

Rutgers University Senate Instruction, Curricula and Advising Committee

S-1803: A Policy Relating to Student Posting of Faculty-Owned Documents:

Investigate and make recommendations on University Policies relating to students' posting of syllabi, slides, tests, examinations, and other professor-created documents to sites such as Course Hero. Consider similar issues related to student-created documents. Respond to the Senate Executive Committee by February 2019. [Issued March 2018]

Course Hero

Course Hero (<https://www.coursehero.com/>) is a fee-based site comprised of student-contributed materials including study guides, exams, lecture notes, lab reports, essays, syllabi, and video lectures. Course Hero touts itself as “the largest collection of study materials online.” Students can “join” Course Hero for a month (\$39.95), three months (\$59.85) or a year (\$119.40). Students can also earn free access to course materials when they upload study materials to “help students learn.” Students receive five “unlocks” to course materials for every ten documents that they submit.¹

Currently there are over 132,000 Rutgers course related items on the site.² Print makes up the majority of Course Hero items.

The Rutgers Copyright Policy assigns ownership of pedagogical materials developed by instructors to those instructors:

Faculty, teaching assistants, and graduate assistants also own copyright to pedagogical materials, including materials in electronic format or posted to a website, that they develop in the regular course of their teaching duties using resources ordinarily available to all or most faculty members (as described in the section of this policy concerning Use of Substantial University Resources).³

¹ <https://www.coursehero.com/free-access/>

² In 2012, when the Senate looked at issues relating to the recording of lectures, there were some 37,000 Rutgers-related items on Course Hero. Currently there are materials on Course Hero from every campus and level of the University. For example, <https://www.coursehero.com/sitemap/schools/62391-Rutgers-University-Newark/courses/4968107-BIO101/> (Rutgers-Newark)
<https://www.coursehero.com/sitemap/schools/22-Rutgers-University/courses/240082-LAW-AND-PO106/> (Rutgers-New Brunswick)
<https://www.coursehero.com/sitemap/schools/62392-Rutgers-University-Camden/courses/7818889-MB620/> (Rutgers-Camden)
<https://www.coursehero.com/sitemap/schools/158875-Rutgers-New-Jersey-Medical-School/courses/8128740-FOUNDATION101/> (RBHS)

³ (<http://policies.rutgers.edu/PDF/Section50/50.3.7-current.pdf>)

Clearly a large percentage of the materials available on Course Hero and related sites⁴ are the intellectual property of individual faculty members and such public distribution is a violation of copyright. This despite the fact that Course Hero's Upload Policy states that:

By submitting documents to Course Hero, you are representing that:

- You own the copyrights covering the files to be uploaded or have express permission from the copyright owners to upload those files;
- Your uploading of the files will not violate any law, regulation, or ethics code; and...
- Uploading the files will not violate Course Hero's Terms of Use.⁵

Removing materials from Course Hero and similar sites

Course Hero will remove materials from their site upon the submission of a Copyright Infringement Notification (<https://www.coursehero.com/copyright-infringement/>). The action does need to be initiated by the copyright holder and follows the format laid down by the Digital Millennium Copyright Act (DMCA) of 1998. A DMCA takedown **does not** require the content to be formally registered with the Copyright Office in order for the takedown to take place. A DMCA takedown can be initiated for any site on which materials have been posted without the copyright owner's permission.⁶

The site that has received the takedown request may notify the original poster of the materials who could potentially file a counter notice claiming that there was no infringement of copyright. Instructors may avoid some issues if they clearly note their ownership on any course materials that they do not want distributed or publically posted. This could take the form of prominently marking each item as "Property of [Instructor's Name]" or "Copyright [Year] [Instructor's Name]"; e.g., Copyright 2019 Henry Rutgers.

Issues for Students

There is certainly potential liability for students both as posters and as users of sites such as Course Hero.

While some materials may just be those that an instructor posts in a course Learning Management System (LMS) site, there are also materials such as lab reports, papers, homework assignments, etc., the use of which would constitute a violation of the University's Academic Integrity Policy and could result in serious sanctions.

Students do hold the copyright for work they create for classes. However, posting that work to a commercial site could be seen as facilitation of dishonesty. The Academic Integrity Policy defines this as:

⁴ Such as <https://www.studyblue.com>; <https://koofers.com>; <https://studysoup.com>; and <https://oneclass.com>.

⁵ <https://www.coursehero.com/honor-code/>

⁶ See Cornell's guidelines and template for a DMCA takedown at: https://copyright.cornell.edu/course_material

Facilitation of dishonesty is knowingly or negligently allowing one's work to be used by other students without prior approval of the instructor or otherwise aiding others in committing violations of academic integrity. A student who intentionally facilitates a violation of academic integrity can be considered to be as culpable as the student who receives the impermissible assistance, even if the facilitator does not benefit personally from the violation.⁷

Distributing instructor-owned course materials without the permission of the instructor is not just a potential violation of academic policy, it is a violation of U.S. law. Materials used in a classroom or online presentation (video, graphic, photograph, etc.) may also have their own copyright which may be violated by being reproduced and distributed. Sect 110.1 of the U.S. Copyright Law <<http://www.copyright.gov/title17/92chap1.pdf>> allows faculty to show almost anything in a face to face classroom; Sect 110.2, which governs the hybrid or online environment, while much more restrictive, allows for the use of most materials provided that a number of conditions are met. While presentations and displays are generally allowed when reproduced in the classroom, copyright law does not extend this privilege to second-level reproductions. Students redistributing such materials outside the class environment are generally unaware that they may be held liable for copyright infringement.

Even notes taken from an instructor's lecture may be considered "derivative works" and as such subject to copyright infringement.

Recommendations:

1. Instructors who do not wish to have course materials that they have developed publically posted or distributed should be encouraged to note that policy on their syllabi, and to remind students that the unauthorized upload of an instructor's and/or student created documents could violate the University Academic Integrity Policy and subject the student to disciplinary action. Furthermore, instructors who would consider posting lecture notes or other notes created by students as a copyright infringement or facilitation of dishonesty should be encouraged to inform their students of this.
2. Instructors who do not wish to have course materials that they have developed publically posted or distributed should be encouraged to prominently mark those materials as "Property of [Instructor's Name]" or "Copyright [Year] [Instructor's Name]; e.g., Copyright 2019 Henry Rutgers.
3. Instructions on how copyright holders whose course materials have been posted to Course Hero or another site without their permission can have those materials taken down should be posted to the University's Copyright website (<https://www.libraries.rutgers.edu/copyright>) and made available in faculty handbooks (<http://facultyhandbook.rutgers.edu/>; <https://fas.camden.rutgers.edu/files/2017-2018-FASC-Faculty-Handbook.pdf>; etc.)

⁷ http://studentconduct.rutgers.edu/wp-content/uploads/sites/46/2014/12/AI_Policy_2013.pdf p.3

4. Deans and directors of undergraduate and graduate programs should send reminders to their instructors of the existence of these procedures at the beginning of each semester.