

GUIDELINES ON UNIVERSITY-INDUSTRY RELATIONS

INTRODUCTION

These Guidelines, which supersede the Interim Guidelines on University-Industry Relations, dated November 3, 1982, are issued in response to a growing recognition of the importance and complexity of relations between the University of California and private industry. University-industry collaborations can result in benefits to both parties, if there is a clear understanding of fundamental University policies and procedures and of the complementary but differing goals of the University and private industry.

The Guidelines are designed primarily to assist faculty in their relations with industry. They summarize relevant University policies and seek to clarify relationships and obligations between the University of California and private industry. They address issues that arise for faculty and academic researchers in particular. Some of the policies, however, such as the University Copyright and Patent Policies and Regulation 4, also apply to staff and non-faculty academic employees. For these employees, further policies bearing on University-industry relationships can be found in the Executive Program Personnel Policies, the Management and Professional Program Personnel Policies, and in Business and Finance Bulletins. (See also Compendium of Specialized University Policies, Guidelines, and Regulations Related to Conflict of Interest.)¹

In general, faculty members are encouraged to engage in appropriate outside professional relationships with private industry. Such outside activities can provide the individual faculty member with experience and knowledge valuable to teaching and research and also help students gain valuable educational opportunities and experiences. Such activities also facilitate the transfer of technology to improve the well-being and productivity of society and offer research opportunities through which the faculty member can make a contribution to knowledge.

They also can constitute suitable public service. Individual faculty members have the responsibility for assuring that such outside professional relationships do not interfere with their obligations to the University in teaching, research, and public service.

The premise that underlies these Guidelines is that first consideration must be given to the University's mission of teaching, research, and public service. In pursuing relationships with industry, the University must keep the public trust and maintain institutional independence and integrity to permit faculty and students to pursue learning and research freely.

The University's long history of cooperation with industry in the support of research, instruction, and public service reflects the University's land-grant origins. University-industry relations consist of a variety of activities, including:

- Direct funding of research costs through contracts and grants.
- Formal licensing to industry of University-owned patents and technology.
- Gifts and endowments (including endowed chairs) designated for colleges, schools, departments, or individuals.
- University-industry exchange programs and student internships.
- Specialized programs designed by the University for continuing education and training of professionals, primarily through University Extension.
- Participation of industry representatives on campus and Universitywide advisory groups.
- Cooperative research projects, some of which include government participation and the use of specialized facilities.
- Use of unique University facilities on a fee-for-service basis.
- Research and development facilities of industries housed on University property (industrial parks).
- Activities of Cooperative Extension.
- Faculty consulting.

- Research activities of the Agricultural Experiment Station and its affiliated field stations.

In recent years there has been heightened interest and activity in University-industry relationships. Federal patent and tax laws have changed to facilitate and encourage University-industry collaboration and technology transfer. The Department of Energy National Laboratories are under a Federal mandate to facilitate technology transfer. Moreover, legislators increasingly see such cooperation as a way of enhancing national research and development efforts and of helping to make the State and the nation more competitive.

For those individuals and groups of faculty and the private sector who want to embark on cooperative efforts, the means for doing so are readily available. The University is exploring innovative organizational approaches to assure support of worthy research and education that provide significant contributions to the body of scholarship and knowledge, that are responsive to industry interests, and that advance the public's interest in these productive relationships.

GUIDELINES

1. Open Academic Environment

All University research, including research sponsored by industry, is governed by the tradition of the free exchange of ideas and timely dissemination of research results. The University is committed to an open teaching and research environment in which ideas can be exchanged freely among faculty and students in the classroom, in the laboratory, at informal meetings, and elsewhere in the University. Such an environment contributes to the progress of teaching and research in all disciplines.

Reasonable steps should be taken to insure that commercial pressures do not impede faculty communication with their colleagues or their students about the progress of their research or their findings. Indicators of possible problems include the disruption of the informal exchange of research findings and products, the lessening of collegiality, and the rise of competitive and adversarial relations among faculty.

Guideline: The Administration and the Academic Senate are responsible for assuring that an open environment exists throughout the University. It is the responsibility of the campus administration, departmental faculty, and the Academic Senate to establish appropriate norms and to assure the existence of an open environment.

2. Freedom to Publish

Freedom to publish and disseminate results is a major criterion of the appropriateness of any research project. University policy precludes assigning to extramural sources the right to keep or make final decisions about what may be published.² A sponsor may seek a short delay, however, in order to comment upon and to review publications for disclosure of its proprietary data or for potentially patentable inventions. Such a delay in publication should normally be no more than 60 to 90 days. Chancellors, and Vice Presidents, in their areas of responsibility, may make exceptions to this policy under a few limited conditions. This is outlined in full in the Contract and Grant Manual.² If any doubt remains concerning an exception, the Chancellor may resolve it by further referring the matter to the Office of the President.

The freedom to publish is not an obligation to publish. Under the Faculty Code of Conduct, a faculty member "...accepts the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge..."³ The exercise of this self-discipline and judgment, not external factors, should determine the content and timing of publication.

Guideline: Freedom to publish is fundamental to the University and is a major criterion of the appropriateness of a research project.

3. Outside Professional Activities

Faculty are encouraged to engage in appropriate outside professional activities. Each year faculty must submit an annual report on outside professional activities to the department chair. This information is included in the faculty member's record and evaluated in the academic review process.⁴

It is the responsibility of each faculty member to assure that such outside activities do not interfere with obligations to the University in teaching, research, and public service; and that no portion of time due the University is devoted to private purposes. Provisions of outside consulting agreements must not limit a faculty member's ability to carry out ongoing obligations under University policies such as the Patent Policy.⁵

Guideline: Faculty are encouraged to engage in appropriate outside professional activities. Responsibility rests with each faculty member to assure that such activities do not interfere with the performance of University duties.

4. The Obligation to Avoid Conflict of Interest

University employees must avoid conflict of interest. A conflict of interest is a situation in which an employee has the opportunity to influence a University decision that could lead to financial or other personal advantage, or that involves other conflicting official obligations. The California Political Reform Act of 1974 prohibits any University employee from making or participating in the making of a University decision from which personal financial gain is foreseeable. Exempted from the Act are decisions on the selection of teaching and other program

materials and some decisions about research.⁶ The Universitywide Statement on Conflicts of Interest gives some examples of conflict-of-interest situations. It goes on to say, however:

"It has long been recognized that the only truly effective safeguard against conflicts of interest situations is the integrity of the faculty and staff. A codification of the complex ethical questions involved, even if possible, would be unduly restrictive. At the same time, even the most alert and conscientious person may at times be in doubt concerning the propriety of certain actions or relationships. Whenever such doubt arises, the University expects the individual involved to consult with the Office of the Chancellor, or the Chancellor's designated representative, before making a decision."⁷

Guideline: Faculty may not engage in any activity that places them in a conflict of interest between their official University activities and any other interests or obligations.

5. Disclosure Responsibilities

Principal Investigators who have a financial interest in any non-governmental sponsor proposing to fund their research must disclose that interest. The written statement of disclosure must be reviewed and approved independently and substantively by local campus committees on the basis of specific criteria in the University's disclosure policy and guidelines before funding for the research can be approved.^{8,9} This report is required by both University policy and State law. A project completion statement is also filed. Such statements of disclosure are open to public inspection. As noted in Guideline 3, faculty must also submit to the department chair after-the-fact annual reports on outside professional activities.¹⁰

Guideline: Principal Investigators who have a financial interest (such as equity, directorship, or consultant relationship) in any non-governmental sponsor proposing to fund their research must disclose this interest prior to acceptance of funding.

6. Responsibility to Students

University regulations protect the academic freedom of students, and responsibility for adherence to these principles rests with the faculty. Students who have reasons to believe they are in situations which violate those principles are advised to seek the advice of the Department Chair or campus ombudsperson. The Academic Senate's Divisional Graduate Councils and the Universitywide Coordinating Committee on Graduate Affairs are also responsible for making sure that closer University-industry relations do not create strains in the professor-student relationship.

Students must be able to choose research topics for educational reasons without being overly influenced by the need to advance investigations of direct interest to a particular firm; they must be protected against the premature transmittal of research results; and they must be advised objectively on career choices.

The Faculty Code of Conduct states:

"As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals, and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom." (AAUP Statement, 1966; Revised, 1987)¹¹

Guideline: Faculty members must not allow any outside professional activities or interests to adversely affect their responsibilities to students as teachers, mentors, or supervisors of research.

7. Patent Policy

All University employees must disclose all potentially patentable inventions conceived or developed while employed by the University and must assign all those inventions that occur in the course and scope of their employment to the University. Whether inventions are or are not patentable is a matter of Federal patent law. Whether the University will prosecute any specific patent is a determination to be made by the UC Patent, Trademark, and Copyright Office.

While all patentable inventions must be disclosed, inventions resulting from permissible consulting activities without use of University funds or facilities need not be assigned to the University. Consulting agreements should be reviewed carefully, however, to make sure they do not conflict with obligations under University patent and other relevant policies.

The University of California Patent Policy¹² seeks to assure balance among several objectives: 1) facilitating prompt and effective development of useful inventions; 2) preventing the inappropriate use of public funds for private gain; 3) maintaining good relations with industry to make the best use of opportunities for education and research funding; and 4) obtaining appropriate revenues for the University from the licensing of patents. For these purposes, the University Patent Policy provides for: 1) mandatory disclosure to the University of potentially patentable inventions by employees or those who otherwise use facilities or research funds of the University; 2) assignment of patent rights to inventions developed in the course of University employment, or with use of University research facilities, or University funds; 3) sharing of royalties with inventors; and 4) transferring of technology to industry for the public benefit.

Although the primary purpose of University research is not commercially applicable discoveries or inventions, the University recognizes the need to encourage the practical application of the results of research for the public benefit. Thus, the University maintains an active program for identifying and patenting potentially useful inventions and for licensing them to firms which have the capability of developing, manufacturing, and marketing them.

Guideline: All University employees and others who use University funds or facilities must sign patent agreements and must adhere to the University of California Patent Policy.

8. University Practice on Licensing the Use of Technology Resulting from Research

The major purposes of licensing to industry the use of technology resulting from University research are: 1) to provide a mechanism for transferring, disclosing, and disseminating the results of University research to the public for the public benefit; and 2) to meet obligations to research sponsors. Licensing also provides a financial return to support further research and education.

Terms and conditions for licensing agreements should consider the nature of the technology, the stage of development of the invention, the effect on the research endeavor in question, the public benefit, and the marketplace. Agreements are negotiated on a case by case basis. If a company needs time to evaluate a research result, an option agreement may be negotiated to allow a limited time for a review for licensing purposes. The University will grant the right of first refusal to the sponsor for an exclusive or nonexclusive license, based on the level of sponsor support. Any license of a patentable invention must at least provide for diligent development by the licensee and, in most cases, for the payment of royalties. Reproduction of copyrightable expressions may be separately licensed. Agreements, options, non-exclusive licenses, and exclusive licenses must not interfere with the principle of open dissemination of research results.

Guideline: University practice permits the licensing of technology resulting from its research as long as the University retains the right to disseminate the results publicly. The principle of the right of open dissemination of research results must not be compromised.

9. Copyright Policy

In keeping with academic tradition, University Copyright Policy¹³ provides that ownership of copyrights to scholarly or aesthetic works that are prepared through independent academic effort and not as part of a directed University assignment generally reside with the author (unless the work in question was commissioned by the University, or the work was created under extramural support). Such scholarly or aesthetic works include, but are not limited to, books, articles, lectures, and computer software resulting from independent academic study; or artistic works such as novels, videotapes, and musical compositions. Otherwise, all rights in copyright arising from University employment or the use of University resources belong to the University. Title to the copyrightable material that is developed under a contract or grant from a commercial sponsor normally belongs to the University. In limited cases, where the purpose of the agreement is to develop a copyrightable work for the sponsor's publication, the copyright may be assigned to the sponsor, but only if there is a provision surrendering this right to the University after a reasonable interval of time, in the event the extramural fund source has not published within that time.¹⁴ Each campus has a designated official who is able to answer questions about applicability of the Copyright Policy.

Guideline: All University employees and others who use University funds or facilities must adhere to the University Copyright Policy.

10. Tangible Research Products

Tangible research products include a wide range of tangible property resulting from the conduct of research, as distinct from copyrightable expressions and patentable inventions. Tangible research products may confer a public benefit through commercial licensing and may include biological materials, such as cell lines and plasmids; chemical compounds; electrical schematic diagrams; mechanical design drawings; and more abstract products such as detailed descriptions or compilations of laboratory procedures, analytical methods, or other such "know-how." The University's Intellectual Property Advisory Council is developing a written policy on tangible research products.

In the event that research results are to be licensed, the University prefers that they be patented or copyrighted when

possible. When this is not practical, licensing of tangible research products consistent with these Guidelines is permissible. When the University licenses tangible research products, it is willing to restrict commercial availability of such materials, but such agreements must permit the University to retain the discretion to publish any results of research at any time and to disseminate the tangible materials for educational and research purposes. Such publication and dissemination rights are essential to an academic institution of education and research.

Licensing of tangible research products must have the written concurrence of the involved researchers and the approval of the appropriate Chancellor, Laboratory Director, or Vice President. All such licenses must follow standard University policy and procedures for contracts. Chancellors are further responsible for monitoring the effects of such arrangements on the openness of academic exchange.

Guideline: The University will permit the licensing of tangible research products as long as no inappropriate restrictions are placed on publication or dissemination of research results and materials.

11. Use of University Facilities

University facilities are to be used for activities appropriate to the University's mission. Regulation 4, Special Services to Individuals and Organizations¹⁵, which governs the use of research facilities, establishes guidelines limiting research to activities which are appropriate to the University. In a limited number of instances within the scope of Regulation 4, the University does permit the use of unique or very specialized University facilities by outside parties, both industry and government agencies, on a fee-for-use basis.

Regulation 4 states:

"University participation in tests and investigations shall be limited to activities which lead to the extension of knowledge or to increased effectiveness in teaching. Routine tasks of a commonplace type will not be undertaken.

University laboratories, bureaus and facilities are not to be used for tests, studies, or investigations of purely

commercial character, such as mineral assays, determination of properties of materials, the performance efficiencies of machines, analyses of soils, water, insecticides, fertilizers, feeds, fuels, and other materials, statistical calculations, etc., except when it is shown conclusively that satisfactory facilities for such services do not exist elsewhere. Those requiring such tests or services should apply to business firms or to...public agencies..."¹⁵

Guideline: University facilities and resources should be devoted to activities that support teaching and research and that lead to the advancement of knowledge. They should not be used for routine tasks of a commercial character. Unique or special facilities may be made available to outside users on a fee-for-use basis.

12. Recovering Costs from Research Sponsors: Gift/Grant Distinctions

In accepting contracts and grants from extramural sources, the University expects to recover full direct and indirect costs of the activity. This is a protection against the use of public funds for private gain. In the case of nonprofit and Federally sponsored research, the University may agree to share some costs, usually in the form of contributed effort. In the case of grants from independent philanthropic foundations, the University does occasionally waive indirect costs as a form of cost sharing. The University views cost recovery in the case of gifts differently. With a gift, the donor does not impose contractual obligations and funds are awarded irrevocably. The criteria that distinguish gifts from grants are provided in the University Policy on Review of Gifts/Grants for Research.¹⁶ Contracts with commercial entities should provide for full direct and indirect cost recovery.

Guideline: The proper distinction between gifts and grants, with the different obligations in each case, is important to the integrity of the University's sponsored research program.

13. Organizational Arrangements

Innovative organizational approaches for promoting University-industry relations and funding University research, if compatible with University policy, should be considered. Campuses are entering into various combinations of arrangements including those with government funding, with multiple corporate sponsors, with a single company, and with other campuses and universities.

Primarily because of its need to be even handed in its support of faculty members and in its openness to competing commercial enterprises, the University has not arranged for investment in firms whose products derive from University research, when the principal purpose is to promote faculty inventions. If the University were to be an equity participant in the work of one or more faculty members, it could be seen as favoring those faculty members, and could be in conflict with the University's role to support scholarship and allocate institutional resources in an even-handed manner. Moreover, this kind of relationship with certain companies could preclude or inhibit research sponsorship by other competing companies.

Guideline: In general, it is not appropriate for the University to invest directly in enterprises when such investment is tied to the commercial development of new ideas created or advanced through University research.

FOOTNOTES

Policies and Documents Pertaining to University Relations with Industry

1. Compendium of Specialized University Policies, Guidelines and Regulations Related to Conflict of Interest, Business and Finance Bulletin G-39 (April 15, 1986).
2. Publication Policy and Guidelines on Rights to Results of Extramural Projects or Programs, Contract and Grant Manual, Chapter 1 (1989).
3. University Policy on Faculty Conduct and Administration of Discipline (June 14, 1974), including the Faculty Code of Conduct, (Revised by The Regents on May 15, 1987; issued by the President on January 19, 1988; and issued with technical changes by Senior Vice President Frazer on August 26, 1988).
4. Policy on Outside Professional Activities of Faculty Members (April 13, 1979) and Guidelines for Reporting Outside Professional Activities, (August 6, 1979), Academic Personnel Manual, Section 025.
5. Standing Order of The Regents of the University of California 103.1(b), Special Provisions Concerning Officers, Faculty Members, and Employees of the University, Service Obligations.
6. Compendium of Specialized University Policies, Guidelines and Regulations Related to Conflict of Interest, Business and Finance Bulletin G-39 (April 15, 1986).
7. Statement of Conflicts of Interest, Office of the President (September 19, 1967; issued on October 5, 1967 and October 12, 1967).
8. Policy on Disclosure of Financial Interest in Private Sponsors of Research, Office of the President (April 26, 1984).
9. Guidelines for Disclosure and Review of Principal Investigators' Financial Interest in Private Sponsors of Research, Office of the President (April 27, 1984).

10. Policy on Outside Professional Activities of Faculty Members (April 13, 1979) and Guidelines for Reporting Outside Professional Activities, (August 6, 1979), Academic Personnel Manual, Section 025.
11. University Policy on Faculty Conduct and Administration of Discipline (June 14, 1974), including the Faculty Code of Conduct, (Revised by The Regents on May 15, 1987; issued by the President on January 19, 1988; and issued with technical changes by Senior Vice President Frazer on August 26, 1988).
12. University of California Patent Policy (November 18, 1985).
13. University Copyright Policy (August 1, 1975).
14. Publication Policy and Guidelines on Rights to Results of Extramural Projects or Programs, Contract and Grant Manual, Chapter 1 (1989).
15. Regulation 4, Special Services to Individuals and Organizations, Academic Personnel Manual, Section 020 (June 23, 1958).
16. Review of Gifts/Grants for Research, Office of the President (July 8, 1980).