

## UCSD GUIDELINES FOR SERVING, ACCEPTING AND RESPONDING TO SUBPOENAS

### I. INTRODUCTION

These “Guidelines for Responding to Subpoenas” are intended to offer a centralized process for handling subpoenas involving UCSD business. They are designed to: (a) guide persons serving a subpoena on UCSD or UCSD faculty, staff or students involving UCSD business; and (b) provide the members of the UCSD community with a centralized process for accepting service of and responding to subpoenas involving UCSD business. These Guidelines supplement [UC Business & Finance Bulletin RMP-10](#) and other campus procedures on the subject, including those policies listed in Supplement I of this issuance and any laboratory-specific policies. Generally, only Risk Management is authorized to accept service of a subpoena involving UCSD business.

### II. DEFINITIONS

**Subpoena Duces Tecum (Records):** A subpoena duces tecum is an order for a person to produce records under his or her control at a specified time and place in a court hearing or a deposition. A subpoena duces tecum may also require a person to accompany the records and testify in person, although in many cases compliance with a subpoena duces tecum can be achieved without having to appear in person, usually by mailing or delivering the records to a specific person or place on or before a specified date.

**Deposition Subpoena:** A deposition subpoena is an order for a person to produce records and/or to appear before the subpoenaing party at a specified time and place. A deposition subpoena differs from a subpoena duces tecum in that the production of the records revolves around the fact-finding process prior to trial, rather than in connection with a courtroom proceeding.

**Subpoena** (also referred to as a “witness subpoena”): A subpoena is a legal document requiring a specific person to appear in person and to testify in court as a witness.

### III. POLICY

How a person serves a subpoena depends upon whether or not the subpoena involves UCSD business. All types of subpoenas are served by a process server or, in certain circumstances, by mail. Only Risk Management is authorized to accept a subpoena that involves UCSD business; although subpoenas for police and health information records are covered by different procedures, as discussed in Supplement I, Other Types of Legal Documents and Requests.

### IV. PROCEDURE

A person “accepts” a subpoena by signing an affidavit of service, if the subpoena is served by a process server, or by simply assuming responsibility for a subpoena that arrives by mail. Thus, if you receive a subpoena by mail or inadvertently “accept” a subpoena from a process server, **immediately** contact Risk Management for instructions regarding its disposition. Acceptance of a subpoena does not concede the adequacy of the subpoena or the effectiveness of its service, nor does it prejudice UCSD’s right not to disclose the information being sought.

**A. Service & Acceptance of Subpoenas**

1. Deposition Subpoena/Witness Testimony – Only Risk Management may accept service of a deposition subpoena that *involves UCSD business*.
2. Subpoena for Records – Only Risk Management may accept service of a subpoena for records that *involve UCSD business*. If a process server appears at your office with a subpoena for a custodian of records or a named person in your department, you may not accept the subpoena but, instead, direct the process server to Risk Management. If you receive the subpoena by mail, enter the date and time of receipt on the copy received and **immediately** contact Risk Management for instructions regarding its disposition.
3. Subpoena to The Regents - If a subpoena is addressed to The Regents, the server must be directed to the Office of the General Counsel, 1111 Franklin Street, Oakland, CA 94607 [(510) 987-9800] for service.

**B. Responding to Subpoenas**

1. Receipt by Mail or Inadvertent Acceptance of Service

If you have received a subpoena by mail or have inadvertently accepted service of a subpoena, you should notify Risk Management **immediately** of the existence of the subpoena and discuss the subpoena with Risk Management before responding in any way, even if no documents responsive to a subpoena for records exist or the person named in the subpoena is not available to testify. Risk Management will promptly delegate responsibility for responding to subpoenas where appropriate. Where it is inappropriate to delegate responsibility (e.g., the subpoena covers more than one organizational unit), Risk Management will coordinate the response. UCSD must respond to subpoenas within certain legally-prescribed deadlines, so your immediate contact of Risk Management as described herein is imperative.

2. Subpoena Ordering Non-Disclosure of Subpoena to Subject of Records

If you receive a subpoena that requests UCSD records that pertain to a particular individual and the issuing court, agency or government attorney requests that UCSD not notify such individual, you may disclose the subpoena or the fact of its receipt only to Risk Management, the Office of the Campus Counsel, and any person within your department or other department at UCSD whose assistance is necessary to complying with the subpoena, until otherwise instructed by Risk Management.

## OTHER TYPES OF LEGAL DOCUMENTS AND REQUESTS

These Guidelines focus on subpoenas for the production of UCSD records and personnel. Several types of legal documents fall outside the Guidelines' scope and other policies augment this policy, as identified below. UCSD's response to many of the types of documents listed below must meet legally-prescribed deadlines, so your immediate contact of the applicable department listed below is imperative.

- A. Search Warrants** - For search warrants or subpoenas summoning a person to testify in person and for information regarding witness fees and recuperation of costs for copying records, see UC Business and Finance Bulletin RMP-10 "Instructions for Responding to Subpoena", located on the Web at <http://www.ucop.edu/ucophome/policies/bfb/rmp10.html> .
- B. Health Information** - For requests for the release of health information, please **immediately** contact Health Information Services, UCSD Medical Center at (619) 543-7321.
- C. Police Records** – For requests for police records, please contact the UCSD Police Department, information about which is located on the Web at <http://police.ucsd.edu/> .
- D. Public Records Requests** - For requests for public records under the California Information Practices Act, California Public Records Act or the Freedom of Information Act, see <http://adminrecords.ucsd.edu/IPARecords/Index.html>, Policy and Procedures Manual 480-3 "Responsibilities and Guidelines for Handling Records Containing Information About Individuals", located on the Web at <http://adminrecords.ucsd.edu/ppm/docs/480-3.html>, and UC Business and Finance Bulletin RMP-8 "Legal Requirements on Privacy of and Access to Information," located on the Web at <http://www.ucop.edu/ucophome/policies/bfb/rmp8toc.html>.
- E. Audit Records Requests** – For any UCSD record request associated with an external audit or review (other than the UCSD annual financial review performed by The Regents' auditing firm) please contact Audit & Management Advisory Services (AMAS) at (858) 534-3617. Requests for records needed in the course of an external audit are processed by AMAS in accordance with UCSD Policy and Procedure Manual 300-5, Audits by External Agencies.
- F. Summons and Complaint** - For summons and complaints (formal filings that commence legal action), please **immediately** contact Risk Management at (858) 534-2454.
- G. Student Records** - For requests for student records other than pursuant to subpoenas, please contact the Student Records Advisor at (858) 534-6225 or [naguilar@ucsd.edu](mailto:naguilar@ucsd.edu) . Guidelines for records that contain personally identifiable student information are set forth in UCSD Policies and Procedures Manual 160-2, located on the Web at <http://adminrecords.ucsd.edu/ppm/docs/160-2.html>
- H. Proofs of Claim** - For proofs of claim and other notices of legal proceedings involving UCSD vendors and service providers, please **immediately** contact Office of the Controller, (858) 534-0660.

In addition to the policies listed above, the following policies are relevant to these Guidelines:

"University of California Electronic Communications Policy" (11/17/00), located on the Web at <http://www.ucop.edu/ucophome/policies/ec/html/>.

"UCSD Email Procedures and Practices" (10/03/98), located on the Web at <http://www.ucsd.edu/email.html>.