# Copyright Ownership

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<tr>
<th>Responsible Officer:</th>
<th>Vice Provost &amp; EVP - Academic Planning, Programs &amp; Coordination Affairs</th>
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<tr>
<td>Responsible Office:</td>
<td>ACAC - Academic Planning, Programs &amp; Coordination Personnel and Programs</td>
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## Scope:
This statement sets forth Presidential policy applies to all employees and students of the University’s Policy on the Copyright Ownership for works produced at, by, or through the University of California and at all University of California, its campuses, and the Department of Energy Laboratories. This Policy applies to University employees, students, and other persons or entities using designated 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. It is does locations, including the campuses, medical centers, the Office of the President, Lawrence Berkeley National Laboratory, and Agriculture and Natural Resources. This policy is not intended to change or affect obligations under the rights provided in the University of California Patent Policy. If, in any case, the application of the two policies gives rise to a conflict’s policies regarding patent ownership. If an inconsistency exists between the University’s patent and copyright policies over a particular work, the ownership principles of the Patent Policy shall apply. Patent policies prevail.

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<tr>
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I. POLICY SUMMARY

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 policy establishes a framework for copyright ownership of copyrightable works created at the University of California (“University”). This policy embodies the academic tradition, which provides of granting copyright ownership to faculty certain university personnel for their scholarly and aesthetic copyrighted works, and is otherwise consistent with the United States Copyright Law, which provides the Universityworks, while maintaining consistency with U.S. copyright law – which, as a default, provides copyright 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 to an employer for works prepared by its employees within the scope of their employment.

II. DEFINITIONS

For purposes of this Policy, the following definitions apply:

**Academic Authors** means Employees who have a general obligation to create copyrightable scholarly or aesthetic works. **Scholarly & Aesthetic Works.**

**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.

**Contracted Facilities Works** means works created (1) by non-University personnel or by University personnel acting outside the course or scope of their employment, (2) through the use of University Facilities, and (3) generally pursuant to a written agreement.
**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.

**Employees** means all individuals employed or appointed by the University in any capacity regardless of whether they are (1) faculty, staff, administration, or students, or (2) employed full-time, part-time, or in a temporary capacity.

**Independent Academic Effort**: Inquiry means 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 Academic Author 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.

**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.

**Scholarly & Aesthetic Works** means works authored by Academic Authors within the scope of their employment as part of or in connection with their teaching, research, or scholarship. Common examples of Scholarly & Aesthetic Works include journal articles, scholarly papers, textbooks, other books, short stories, poems, case examples, course materials, lecture notes, musical compositions/arrangements and recordings, lyrics, architectural drawings, software, visual works of art, sculptures, and other artistic creations, among others, regardless of the medium in which those works are fixed or disseminated.

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

**Significant University Resources** means University Resources beyond the usual support provided by the University and generally available to similarly-situated Academic Authors or, as applicable, students. For the purposes of this definition, “usual support provided by the University and generally available to similarly-situated Academic Authors” includes customary administrative support,
library facilities, office space, personal computers, access to computers and networks, and regular academic year salary.

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 entities, educational institutions, and private foundations.

Sponsored Works means works that are created by or through the University in the direct performance of a written agreement between the University and a Sponsor. Sponsored works generally do not include journal articles, lectures, books, or other works created through Independent Academic Effort and based on the findings of the sponsored project, unless the relevant agreement with the Sponsor states otherwise.

University Facilities: Buildings means 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 either non-University personnel or University personnel acting outside the scope of their employment, concerning the disposition of any copyrightable 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 the purposes of this Policy, the Department of Energy Laboratories are considered to be under the control of the University.

University Funds: Funds means either (1) University Facilities or (2) funds, regardless of source, that are administered by the University.

University Resources: University funds or facilities.

III. POLICY TEXT

A. Copyright Ownership by Category of Work

1. Scholarly & Aesthetic Works. When the “work made for hire” provision in U.S. copyright law applies, the University owns the copyright for copyrightable works prepared by its employees acting within the scope of their employment. However, given the academic tradition of granting copyright ownership to some academic personnel for certain works, the University hereby transfers the copyrights it may own in Scholarly & Aesthetic Works to Academic Authors who prepared those works using Independent Academic Effort.

A scholarly/aesthetic work is a work originated by a designated academic appointee resulting from independent academic effort.
Notwithstanding the previous sentence, the University does not transfer the copyrights in Scholarly & Aesthetic Works that: (a) are either Sponsored Works, Commissioned Works (as that term is used Section III.A.5 below), or Contracted Facilities Works; (b) would put the University in violation of, or conflict with, an applicable contract, policy, or law; or (c) were created with Significant University Resources.

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 V.C. of this Policy.

2. **Personal Works.** As between the University and its Employees, copyright ownership of works prepared by Employees outside the course or scope of their University employment and without use of University Resources resides with the Employees, unless a relevant agreement states otherwise. For purposes of this policy, works created through non-University consulting activities may be considered a Personal Work so long as such non-University consulting activities do not interfere with the Employee’s regular University duties, do not use University Resources, and are not prohibited by terms of the University’s employment contract or other applicable agreements or policies.

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

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

3. **Student Works.** As between the University and its students, copyright ownership of works prepared by registered students (including registered graduate students) resides with such students, unless the work: (1) was created primarily in the course or scope of the student’s University employment; (2) involved the use of Significant University Resources; (3) is a Sponsored Work, Contracted Facilities Work, or Commissioned Work; or (4) was created under a separate agreement that specifies a different copyright owner. For the purposes of this section, a student’s financial aid is not considered Significant University Resources. Absent unusual circumstances, copyright ownership of these or dissertations authored by registered students of the University resides with such students.

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.

4. **Sponsored Works.** Ownership of copyrights to Sponsored Works resides with the University, unless the relevant agreement with the
Sponsor states otherwise. For any agreement providing ownership of Sponsored Works other than by the University, the University generally requires a free-of-cost, nonexclusive, worldwide license to such works consistent with the University’s missions of teaching, research, and public service.

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.

5. 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.

5. Commissioned Works. When the University commissions for the production of a work, title normally shall ownership of that work generally must reside with the University. In all cases, copyright ownership shall (absent compelling circumstances) and must be specified in a written agreement. Any such For any agreement which provides for providing ownership by of such commissioned work by a person or entity other than the University, generally shall also provide the University with generally requires a free-of-cost, nonexclusive, world-wide worldwide license to use and reproduce the copyrighted work for education and research purposes the commissioned work consistent with the University’s missions of teaching, research, and public service.

6. 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.

6. Contracted Facilities Works. Ownership of copyrights to contracted facilities work shall be governed by the agreement permitting. Contracted Facilities Work generally must be governed by a contract between the University and the user of the University Facility regarding 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 the use of the facility, or some other arrangement may be appropriate. In the absence of an agreement, the University generally owns the copyright to the Contracted Facilities Works.

7. Institutional Work

7. Institutional Work. Except as otherwise provided in this Policy, the University shall own all copyrights to works made by University employees in either (1) prepared by its employees within the course and scope of their employment and shall own all copyrights to works made, or (2) created with the use of Significant University resources.

8. 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.

B. Copyright Ownership of Jointly Originated Created Works

Copyright ownership of jointly originated created works shall be determined by separately assessing the Category of Work of each originator Works and resulting ownership rights pursuant to Section III.A. above. Rights between joint owners of a copyright shall be determined pursuant to The copyright rights among joint copyright owners are governed under U.S. copyright law.

C. Release of University Rights

The University may release its copyright ownership rights in copyrighted works to the creator(s) of the works when, as determined by the University: (a) there are no overriding or special obligations to a sponsor or other third parties; and (b) the best interests of the University would be served by releasing its ownership rights. Such release of ownership rights must be contingent on an agreement of the originator creator(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 consistent with the University’s missions of teaching, research, and public service.

D. 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 appropriate Chancellor, Laboratory Director, or Vice President, taking into account the originator's (or their delegates) and/or by local policies. The determination of an appropriate income distribution, if any, back to the creators should take into account each creator's contribution, the University's costs, any provisions imposed by sponsors or other funding sources, and any other applicable agreements concerning the copyright.

E. Union Employees

If any inconsistency exists between this policy and a union agreement governing copyright ownership by Employees represented by a union, the copyright ownership provisions of such union agreement in effect at the time the work was created prevails.

IV. COMPLIANCE / RESPONSIBILITIES

For copyrightable works under their respective jurisdictions, the University's Chancellors, Laboratory Directors, and Vice Presidents are authorized to do – or to delegate the authority to do – any of the following:

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 certain projects or University facilities or projects as having special copyright assignment obligations and issue guidelines and implementing procedures regarding assignment of local policies, or copyright assignments in works created through such facilities or projects; or University Facilities;

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 such copyrights – all of the foregoing in the name of The Regents of the University of California;

D. Release the University’s copyright ownership rights to copyrighted works which are in the name of The Regents of the University of California pursuant to Section III.C.

V. PROCEDURES

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 III.A.6 above.)

B. — Designated academic appointees Academic Authors participating in a sponsored project must have an agreement on file with the designated campus official which appropriate campus office (e.g., sponsored projects office or the industry contracts office) that acknowledges: (a) individual and joint responsibility to produce and deliver sponsored works Sponsored Works to the sponsor 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 Sponsored Works will reside with the University, unless reserved to the sponsor Sponsor or otherwise provided for in the sponsored project agreement, shall vest in the University. (See pursuant to Section III.A.4 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 III. 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.

VI. RELATED INFORMATION
Not applicable.

• University of California policy on “Ownership of Course Materials” (9-25-2003)
• University of California policy on “Copyright and Fair Use” (7-9-2015)
• University of California policy on “Open Access” (10-23-2015)
• University of California’s “Copyright” website, available at http://copyright.universityofcalifornia.edu/
• University of California policy on “Use of Recordings of Course Presentations” (9-23-2005)

VII. FREQUENTLY ASKED QUESTIONS
Not applicable. Frequently Asked Questions may be accessed at [URL].

VIII. REVISION HISTORY

- **April 24, 1961** – The University Office of the President issued a systemwide regulation stating the University policy’s on copyright ownership.

- **November 1, 1962** – The University Office of the President issued another systemwide regulation concerning “the administration of copyrights obtained in the name of The Regents of the University of California.”

- **August 1, 1975** – The original systemwide policy, titled “University Copyright Policy,” was issued.

- **August 19, 1992** – The last substantive revision of this policy occurred in August 1992, when the previous policy was issued.

- **June 1, 2012** – This policy was reformatted into the standard University of California policy template effective June 1, 2012, for systemwide policies.