Re: Systemwide Review of Proposed Revised Presidential Policy on Copyright Ownership

Dear Colleagues:

Attached for Systemwide Review is a proposed draft of the revised Presidential Policy on Copyright Ownership. The current University of California Policy on Copyright Ownership, the principal policy governing ownership of copyrights at UC, has not been updated since 1992. Given the significant copyright landscape changes over the years it has become clear that the time for a policy update is now.

As background, in April 2013, a working group composed of faculty members and other campus representatives who are knowledgeable about copyright law was convened to develop recommendations for improving the policy. Following the working group’s submission of its final report in October 2014, the Systemwide Library and Scholarly Information Advisory Committee’s (SLASIAC’s) Standing Subcommittee on Copyright Policy (SSCP) commenced work on implementing the recommendations of the working group in order to update the policy. In 2016, SSCP finalized and approved its policy revisions; those revisions were subsequently unanimously approved by SLASIAC in late 2016. In April 2017, the draft policy was also reviewed and presented to the Academic Planning Council (APC), a systemwide joint Academic Senate and UC Administration committee that addresses planning issues and considers policies related to the University’s academic mission. The policy underwent Management Consultation from October 17 through December 17, 2018.

Key Policy Provisions

In the course of updating the current policy, the SSCP engaged in a detailed review of every provision of the current policy. The proposed modifications to the Presidential Policy on Copyright Ownership reduce areas of ambiguity and streamline the language. Below is a summary of key changes to the 1992 Copyright Ownership Policy, starting with the most substantive changes:

- **Expands eligibility to own copyrights.** The definition of “Academic Authors” in the revised policy expands the pool of those eligible to own copyright. The revised policy’s definition is simplified. Among other things, it eliminates references to Academic Personnel Manual titles.
• **Expands and clarifies the pool of works eligible for copyright ownership.** The policy provides a definition of “Scholarly & Aesthetic Works” – a definition that does not exist in the existing policy. It also clarifies that software is a work for which eligible employees may own the copyright.

• **Creates a definition for “Significant University Resources” as a limitation on the University’s ownership.** The current policy has a broad definition of “University Resources,” which directs, in some instances, that the University asserts copyright ownership when the University’s resources contributed to the development of the copyright work. The revised policy now includes a key limitation such that the level of University resources must be “significant” and beyond the support provided to similarly-situated authors.

• **Clarifies graduate student copyright ownership.** The revised policy provides clarity regarding copyright ownership by graduate students of their theses, dissertations, and other copyrightable works. This provision is also incorporated into the draft Open Access for Theses and Dissertations Policy, which has just completed its second systemwide review.

• **Clarifies copyright ownership for represented employees.** The revised policy specifically states that if an inconsistency exists between a union employee’s collective bargaining agreement regarding copyright ownership and the revised policy, the copyright provisions of the union agreement prevail.

• **Expands supplemental references.** The revised policy expands the “Related Information” and “Revision History” sections to reference additional resources and other supplemental information.

• **Deletes numerous unnecessary provisions.** The draft policy is streamlined in that it deletes unnecessary definitions, unnecessarily capitalized terms, legalese, and terms that may be obsolete in several years – among other items.

**Frequently Asked Questions**

With a view to Systemwide Review, a small working group came together to develop Frequently Asked Questions (FAQs) that would accompany the policy. Given the complexities involved, the Subcommittee felt that developing a set of FAQs could help clarify questions that could arise among the various parties reviewing the policy. Note that while the FAQs are meant to provide guidance and further understanding of the policy, they are not enforceable and by no means replace the policy language itself. The current FAQs are attached.

**Management Consultation Review**

The revised policy was disseminated for Management Consultation over the course of 60 days, from October 17, 2018 to December 17, 2018. Based on input received, the draft policy has been revised slightly.

*****
Systemwide Review Process
Systemwide Review is a public review distributed to the University leaders requesting that they inform the general University community, affected employees, and unions’ membership about policy proposals. Systemwide Review also includes a mandatory full Senate review for at least 90 days.

All employees—faculty, academic appointees, student employees, administrators, and staff—should be afforded the opportunity to review and comment on the draft new policy, available online at: http://www.ucop.edu/academic-personnel-programs/academic-personnel-policy/policies-under-review/index.html. Note that Academic Affairs staff will ensure that graduate students and graduate student bodies have an opportunity to review the proposed policy.

Review materials include Frequently Asked Questions (FAQs) which will accompany the policy once finalized.

Attached as well is a Model Communication that may be used to inform non-exclusively represented employees affected by these proposals. Our colleagues in UCOP Labor Relations will inform the collective bargaining units by way of their usual processes.

Please submit comments and feedback to the enclosed policy by December 15, 2019 to ADV-VPCARLSON-SA@ucop.edu (email address is not case-sensitive). If you have any questions, please contact Katie Fortney, California Digital Library, at (510) 987-9371.

Sincerely,

Michael T. Brown, Ph.D.
Provost and
Executive Vice President for Academic Affairs

Attachments

cc: President Napolitano
Executive Vice Chancellors/Provosts
President's Advisory Group
Chief Operating Officer and Chief of Staff Nava
Acting Vice President Lloyd
Vice Provost and Interim Vice President Gullatt
Vice Provost Carlson
Deputy General Counsel Woodall
Associate Vice Provost and Executive Director Waibel
CoUL Chair Cowell
LAUC President Smedberg
Vice Chancellors for Research
Vice Provosts for Academic Affairs/Academic Personnel
Graduate Deans
Academic Personnel Directors
Executive Director Baxter
Executive Director Chester
Executive Director Peterson
Director Grant
Director Hairston
Director Lee
Director Osorio-O'Dea
Manager Crosson
Manager Jordan
Manager Smith
Copyright Policy and Education Officer Fortney