

UNIVERSITY OF CALIFORNIA

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August 26, 1999

CHANCELLORS
LABORATORY DIRECTORS

Dear Colleagues:

The enclosed *Principles Regarding Rights to Future Research Results in University Agreements with External Parties* establish the fundamental parameters for negotiating agreements with external parties to address rights and obligations associated with future University research results. This policy is effective immediately.

The University's ability to effectively manage its research results to support teaching and research programs while encouraging the practical application of those results for the public benefit is critical to our mission. Because University research may be conducted pursuant to a variety of agreements with external parties, this policy applies to any UC agreement with others that addresses future research results, whether that agreement is administratively managed as a contract or grant, a procurement, a sales and services contract, or is in another form.

Within these parameters, authorized University personnel have significant flexibility to address case-specific interests and circumstances. Issuance of this policy does not alter existing University policy or guidance on this matter. The Senior Vice President—Business and Finance shall develop appropriate administrative guidelines, delegations of authority, and accountability measures to support campus and Laboratory activity in this area, and will evaluate the efficacy of this policy within five years of this date.

Sincerely,

Richard C. Atkinson
President

Enclosure

cc: Members, President's Cabinet
Academic Council Chair Dorr
Special Assistant Gardner

Executive Director Feuerborn
Members, Council on Research
Members, Technology Transfer Advisory Committee

11/17/99 to SPO COs

University of California
Office of the President
August 26, 1999

Principles Regarding Rights to Future Research Results
In University Agreements with External Parties

Preamble

This policy defines the core principles to be addressed in University agreements with external parties as to rights to future research results including patents, copyrights, tangible property, and data generated by the University community or through the use of University resources.

The University increasingly is called upon to participate in a broad spectrum of research relationships with governmental agencies, nonprofit foundations, and industry. Such relationships encompass traditional extramural research funding arrangements, research collaborations, multi-party research consortia, visits by others to University laboratories, student and faculty visits to external laboratories, and use of University equipment and facilities by others. Other University relationships with external parties, such as purchasing or real estate transactions, may also have implications for future University research results. Properly cast, all such relationships can help both the University and the external party advance their respective and mutual research interests.

Each University agreement with an external party must recognize the importance of managing the results of research to enhance the teaching and research programs of University faculty, researchers, students, and postdoctoral scholars. To ensure the long-term success of such relationships, agreements should acknowledge the participants' respective contributions, understanding that parties may have divergent interests in the results of research. Regarding technologies and other results arising from research they support, industry partners may rely upon strong patent or proprietary positions to gain competitive positions in the marketplace. The University has a commitment to make the fruits of its research widely available through publication and open distribution of research products. The University also seeks to protect the viability of its research programs, to foster open inquiry beyond the interests of any one research partner, and to recognize its fiduciary responsibility as the beneficiary of a publicly-funded research infrastructure.

Principles

For University relationships with external parties to succeed, agreements must address the parties' interests in future research results through flexible application of fundamental principles to a broad range of specific circumstances. Rights and obligations associated with future research results shall be based on the following principles:

1. Open Dissemination of Research Results and Information

Agreements with external parties shall not abridge the ability of University researchers to disseminate their research methods and results in a timely manner. The most fundamental tenet of the University is the freedom to interpret and publish or otherwise disseminate research results in order to support the transfer of knowledge to others and maintain an open academic environment that fosters intellectual creativity.

2. Commitment to Students

Agreements for research relationships with external parties shall respect the University's primary commitment to the education of its students.

3. Accessibility for Research Purposes

Agreements with external parties shall ensure the ability of University researchers to utilize the results of their research to perform future research.

4. Public Benefit

Agreements with external parties shall support the ability of the University to make available for the public benefit in a diligent and timely manner any resulting innovations and works of authorship.

5. Informed Participation

All individuals involved in research governed by a University agreement with an external party shall have the right and responsibility to understand the rights and obligations related to future research results embodied within the agreement.

6. Legal Integrity and Consistency

Commitments concerning future research results made in agreements with external parties shall be consistent with all applicable laws and regulations and the University's contractual obligations to others.

7. Fair Consideration for University Research Results

Agreements with external parties shall provide fair consideration to the University and the general public for granting commercial access to future University research results.

8. Objective Decision-Making

When establishing or conducting University relationships with external parties, decisions made about rights to future research results shall be based upon legitimate institutional academic and business considerations and not upon matters related to the personal financial gain of any individual.

Applicability

These principles shall apply to all University agreements with external parties that impact rights to University research results, whether such agreements are administratively managed as contracts and grants, as procurements, as sales and services contracts, or as other forms of agreement.

University relationships with external parties are most efficiently established and managed by delegating appropriate authority to well-trained campus and Laboratory negotiators for development, negotiation, and execution of a broad range of tangible and intellectual property rights arrangements. Each such arrangement must be consistent with the provisions of this policy, but may be tailored specifically to particular circumstances. Since disposition of research results arising from such relationships is based on both University academic and business considerations, it is important that authorized University contracting personnel and University academic personnel together participate in and take responsibility for decisions concerning such arrangements.

Although this Policy is applicable to the three Department of Energy National Laboratories, allocation of rights under various agreements at the Laboratories may be subject to overriding obligations of The Regents under DOE operating contracts.

The Senior Vice President—Business and Finance shall develop appropriate delegations of authority, administrative guidelines, and accountability measures to support campus and Laboratory activity in this area.