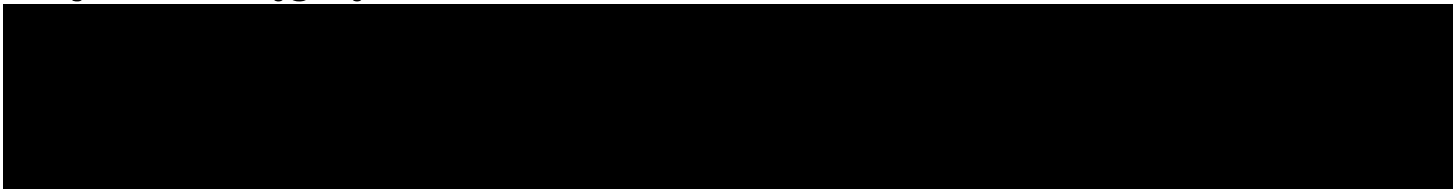

FW: UCSF PRA 020-107 follow up & New PRA???

Craig Alexander <craig@craigalexanderlaw.com>

Fri, Mar 5, 2021 at 8:29 AM



From: Craig Alexander
Sent: Friday, March 5, 2021 8:26 AM
To: Dellner, Tom <Tom.Dellner@ucsf.edu>
Cc: Gee, Brenda <Brenda.Gee@ucsf.edu>
Subject: RE: UCSF PRA 020-107 follow up & New PRA???

Mr. Dellner,

Thank you for your e-mail response. I must disagree with part of your response. As you know, the California Public Records Act makes all records of the University “public records” and subject to disclosure unless exempt or privileged. This Act has been added to the California Constitution.

So while you may be correct that textbooks are exempt under copyright law despite the Fair Use Doctrine under federal copyright law (I have not researched that but accepting your position for the sake of argument), other items like “...lectures, lecture notes, and materials (whatever that means), syllabi, study guides (not published by the textbook publishers), bibliographies, visual aids, images, diagrams, multimedia presentations, web-ready content, and educational software.” not prepared by a publisher are still public records subject to disclosure. In other words, the “UC Copyright Policy on Ownership of Course Materials” does not override the California Public Record Act. My client is not seeking to reproduce these items for some type of competitive class offering and in fact welcomes the University to place copyright notices on the documents indicating that it owns and is responsible for them. Also it is highly likely that my client is entitled to disclosure of these documents under the “Fair Use Doctrine” of federal copyright law.

I urge the UCSF to reconsider the apparent decision to withhold these documents. And I ask that the UCSF respond specifically to this request to re-consider within fifteen days of this e-mail.

Craig Alexander

From: Dellner, Tom <Tom.Dellner@ucsf.edu>
Sent: Friday, March 5, 2021 8:10 AM
To: Craig Alexander <craig@craigalexanderlaw.com>
Cc: Gee, Brenda <Brenda.Gee@ucsf.edu>
Subject: RE: UCSF PRA 020-107 follow up & New PRA???

Hello and good morning, Mr. Alexander. I hope this finds you well on a Friday.

Gov. Code 6254(k) exempts from disclosure any records exempt or prohibited from release under federal or state law. The 6254(k) exemption encompasses federal copyright law (see 17 U.S.C. § 106). Under the UC Copyright Policy on Ownership of Course Materials, ownership of the rights to course materials, including copyright, resides with the Designated Instructional Appointee who created the course materials. Course materials defined under the Policy include but are not limited to, "lectures, lecture notes, and materials, syllabi, study guides, bibliographies, visual aids, images, diagrams, multimedia presentations, web-ready content, and educational software." The University retains a non-exclusive license to a limited set of course-related materials for instructional purposes.

The full text of the UC Policy is available here: <https://policy.ucop.edu/doc/2100004/CourseMaterials>.

Some course materials have been made available online by the Designated Instructional Appointee – but I note that your client was specific in the request that those items were not of interest.

Thanks, kind regards, td

[Quoted text hidden]