

POLICY ON COPYRIGHT OWNERSHIP

I. Preamble

The creation of copyrighted works is one of the ways the University fulfills its mission of contributing to the body of knowledge for the public good. The University encourages the creation of original works of authorship and the free expression and exchange of ideas.

This Policy is intended to embody the spirit of academic tradition, which provides copyright ownership to faculty for their scholarly and aesthetic copyrighted works, and is otherwise consistent with the United States Copyright Law, which provides the University ownership of its employment-related works. Pursuant to Regents' Standing Order 100.4 (gg), the President has responsibility for all matters relating to intellectual property, including copyrights in which the University is involved.

II. Purpose and Scope

This statement sets forth the University's Policy on the Copyright Ownership for works produced at, by, or through the University of California, its campuses, and the Department of Energy Laboratories. This Policy applies to University employees, students, and other persons or entities using University facilities or acting under contract with the University for commissioned works. This Policy addresses ownership of copyright; it does not address ownership 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.

III. Definitions

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

A. 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.

B. 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. Appointees in other academic titles may also be designated by the appropriate Chancellor or Vice President as having the obligation to produce scholarly/aesthetic works.

C. Independent Academic Effort

Inquiry, investigation, or research carried out by designated academic appointees to advance knowledge or the arts when 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.

D. License

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

E. 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.

F. 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.

G. Royalties

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

H. 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.

I. University Facilities

Buildings, equipment, and other facilities under the control of the University, that are designated by the appropriate Chancellor, Laboratory Director, or Vice President 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. Such facilities normally include campus computer centers and normally do not include University libraries. For purposes of this Policy, the Department of Energy Laboratories are considered to be under the control of the University.

J. University Funds

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

K. University Resources

University funds or facilities.

L. Work

Any copyrighted material, 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.

IV. Copyright Ownership by Category of Work

A. Scholarly/Aesthetic Work

A scholarly/aesthetic work is a work originated by a designated academic appointee resulting from independent academic effort.

Ownership of copyrights to scholarly/aesthetic works shall reside with the designated academic appointee originator, unless they are also sponsored works or contracted facilities works, or unless the designated academic appointee agrees to participate in a project which has special provisions on copyright ownership pursuant to Section VI.C. of this Policy.

B. Personal Work

A personal work is a work that is prepared outside the course and scope of University employment (except for permissible non-University consulting activities) without the use of University resources.

Ownership of copyrights to personal works shall reside with the originator.

C. Student Work

A student work is a work produced by a registered student without the use of University funds (other than Student Financial Aid), that is produced outside any University employment, and is not a sponsored, contracted facilities, or commissioned work.

Ownership of copyrights to student works shall reside with the originator.

D. Sponsored Work

A sponsored work is a work first produced by or through the University in the performance of a written agreement between the University and a sponsor. Sponsored works generally include interim and final technical reports, software, and other works first created in the performance of a sponsored agreement. 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.

E. Commissioned Work

A commissioned work is a work produced for University purposes by individuals not employed at the University or by University employees outside 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. 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.

F. Contracted Facilities Work

A contracted facilities work is a work produced by non-University personnel or University personnel acting outside the course and scope of their employment, using designated University facilities pursuant to a written agreement.

Ownership of copyrights to contracted facilities work shall be governed by the agreement permitting use of the specified University facilities. Depending on the nature of the facility and the nature and extent of the use, the agreement may specify that ownership of resulting copyrights rests with the University; or the University simply may be paid a fee for use of the facility, or some other arrangement may be appropriate.

G. Institutional Work

Except as otherwise provided in this Policy, the University shall own all copyrights to works made by University employees in the course and scope of their employment and shall own all copyrights to works made with the use of University resources.

H. 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.

V. Copyright Ownership of Jointly Originated Works

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

VI. Copyright Agreement and Notification

- A. Prior to any use of a University facility by non-University personnel or by University personnel outside University employment, a signed agreement shall be required that specifies the disposition of copyrighted works. University employees using 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 IV.F. above.)
- B. Designated academic appointees participating in sponsored projects must have a signed agreement on file with the designated campus official which acknowledges: (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 IV.D. above.)
- C. Any designated academic appointee, other employee, or student wishing to participate in a specified University project that includes copyright ownership requirements, other than provided in Section IV. of this Policy, must sign an agreement indicating his or her concurrence with that project's special conditions. Chancellors and Vice Presidents shall designate special University projects that shall require such special copyright agreements.

VII. 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.

VIII. Licensing and Royalties

The University may assign or license its copyrights to others. Royalty or income received from such transactions may be shared with the originator(s) of such works, as determined by the appropriate Chancellor, Laboratory Director, or Vice President, 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.

IX. Copyright Responsibilities and Administration: Chancellors, Laboratory Directors, and Vice Presidents

For copyrighted works under their respective jurisdictions, Chancellors, Laboratory Directors, and Vice Presidents as appropriate, are authorized to:

- A. Issue guidelines, implementing procedures, and supplementary local policies consistent with this Policy. These may include directives regarding licensure, disposition of royalty income, and other rights related to copyrights. Copies of such guidelines, policies, and procedures shall be sent to the President;
- B. Identify campus, Laboratory, and other facilities or projects as having special copyright assignment obligations, and issue guidelines and implementing procedures regarding assignment of copyright to works produced using such facilities or projects;
- C. Register copyrights, accept copyrights from third parties, and sell, assign, or grant licenses in the name of The Regents for any rights to copyrights; and

- D. Release University ownership rights to copyrighted works which are in the name of The Regents of the University of California pursuant to Section VII.