

Plan for Carrying Out Licensing Decision Reviews
UC Davis InnovationAccess
University of California, Davis
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This is a process to carry out intervening substantive reviews of licensing decisions (hereinafter referred to as Licensing Decision Reviews) consistent with the requirements of the California Political Reform Act. The following process will be used by UC Davis InnovationAccess (UCDIA) to carry out such Licensing Decision Reviews (LDR) for those inventions under UCDIA management. Based on its experience in carrying out LDRs, from time-to-time UCDIA may revise its LDR processes.

A. Notice to Inventors

After receipt of a record of invention form (ROI or other invention disclosure) from an inventor, UCDIA processes the form and, whether or not UCDIA is managing the case, sends the original form, or a copy of the form, to the University of California Innovation Alliances and Services (IAS) – formerly Office of Technology Transfer (OTT). By arrangement with the IAS, upon receipt by the IAS of a record of invention form (ROI or other invention disclosure), the IAS Prosecution Group will send an acknowledgment letter to each inventor which will incorporate a notice to inventors of the provisions of the State of California Political Reform Act of 1974 and the disqualification and disclosure requirements contained therein, “What Inventors Need to Know about Conflict-of-Interest in Licensing.” The IAS notice will explain briefly the University’s policies and procedures for managing any potential conflicts of interest if an inventor has a disqualifying personal financial interest in a candidate licensee(s) and will direct the inventor(s) to the UCDIA website for further information (<http://research.ucdavis.edu/industry/ia/>).

B. Intellectual Property Officer Disqualification

UCDIA Intellectual Property Officers (IPOs) who determine that they have a disqualifying personal financial interest in licensing decisions for a case that has been assigned to them will disqualify themselves from case management responsibilities by notifying their supervisor of the situation. The UCDIA supervisor will re-assign the case for management to another IPO without a disqualifying personal financial interest in the licensing decisions. In the event that all levels of UCDIA management have a disqualifying personal interest, the case will be forwarded to the Office of Research or higher authority as necessary.

C. Consultation with Inventors

In order to help address concerns about potential conflicts of interest in licensing decisions, UCDIA IPOs in their early discussions with inventors will consider the appropriate level of inventor involvement in licensing decision-making for a particular

invention. If the UCDIA IPO wishes to have inventor(s) involved in the licensing decision-making process, the IPO will invite one or more inventors to be involved, considering the disqualification and disclosure requirements of the Political Reform Act. Alternatively, an inventor may become involved when the inventor negotiates “across the table” from a UCDIA IPO on behalf of a candidate licensee in which the inventor has a disqualifying personal financial interest. Both the IPO and the inventor must be agreeable to any inventor involvement, understanding that the extent to which the inventor participates in or influences the licensing decisions may be a factor in the considerations and ultimate recommendations of any LDR body. In general, the role of the inventor in the UCDIA licensing decision-making process will be kept to the minimum necessary to successfully achieve the University’s objectives in marketing and licensing inventions.

If the UCDIA IPO does not desire such inventor participation, the IPO will advise the inventor not to participate in nor attempt to influence UCDIA licensing decisions.

In addition, UCDIA IPOs will, when they judge appropriate, review with the inventor the applicability of the University Licensing Guidelines (see Research Policy Analysis & Coordination (RPAC) Operating Guidance Memo No. 12-02, available at http://researchmemos.ucop.edu/index.php/site/memoDetail/memo_id/RPAC-12-02) to the disclosed invention.

D. Inventor Disqualification, Participation, and Disclosure

Upon identification by UCDIA IPOs of the candidate licensee(s) with which the IPO intends to enter negotiations, the IPO will determine for each inventor whether the inventor already has, or in the future will be invited or allowed by the IPO to participate in, or attempt to influence IPO decisions made in the course of licensing the subject invention. The IPO then will indicate that determination in a written memo to file to be maintained in the UCDIA Negotiations File.

Inventors Not Participating

Completion of UC Form TT-100, Inventor Statement Concerning Involvement in Licensing Decisions, by inventors is not required. However, if inventors wish to disqualify themselves in writing, they may submit UC Form TT-100, checking the box “Disqualification” thereby asserting in writing that they have not in the past nor will in the future “make, participate in making, or attempt to influence” a University licensing decision concerning the subject invention, including the selection of a licensee(s), and other decisions made in the course of attempting to commercialize the invention. While simple non-participation in any and all licensing decisions, even without such written self-disqualification, is sufficient to remain in compliance with the Act, a written assertion provides clear documentation of the inventor's choice not to participate. A copy of any written disqualification will be kept in the UCDIA invention case file.

Inventors Eligible to Participate

The IPO will send a letter or e-mail to each inventor that has been determined by the IPO that may have a disqualifying personal financial interest in the candidate licensee(s) by instructing them to disclose any disqualifying personal financial interests in candidate licensee(s) using University Form TT-100. The UCDIA IPO may include a copy of the form with any letter sent to the inventor or may choose to indicate in the letter or e-mail the website location for the form (available at <http://research.ucdavis.edu/industry/ia/researchers/policies-forms/>) and ask that it promptly be returned to the UCDIA IPO.

If an inventor has a disqualifying personal financial interest in any candidate licensee identified by the UCDIA IPO, that inventor is required under the Act to disclose his or her financial interest. The inventor will be asked to make this disclosure using Form TT-100 and to promptly return it to the UCDIA IPO. When a disqualifying personal financial interest is disclosed in such circumstances, a Licensing Decision Review of IPO-proposed licensing decisions is required and will be initiated by UCDIA.

The UCDIA communication with the inventor that requests disclosure of any disqualifying financial interest will advise the inventor that if, after initially completing Form TT-100, either the inventor develops a new or revised disqualifying personal financial interest in a candidate licensee or the UCDIA IPO identifies additional candidate licensees, the inventor(s) must promptly provide to the UCDIA IPO a new Form TT-100 providing the updated information.

When an inventor who has or will be invited or allowed by the IPO to participate in, or attempt to influence IPO decisions does not disclose a financial interest, UCDIA IPOs on a case-by-case basis, will exercise their judgment in identifying and addressing any case where it is reasonably apparent that such an inventor appears to have a disqualifying personal financial interest. In such cases, UCDIA IPOs may reiterate to the inventor the disclosure/disqualification requirements under the Act, request an LDR of proposed licensing decisions for that case, or take other appropriate case-specific actions.

E. Objective IPO Decision-Making

The UCDIA IPO will conduct the licensing process in a manner that supports the principles of openness, objectivity and fairness in decision-making. University selection of licensees and other decisions made in the course of commercializing University research results technology will be based upon the education, research, and public service missions of the University and taking into account University Licensing Guidelines (see RPAC Operating Guidance Memo No. 12-02, available at http://researchmemos.ucop.edu/index.php/site/memoDetail/memo_id/RPAC-12-02). When an inventor indicates on Form TT-100 a disqualifying personal financial interest in a candidate licensee and does not disqualify him or herself from participation in the licensing process, the UCDIA IPO will ensure that sufficient documentation is available in the UCDIA invention case file to provide an understanding of the objective business

basis for the IPO-proposed selection of a licensee(s), and for other licensing decisions and to support the review to be conducted by the LDR body.

F. When and How to Request Licensing Decision Review

When an inventor has a disqualifying personal financial interest in a candidate licensee, and participates in licensing decision-making, Licensing Decision Review of the proposed licensee selection and other proposed licensing decisions will be conducted by UCDIA. In such circumstances, the UCDIA IPO will advise his or her supervisor as early in the process as appropriate of an IPO-proposed decision to place a license with a particular company and other proposed licensing decisions made in the licensing process and of the need to conduct a LDR. Preferably, the LDR will occur prior to the perspective licensee taking substantial actions in reliance upon the University's obligation to negotiate in good faith.

G. Submission of Information for Licensing Decision Review

When a Licensing Decision Review is required, the UCDIA IPO who proposes the selection of a licensee or other University licensing decisions will provide at least, the following information to the appropriate LDR individual or committee:

- (a) A description of the University licensing decision(s) to be made and of the IPO proposed decision(s), including an explanation of the basis or rationale for the proposed decision(s).
- (b) Relevant documentation supporting the proposed licensing decision(s) (including access to UCDIA case files as requested).
- (c) A copy of all Form TT-100s, if any, disclosing the nature and level of any inventor disqualifying personal financial interest in all candidate licensees.
- (d) A description of the inventor's involvement in the licensing process.
- (e) Other information as requested by the LDR body.

H. UCDIA Licensing Decision Reviews

UCDIA will conduct required Licensing Decision Reviews of IPO-proposed licensing decisions by a non-interested person or persons before such licensing decisions are approved or acted upon. UCDIA LDRs will be based on an independent consideration and assessment of the facts of the case in view of the University Licensing Guidelines, the nature and level of the inventor(s)' disqualifying personal financial interest, and the education, research, and public service missions of the University. The LDR body, will be composed of at least one qualified staff member with appropriate expertise, knowledge and professional judgment, and will independently check the original data and analysis upon which the IPO-proposed selection of licensees and other licensing

decisions were made and make its independent recommendations concerning the decisions. Licensing Decision Review will be conducted by UCDIA as described below.

Standard Level Licensing Decision Review

A *Standard Level Licensing Decision Review* will be conducted by UCDIA when the disqualifying personal financial interest disclosed by an inventor on Form TT-100 is:

- \$320 or more in income or gifts in the last 12 months, whichever is less; or
- the value of the personal equity interest or other investment in the proposed licensee is \$2,000 or more, or is five (5) percent or greater of ownership, whichever is less; or
- the inventor or a member of his or her immediate family is an employee or manager of the proposed licensee.

A *Standard Level LDR* will be conducted by a UCDIA or other UC Davis Office of Research staff member with appropriate expertise, knowledge and professional judgment who has not been influenced by the inventor(s) with a disqualifying personal financial interest. If the the above UCDIA or other UC Davis Office of Research staff member making the original licensing decision proposal or has been influenced by the inventor(s) with a disqualifying personal financial interest, then the *Standard Level LDR* will be conducted by the UC Davis Vice Chancellor for Research or by another UC Davis Office of Research staff member to be appointed by the UC Davis Vice Chancellor for Research.

Special Level Licensing Decision Review

A *Special Level Licensing Decision Review* will be conducted by a UCDIA or other UC Davis Office of Research staff member when the disqualifying personal financial interest disclosed by an inventor on Form TT-100 is:

- \$50,000 or more in income or \$5,000 or more in gifts in the last 12 months, whichever is less; or
- the value of the personal equity interest or other investment in the proposed licensee is \$200,000 or more, or is eight (8) percent or greater of ownership, whichever is less; or
- the inventor or a member of his or her immediate family is a corporate officer (president, vice president, secretary, treasurer, director, trustee) of the proposed licensee; or
- the licensing decision will have a “personal financial effect” on the inventor (see discussion in Guidelines on Managing Potential Conflicts of Interest in Licensing).

A *Special Level LDR* will be conducted by an individual or committee with appropriate expertise, knowledge and professional judgment. Normally, a *Special Level LDR* will be conducted by the Director of UCDIA. If the Director of UCDIA or other UC Davis Office of Research staff member making the original proposal licensing decision has been influenced by the inventor(s) with a disqualifying personal financial interest, then the *Special Level LDR* will be conducted by the UC Davis Vice Chancellor for Research or a UC Davis Office of Research staff member to be appointed by the Vice Chancellor for Research. Any individual appointed solely or as a member of a committee to conduct a *Special Level LDR* must not have been influenced by the inventor(s) with a disqualifying personal financial interest.

In those cases where a license agreement involves the licensee's support of additional University research involving the inventor with the disqualifying personal financial interest, the UCDIA IPO will inform the inventor and the UC Davis Contract and Grant Officer that financial disclosure and independent substantive review of financial interests under the University of California Policy on Disclosure of Financial Interest in Private Sponsors of Research may be required prior to execution of the license agreement.

I. Final Decisions

When a Licensing Decision Review is required under the Guidelines on Managing Potential Conflicts of Interest in Licensing, the final UCDIA decision-maker will consider the recommendations of the LDR body before placing a license with a company in which the inventor has a disqualifying personal financial interest or before otherwise implementing a licensing decision. The original UCDIA IPO may serve as the final decision-maker if he or she agrees to accept and implement the recommendations of the Licensing Decision Review body in their entirety. However, if the original UCDIA IPO does not accept or does not wish to implement the recommendations of the LDR body in their entirety, the final decision will be made in consideration of the recommendations of the LDR body by the Director of UCDIA. If the Director of UCDIA is the IPO making the original licensing decision proposal or has been influenced by the inventor(s) with a disqualifying personal financial interest, then the final decision will be made by the UC Davis Vice Chancellor for Research, or by another individual who does not report to the Director of UCDIA to be appointed by the Vice Chancellor for Research.