

# Ownership and Disposition of Copyrightable Material

## I. Purpose of the Policy

This statement outlines the UCSC policy on ownership and disposition of copyrightable material created by University employees and by others using University resources.

## II. Detailed Policy Statement

This policy follows academic tradition, which provides copyright ownership to faculty for their scholarly and aesthetic copyrightable works, and is otherwise consistent with the United States Copyright Law, which provides the University ownership of its employment-related works. This policy addresses ownership of copyright; it does not address ownership of or access to the underlying research results or data, as covered in Academic Personnel Manual Section 020, University Regulation 4. It does not change or affect obligations under the University of California Patent Policy. If, in any case, the application of the two policies gives rise to a conflict, the ownership principles of the Patent Policy shall apply.

### Determination of Copyright Ownership

Copyright ownership of works created by University employees and by others using University resources shall be determined based on the category of the author and the circumstances under which the work was developed:

#### *I. Faculty Authors*

Faculty members and other designated academic appointees shall own the copyright to most scholarly and aesthetic works created by them in the course of their teaching and research duties. These works typically include books, journal articles, lecture notes, course syllabi, computer code, CD-ROMs, works of art, and performances created solely by them through independent academic effort. Exceptions are as follows:

- a) Sponsored Works: works first produced in the performance of a written agreement between the University and a sponsor. These generally include interim and final technical reports, software, and other works created as part of the sponsored project. Sponsored works do not include journal articles, lectures, books, or other copyrighted works created through independent academic effort and based on the findings of the sponsored project, unless the sponsored agreement states otherwise. Ownership of copyrights to sponsored works shall be with the

University unless the sponsored agreement states otherwise. Any sponsored work agreement which provides for ownership by other than the University generally shall provide the University with a free-of-cost, nonexclusive, world-wide license to use and reproduce the copyrighted work for education and research purposes.

- b) Commissioned Works: Works specifically commissioned by the University from non-employees, or from employees above and beyond their regular University employment. When the University commissions for the production of a work, title normally shall reside with the University. In all cases, copyright ownership shall be specified in a written agreement. Copyright belongs to the author absent such an agreement. Any such agreement which provides for ownership by other than the University, generally shall also provide the University with a free-of-cost, nonexclusive, world-wide license to use and reproduce the copyrighted work for education and research purposes.
- c) Contracted Facilities Works: Works produced by non-University employees or University employees acting outside the course and scope of their employment, using Designated University Facilities, pursuant to a written agreement. (See Section III below for definition of Designated University Facilities.) Ownership of these works is governed by the individual agreement, which may specify that the University owns the copyright or that the creator of the work must reimburse the University for the use of the designated facility.
- d) Special Projects: The Chancellor or his/her designee may designate a special University project as having special copyright ownership requirements. (This is expected to occur infrequently and will generally involve only projects to be undertaken by a group or team of UCSC employees, using University resources.) Any faculty member wishing to participate in such a special University project will need to sign an advance agreement regarding copyright ownership before commencing work on the project.

2. *Staff Authors*

Most works produced by staff employees in the course and scope of their University employment are considered works made for hire, which means that the copyright to such works vests with the University. Copyright ownership of staff-produced works which qualify as sponsored, commissioned, or contracted facilities works shall be in accordance with the guidelines listed in A.1 above. Works prepared outside the course and scope of employment and without the use of University resources are considered personal works, and the copyright to such works vests with the author.

3. *Student Authors*

Students shall own the copyright to most works produced by them, outside of any University employment and without the use of University funds (other than Student Financial Aid). Exceptions include sponsored, contracted facilities, or commissioned works and special projects. (See 1 above for definitions and ownership provisions.) Non-employee students who will be collaborating on sponsored works must sign a copyright assignment agreement to ensure that the University is able to comply with sponsoring agency copyright requirements.

Works created by student employees in the course of their University employment will generally be treated like works produced by staff employees in the course of their employment; i.e., the copyright vests with the University.

4. *Non-University authors*

Works produced by non-University individuals or entities, using University resources, will generally fall into the categories of commissioned works or contracted facilities works, and copyright ownership shall be in accordance with the guidelines listed in A.1. b) and c) above. When parties other than University employees are commissioned to produce copyrightable works or are permitted to use designated University facilities to produce copyrightable works, an agreement covering copyright ownership must be executed in advance.

5. *Work Acquired by Assignment or Will*

The University may acquire copyrights by assignment or will pursuant to the terms of a written agreement or testament. The terms of such agreements should be consistent with this Policy on Copyright Ownership and other University policies governing such acquisitions.

6. *Jointly Originated Works*

Copyright ownership of jointly originated works shall be determined by separately assessing the Category of Work of each originator pursuant to A.1 through A.6. above. Rights between joint owners of a copyright shall be determined pursuant to copyright law.

## **Copyright Agreement and Disclosure**

1. Prior to any use of a Designated University facility by non-University personnel or by University personnel outside University employment, a signed agreement is required that specifies the disposition of copyrighted works. University employees using Designated University facilities for work outside University employment are responsible for bringing this to the University's attention so that an appropriate agreement for use can be negotiated. (See A.1.c) above.)

2. Designated academic appointees participating in sponsored projects agree that they acknowledge: (a) individual and joint responsibility to produce and deliver sponsored works to the sponsor, as required by the terms of the sponsored project agreement, and/or to the University when so requested, and (b) that copyright ownership of sponsored works, unless reserved to the sponsor or otherwise

provided for in the sponsored project agreement, shall vest in the University. (See A.1.a). above).

3. Any designated academic appointee, other employee, or student wishing to participate in a special University project that includes copyright ownership requirements other than those provided in Section IIA. of this Policy must sign an agreement indicating his or her concurrence with that project's special conditions. The Chancellor or his/her designee shall designate special projects requiring such special copyright agreements.

4. Works of potential commercial value to which copyright normally belongs to the University, based on the categories of work described in Sections A.1 through A.6 above, shall be promptly disclosed to the University. Specifically, computer software, CD-ROMs, multimedia works and works involving multiple authors must be disclosed if they fall into one of the categories of work to which copyright normally belongs to the University. Other types of works, as well as works produced by staff employees as "works made for hire," need not be disclosed unless it is anticipated that the works will be distributed outside the University of California.

### **Disposition of University-Owned Works**

The University shall have the sole right to determine the disposition of works to which it owns the copyright. After consultation with the originator(s) of the work, the University will decide whether, and in what manner, the work will be distributed outside the University.

### **Release of University Rights**

The University may release its ownership rights in copyrighted works to the originator(s) when, as determined by the University: (a) there are no overriding or special obligations to a sponsor or other third party; and (b) the best interests of the University would be so served. Such release of ownership rights must be contingent on the agreement of the originator(s) that no further effort on, or development of, the work will be made using University resources and that the University is granted a free-of-cost, nonexclusive, worldwide license to use and reproduce the work for education and research purposes.

### **Licensing and Royalties**

The University may assign or license its copyrights to others. Royalty or other income received from such transactions may be shared with the originator(s) of such works, as determined by the Chancellor or his/her designee, taking into account the originator's contribution, the University's costs, any provisions imposed by sponsors or other funding sources, and any other applicable agreements concerning the copyright. (See Procedure on Administration of UCSC Copyright Policy for specific royalty-sharing guidelines.)

## **III. Definitions**

For purposes of this Policy, the following definitions shall apply:

**Assignment of Rights:** A transfer of ownership rights under copyright by the owner of the copyright to another individual or entity.

**Author:** An individual or entity which produces copyrightable material. In most cases, the term “author” is synonymous with “Originator” (see definition below). However, in the case of a Work Made for Hire (see definition below), the originator’s employer is considered to be the author under copyright law.

**Copyright:** Copyright is the intangible property right granted by Federal statute for an original work fixed in a tangible form of expression. Copyright provides the owner with the following exclusive rights in a work: to reproduce, to prepare derivative works, to distribute by sale or otherwise, to perform publicly, and to display publicly.

**Copyrightable Material:** Material which may be protected by U.S. Copyright Law, including literary works, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, audiovisual works, sound recordings and computer software.

**Course and Scope of Employment:** A work is considered to have been created within the course and scope of employment when preparation of the work is (1) within the scope of the employee’s normal employment duties or (2) the result of a specific University assignment. (A faculty member’s general obligation to produce scholarly/aesthetic works is not considered to be within the scope of his/her normal employment duties or the result of a specific assignment.)

**Designated Academic Appointees:** Those University employees who have a general obligation to produce scholarly/aesthetic works. Included are all appointees in the Professor series, In-Residence series, and the Professional Research series.

**Designated University Facilities:** Buildings, equipment, and other facilities under the control of the University, that are designated as requiring an advance agreement, from non-University personnel and University personnel acting outside the scope of their employment, concerning the disposition of any copyrighted works that are originated with the use of these facilities. Designated facilities generally include such recharge-generating facilities as campus computer centers and media centers but do not include facilities, such as libraries, personal offices, personal computers, photocopy or facsimile machines, which are customarily provided for the use of faculty in support of their normal teaching and research duties .

**Independent Academic Effort:** Inquiry, investigation, or research carried out by designated academic appointees to advance knowledge or the arts where the specific choice, content, course, and direction of the effort is determined by the designated academic appointee without direct assignment or supervision by the University. The general obligation of designated academic appointees to produce scholarly/aesthetic works is considered independent academic effort.

**License:** A contract in which a copyright owner grants to another permission to exercise one or more of the rights under copyright.

**Originator (s):** One who produces a work by his or her own intellectual labor. When there is more than one originator, the ownership of each originator's contribution shall be considered separately pursuant to this Policy.

**Owner:** The individual(s) or entity which owns the copyright to copyrightable material, either as the author or by having received assignment of the copyright from the author.

**Permissible Consulting Activities:** Professional or scholarly services provided by University employees for compensation, which do not interfere with regular University duties, do not utilize University resources, and are not prohibited by terms of the University employment contract or other applicable University agreements or policies.

**Royalty:** A payment made to an owner of a copyright for the privilege of practicing a right under the copyright.

**Scholarly/Aesthetic Work:** A scholarly/aesthetic work is a work originated by a designated academic appointee resulting from independent academic effort.

**Sponsor:** An organization or agency which provides funding, equipment, or other support for the University to carry out a specified project in research, training, or public service pursuant to a written agreement. Sponsors include Federal, State, local, and other governmental entities as well as private industry, educational institutions, and private foundations.

**University Funds:** Funds, regardless of source, that are administered under the control, responsibility, or authority of the University.

**University Resources:** University funds or designated facilities.

**Work:** Any copyrighted expression, including literary work (written lectures are included); musical work including any accompanying words; dramatic work, including any accompanying music; pantomimes and choreographic work; pictorial, graphic, and sculptural work; motion pictures and other audiovisual work; sound recordings; and computer software.

**Work Made For Hire:** Under United States Copyright Law, a work created by an employee in the course and scope of his/her employment is deemed a work made for hire. In this case, the employer owns the copyright and is considered the "author" of the work.

## IV. Getting Help

The campus Business Contracts Office provides training and assistance to campus units (including help with completing forms, carrying out procedures, or interpreting policy).

If you need help with ...	Contact ...
Interpreting policy	Business Contracts x9-4533

Determining copyright ownership	Business Contracts x9-4533
Preparing agreements	Business Contracts x9-4533
Determining sponsoring agency requirements	Sponsored Projects x9-5278

## **V. Applicability and Authority**

This policy on Ownership and Disposition of Copyrightable Works applies to all campus employees, students, and other persons or entities using University facilities or acting under contract with the University for commissioned works.

It is a new policy and thus supersedes any campus practices in existence prior to its effective date.

The campus Business Contracts Office is the campus authority for the policy on ownership and disposition of copyrightable works. This policy was reviewed and approved by the Vice Chancellor for \_\_\_\_ on x/x/97. Next review date is x/x/98.

## **VI. Related Policies/References for More Information**

*1. Related Policies and Procedures*

University of California Policy on Copyright Ownership  
University of California Patent Policy

*2. References*

United States Copyright Law  
Regents' Standing Order 100.4 (gg)

*3. Implementation Procedures*

Administration of UCSC Copyright Policy

