

December 19, 1969

TO: Deans, Directors and Department Heads
FROM: G. Willard Fornell, Administrator
SUBJECT: Annual Report - Committee on University-Sponsored
Educational Materials

Appended is the second annual report covering the year ending June 30, 1969, required under the "Policy on University-Sponsored Educational Materials."

This report has had administrative review and approval, and its findings can now be considered supplements to the basic policy.

The Committee appreciates the continued interest in and support of this program and welcomes suggestions from these recipients which will assist in clarifying any aspect of the policy or its administration.

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Report of the Committee
on
University-Sponsored Educational Materials
Year Ending June 30, 1969

The efforts of the Committee on University-Sponsored Educational Materials to administer the policy of the same title are summarized below. During the past year the Committee was enlarged by two members, to seven appointive, in order to have available the guidance of individuals whose background or current University affiliation would prove helpful. The Committee held seven meetings.

One of the more important items requiring attention was the request that the Agricultural Extension Service be exempted from the provisions of the policy. This long-established program constitutes a major and well-organized information distribution activity whose principal thrust is external to the University. It is tightly structured due to existing federal regulation and established interstate practices for exchanging the media produced. Arrangements now in effect between several state Extension Services calling for the mutual exchange of material would be rendered inoperative under the revision rights provided under Section IV of the Policy. Further, members of the staff of the Agricultural Extension Service operate with the understanding that it is within the scope of their duties to publish and create materials for use in this program. For these and related reasons the Vice Presidents' Committee granted administrative approval for treating the Agricultural Extension Service as a temporary exception to the Policy and subject to further review of its activities by the U.S.E.M. Committee in an effort to bring Agricultural Extension Service materials policies into the framework of University Policy. These efforts will continue during the current school year.

HANDLING OF U.S.E.M. FUNDS

A further administrative review of the policy on "Handling of U.S.E.M. Funds" (which was formulated during 1967-1968) produced a recommendation to the Committee that that policy be reexamined in

order to: (1) eliminate the Contingent Liability Fund, and (2) consolidate the moneys received with those of the Small Grants Program under the Council on Liberal Education. With regard to the first point, the University has traditionally not considered it necessary to carry contingent liability reserves for obligations of the type that could arise under Section VIII of this Policy. The present situation did not seem persuasive enough to change that practice. The second change was made in an attempt to provide fewer custodians of funds at the University to which the faculty need apply to obtain special project funding. This change was made with the promise that the disbursement of moneys originating from U.S.E.M. sources be made for graduate as well as undergraduate projects and that the past earning of revenue by a petitioner via University-Sponsored Educational Materials be accorded some positive weight by the Small Grants Committee when passing upon his application. The new policy statement reads as follows:

Income received from the licensing of University-Sponsored Educational Materials shall be deposited by the Administrator with the University Bursar under appropriate accounts to be designated by the Business Office. Thereafter, the Administrator shall make payment to the Author or Producer a share of said income in accordance with the relevant Author-Regents agreement. The University's share shall be distributed as follows:

- (1) Such funds remaining after payment to the author shall be distributed quarterly to an account of the Small Grants Program of the Council on Liberal Education for disbursement in accordance with the procedures of that program. Where funds from U.S.E.M. sources are to be disbursed, the Small Grants Committee will treat with equal favor those programs involving both graduate and undergraduate instruction. All factors considered, the production of University-Sponsored Educational Materials in the past and the earning of income thereon shall be recognized by the Small Grants Committee as an important criteria to be considered in the disbursement of funds.
- (2) The Director of the Center for Curriculum Studies shall provide a report annually to the Committee on University-Sponsored Educational Materials showing the amounts and the projects for which funds from U.S.E.M. sources were disbursed under the Small Grants Program.

- (3) Money transferred to the Small Grants Program shall not be subject to assessment for liabilities incurred by the University under Section VIII, B, of the U.S.E.M. Policy.

COLLECTION OF ROYALTIES FROM LEGISLATURE-SUPPORTED INSTITUTIONS

The question whether the University should collect a royalty from another state-supported educational institution when video tapes are rented was raised. The matter was referred to the Vice President's Committee who ruled that it is proper for the University to collect an honorarium for the professor who has authored the tapes, but that the amount that would correspond to the University's share of any royalty be waived under these circumstances. Rental agreements with State Colleges have proceeded on this basis.

BASIS FOR RENTAL CHARGES ON VIDEO TAPES

During the past year, other educational institutions have requested the use of courses on video tapes produced in the Department of Radio & Television. Under these circumstances it is possible to have three components in the payment, as follows: (1) an honorarium which is the author or producer's share and is collected as his rightful compensation under the U.S.E.M. Policy, whether or not the institution is supported by the State of Minnesota, and (2) a University share which is usually equal to the author's share (assuming the income received is divided equally between the author and the University). This component can be waived as indicated in the paragraph immediately above, and (3) a dubbing charge which is merely a cost reimbursement element depending on whether the renter borrows our tapes or has the course dubbed onto its own. Those thus receiving University video tapes are allowed to present each lecture five times during the quarter for the payment of the basic fee, with additional presentations, either during the rental period or after, requiring an additional payment. Suitable constraints are provided in the rental agreement against loaning or copying the tapes.

GENERATING DEPARTMENTAL INCOME FROM U.S.E.M.

Discussions were had on the propriety of departments generating income from the sale of texts, study guides, laboratory manuals, charts, transparencies, and the like, to students and other departments at a profit where such are produced as a result of departmental

effort and are, therefore, in the category "University-Sponsored." It was concluded that the Laws and Regulations of the University of Minnesota as stated in Chapter V, Section IX (amended) require that materials whether mimeographed or printed, be sold to students approximately at cost. The Committee recommends that this regulation be extended to cover materials of any type produced under University sponsorship and that the responsibility for compliance should rest with the Business Office and the Field Auditor.

COMPUTER PROGRAMS AS PATENTABLE SUBJECT MATTER

In late 1968, the U.S. Patent Office began deliberating the desirability of making computer programs patentable subject matter. Because computer programs at universities often can involve educational materials, this item was referred to the U.S.E.M. Committee for its reaction. After contacting about 50 individuals on the campus who might have an attitude toward such a move, and with the respondents unanimous in their opposition, the following statement was submitted to the Patent Office as the University of Minnesota's position on this matter:

The University of Minnesota, having contacted a large number of its faculty and administrative staff who are in a position to assess the implications for this institution of a proposal to classify computer programs as patentable subject matter, takes the position that such programs should not be made patentable. The persons responding to the inquiry were unanimous in this recommendation. The reasons for this position are as follows:

- (a) The patenting of computer programs would hamper their interchange between educational institutions.
- (b) Policing and enforcement of patents on computer programs would be difficult, if not impossible. Conversely, those preparing programs could originate a program solely for institutional use and not be aware that it infringed the claims for a type of program that had been patented.
- (c) Restricting the dissemination of programs would require a duplication of effort in a field where there is already a rather severe shortage of expert manpower.

- (d) Computer programs have been circulating freely in the same manner as scholarly or scientific papers. Anything that restricts their circulation hinders the accumulation of knowledge.
- (e) Computer programs (whether business or scientific) are information handling systems and should fall within the prohibition to patentability which the law has established against "methods of doing business."
- (f) One of the important tests for patentability is novelty. Conclusive proof of computer program novelty could be more difficult than for patents in general. It is believed that here the test should be the more narrow one of originality found under the copyright laws and the registration, therefore, if protection for computer programs is necessary, should be in the Library of Congress rather than in the Patent Office.

A CASE STUDY: PRE-PUBLICATION USE OF AUTHOR'S
WORK FOR UNIVERSITY CONVENIENCE DOES NOT PLACE
IT IN THE U.S.E.M. CATEGORY

The Committee ruled that the following sequence of events would not put the subject book in the University-sponsored category: Faculty member authors book. He and department head agree to have a limited number of copies printed and bound in Central Duplicating in order that it be available for the next quarter's classes. Printing charges are to be paid out of a departmental fund of a private source with the provision that all proceeds from the sale of the books be deposited to the fund and that any deficit be made up by the author as a first claim against royalties received from commercial publication. The pre-publication use at the University was determined to be for the benefit of a University course or program and its students, and was not undertaken to benefit the author.

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