March 22, 2021

Mary Gauvain
Chair, UC Academic Senate

Re: (Systemwide Senate Review) New Presidential Policy on UC Research Data and Tangible Research Materials

Dear Chair Gauvain,

The Divisional Executive Board, councils, and committees appreciated the opportunity to review the New Presidential Policy on UC Research Data and Tangible Research Materials. Executive Board members concurred with the concerns raised by their divisional colleagues. As a result, the Executive Board agreed at its March 18, 2021, that it is unable to support the policy as written.

Divisional committees and councils expressed concerns about the lack of clarity and unintended consequences of the proposal.

Committee and Council Members had many questions owing to what they perceived as a lack of clarity in many areas. They questioned the relationship between this mandate and that of intellectual property and, consequently, disclosures to the Office of Intellectual Property. With regard to the transfer of research materials, the proposal lacks detail on the various considerations of dispute resolution. It was unclear how the policy would address scenarios such as students who either generate the data as part of their scholarly work or require access to it for their research, or when one member of a research team leaves for another university. They asked how the university would comply with Freedom of Information Act requests. Where would the research materials be stored, and who will steward their curation and preservation over time? Some members indicated the principles that govern the policy were not articulated. They noted that while data retention is required, guarantees of access were not. Finally, while the policy addresses situations where the investigator separates, dies, or becomes incapacitated, it did not mention retirement and recall of research faculty.

Committee and Council members had numerous concerns about unintended consequences. Members worried that the policy may be a barrier to collaboration, and create conflicts of interest among researchers. They noted that in certain fields, it is rare to claim ownership for fieldwork and field notes. Knowledge is co-generated with the understanding that confidentiality and consent are based on trust and ensuring no harm. Applying the proposed definitions of data and ownership to those fields could strip the work of proper personal context and endanger the very nature of the scholarly process. Members were concerned about the University’s custodial obligations under contractual agreements, noting that such processes may be expensive. Moreover, requiring principal investigators to retain, curate, and imagine all possible value of research data and tangible material would be a substantial work effort and space burden that may interfere with research productivity. Members were also
concerned that terms such as “properly curated,” “must provide stewardship,” and “best practices” create undefined obligations on investigators that may result in faculty liability.

Lastly, members were concerned that the proposed policy appears to be an unfunded mandate without specific resources allocated for implementation.

Once again, we appreciate the opportunity to opine on this issue. As is the divisional practice, we have appended all of the committee responses we received prior to the deadline to submit our response.

Sincerely,

Shane White
Chair
UCLA Academic Senate

Encl.

Cc: Jody Kreiman, Vice Chair/Chair Elect, UCLA Academic Senate
    Michael Meranze, Immediate Past Chair, UCLA Academic Senate
    April de Stefano, Executive Director, UCLA Academic Senate