housing or enrollment deposit, and compared to last year, we have received 100 more housing applications to date than this time last year. That's fabulous news given the State. The average ACT of our students who have committed to us is up, an average of 23.9 versus 23.6 at this time last year. The Honors Programs is looking to have potentially over 500 students. This is a big draw in terms of where we're going. Diversity is also higher. So, just a reminder that we're registering students, students are visiting. Please welcome all of our students and parents on campus. That would be wonderful. Overall deposits for admits are still a little down. Housing is up, and the academic is down, but we're decreasing that gap, so all in all, we have very good news and, again, I want to thank all of you for welcoming students to making this place as great as it is to have the kind of stats we continue to have. A reminder, the Research Symposium is Friday, 9:00-3:00 in the Brown Ballroom, and with that, I'll cede for questions.

- ***Vice President of Student Affairs Brent Paterson***

**Senator Kalter:** Vice President Paterson had to be out of town today.

- ***Vice President of Finance and Planning Greg Alt***

**Senator Alt:** Thank you, Senator Kalter. I have three items to comment on tonight. First is the request that you put in that I provide a brief comment on the Administrative Technologies communication last week related to an increase in emails sent from ISU being blocked or blacklisted by certain sites. And the gist of that communication was to make users aware that there is an increasing use of university user IDs to generate nuisance emails, and this is resulting in certain websites blacklisting the source of that email. So, I think why it was scaled up a little bit to cause the announcement last week with these increased phone calls is because State Farm was one of those sites, and OSF. This is nothing really new. We've had this kind of thing as people's user IDs, as in this case, passwords get compromised. That enables these nuisance emails to be sent out, and so a lot of these places will automatically block that. If it happens – and I think the communication explained that – you should contact Administrative Technologies so that they can then be aware of that, and they can get the site re-established. But it's just an increasing problem with particularly these more and more sophisticated phishing scams, which are now more successful in acquiring user ID and passwords, and so we're going to do some things to try to help mitigate that. One, is we're going to try to retire some of these old email systems where some of this information exists, and retire some of that. But also, we are beginning to plan for a campus-wide password reset. That will probably begin administratively in the summer, and then go into the fall to help offset some of that.

Second item is to update you on the extended search for the Associate Vice President for Administrative Technologies and Chief Technology Officer. As you know, our first search concluded in our preferred candidate not accepting our offer due to personal reasons more than anything, so we've extended that search. It's well on its way. We're in the phone interview stage, and our goal is still to try to complete that search for that position by the end of the semester. And, finally, of particular interest to our student senators, perhaps, is that after our continuing recent upgrades, our network capacity in the residence halls has now increased tenfold, and effectively relieving the spotty network performance that was reported previously by some residents. Cardinal Court networking upgrades were scheduled for this summer, and now two-thirds of the campus has received upgraded wireless networking, with the project scheduled to be complete by December 2016. Glad to answer any questions.

**Senator Shurhay:** Are there going to be any upgrades going to Tri Towers over the summer at all?

**Senator Alt:** There are, and that will be the completion of it. I think they've even begun, but yes, Tri Towers will be upgraded. We did Watterson over the holiday break. I think maybe Manchester-Hewitt, and then Tri Towers will be upgraded.

**Senator Alcorn:** When you say "retiring old email," does that mean that will be ending Redbirdmail for faculty and staff as well?

**Senator Alt:** Eventually, we're going to migrate the whole campus to Microsoft 365.

**Senator Alcorn:** Right. I was just wondering when that is coming?

**Senator Alt:** There's a plan to rolling that out. But that's not our primary goal. We actually have some very old email server systems of some legacy things, particularly that really should not be used, but some people are still using. We need to start retiring some of those because there's just too much availability of IDs and passwords, but eventually the campus-wide plan, which students have already had implemented, is to go to Microsoft 365.

**Senator Kalter:** Thanks very much for getting the information on that one email that got sent out about the blocking and the phishing scams and all that. Senator Alcorn, I just saw Senator Gizzi in the hallway, who is on the task force for migrating to 365, and he said they were looking at possibly starting the tech folks onto it sort of now-ish, and then starting faculty/staff rolling into it in the summer into early fall. So, I don't know whether that will stay stable, but that was about an hour ago.

***Action Items:***

***03.07.16.01 Mennonite College of Nursing Bylaws-Markup (Senator Crowley/Rules Committee)***

***03.07.16.02 Mennonite College of Nursing Bylaws-Clean Copy***

**Senator Kalter:** We'll move onto our action items, and first is Mennonite College of Nursing Bylaws. And I'll pass that over to Senator Crowley.

**Senator Crowley:** Thank you very, very much. The Rules Committee is delighted to recommend approval of the Mennonite Bylaw revisions. The Mennonite College of Nursing has increased representation on committees, reorganized, and updated their bylaws, and our colleagues from Mennonite are here to answer any questions that our Senate has for them.

**Senator Kalter:** And Senator Crowley, are you formally putting the motion on the floor?

**Senator Crowley:** I formally put the motion on the floor. Thank you.

**Senator Kalter:** Excellent. We don't need a second because that comes from a committee. Do we have any questions or any debate? I had a feeling not, so all in favor then of passage of the revised Mennonite College of Nursing Bylaws please signify by saying aye.

The action was unanimously approved.

**Senator Kalter:** And, we usually don't invite guests to say nothing, but in this case I think it's sort of a good thing, right? So, thanks very much for being here, and congratulations on your new bylaws.

***Information Items:***

***03.03.16.02 Intellectual Property Policy (Faculty Affairs Committee)***

**Senator Kalter:** We're going to skip over our next two action items to go first to the information item on the Intellectual Property Policy, and I'll ask our guest to come to the table: Cory Abernathy and Alice Maginnis.

Cory, you're going to have to remind me of your exact title, because I don't have it memorized, and Alice Maginnis is one of our University Counsel.

**Cory Abernathy:** I'm the Intellectual Property and the Export Control Officer.

**Senator Kalter:** Thank you. And then of course we've got John Baur, the interim AVP for Research and Graduate Studies, and then sitting next to them is the Chair of the Faculty Affairs Committee, so I'll actually pitch that first to Senator Rich.

**Senator Rich:** So, I'll just start by introducing our guests as a whole, here. Again, this is the second information session on this because of its complexity and importance, I believe. But, our guests, again, Alice Maginnis, Associate University Counsel, Cory Abernathy, Intellectual Property and Export Control Officer. I'll mention Jason Wagoner, Director for Research and Sponsor Programs is involved in a lot of these discussions as well. And then, John Baur, Associate Vice President for Research and Graduate Studies, and I think John has some introductory comments to tonight's discussion.

**Senator Baur:** First of all, I want to thank everybody for submitting the questions last time and through the survey. In the interest of trying to address those not in person – all of them – we did spend some time writing up some answers to the questions, which hopefully was distributed to everybody and you have a copy of those. A couple of things I wanted to just mention about that. There were a couple, clearly from the comments, some misunderstandings of our intention in the policy, especially with the student IP. Our intention for the student IP was definitely to pretty much make it much more favorable to the students, and not at all claim any sort of ownership of student IP. I think Alice will say a little bit about that. But also, one of the other points of confusion seems to be copyright versus patent as well, which Alice will address since it's a little bit more technical as well. The idea of the policy is to set, basically, the ground rules for intellectual property, both in copyrights and patents, at the University. The intent when we were drafting it was to try to make it a little bit more on the faculty-friendly side. As we surveyed different policies, and if you look at the summary sheet as well, there's a wide range of ownership for copyright, patents, and different ways students are handled, and we tried to make it very favorable for the faculty and students. Anyway, Alice is going to give a brief summary of the ground rules and the new policy.

**Alice Maginnis:** Good evening, everyone. I won't take up too much of your time, but we thought, given some of the questions that were included in the written comments from the prior week's session, we thought it might be helpful to kind of go over what I'm calling the default rules of the road, in terms of IP, and thought that might be a helpful frame to help folks understand how the policy is organized, and some of the intent behind some of the changes. So, as John mentioned, IP at its 30,000 foot level really deals with three general categories. Copyrights, and that can be things that you write, things that you create. Movies, for example, are subject to copyright. The second general category relates to patents, and that really relates to innovations and inventions. It's the legal mechanism that kind of controls those types of developments. And then the third category is trademark. That's not particularly relevant with respect to the IP policy. So, with that kind of overarching umbrella of what IP is, the IP policy as it currently stands, as well as the draft IP policy that has been circulated for consideration, really tries to establish the broad rules of the road for how ownership interest with respect to intellectual property created by members of the University community, staff, how that's managed at a broad level on the campus.

So, I think the first thing to understand is with respect to copyright. The definition that I think you guys have all seen is called the Traditional Academic Copyrightable Work definition. It's a bit of a mouthful, but that's a holdover from the current IP policy, and it's really intended to honor the longstanding tradition within higher education that faculty control the types of work that fall within that category. And it's a really broad category. It covers pretty much everything from course materials to scholarly journals to works of art. Basically, anything that could be copyrightable for what we would call a traditional academic purpose, the ownership of those works under the policy is reserved to the faculty or the creators of those works.

The second area relates to students. So, the default rule under the current IP policy for students, as well as the proposed draft policy, really is that the University claims no rights with respect to student works. Anything that a student creates in the course of an actual academic class, or if they create things on their own with groups of students, those are the students' works. The current IP policy has one kind of limited use right, and that relates to the area of thesis and dissertation, and there's a limited right to request a copy of the thesis or dissertation be stored for archival purposes. So, some of the questions that came up related to entrepreneurial activities that students might engage in, and whether or not the university would have any rights. I know there are activities around campus that are designed to really facilitate student entrepreneurial activities, and again, the intent of the policy there is that the University would not have any ownership rights. Those would be held by the students, managed by the students, and even where there would be specific resources devoted to students' entrepreneurial activities, like resources for an RSO. In those scenarios, the rights would still be held by the students.

The third big category of ownership rights is really where the circumstances that would lead to the creation of an ownership right for the University. So, the University would get ownership rights in a couple of ways. The first way is really as a work-for-hire. That would be where the University requests that a particular work be created. So, if my boss wanted to hire me to write an intro to IP, for example, and that was part of my job, and I wrote that, that would be created as a work-for-hire, and the University would have ownership rights to that. So, just contrast that to the traditional academic copyrightable work category, and, basically, everything that is expressly commissioned and under the draft policy would have to be in a written agreement, would be the University. Everything else reserved to the faculty in terms of copyrightable works. A couple other scenarios where the University would have ownership rights, and that would be where there would be substantial use of University resources, where there might be a sponsored research agreement in play, or for patentable works.

I hope that at least gives some backdrop of the area of what we're talking about and how it's classified under the policy, and at least the intent behind some of the changes.

**Senator Kalter:** Thanks you. And, Cory, did you have anything that you wanted to add?

**Mr. Abernathy:** Yes. I really just wanted to mention, this proposed revision is intended to be a clarification. We're trying to clarify the old policy, clear up some gray areas, but really it tends to be a creator-inventor-friendly policy as compared to similar institutions in the state, and that's what we're trying to do here.

**Senator Baur:** Can I just add one more thing? I did want to address the question about the royalty distribution and the idea behind the University getting a fraction of the royalties is that it gets reinvested in the academic enterprise, essentially. So when we were doing our research on the other policies, we looked at the different universities' distributions, and I think in our first draft policy we put a split of 65% university, 35% creator or inventor. That was somewhat in the middle of the road as far as the different policies that we looked at, but after looking at the comments, we are suggesting that we change that to 40/60, so 40% for the inventor, 60% for the university, which is still within the range of most policies, and probably in the tail end of the inventor-friendly side of the range.

**Senator Kalter:** Thank you. We appreciate that, by the way. We also appreciate the enormous amount of work that has gone into this policy over, I think, at least two years, if not more. And also, thank you very much for the printout answering the collected questions, because that was extremely helpful to have that prior to this meeting, so everyone can read through that, and we can kind of have the discussion on other things that might come up.

**Senator Rich:** Just a quick addition. I want to note that the Faculty Affairs Committee both prior to forwarding and endorsing the policy, and even tonight in our meeting review, had significant question and answer sessions with these folks. It may be helpful to think in terms of what should I compare this to? Three things to compare it to – one is the legal default were there no university policy. Second is the current policy

that is currently three decades old at this institution, and three decades ago this was a very different institution. Third, as John has pointed out, other institutions, and there has been significant review of other institutions. So, the new policy is an important update. There is a lot less unsaid, and that which is unsaid falls within legal default. So, less unsaid can be good, and in this case, I think it's fair to say that it is relative to those comparisons, creator-friendly, student-friendly, and for the University, resource-allocation smart. And with that, I'm happy to have a great discussion tonight.

**Senator Kalter:** Great. So, last time we stopped with questions at the end of Section 3, so what I thought I would do is start the questions, find out first if there were questions on Section 4, then go to Section 5, and then just go back to overall questions if there are any. So, let's turn to Section 4. Section 4 is about administration. Are there any questions about that section?

**Senator Hoelscher:** This falls under 4.5 Revenue Distribution. I think you've already answered this question, but, basically, you're suggesting moving that to a 40/60? And the basis behind that is a lot of research, and that falls a little to the inventor's side of middle of the road?

**Senator Baur:** I would say it falls very far to the inventor's side of the institutions, and I surveyed all of them in the state as well, in addition to these, and it's very far to the inventor's side for all the state institutions as well.

**Senator Hoelscher:** And I'm guessing... I've had long conversations with Cory as well, and that comes along with significant help from the University would be my guess?

**Senator Baur:** Yes. This distribution would only occur once the invention was patented and there were a lot of costs incurred and development and licensing and all that.

**Senator Rich:** Yes. Additional comment to Senator Hoelscher's question. So, one, it's important when comparing to other university policies that you read very carefully the fine print. Many of those declare a certain percentage in the 35/65 range, until it crosses a million, and then the university starts getting more and more and more, and that's not the case here. This is unconditionally 40/60 straight through. There's also usually, in many cases, I'll just mention Northwestern takes 20% off the top before you hit the 35/65, so it's a 27% creator, despite seeing a 35%. It's not. And so this is much more simple, much more transparent, and much more consistent throughout. The other thing I'd point out is that revenue distribution is a default. If you're a creative faculty member, and you see something coming ahead down the road a couple years, and you would like the University to be a partner in investing resources, perhaps release time. I mentioned the situation of having a brother-in-law as a patent lawyer that you're willing to donate time to the University. Whatever set of conditions, you can enter into a contract – negotiate a contract – with the University, and this 60/40 is a default in lieu of contract. So, this is when you don't have that. So if you, ahead of time, want to discuss with the University what's coming down the road, predisclose and have that discussion, the University is happy to do that, and I think it would be in all parties' interest to predisclose as early as possible under those circumstances.

**Senator Kalter:** Other questions about Section 4? I just have one that came up under another section, but I'll bring it up here because it applied to a couple of different sections. I think I started to understand after reading the response about the difference between the IP Committee and why there wouldn't be a logic to an appeal to the Academic Freedom Committee, and I'm wondering if you can sort of articulate that rationale verbally, because not being somebody who will ever probably patent anything, it doesn't really apply to me, and I'm just trying to wrap my mind around the difference between the terms that we're talking about.

**Senator Baur:** Sure. So, you're right. The only time this would likely come into play is for a patentable invention because the copyrights is either owned by the faculty or there's a written agreement. So, in the case of patents, our position would be that the ownership is set by the policy. The decision about whether to move forward and invest resources into proceeding towards a patent is a fiscal decision and, therefore, there's not an academic freedom issue with deciding whether to invest the resources in protecting the technology or whatever



the patentable invention is. So it should be more of a fiscal line than academic freedom line of appeal, and so we do include the IP Committee in the decision, and then the appeal process, I believe, is a shared governance body, which is four Senators appointed from the Academic Senate. But then the ultimate appeal would be to the Provost who is the person financially responsible for investing resources in Academic Affairs. So, from our perspective, we don't foresee that these types of decisions are academic freedom types of issues. It's more whether to invest the resources or not.

**Senator Kalter:** So, in a sense, who owns the intellectual property is determined somewhere else. Specifically, you're saying it's determined in the policy. Or, if you think that there's a problem there, you might hire a lawyer, or you might do something else. You might go to AFEGC in those circumstances, but in this circumstance, the IP Committee is actually not determining whether you own it, but whether the University is going to actually spend its resources to try to develop it?

**Senator Baur:** Right. The IP Committee makes a recommendation to the Associate Vice President for Research. Right.

**Senator Kalter:** Are there further questions on Section 4? If not, let's move on to Section 5, which is Commercialization. Any questions about the commercialization? And this includes the revenue distribution section.

**Senator Daddario:** I think this might relate to the issue of disclosure. It might actually just be tangential, but I was going to ask it later, anyway. Would this policy have a link to the patents that the University holds, and is it an issue to make public the patents that the University holds, so that the general public can see what those patents are?

**Ms. Maginnis:** Well, I think we wouldn't put a link necessarily in the policy, but that's definitely something that could be added to the RSP page. And those are publically available. You can do a search on the U.S. Patent Trademark Office for Illinois State University, and they will come up.

**Senator Kalter:** Let's open it up to any other questions for anything in the policy at all.

**Senator Mogbogu:** How many for Subsection 2.9? It says a limited number of copies. How many exactly?

**Senator Baur:** Well, the current practice is – at least in my field – the department retains a copy in the office, and the library has a copy, and I believe the graduate school keeps a copy. My estimation is that there is only a handful. Three or four, five copies at most. That's the current practice, but I would assume it varies by discipline, and some other people might know.

**Senator Mogbogu:** Isn't that very little? Isn't that small in number?

**Ms. Maginnis:** I think the current practice, there's the reservation for archival use where you would actually physically deposit a copy of your dissertation, but I think the grad school practice is also to have those dissertations and theses available by the online ProQuest service, and so that's how they would be made available to a larger audience.

**Senator Mogbogu:** The United States Copyright Act, does it say anything about using material outside America?

**Ms. Maginnis:** The U.S. Copyright Act would really just govern copyrights within the U.S., and so any international copyrights, they might be very similar provisions, but they're not going to be identical.

**Senator Mogbogu:** Would it be a violation to use it elsewhere other than the United States?

**Ms. Maginnis:** It really depends on the law of the land where you would want to use it.

**Senator Troxel:** Well, I was just clarifying the physical versus electronic issue. I don't believe the graduate school requires physical copies anymore, nor does the library.

**Ms. Maginnis:** Thanks for the clarification.

**Senator Baur:** Yes, I have dated information, sorry.

**Senator Troxel:** So, I wonder what that does to that sentence? I mean, there's always a case where a department or another entity could request a physical copy, but is it clear enough whatever form that is? And it would cover creative works as well, frankly, but not just texts.

**Ms. Maginnis:** I think we went with the existing language because a limited number of copies we thought could encompass both physical and electronic, so the medium wasn't specified.

**Senator Kalter:** I have recently done a search and did find some electronic copies of theses for our department, but maybe you're saying that they stopped doing that at some point? Putting it up on electronic theses and dissertation database. Not the Michigan one, but the ISU one?

**Senator Troxel:** No. It absolutely is electronic, and I'm saying it's only electronic now.

**Senator Kalter:** Oh, I see what you're saying.

**Senator Ellerton:** One aspect that's worth noting is that the graduate school now requires students submitting theses to make sure that any diagrams or any photographs, etc. that are included in dissertations must have copyright approval before they're submitted because of that availability electronically, etc., and to avoid infringement of copyright. So, I don't know that that is widely known, but I think whether there needs to be a link in our document about copyright related to the submission of theses, for example, just a link to that may be worth considering.

**Senator Daddario:** A related question based on Senator Troxel's comments. When this is brought forth as an action item, will there be a stipulation given the continual change of technology that this policy be reviewed every so often?

**Senator Kalter:** Right now, our default usually on academic area policies is every five years. Are you asking for something more frequent than that, Senator Daddario?

**Senator Daddario:** It seems like it would be a good idea to have somebody review it more often than five years. I know it's a lot of work, but given all the changes with technology, we could see a huge advance in a very short period of time, and then what now seems like 30 years, but five years might be soon a really long time.

**Senator Rich:** It certainly would be the committee's view that it is advisable to keep this current, and certainly better than three decades, and five is a vast improvement, and if there's need to make, say, specific revisions in the interim, then I'm sure that we'll be so advised by the administrators involved. I'd agree.

**Ms. Maginnis:** And I guess I would just add that one of the key principles in this particular draft was to try to keep flexibility open and available as an option, so that as new media and forms and law evolve, we can always address that through a contractual process.

**Senator Cox:** As a primary investigator on an IRB protocol, I, at times, help a student gather data and go through that entire process, and that work is included in the student's thesis. Do I need the student's written permission for me to further develop or to specify that IRB protocol in a different way? The data that's gathered, can I use that in which I've had a hand in helping create?

**Ms. Maginnis:** So, this kind of gets into the issue of who owns what, and in the scenario you're talking about, there's both copyright at play as well as potentially patentable works. So, one of the things that we would actually have proposed in the response document we sent was to add some language to the policy to deal with joint ownership scenarios where there might be common co-ownership between a faculty advisor and a grad student. I would say, and under current law, if the grad student was writing something that might impact your intellectual property rights, there might be permission required, and vice versa as well. Does that answer the question?

**Senator Cox:** I still need written permission from the student then in order to further carry out an investigation that we both started?

**Ms. Maginnis:** It depends also on the difference between what is subject to copyright and what is subject to patent. The idea can't be copyrighted, so then you would turn to patent law to determine who is the inventor of the potential idea, and then the patent law would kind of resolve the ownership rights as inventors under that scheme.

**Senator Baur:** I've give you my perspective, and she'll probably correct me, but the table in a thesis, for example, would be copyrighted, so the physical layout and the way it's presented is copyrighted. So if you were to take that and paste it into a paper you wanted to use, that would be a copyright issue, but using the data to work it up in different ways and use it to develop a different graph or different chart that is showing something else, that's not, I believe, covered by copyright. Copyright is the physical presentation in the thesis.

**Senator Cox:** So, interview data, for example, is not copyrighted?

**Ms. Maginnis:** Right. And we haven't even gotten into the issue of fair use.

**Senator Mogbogu:** So, after thesis material has been produced, how long does it take to still secure copyright for it? Do you have to secure it before or after?

**Ms. Maginnis:** Actually, one of the good things about the U.S. Copyright Act is that you don't actually have to do anything to secure it. Simply by authoring work, that creates the copyright in and of itself. So if I write notes on my paper, I hold the copyrights to the notes on the paper. There is a way that you can register your copyright with the U.S. Copyright Office, and if you just google the Copyright Office, they have a pretty good FAQ on timelines for how long that process works.

**Senator Baur:** A comment page in a thesis is a copyright page. If you have that, you're stating the copyright, but even if you don't have it in there, the material is still copyrighted by you.

**Senator Daddario:** One more. Online courses created through a program like the DART program, for example. If I'm requested or I choose to make one, do I as the maker hold the copyright? Can I take it with me if I was to go to a different university, for example, or does it stay here with the university?

**Senator Baur:** So, a couple different answers from my perspective. With the DART as an example, that's a good question. For those of you who don't know this, there's a workshop, and you're paid to go create an online course. So, that could, under the current policy, be interpreted as belonging to the University. What the new policy requires is that if it is going to belong to the University, there would be a written agreement that you

would have to sign. So, if you take this DART course, and the University wants to have an ownership in it, they would sign as a condition that this is a work-for-hire, basically.

**Ms. Maginnis:** No, that's right. Our good old IP policy on the books since 1999 had a lot of ambiguities, and this was one of them, where you had a traditional academic copyrightable work that had software and, of course, technology as a potential item, and then the question was if the University asked me to do that, is it within the scope of employment, and might it be work-for-hire. So, to try and draw clearer, brighter lines to try to figure who owns what, we kind of moved the bar a little bit to say that if the University wanted the ownership rights at the outset it would have to be done through a work-for-hire. Otherwise, the default would be as a traditional academic copyrightable work.

**Senator Daddario:** So where in this current policy is this outlined? What section would that be?

**Ms. Maginnis:** That is in Section 3.2.2. The University Copyrights. That kind of establishes the sections where the University might hold the rights.

**Senator Daddario:** It might be a good idea to specify, as an example, online courses. Because right now I feel like online course creation falls into sort of a gray area. It's sort of covered, loosely, peripherally by the language, but it's not specified anywhere. And I would think that in the upcoming years, the online course creation will become a really big part of offering. Is it?

**Ms. Maginnis:** The other thing I would refer you to would be the actual definition of the traditional academic copyrightable work, and this is kind of the old definition, but it does refer to educational software and courseware as materials that would be under that category unless it was a work-for-hire. Does that make sense?

**Senator Daddario:** Yes. I'm just thinking about related questions to this. For example, can anybody here answer a question about the DART program, or is that beyond? Because, from what I understand, the DART program is intended to be, from faculty in my department who have gone through it, they create courses with the stipulation that anybody from that point forward should be able to teach that course. But that seems like a strange stipulation if the original creator can own the copyright for it. So, how do those two things work together, and why would it be the case that the online course program would mandate that anybody else afterwards can do it, because in practice I don't think that that ever happens.

**Ms. Maginnis:** So, I think that would be one of the practices that if the draft IP policy moves forward, where we would have to address that specifically. And if the University would want to make those courses available generally, that would have to be addressed in an agreement upfront. Otherwise, the default would be back to traditional academic copyrightable work.

**Senator Baur:** So, my perspective as chair would be that I'm maybe going to pay a faculty member to create Chemistry 101, an online course version of that. I'm going to pay you to do that, so that people for the next 5-10 years can teach that course, and so I'm hiring you to create that course for the department. And so I would have an agreement where you agree that, yeah, I'm going to create this, but people can use it to teach this course. And that's what I hired you to do, basically.

**Senator Daddario:** And presumably there would be negotiating power for the creator to dispute that or to say a caveat to that.

**Ms. Maginnis:** All agreements are negotiable.

**Senator Cox:** Just to make sure that I understand, in absence of a written request or demand for copyright privileges by the University, the creator automatically retains rights to that product.

**Ms. Maginnis:** Yes, unless one of the other scenarios comes into play. The substantial use of resources, or perhaps a sponsored research agreement where there might be a specific agreement that addresses it. But the default would be, unless there is a written agreement or substantial use of resources, it would default back to the faculty under traditional academic copyrightable work.

**Senator Kalter:** And a \$1500 stipend for DART courses is not substantial use of resources, it's simply part of your summer salary or something like that?

**Senator Baur:** Yes, unless there was an agreement. The new policy default would be you would have to have an agreement for the University to claim rights to use it.

**Senator Rich:** Yes, I think there's probably in both these questions an opportunity to note something in the revised policy that's referenced and answered a lot of these questions. A new clause that is proposed to be inserted. So, in reviewing most other university policies, you typically come across a line that says something to the effect of, unless we said it's yours, it's ours. That is usually kind of the tone in many cases, and Alice is nodding yes. In 3.5 under IP clarification, an added piece of that clause that is in the revisions that are referenced, is that creators, including students, will own intellectual property when none of the situations defined in this policy for University ownership applies. Which is the reverse of what you see at many, many universities. That is, unless we've explained it and said so, even though there are presumptions in the external legal environment that may put it as University ownership, we're saying it's not. It is the creator – faculty, student, staff member.

**Senator Daddario:** You said this is 3.5?

**Ms. Maginnis:** Yes, sorry, 3.4. The paragraph titled IP Clarification. So, in enacting some of the things that we talked about in the Q&A, the version we're looking at got adjusted a little bit.

**Senator Kalter:** We'll probably wrap this up, but I do want to point out a couple of things just while we're in the interim between this week and going forward. In the response on page 2 in the red, you had written that the work-for-hire Section 3.2.2 establishes that a written agreement is required. I'm not sure that it's quite that clear in that bullet point. It's a long bullet-pointed section, 3.2.2, so we may want to look back at that just to make sure that that corresponds with what you're saying, because the way I read that is that's one example, and I think we could probably make that clearer. Last time, Senator Ellerton had said that 2.8 and 3.2.2 could be better reconciled with one another, and I think that's still something of the case. The other thing I think would be nice for us to consider either this year or in Senator Daddario's scenario of updating the policy more than every five years – or more than every 30 years – you had given us some wording from NIU about clarifying some of this stuff, and the more I read that, the more I wasn't sure whether that would be something that we would recommend or not. It seemed on first glance to be a great idea. Then, I kept reading it and I thought, well, maybe, maybe not, so that might be something the Faculty Affairs Committee, maybe not this year, but next year, might look at that language. Is that wise to insert it? Is it better to leave it out? Can we clarify it just as is without adopting that language, or do we need to adopt that language? My understanding of the question that you answered about the Illinois law and the legal environment is that, in fact, state law does not require us at all to own any of this intellectual property created by employees. What it does require is that when we have it, we shepherd it correctly, and that I think what you're saying here is that the rest of that is sort of determined by copyright law, patent law, and that those are the sort of things we looked to. Am I reading that correctly?

**Ms. Maginnis:** To an extent. I guess I would say, in the general law, when you're in a work scenario, the default position would be that the employer – the entity – would own the intellectual property rights generated by the employees in the scope of their employment. The higher education exception that's been pretty uniformly adopted is the reservation of the traditional academic copyrightable work to faculty, scholars, and researchers. And so that's why this policy is consistent with that. I think the principles I outlined in the response in terms of use of University resources and the role of University researchers, both affiliated with the

University and not affiliated with the University, those kind of outline the scope of employment for faculty and researchers, and it's those principles and policies that this and the other IP policies at the other Illinois universities are grounded on.

**Senator Kalter:** The only other comment that I had is that I do think, and I think you actually gave us some language potentially for this, but it seems like anybody who gets into a joint ownership type of situation, especially one where one of the partial owners would be the University, that they need a little bit of guidance in the policy about that, because that gets into very complicated issues. It's obviously more complicated when you team with people. It's more complicated when you have substantial use of University resources. That was sort of an area where I thought there were grays that the policy didn't yet...it's not that the policy needs to clarify them itself, but to guide people in how to clarify them for themselves.

**Ms. Maginnis:** And I think in our response we proposed kind of reserving the joint ownership issue and requiring a written agreement to be in place, and that is a placeholder to an extent, but it's also kind of a sign post. So, in the road, we need an agreement here. I think the reason we didn't want to follow some of the examples of other universities, there are very elaborate scenarios on joint ownership that really go through each of the iterations possible. Faculty-faculty, University-faculty, faculty-student, and I think our mission in this policy update really has been keep what we've got, clarify where ambiguities exist, and preserve flexibility for growth in the future.

**Senator Dietz:** I'd just like to say that I very much appreciate the amount of time that this topic has gotten and the good work of the committee and the staff on this. I also like the spirit that if we're being flexible in one area, we're being flexible on the side of the individuals who are creating whatever they are creating. And so we hope that when that happens, that the individuals will be wildly successful, and I would be remiss, then, if I didn't say on behalf of Vice President Vickerman that then they would be very generous back to the University once they've been very successful.

**Senator Crowley:** Just a quick question before we end our discussion. During your presentation you mentioned 40%/60%, and I'm seeing in the document at the 5.5, there's a 35% and a 65% mentioned, and I don't really see...okay, I'm looking at a different document.

**Senator Kalter:** I think that one, it hasn't been updated in the actual draft itself. So, we've gone over our tacit 20 minutes, so we'll wrap this up here, but if anybody feels that we need to have more information about this before we move to action on the policy, please email us on the Executive Committee and let us know, and otherwise we'll talk about timing when we'll vote on this. Alright. Thanks very much, and thanks for coming.

***03.30.16.01AIF Annual Report 2016 (Senator Hoelscher/Administrative Affairs and Budget Committee)***  
***03.30.16.02 Comprehensive Report (Senator Hoelscher/AABC/Alan Lacy, Interim Associate VP Academic Fiscal Mgmt)***

**Senator Kalter:** Let's move on now to the AIF annual report and recommendations from the Administrative Affairs and Budget Committee, and I'll pitch that to Senator Hoelscher.

**Senator Hoelscher:** Thank you very much. This got a little bit complicated, and I'm going to try to unravel it a little bit, but I took over in midstream, and then Senator Alan Lessoff wrote the report, and it just got exciting after that. You were given two attachments. The first one was AABC AIF Annual Report. That came from Alan Lacy in his office, and Provost Krejci will help me with the clarification on that. Thank you very much, Senator Krejci. The second file was the AABC Comprehensive Report, and that was our commentary – the committee's commentary – on the larger report. And what I'll do now is read some prepared remarks from the committee that just pulls that all together and very quickly in a nutshell describes what we're trying to do.

“The Blue Book assigns oversight of the AIF fund to the AABC, the Administrative Affairs and Budget Committee, which is responsible for reviewing the funds each year while engaging the Provost Office in an

ongoing discussion for its use, direction and implication. The AABC's portion of this process is to review the Academic Impact Fund report, understand it, and make recommendations, both to the Academic Senate and to the Provost Office through Dr. Alan Lacy, the Interim Associate Vice President of Academic Fiscal Management, as to ways to improve the operation of the fund, and to improve the transparency and clarity of the fund. Every department and school has a stake in the proper administration of the AIF. It is the fiscal mechanism that the University uses to manage and redistribute academic resources as tenure-line faculty leave the University and new positions open. In addition to its role in the reallocation of tenure lines, the University relies on the AIF to cover a wide variety of one-time, temporary, or interim expenses related to the departure and hiring of faculty, and to the movement of faculty into and out of administrative roles. Therefore, the Administrative Affairs and Budget Committee would strongly urge everyone in the Senate to take a very close look at the AIF report, and to consider its contents very closely. During the 2014-2015 year, the AABC focused on working with the Provost Office in developing documents that would explain the structure and operations of the AIF in as simple and accessible a manner as possible. This year, the Committee and the Provost Office have focused on making sure that that documentation and approach to reporting developed last year functioned as well as it was envisioned. The Committee and the Provost Office is optimistic that, indeed, this AIF report is much more transparent, clear, and easy to understand than in past years. The Committee is anxious to receive feedback from the Senate on this matter. Considering more practical matters, that of administration of the AIF fund, and considering the current uncertain nature of State budgeting, the Committee is appreciative of the cautious spending positions that the Provost Office has taken this year. As an example, for fiscal year 2017, it has held the number of tenure-line positions authorized to 28, the same for fiscal year 2016. Going forward, the AABC intends to examine the practical experiences of different constituencies around the University with the fund as a mechanism for managing personal requests and deliberation over them.”

So, we urge you to take a very close look at the AIF report. What we're really, really interested in is making sure that we have that as transparent and clear and understandable as we possibly can. It's a very complicated fund. It's a very complicated report, but kudos to everyone involved. I think they've come a long way and done a really great job. And with that, I'll pass it back to Susan and assure you that Provost Krejci has promised me to be the expert in this.

**Senator Kalter:** Thank you, and before I open it up for questions, I'll just clarify again to everybody, the report that comes out of the Administrative Affairs and Budget Committee is the one you have numbered as 03.30.16.01, and the one that came from the Provost Office, Dr. Lacy, is 03.30.16.02, and it's actually in a nice yellow box for us there. That's the one that's written by the Provost Office. The other thing I was going to point out because it's sort of hard to remember all of this, but what Senator Hoelscher just articulated about holding the positions to 28, you'll see that on the Administrative Affairs and Budget Committee's second page. And what that means is that for fiscal year 2017, which means the stuff that we were hiring for this year so that the person would start in August, those are the positions that were held to 28. Same as the fiscal year before that, where the people would right now be in their first year. Currently, no determination regarding the number of authorized hires has occurred. In other words, that would be for FY18 hires because, obviously, we don't know what the budget picture is yet, and so keeping with that conservative budget planning, those decisions are not going to be made right now in April, but later on in the year.

So, with that, are there any questions about any of that? And Senator Krejci, did you want to make any statements about it?

**Senator Krejci:** Well, what I said was I'd be able to field most broad questions. Alan Lacy is out of town, but he will be here the next time, and that was really the schedule. But I do want to answer any broad questions that you have, and also if there are specific data questions, we'll certainly get that back to Destini Fincham. As some of you know, she does all the day-to-day operations on this, and although we talked about having her come here, she has two small, sick children, and she is sick as well. So, she is not here tonight, but I'd be happy to try to entertain questions. A little bit of a background on this. This is a complicated fund, and it was created so we could allocate resources tenure-track many years ago as strategically as possible. We did make a couple small

changes this year, and we're continuing to look at incremental shifts. One of the things we worked at really hard last year was just to say, do people really understand this, and how can we back that out? The other change we did make that people may or may not have picked up here is in instructional capacity. Instructional capacity broadly described is that if a department has some gaps because they are waiting to hire a tenure-track faculty, they have someone out on leave, they have an FMLA, they have something that's not covered, the AIF then will cover that in instructional capacity. And that has changed over the years. Previously, about a year and a half to two years ago, how it was calculated every year for colleges at the college level was they looked at the number of credit hours produced by non-tenure-track faculty over a three-year rolling average times the cost per credit hour, and that's what the college got. When I came in at this office, I talked to the deans to say, do you really understand completely how this formula is, and is this really what we want to do, because I thought there was a mismatch. People would have a resignation, or something would happen after the fact, and yet we didn't have the ability to match their resources because the formula was backward-looking, not forward-looking. So we spent a lot of time over the last year and a half meeting with chairs and deans to say, can we create this structure that more aptly aligns with our goals, which is to give departments and colleges the resources they need to teach the courses that are not covered. And so, with that, Alan and Jonathan and a couple others met with every dean and came up with a different model that looked forward-looking to say what are your needs, and instead of releasing all of it in February for the next year, we released 80% of it, because I have noticed that between February and August, lots of things happen. There are resignations. There are illnesses. There are problems. And now we have a way to then allocate those resources where the needs are. So, that may be too much information, but our intent and our goal is to continue to make this fund as transparent as possible and as aligned with the needs of the departments and colleges as we possibly can. And I'd be happy to answer any questions.

**Senator Chebolu:** So, this model that you just proposed, that also applies for the summertime, or is it just for the school year?

**Senator Krejci:** The summer funding is a completely different model, so this is really only the academic year.

**Senator Cox:** Does the AIF fund cover compression pay issues?

**Senator Krejci:** I think I understand your question, Senator Cox. The AIF...if someone in a tenure-track position receives an offer from another institution – this is the closest I think you can get to that – if there is a written offer, it can be submitted to the AIF to see if that could be raised given a written offer. That is probably the closest it gets to being able to address a faculty salary.

**Senator Cox:** I see. I did read that here in the report. I was referring to current faculty.

**Senator Krejci:** There's no specific guideline in the AIF that would allow for adjustment of what someone might see as compression or inversion.

**Senator Kalter:** Any other questions? Alright, great. And hold any that you don't have for next time. Create more that you do have for next time, and we'll see this again in two weeks, and then Alan Lacy will also be here at that time. Great.

### ***03.28.16.01 Institutional Priorities Report (Senator Marx/Planning and Finance Committee)***

**Senator Kalter:** And the last thing we're going to do tonight, because it's coming up on 8:30, we are going to look at the Institutional Priorities Report Draft from Planning and Finance Committee, and I'll turn that over to Senator Marx.

**Senator Marx:** The Planning and Finance Committee brings before you this year's Institutional Priorities Report as an information item. This year's report has been reorganized to be in alignment with Educating Illinois by dividing the priorities into the four goal areas that Educating Illinois has. Most of the priorities we've



included have been retained from last year's report. Some report that some priorities from the previous reports have been achieved and have become institutionalized. We see this as a good thing, and hope that Illinois State is able to continue moving in that very positive direction. We've added 12 new priority items in this year's report that emerged from our small group discussions, and if there is interest, I can point out which ones those are. Earlier tonight, the committee discussed some final wording changes that will be made available to you before the next Senate meeting. We also had some interesting discussion about possible changes to the institutional priorities process going forward for the next year's committee. We welcome any comments or questions.

**Senator Kalter:** Any questions for Senator Marx? Alright, seeing none, we will see this again also in a couple weeks. Then, the other two things we're going to see in a couple weeks are the Withdrawal Policy, which we didn't get to as an action item, or the Economic Interest Disclosure Policy. I'm also going to ask the committee chairs to just keep the reports and we'll do a double session on those next time so that we can end on time. So, are there any communications for the Senate?

**Senator Powers:** If you are ISU baseball fans, next Tuesday I will be calling the baseball game against U of I, so tune in to 103.3 WZND radio.

**Senator Kalter:** And I just recently heard you on the radio, and you were fantastic, so listen to it.

**Senator Soeldner:** Civil Service Council is conducting a food drive. You may see some tubs around campus. They are red or black tubs. We're collecting food items for Western Avenue Food Pantry, and we would appreciate anyone's help with that. On the front of those tubs, it tells you the kinds of things that we're looking for.

**Senator Stewart:** This Friday, the Heart of Illinois Conference brings 200 high school students to the Center for Visual Arts. Art teacher education students have written lesson plans, and they will teach two 1 hour 15 minute workshops. And in conjunction with that, Transpace, which is the gallery space within the CVA, will have an exhibit of our ATE students artwork along with the high school teachers' artwork that are bringing those students, so it would be very interesting to stop by and take a look at that.

**Senator Dawson:** I will yield to anybody who is representing Gamma Phi Circus, but I know they've got performances coming up. I have a couple students in my class put on a show over it. So, next weekend, right? There we go. It looks better than ever.

**Senator Kalter:** I'm not sure if I should say break a leg or not. I had a student who actually did, and he was in Gamma Phi.

**Senator Grzanich:** Just to touch base on that, we also have numerous extra tickets in the office if you want to communicate that to your students, that would be wonderful, because otherwise they will go wasted.

### *Adjournment*

Motion by Senator Hoelscher, seconded by Senator Thurman to adjourn. The motion was unanimously approved.