

**University of Alabama at Birmingham**

**COMPUTER SOFTWARE POLICY**

Approved January 14, 1986

Corrected May 28, 1986

Edited February 26, 1996, for job title changes

(Replaces "Computer Program Development Policy" in July 1, 1975, edition of the *UAB Faculty Handbook*.)

See also Board of Trustees Rule 510 "Patent Policy."

NOTE: The version of this policy presented here includes editing for publication, specifically for job title changes and format/style consistency.

**I. Purpose**

The University of Alabama at Birmingham has long recognized the importance of obtaining the greatest public benefit from its intellectual properties, which are the products of its scientific research, inventiveness, and creativity. The Patent Policy, the most recent version of which was approved by the Board of Trustees on February 27, 1986, has guided the transfer of much of this intellectual property to the public.

The widespread use at UAB of computers as tools in education, research, service, and administration has led to a new type of intellectual property relating to the development of computer software and of databases. The term "computer software" is defined for purposes of this policy as the descriptive documentation for, and a sequence of, annotated symbols which include coded instructions, regardless of format or medium, which, when interpreted or executed by a computer, can perform a specified information processing task. The term "database" is defined to be an organized collection of information in a medium that can be accessed by a computer. As a sequence of annotated symbols that can be processed by a computer, the definition for a database can be subsumed by the definition of computer software.

Many members of the UAB community other than programmers in UAB's computer centers are now developing software in pursuing their professional activities because of greatly improved access to computer power made possible by the microcomputer and the minicomputer and because of the availability of software that facilitates software development. Consequently, mere publication in a research or scholarly journal may not be adequate to transfer research methodologies and findings to other scientists, scholars, or the public, without the availability of the computer software or access to the databases used in the research.

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The purpose of this Computer Software Policy is to establish a mechanism to serve the public benefit and interest with respect to computer software and databases developed at UAB, to determine and apprise all concerned parties of their relative rights and equities in ownership of computer software and databases, to secure the appropriate type of intellectual property protection for computer software (which normally is copyright), to license computer software, to distribute equitably any royalties or other financial returns, to provide necessary uniformity in the intellectual property protection of computer software, and to provide for adequate reporting of computer software activities. This Computer Software Policy replaces and extends the scope of the superseded Computer Program Development Policy and operates in coordination with the Patent Policy.

## **II. Policy and Procedures**

### **A. Applicability**

The Computer Software Policy shall apply to the following members of the UAB community (hereinafter called "UAB members"): employees (faculty and staff) and registered undergraduate and graduate students.

### **B. Computer Software Committee**

The President shall appoint a Computer Software Committee which shall be responsible to the President or his designee. The Committee membership shall include faculty, administrative, and professional personnel. The Committee shall have the responsibility for recommending to the President interpretations of the Computer Software Policy herein stated, recommending changes in this policy, and recommending regulations pursuant to this policy as it deems necessary. The President shall promulgate regulations and may designate a Computer Software Administrator to administer the Computer Software Policy.

### **C. Rights and Equities of Ownership in Computer Software**

Different rights and equities shall apply in the following four instances: 1. Personal efforts, 2. UAB-assisted personal efforts, 3. UAB-assigned efforts, and 4. Sponsor-supported efforts.

#### **1. Personal Efforts**

The right to market or distribute computer software and to retain the income resulting from the licensing of such computer software produced by

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UAB members shall vest exclusively with the authors of the computer software if (a) the computer software is prepared without use of other UAB personnel or facilities (unless the use is within limits for similar activities, such as drafting a textbook), and (b) the computer software is neither prepared in accordance with the terms of a UAB grant or contract nor developed by UAB members while acting in any manner relating to, or part of, their employment responsibilities or expertise at UAB, whether or not such software development is a specific UAB assignment. When computer software is produced by personal efforts, all rights shall vest with the authors, as is normally the case with a book that is not a work for hire by a publisher. Computer software authors are encouraged to disclose computer software produced by their personal efforts to UAB for review and evaluation in conjunction with this Computer Software Policy (See Sections II.D and II.E.).

## **2. UAB-assisted Personal Efforts**

Rights to computer software produced by UAB members shall vest with UAB where there is any UAB support of the person's effort or use of other UAB personnel and facilities. UAB shall make a reasonably prompt determination (See Sections II.D and II.E.) of its interest in licensing such computer software or retaining its right to use such computer software in its education, research, service, and administrative programs. If UAB determines that it desires to license the computer software, then the division of royalty income from such licensing shall be as set forth below (See Section II.I.). If UAB determines that it does not wish to license the computer software, then it may release its rights to the authors, if it determines that such release is in the best interests of UAB and that such release does not conflict with any outstanding UAB commitments. Any such release will be subject to retention by UAB of a nonexclusive, royalty-free license for use of such computer software by UAB for education, research, service, and administrative purposes.

## **3. UAB-assigned Efforts**

Rights to computer software produced by UAB members shall vest with UAB if UAB has assigned them the task of producing the specific computer software. UAB shall make a reasonably prompt determination (See Sections II.D and II.E.) of its interest in licensing such computer software or retaining the right to use such computer software in its education, research, service, or administrative programs. If UAB determines that it desires to license the computer software, then the division of royalty income shall be as set forth below (See Section II.I.), except that the royalties shown for "To

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Computer Software Author" shall go to the department that assigned the task to the UAB member(s). If UAB determines that it does not wish to license the computer software, then it may release its rights to the authors, if it determines that such release is in the best interests of UAB and that such release does not conflict with any outstanding UAB commitments. Any such release will be subject to retention by UAB of a nonexclusive, royalty-free license for internal use of such computer software by UAB for education, research, service, and administrative purposes.

#### **4. Sponsor-supported Efforts**

Rights to computer software developed as a result of work supported partially or fully by a sponsor external to UAB through a contract or grant to UAB shall be handled in accordance with the terms of the contract or grant. In those cases in which all rights are vested in UAB or in cases in which rights are shared between the sponsor and UAB, the authors may share appropriately in royalty income from licensed computer software (excluding income from sale of patents, distribution of which is stated in the Patent Policy). The nature and extent of such royalty sharing shall be subject to sponsor and UAB policies.

#### **D. Duties of UAB members**

Each UAB member is obligated to disclose in writing to the Executive Vice President and Provost, or his or her designee, certain kinds of computer software generated in whole or in part by, and during, such member's course of employment or attendance at UAB. In general, computer software to be disclosed is that which may have commercial potential or which may be used in education, research, service, or administration by UAB. In particular, computer software to be disclosed is that which has been produced from UAB-assisted efforts, UAB-assigned efforts, sponsor-supported efforts, or computer software about which there may be a question of rights and equity of ownership (See Sections II.C.2. to II.C.4.). Disclosure of computer software produced by personal efforts is encouraged, but not required (See Section II.C.1.). The purpose of a disclosure, which should be in sufficient detail to enable a thorough review and evaluation, is to assure that the rights and equities of the parties involved are determined in a prompt and timely manner without unnecessary expenditure of resources.

It shall be a further obligation of each UAB member to maintain the confidentiality of any computer software generated or to treat it in accordance with the intellectual property mechanism implemented by UAB, as designated by UAB (which normally is copyright). The Executive Vice President and Provost shall be responsible

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for, and his or her office shall be active in, providing advice and assistance in computer software development and related matters. Those responsible for carrying out activities that may generate computer software with full or partial support of UAB or a sponsor shall consult in advance with the Office of the Executive Vice President and Provost, or those designated by that office, concerning any questions regarding ownership, licensing, or handling of such computer software.

It shall be the responsibility of each dean, director, and department head to encourage computer software development by UAB members.

UAB may, at its discretion and under directive of the Executive Vice President and Provost, use any protective mechanisms it deems appropriate for physical protection of computer software covered by this policy and for legal protection of UAB's rights to said computer software.

**E. Determination of Rights and Equities**

In the case of any dispute, the Computer Software Committee shall be responsible for determining to whom belong the rights to any computer software developed by UAB members. Where such rights are determined to reside wholly or in part with UAB, the Executive Vice President and Provost shall determine whether UAB wishes to license the computer software. The Committee's goal will be to make such determinations promptly, normally within 90 days of the receipt by the Executive Vice President and Provost or by the Computer Software Administrator of a written disclosure from a UAB member about computer software or a database (See Section II.D.).

**F. Routine Cases**

In routine cases in which the computer software authors, the Executive Vice President and Provost, and the Computer Software Administrator agree as to the classification or handling of submitted computer software, the standing policies of the Computer Software Committee will be applied, and the matter will be processed automatically.

**G. Nonroutine Cases**

Nonroutine cases will be dealt with individually by the Computer Software Committee via the Executive Vice President and Provost.

**H. Changes in Policy**

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Changes in this Computer Software Policy shall be made upon recommendation of the Computer Software Committee and approval of the Executive Vice President and Provost and the President.

**I. Royalty Income from Computer Software**

Net royalty income received by UAB from licensing computer software shall be distributed to the computer software authors, their heirs or assigns, and to UAB according to the percentages in the following table. Net royalty income is income from licensed computer software after a 15% deduction for administrative costs, a deduction for costs of intellectual property protection of the computer software, and a deduction for any unusual expenses for marketing the computer software.

**DISTRIBUTION OF NET ROYALTY INCOME**

Accumulated Net Royalty	To UAB Intellectual Property Fund	To Computer Software Author's		To Computer Software Author *
		School/Unit	Department	
\$0 to \$ 20,000	--	--	25%	75%
\$20,000 to \$100,000	--	25%	25%	50%
Over \$100,000	20%	25%	25%	30%

\* For UAB-assigned efforts, the royalties shown for "To Computer Software Author" shall go to the department that assigned to the UAB member the task of producing the computer software (See Section II.C.3.).

The "School/Unit" and "Department" portions shall be distributed to the "School/Unit" and "Department" of the computer software author's principal assignment when the computer software was disclosed to UAB. The term "Unit" refers to an intra- or inter-school, center, laboratory, or institute to which the computer software author may have been assigned when the computer software was disclosed to UAB. The portions distributed to the school and the unit shall be determined by agreement between the school and the unit involved, with assistance from the appropriate vice president as necessary. Part of the portion distributed to the department shall be for maintenance of the computer software according to an acceptable plan to be presented by the department.

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The UAB Intellectual Property Fund shall be used in support of licensable UAB computer software development, research, and other creative activities. The Fund shall be distributed by the President upon recommendation of the Executive Vice President and Provost. A Committee of faculty and administrative members shall be appointed by the Executive Vice President and Provost [upon recommendation of the Vice President for Health Affairs, the Vice President for Academic Affairs, and the Graduate School] to advise the Executive Vice President and Provost in the distribution of these funds. A department with computer software whose royalties are generating the Fund should be represented on the Committee.

**J. Reports**

Annual reports of computer software matters will be made to the President within thirty days following the end of each fiscal year.