

# UC Davis Policy and Procedure Manual

## Chapter 250, Intellectual Property

### Section 04, Distribution of Copyright-Protected Materials Produced under University Auspices

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Responsible Department: Office of Research—Technology Transfer Center

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#### [Exhibit A. Proposal for Distribution of Copyright-Protected Material](#)

#### **I. Purpose**

This section defines policies and procedures for distributing copyright-protected materials owned by the University or created use of University resources. Information on copyright terms related to this section can be found at <http://www.universityofcalifornia.edu/copyright/>.

#### **II. Policy**

##### A. Materials for which the University owns the copyright

1. Because computer software may be protectable by a patent, the UC Patent Policy requires that a "Record of Invention" (ROI) be reported to the Technology Transfer Center prior to public disclosure when the software may qualify for patent protection. A draft proposal for public distribution (see IV.A) may be submitted with the ROI.
2. The University shall have the sole right to determine the manner in which copyright-protected material it owns is distributed outside the University, if at all, and the charges (if any) to be imposed for its sale, rental, or other use.
3. Registration with the UC Copyright Office is required for distributions outside of the University.
4. When a work authored by a University employee is owned by The Regents of the University of California, the University shall provide for the display of appropriate credits and shall consider the comments of the participating employee(s) regarding subsequent presentation, distribution, revision, and updating of the material.
5. In some circumstances the University may, but shall not be obliged to, allow the contributing employee(s) to share in royalties from distribution of the work outside the University. Arrangements for such sharing of royalties shall be subject to the following conditions:
  - a. An agreement covering the division of royalties and other aspects of the project shall be executed between the author(s) and the University.
  - b. Depending upon its assessment of relevant considerations, such as the source of funds used for development of the material and the purpose of its distribution outside the University, the University will normally require recovery of its full developmental costs for the project before an employee may receive a share of the royalties, and may also require that a portion of the income be allocated to a departmental or central campus account for support of future projects. (The share of royalties to be paid to faculty shall be subject to approval by the Vice Provost--Academic Personnel.

- B. Materials developed using University resources but copyright not owned by the University
1. Whenever use of University resources (except libraries) by persons other than University employees may lead to development of copyright-protected materials, an agreement shall be executed in advance to establish the parties' understanding with regard to use of facilities, ownership rights, and financial arrangements.
  2. University employees who, in accordance with the UC Policy on Copyright Ownership or the UC Patent Policy, own copyright-protected materials developed using University resources (except libraries) shall not sell or otherwise arrange to distribute such materials for their personal profit, whether separately or as elements of larger works, unless a written agreement is established between the copyright owner and the University to provide for the following:
    - a. a royalty-free license to the University for uses within its mission;
    - b. reimbursement of all costs (or an appropriate portion, depending on the circumstances) incurred by the University for development of the material;
    - c. indemnification of the University against liability for infringement of copyright or other violation of any rights of third parties resulting from the author's distribution or use of the material.
- C. University employees who create copyright-protected material without the use of University resources and not in the course and scope of their employment but nevertheless in connection with their University employment should contact the Technology Transfer Center/Copyright. In keeping with University policy, a license confirming ownership in the employee and permitting the University to use the material for purposes within its mission shall be executed. This license will serve as documentation of non-employer ownership required by many publishers in the event the employee decides to publish the material.

#### **IV. Procedures**

- A. Approval for development or public distribution of copyright-protected materials owned by the University or developed using University resources
1. When copyright-protected materials owned by the University or developed through use of University resources are to be distributed outside of the University, the lead department should prepare a proposal and submit it to the Technology Transfer Center/Copyrights as early as feasible. If the material was developed pursuant to a sponsored research agreement or other University contract, a copy of the agreement should be included with the proposal.

Exhibit A illustrates the range of issues that should be covered in such an agreement proposal, to the extent they are relevant to a specific project and to the extent the necessary information is known when the proposal is made. Identify information that will be supplied as the project progresses.
  2. The types of review and approval required in each case will differ, depending on the nature of the project. Departments should always secure the appropriate departmental and dean/vice chancellor's approval before submitting final proposals. The Technology

Transfer Center/Copyrights will be responsible for seeing that appropriate administrative approvals are obtained.

3. No distribution may occur until the proposal has been approved as indicated in this section. This will ensure that all necessary or appropriate administrative approvals, consents, licenses, and other documents are obtained, and appropriate disclaimers to protect the University are included.
4. Those responsible for distribution of copyright-protected publications owned by the University must take special care to assure that explicit written copyright agreements are obtained from the authors of all works in advance of publication as required by law or University policy. See 250-03, Use of Copyright-Protected Materials.

**B. Independent contractors**

1. Purchase orders and other agreements for services resulting in copyright-protected material shall state that such works will be considered a "work made for hire" unless the services are specifically for writing. It is essential that the contractor's signature signifying acceptance be obtained in advance of beginning creation of the work.
2. Agreements specifically for writing services shall include a term assigning the work to the University rather than declaring the work product to be a "work made for hire."
3. The independent contractor may request, subject to approval by the department, to retain a license permitting his or her future use of the work in specified ways, such as for "portfolio" purposes. The department should indicate its approval when requesting the services so that an appropriate license is included in the purchase order.
4. If the author/artist wishes to own the copyright to the work and to permit the University to use it, then an independent contractor agreement is not appropriate and should not be used. Instead, the University will license the material from the copyright owner at a fee commensurate with the scope of the license (considering exclusivity, duration, territory and media). See 250-03, Use of Copyright-Protected Materials.

**C. Employee-owned copyright-protected work created without use of University resources except for libraries**

Send a copy of the work, with a memo from the direct supervisor confirming the work was not in the course and scope of the employee's job duties, to the Technology Transfer Center/Copyright at the time the work is created. The Technology Transfer Center/Copyright will provide signatures on publication documents requiring an employer signature certifying non-ownership.

**V. References and Related Policies**

**A. Office of the President**

1. UC Copyright Web site (<http://www.universityofcalifornia.edu/copyright>).
2. Policy on Ownership of Course Materials, 9/25/03 (<http://www.ucop.edu/ucophome/coordrev/policy/9-25-03copyright.html>).
3. Patent Policy, 10/1/1997 (<http://www.ucop.edu/ott/patentpolicy/patentpo.html>).

4. Policy on Copyright Ownership, 8/19/92 (<http://www.ucop.edu/ucophome/coordrev/policy/8-19-92.html>).
  5. Publication Policy and Guidelines on Rights to Results of Extramural Projects or Programs (Chapter 1: Academic Policy, Section 410) (<http://www.ucop.edu/raohome/cgmanual/chap01.html#1-410>).
- B. UCD Policy and Procedure Manual (<http://manuals.ucdavis.edu/PPM/about.htm>):
1. Section 250-01, Copyright.
  2. Section 250-02, Copyright Registration.
  3. Section 250-03, Use of Copyright-Protected Materials.
  4. Section 210-80, Sales of Instructional Materials.
  5. Section 310-35, Publications.
  6. Section 310-45, Guidelines for Multimedia Productions of University Programs and Activities.
  7. Section 310-65, Use of the University's Name and Seal.
- C. Federal law
1. U.S. Copyright Office (<http://www.copyright.gov>).
  2. Circular 3--Copyright Notice (<http://www.copyright.gov/circs/circ03.pdf>).
  3. U.S. Code, Title 17, Copyrights (<http://www.access.gpo.gov/uscode/title17/title17.html>).