

# UNIVERSITY OF CALIFORNIA GUIDELINES FOR CONTRIBUTING TO OPEN/COMMUNITY SOURCE SOFTWARE

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## I. PURPOSE

The University of California not only uses Open Source Software and Community Source Software (O/CSS) in furtherance of its mission, in a growing number of cases the University also contributes code back to those O/CSS communities. Benefits accrue to the University as a result of making such contributions, but in doing so the University takes on certain associated responsibilities.

The purpose of this document is to:

- Summarize the rights and responsibilities associated with O/CSS contributions made on behalf of the University;
- Provide guidelines by which the University can most effectively and appropriately evaluate and manage making such contributions, taking into account pertinent licensing, technical, intellectual property, legal, policy and cost/benefit issues; and
- Identify organizations, roles and responsibilities pertinent to the implementation and management of the guidelines outlined herein.

## II. APPLICABILITY

These Guidelines apply to:

- All Open Source Software and Community Source Software (as defined in Section III below) used by the University of California;
- All software code that has been created by, or on behalf of, the University of California, that is based upon and intended to correct, modify or enhance existing O/CSS software code, and which the University of California determines is in its best interest to contribute to that O/CSS community;
- All employees, including student, part-time and temporary employees;
- All departments and organizations of the University of California; and
- All third parties whose conduct, in the performance of their work for the University of California, is under the control of the Regents of the University of California.

## III. DEFINITIONS

**Community Source Software (CSS)**, as used in these Guidelines, means a software model that blends elements of directed development, in the classic sense of an organization employing staff and resources to work on a project, and the openness of traditional Open Source Software projects.

**License**, as used in these Guidelines, means a contract in which a copyright owner grants to another permission to exercise one or more of their rights under copyright.

**Open Source Software (OSS)**, as used in these Guidelines, means computer software that is available in source code form for which the source code and certain other rights normally reserved for copyright holders are provided under a software license that permits users to use, study, change, and improve the software.

**Source Code**, as used in these Guidelines, means a collection of human-readable text and/or programming commands needed to specify the actions to be performed by a computer or computing device.

## IV. STATEMENT

The University of California not only uses O/CSS in furtherance of its mission, in a growing number of cases the University also contributes code back to those O/CSS communities. Benefits accrue to the University as a result of making such contributions, but in so doing the University takes on certain associated responsibilities.

Benefits that accrue to the University as a result of contributing code to communities supporting the O/CSS solutions it uses include:

- Adoption of an O/CSS solution can be an important long term investment. Every effort that the University makes to contribute to that O/CSS solution helps to ensure its ongoing success which in turn protects the University's investment in that solution.
- Contributing code can enable the University to influence the direction of an O/CSS solution to ensure that it continues to align with the University's needs.
- Code developed by the University for an O/CSS solution is likely done to customize the O/CSS to meet the University's specific needs. Each time the University upgrades to a new version of that O/CSS, it may have to expend additional resources to develop the same code customization to apply to the new version. If the code that the University contributes back to the O/CSS community is incorporated into the core code for all subsequent versions, then the University will save resources by not having to develop the same customized code for each new version.
- It is easier to ask for and receive support from an O/CSS community when one also gives back to that community. By helping others, we help ourselves.

Responsibilities that the University takes on as a result of contributing code to communities supporting the O/CSS solutions it uses include:

- The University's contribution of code does not guarantee that it will be approved for incorporation into the core code. For this reason it is important that the University ensure that any code it may contribute meets a sufficient level of technical quality and usefulness.
- The University must take appropriate steps to confirm that the code to be contributed was fully created by the University and/or its representatives, and does not contain the intellectual property of others.
- The University must take appropriate steps to ensure that the code to be contributed does not have prior conflicting intellectual property rights obligations or restrictions. Code developed under some form of externally sponsored research should be closely reviewed for this.
- The University must take appropriate steps to determine that the contribution of the code is in the University's best interest.

The use of each individual O/CSS solution is governed by the terms and conditions under which it is licensed, and is protected under United States Copyright law. Furthermore, the University has various internal policies related to Intellectual Property (IP) that may be pertinent to the contribution of code to O/CSS communities. The University is obligated by policy and law to ensure that any code contributions to an O/CSS community are in compliance with the terms and conditions of the pertinent license, laws and internal policies.

## V. GUIDELINES

Under the executive sponsorship of the UC Information Technology Leadership Council (ITLC), the UC Technical Acquisition Support (TAS) group researched State and Federal law, and existing University policies pertinent to making contributions to O/CSS. As a result of that research, TAS developed the following guidelines, and proposes that they be implemented as an effective mechanism by which the University can ensure that any code contributions it may make to an O/CSS community are in compliance with the terms and conditions of the pertinent license, laws and internal policies.

1. Each campus should establish a process by which to ensure that any contribution of University developed code to an O/CSS community is in the best interest of the University and is in compliance with the pertinent licenses, laws and policies.
2. The process noted above should include a mechanism by which to effectively confirm that the code to be contributed was fully created by the University and/or its representatives, and does not contain the intellectual property of others. This mechanism should include identification of who specifically authored the code to be contributed, and a review of the laws and/or policies pertinent to that individual's relationship to the University (staff, faculty, contractor/consultant, etc.).
3. The process noted above should include a mechanism by which to effectively confirm that the code to be contributed does not have prior conflicting intellectual property rights obligations or restrictions.
4. The process noted above should include a mechanism by which to effectively confirm that any code to be contributed meets a sufficient level of technical quality and usefulness.
5. The process noted above should include a mechanism by which to effectively confirm whether or not the benefits derived by contributing the code exceed the benefits that could be derived by the University retaining exclusive intellectual property rights to the code. In cases where an O/CSS solution has already been vetted through the appropriate internal governance process and identified as a campus-wide solution, then it may be prudent to establish that the contribution of University developed code to that O/CSS project is understood to be in the best interest of the University. **NOTE:** If the code to be contributed is for an O/CSS solution licensed under the GPL or other "Reciprocal" license, then the University could choose to use the code solely for internal purposes, but would not have the right to externally distribute for a profit.
6. The process noted above should include identification of the positions and offices responsible for each element of the process.
  - a) At most UC campuses, the office responsible for technology transfer and/or intellectual property rights is the primary authority in this area and is likely to be the primary office responsible for managing this process. See the the list of UC Copyright Contacts (<http://www.ucop.edu/ott/faculty/crcontac.html>) for the contact information for this office at each campus.
  - b) Project leads, supervisors, managers, department heads, directors and senior management are responsible for identifying projects in their units to which these guidelines apply, and ensuring that any code contributions are compliance with the established process.
7. It is recommended that this process be clearly defined and documented in a contribution agreement (CA) that can be completed by each individual developer/contributor, and reviewed by the responsible individuals and/or offices prior to the contribution being made. The CA should include the following;
  - a) Identification of the code to be contributed;
  - b) Identification of the individuals who contributed to the development of the code;
  - c) Identification of the approved campus-wide information technology project with which the contribution is associated, if any;
  - d) Identification of the benefits that would accrue to the University as a result of the contribution;
  - e) Identification of any code authored by others that may be included in the code to be contributed;

- f) Identification of the nature of the code to be contributed (patch, enhancement, new functionality, etc.);
- g) Identification of the source and date of the internal technical review; and
- h) An acknowledgment of understanding of the terms under which the code is being contributed.

A sample CA document is attached and may be customized to reflect the pertinent unique information for each UC campus.

## VI. REFERENCES

1. University of California Policy on Copyright Ownership - University of California, Office of the President, August 19, 1992 - (<http://www.ucop.edu/ucophome/coordrev/policy/8-19-92att.html>)
2. University of California Software On-Line Permission Statement - (<http://www.ucop.edu/ott/permissn.html>)
3. University of California Contracts and Grants Manual - Chapter 11 Intellectual Property - (<http://www.ucop.edu/raohome/cgmanual/chap11.html>)
4. UC Guidelines on University-Industry Relations - ([http://www.ucop.edu/ott/genresources/policy\\_pdf/IndRelGuidelines.PDF](http://www.ucop.edu/ott/genresources/policy_pdf/IndRelGuidelines.PDF))
5. UC Memorandum: Guidance for Faculty and Other Academic Employees on Issues Related to Intellectual Property and Consulting - (<http://www.ucop.edu/ott/documents/consult.pdf>)
6. UC Guidelines on Intellectual Property Issues - (<http://ucop.edu/research/policies/ip.html>)
7. UC Copyright Contacts- (<http://www.ucop.edu/ott/faculty/crcontac.html>) and (<http://www.ucop.edu/ott/contacts.html>)
8. Copyright Law of the United States of America and Related Laws Contained in Title 17 of the United States Code - (<http://www.copyright.gov/title17/>)
9. Producing Open Source Software by Karl Fogel - Chapter 9 - (<http://producingoss.com/en/legal.html>)
10. Open Source Definition - Open Source Initiative - (<http://www.opensource.org/docs/osd>)
11. Open Source License Types - Open Source Initiative - (<http://www.opensource.org/licenses/alphabetical>)

## VII. ATTACHMENTS

1. Sample CA form