

# MEMORANDUM

From: Suzanne Wones, University Librarian



To: FILE

Date: December 18, 2024

Re: University Librarian's Pre-approval of CC BY-NC 4.0 Licenses for Staff Non-Academic Work

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This memorandum provides guidance to UC Berkeley Library staff who wish to apply a Creative Commons license to non-academic works they create in the scope of their employment. This memorandum does *not* apply to works of academic scholarship (discussed further below), or to any collection materials owned, held, or licensed by the Library.

The [UC Regents own copyright](#) to non-academic works created by Library staff in the scope of their employment. As University Librarian, I am exclusively [authorized](#) to grant or permit licenses for these materials. This means that, to date, when employees have wished to apply a Creative Commons license to non-academic materials they create for their work (e.g., presentations, memoranda, photographs, instructional materials), they have needed to ask my permission to do so.

I wish to promote the beneficial reuse of Library-created works without the workflow impediment of staff requesting my advance permission. I cannot redelegate my license-granting authority, **but with this memo I confirm my pre-approval for Library staff who wish to apply a [Creative Commons Attribution-NonCommercial International 4.0 License \(CC BY-NC 4.0\)](#) to non-academic works they create in the scope of their employment.**

This memo provides further background documentation for this process and policy. If you have additional questions about copyright licensing or the scope of this memo's coverage, please contact the Scholarly Communication & Information Policy (SCIP) office at [schol-comm@berkeley.edu](mailto:schol-comm@berkeley.edu).

## Summary

### Copyright ownership for works created during UC employment

Under the [University of California Policy on Copyright Ownership](#), the UC Regents own the copyright in most works prepared by University employees within the course or scope of their employment.<sup>1</sup> The University's policy in this regard upholds underlying Federal and state

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<sup>1</sup> See III.A.7 <https://copyright.universityofcalifornia.edu/resources/copyright-ownership.html>

works-made-for-hire copyright rules. This means that the UC Regents own copyright in the majority of materials that Library staff create pursuant to their work—including email messages, memoranda, presentations, instructional materials, design work, photographs, and much more. Note that the UC Regents do *not* own copyright to materials that employees create while they are employed but that were not created in the course of their employment (e.g. a short story an employee writes in their free time; a blog post that an employee publishes to a personal website on a topic unrelated to their work).

While the UC Regents typically own copyright on works created pursuant to Library staff's employment, there are situations in which Academic appointees retain their copyright. An employee who has a "general obligation to create copyrightable scholarly or aesthetic works" retains the copyright in the works they create, such as when a librarian uses independent academic effort to prepare a research article for publication in a scholarly journal.<sup>2</sup>

### University Librarian can license Library staff-created non-academic works

Pursuant to an April 23, 2012 [Delegation of Authority](#), the UC Berkeley Library University Librarian has the authority to grant licenses for Library-created copyrightable materials:

"... enter into agreements with respect to ownership and other rights related to copyrightable material developed by or on behalf of the Library [...] Such agreements include, but are not limited to, the acquisition of related gifts and donations, and the creation, content development, collection, and distribution of copyrightable materials."

The University Librarian is not permitted to re-delegate this license-granting authority, but can pre-approve the application of licenses or apply them in a comprehensive fashion. For instance, all material that a Library staff member creates and posts to the Library website has been assigned a CC BY-NC 4.0 license unless otherwise noted. Such pre-approval can alleviate workflow concerns given that Library staff would otherwise need to request University Librarian permission to apply a license to their work on an *ad hoc* basis.

There is utility in openly sharing Regents-owned copyrightable works created by Library employees. Our Library and staff are leaders in the UC system and throughout the world on matters of policy, instruction, research, and more. We wish to streamline a way for Library employees to apply Creative Commons licenses to Library-created materials so that scholars, libraries, and the public can more easily use and build upon these beneficial works. This pre-approval for Library staff to apply a CC BY-NC 4.0 license to eligible works will do just that.

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<sup>2</sup> See III.A.1 <https://copyright.universityofcalifornia.edu/resources/copyright-ownership.html>