Introduction

This guide attempts to help UC licensing offices and software creators navigate and assess relevant open source licenses collected and organized by key criteria in a handy chart incorporated below. This document was developed in light of UC's obligation to mitigate the copyright and patent risk accompanying the use, modification, and licensing of Open Source Software ("OSS") at the campuses. Please see the "Guide to Managing Open Source Software at UC" for a fuller treatment of these issues. The companion and chart should facilitate and expedite the OSS licensing process across all UC campuses.

This guide to the chart is broken into four sections:

1. Introduction (page 1)
2. Review License Options (pages 1-3)
3. The Chart (page 4)
4. Recommended Decision Process Flowchart (Page 5)

Review of OSS License Options

When contributing to an established OSS project

The University of California supports participation in OSS communities. Not only has the University realized substantial benefits and savings from using OSS, promoting OSS contributions of code by UC affiliates can potentially raise the profile and increase the influence of the University within those communities. OSS communities frequently have established contribution guidelines and, so long as those guidelines are not violations of University policy, contributing to those communities means adhering to those guidelines.

In order to streamline OSS contributions to established OSS communities, a campus's delegated authority may conduct an evaluation of the practices and guidelines of a community and provide a blanket approval for OSS contributions to that community so long as they fall under specified criteria.

When creating OSS from scratch

When new software is created that does not build upon a prior existing OSS project or community, and the software creators desire to release the software via an OSS license, the OSS license used should best support the project and the interests of the University. For example, while BSD, which originated at UC Berkeley, is a commonly used OSS license within the UC System, it may not be the best license to use in all cases and may be modified to better fit your needs. **Software authors wishing to release software via an OSS license are to follow the process established by their local campus, which may involve consulting with their local delegated authority or tech transfer office before taking action in using or releasing software via an OSS license.**

Consult the OSS Chart

Use and distribution of software via an OSS license (or redistribution of third party OSS) must comply with the terms of relevant OSS license(s). Not all OSS licenses are alike! Some OSS licenses (so-called "permissive" OSS licenses such as the BSD and MIT licenses) will allow licensees to use, modify, and redistribute the code with little restriction, while leaving no proprietary control to UC. Other OSS licenses require that, should the licensee subsequently want to distribute any modified or unmodified code, it be licensed only under the same form of license ("hereditary" is one term for these licenses). And yet other OSS licenses not only require the licensee to grant a license to its copyrights embodied in the code, but also grant to all subsequent users rights to any necessary patent of the licensor, whether existing or patents arising in the future; in this Guide we'll call these Patent Rights Granting Licenses. Prime examples of patent rights granting licenses are GPL v.3.0 and Apache 2.0.

The attached chart provides an at-a-glance view of the most commonly used OSS licenses and circumstances in which developers might use or distribute OSS software. The most recommended licenses for use are listed first, and moving down the chart, certain complications arise with other licenses. Note the following footnotes: "H" indicates that the license is "hereditary", and "PG" indicates that the patent is "patent-granting".

The Intent of the Legend (green vs yellow vs red boxes)

The color assigned to any given OSS license is intended to provide merely a high level assessment of the relative risk that use of a particular OSS license will violate UC Policies -- it does not take into account the commercial value of the software nor whether OSS licensing and/or which particular OSS license is an appropriate licensing scheme given the particular software at hand. For example, while it is possible an OSS license designated in green may be inappropriate to use in some cases, the chances such OSS license violates UC Policy is relatively low and it is likely the conversation with the delegated authority, if necessary, will be short. In contrast, the discussion may be longer and the analysis more complex when an OSS license designated in yellow or red are implicated. It is possible that considerable effort will have to be expended by the Tech Transfer / Copyright / Patent Office of the University, perhaps in coordination with the Office of General Counsel, to evaluate the risk to the University and its intellectual property rights. The red boxes are intended to highlight those OSS licenses that will be considered only in rare circumstances wherein the benefit to the University are great and the associated risks are acceptable by the UC administration having authority to accept such risks.

If you are using software internally within UC under a Patent Rights Granting License (such as GPL-3.0), with no intention of external distribution (outside of UC), add the following required Internal Use Notice:

> *For internal University of California use only; distribution outside of UC must be consistent with UC Guidelines for Using, Contributing to and Distributing Open Source Software [insert url]; contact [responsible Copyright Office, including email and phone contact information] with questions.*

(L)GPL "Any later version" clarification

The GPL and LGPL licenses sometimes include an "any later version" clause, which indicates that the software is effectively dual-Licensed as version 2.0 (green) and 3.0 (red). (Theoretically, also 4.0 and higher.) If creating a derivative work with this language, specify 'version 2.0 only' in your project's copyright statement, or take steps to mitigate the risks of distributing software marked 'any later version'. (Refer to "Guide to Managing Open Source Software at UC.")

In all cases where OSS licenses are implicated, refer to your local campus's guidelines and consult your local campus Tech Transfer / Copyright / Patent Office for further assistance.

OSS Chart Companion

Open Source Software ("OSS") at UC:
Use and Redistribution of Modified & Unmodified OSS

OSS Licenses	Internal use (at UC)		External distribution (outside UC)			
	OSS Unmodified	OSS with Bug Fixes or Otherwise Modified	OSS Unmodified	Bug Fixes	OSS Otherwise Modified	OSS function calls only
BSD (Berkeley Software Distribution) *Must retain © notice*	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk
MIT *Must include original © notice*	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk
Apache 1.x (not 2.0 or later) *Must reproduce original © notice*	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk
GPL 1.x / 2.x, or LGPL 2.x (GNU General Public License) – but **not** 3.0 or "any later version" of GPL **H**	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk
Educational Community License v2.0 (ECL-2.0) *PG, H* *	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk	Low Risk
Apache 2.0 *PG, H* *	Low Risk with Internal Use Notice	Low Risk with Internal Use Notice	Low Risk	Low Risk	**Moderate Risk**	Low Risk
Eclipse Public License 1.0 and 2.0 *PG, H*	Low Risk with Internal Use Notice	Low Risk with Internal Use Notice	Low Risk	Low Risk	**Moderate Risk**	Low Risk
MPL 2.0 (Mozilla Public License) *PG, H*	Low Risk with Internal Use Notice	Low Risk w/ Bug Fixes ONLY	Low Risk	Low Risk	**Moderate Risk**	**Moderate Risk**
Affero General Public License (AGPL) **3.0** *PG, H*	Low Risk with Internal Use Notice	Low Risk with Internal Use Notice	**High Risk**	**High Risk**	**High Risk**	**Moderate Risk**
GPL 3.0 or **LGPL 3.0** (GNU General Public License) *PG, H*	Low Risk with Internal Use Notice	Low Risk with Internal Use Notice	**High Risk**	**High Risk**	**High Risk**	**High Risk**
Other OSS Licenses	**Contact Licensing Office**					

GREEN [Low Risk]	YELLOW [Moderate Risk]	RED [High Risk]

Legend – colors are intended to guide the delegated authority through levels of potential risk regarding these OSS licenses. All OSS licensing of Regents-owned copyrights *requires* approval of the appropriate delegated authority, regardless of the "risk" categories.

PG is a "patent-granting" OSS license

H is a "hereditary" OSS license (sometimes referred to as viral)

*The heredity requirement may be overridden for derivative works in accordance with section 4 of Apache 2.0 and ECL 2.0 (i.e., it is possible add your own copyright statement to your modifications).

Are you contributing to an existing community or existing code?

- Releasing new code created at UC
- Contributing to an existing codebase

What will you be doing with the code
- Using → **Bringing in some OSS software to use at UC**
- Contributing → **Contributing to an existing community**

Contributing to an existing community → **Refer to OSS Chart**

Bringing in some OSS software to use at UC → **Internal UC use only? No changes to the code?**
- No →
- Yes → **Refer to OSS Chart**

Refer to OSS Chart → **Is the license on the chart?**
- No →
- Yes → **Is the license green?**

Is the license green?
- No → **Will you contribute more than bug fixes?**
- Yes → **You may use the application with required notice, if applicable**

Will you contribute more than bug fixes?
- No → (to You may use the application)
- Yes → **Contact Licensing Office**

Is the community's license green?
- No → **Is the License yellow?**
- (down) → **All actions with the code are acceptable, contingent on local campus practice.**

Is the License yellow?
- Yes → (to All actions with the code are acceptable)
- No → **Is the license red?**

Is the license red?
- Yes →
- No → **Contact Licensing Office**

Contact Licensing Office