UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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Mary Gauvain
Telephone: (510) 987-0887
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Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

May 28, 2021

SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL

Re: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Susan,

As requested, I distributed for systemwide Senate review the proposed Presidential Policy on Classification of Gifts and Sponsored Awards. Nine Academic Senate divisions and one systemwide committee (UCFW) submitted comments. These comments were discussed at Academic Council's May 26 meeting and are attached for your reference.

We understand that the Policy is intended to provide a modern framework for the classification of different forms of external private support, to help ensure they receive proper stewardship, accounting, compliance review, and administrative oversight. The Policy describes the characteristics of and distinctions between "gifts" and "sponsored awards"; identifies criteria campuses should consider in characterizing external support; and includes a decision tree checklist with weighted criteria for use in characterizing private support as a gift or sponsored award.

Senate reviewers found many aspects of the policy to be reasonable, appropriate, and effective in providing guidance around cases in which grants have characteristics of both gifts and sponsored awards. However, reviewers also identified several significant concerns that should be addressed before the policy is finalized and issued. Several of these concerns are summarized below, but we encourage you to review the other detailed comments from faculty in the attached packet.

Some faculty found the policy to be inconsistent in its guidance about whether the criteria listed to aid in decisions about characterizing a grant as a "gift" or "sponsored award" are really determinative in the decision, or should be considered in a balancing test. Contributing to this confusion is a disclaimer in the decision tree that the checklist "is not intended as a substitute for the judgment of University employees," which suggested to some reviewers that administrators ultimately are not obligated to follow the criteria.

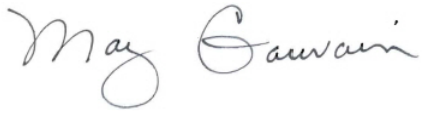
Several reviewers emphasized that Principal Investigators should have the opportunity to provide input into the classification of their external funding awards if the award has characteristics of both gifts and sponsored awards. This is important because these decisions often have significant

implications for the PI and their project. Reviewers also felt the policy should include a process for documenting and working through disputes over classification.

Several reviewers recommended additional clarifications concerning the treatment of gift fees and indirect costs (IDC) in the policy and/or the FAQs that address who determines IDC for sponsored awards, what criteria should be used to determine IDC, and how IDC will be treated if the faculty received the grant while at another institution. Another suggestion is to implement different tiers for IDC recovery to increase affordability for more agencies and foundations. Finally, the policy is silent about the treatment of gifts and sponsored awards received by students. More information and guidance about to handle such awards for graduate students is especially important to include in the policy.

We appreciate the opportunity to comment. Please do not hesitate to contact me if you have additional questions.

Sincerely,



Mary Gauvain, Chair
Academic Council

cc: Academic Council
Senate Directors
Executive Director Baxter

Encl.

ACADEMIC SENATE
BERKELEY
320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

May 17, 2021

MARY GAUVAIN
Chair, Academic Council

Subject: Systemwide Review of Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair Gauvain;

On May 10, 2021, the Council of the Berkeley Division (DIVCO) included the proposed *Presidential Policy on Classification of Gifts and Sponsored Awards* and written comments from the Committee on Research (COR) in its agenda packet as a consent calendar item.

DIVCO endorses COR's comments in support of the policy. Please see attached.

Sincerely,



Jennifer Johnson-Hanks
Professor of Demography and Sociology
Chair, Berkeley Division of the Academic Senate

Enclosure

cc: Ronald Cohen, Vice Chair, Berkeley Division of the Academic Senate
Dennis Levi, Chair, Committee on Research
Jocelyn Surla Banaria, Executive Director, Berkeley Division of the Academic Senate
Deborah Dobin, Senate Analyst, Committee on Research

ACADEMIC SENATE
BERKELEY
320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

April 28, 2021

PROFESSOR JENNIFER JOHNSON-HANKS
Chair, Berkeley Division of the Academic Senate

Re: COR comments on proposed Presidential Policy on Classification of Gifts and Sponsored Awards

At its April 21st meeting, COR reviewed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards. The committee thought that the policy was reasonable, well written, and clear, and especially appreciated the inclusion of the FAQs and decision tree. COR endorses the policy.

The committee was pleased to see that the policy defers to the use of judgement when interpreting the classification guidelines. COR recommends also including a clear statement about the independence of each campus to determine gift fees and indirect costs.

Thank you for asking COR to review this policy.

With best regards,

Dennis Levi, Chair
Committee on Research

UNIVERSITY OF CALIFORNIA, DAVIS

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May 19, 2021

Mary Gauvain
Chair, Academic Council

RE: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Mary,

The proposed Presidential Policy on Classification of Gifts and Sponsored Awards was forwarded to all standing committees of the Davis Division of the Academic Senate. Two committees responded: Planning and Budget (CPB) and Research (COR).

Both committees support the proposed policy and think it will be useful guidance. COR notes that there is no mention of what opportunities principal investigators have for input in decision processes. CPB recommends that language be added to "require documentation in cases where there are disputes or conflicts over classification. This documentation could later be referred to in similar cases and could help promote consistent application of policy." Likewise, CPB notes that, at some future point, a post-implementation assessment should be conducted to evaluate how funding is being classified (i.e., "gifts" and "sponsored awards").

The Davis Division appreciates the opportunity to comment.

Sincerely,

Richard P. Tucker, Ph.D.
Chair, Davis Division of the Academic Senate
University of California, Davis

Enclosed: Davis Division Committee Responses

c: Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate
Edwin M. Arevalo, Executive Director, Davis Division of the Academic Senate

May 3, 2021

Richard Tucker
Chair, Davis Division of the Academic Senate

RE: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

The Committee on Planning and Budget (CPB) has reviewed and discussed the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards. CPB supports the proposed policy and views it as an important update given the University's increased reliance on gifts and sponsored awards to address declining state support. The proposed policy outlines the differences between gifts and sponsored awards and clarifies the process by which they are classified. Defining this process, as well as who has decision-making authority to determine whether funding is a gift or sponsored award, is critical for stewardship, accounting, and compliance purposes.

In addition to supporting the proposed policy, CPB strongly recommends that language be added to the policy to require documentation in cases where there are disputes or conflicts over classification. This documentation could later be referred to in similar cases and could help promote consistent application of policy. CPB also views it important that a later assessment be conducted that evaluates the impacts of this policy on the extent to which funding has been classified as "gifts" and "sponsored awards" following its implementation.

CPB appreciates the opportunity to comment.

May 6, 2021

Richard Tucker, Chair
Davis Division of the Academic Senate

RE: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Professor Tucker,

The Committee on Research reviewed and discussed the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards. Generally the committee felt this is a well-written detailed outline of how to differentiate gifts vs. grants and will be very useful for guidance; however, the one aspect that remains unanswered is who makes this determination, Sponsored Programs or Development, and what opportunity is afforded to the investigator for input in this process.

One other need for clarification is that on page 6 the document states, "University employees must not participate in attempts to avoid Indirect Costs or Gift Fees by mischaracterizing the Support." This statement does not seem to include students who are not directly employed by the University -- was that intended? Later on page 7 it states "This Policy applies to University faculty, staff, and students that have responsibility to receive and administer external Support." which seems more inclusive.

Regards,

Cynthia Schumann, Chair
Committee on Research

University of California, Irvine

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May 10, 2021

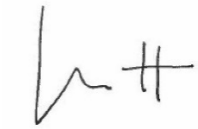
Mary Gauvain, Chair
Academic Council

Re: Systemwide Review of Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair Gauvain,

The Irvine Division has discussed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards. Members agreed with the assessments on the policy shared by the Council on Research, Computing, and Libraries and the Council on Planning and Budget. The memos from those Councils are enclosed here for your review.

Sincerely,



Jeffrey Barrett, Chair
Academic Senate, Irvine Division

Encl: CORCL & CPB memos

Cc: Joanna Ho, Chair Elect-Secretary
Kate Brigman, Executive Director
Gina Anzivino, Associate Director

UCI University of California, Irvine

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Council on Planning and Budget
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April 19, 2021

JEFFREY BARRETT, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Systemwide Review of Proposed Presidential on Classification of Gifts and Sponsored Awards

At its March 31, 2021 meeting, the Council on Planning and Budget (CPB) discussed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

This policy describes the distinctions and appropriate classification of gifts and sponsored awards to ensure that external support directed to the University receives the appropriate acknowledgement, stewardship, accounting, compliance review, administrative oversight, and monitoring.

Overall, the Council found that the proposed revisions are an appropriate update to existing policy. However, the Council observed a number of clarifications that should be considered to avoid misapplication of the policy:

- The policy text would benefit from a more algorithmic, decision-tree style. The Appendix provides such a rubric, but has the counterproductive disclaimer, "However, this checklist is not intended as a substitute for the judgment of University employees." Taken together, this language provides the university administration with cover to do as they please especially given that the policy does not obligate anything.
- II. Definitions/Contracts, it is unclear if a Contract is a type of Sponsored Award, or if a Contract is its own animal. The document mostly discusses Gifts and Sponsored Awards, but clarification of this point would be an improvement.
- III. Policy Text, paragraph 2, the policy indicates, "All projects determined to be Sponsored Awards must be processed..." it is unclear who determines whether a project is a Sponsored Award.
- III. Policy Text, paragraph 4, members noted that the policy does not provide a rationale for the delineation of Gifts vs. Sponsored Awards. The Council questioned how transparency is served by calling something a "gift" in public but considering it a "grant" in private, or vice versa.
- III. Policy Text, paragraph 5:
    - use of the language "in general" is vague.
    - The second bullet point, "The support furthers the University's mission" doesn't appear to distinguish between a gift and a sponsored award.
    - The policy is unclear in its use of "should" and "should always." If the latter is intended as a more emphatic or stringent use of the former while still retaining the principle that the determination is not dependent on any single criterion perhaps "shall" would be better.
- III. Policy Text, final paragraph: replace should with will, must or shall in "...responsible offices should obtain and consider..."
- IV. Compliance and Responsibilities, C. Exceptions, there should be language that addresses under what circumstances such exceptions may be granted.
- VII. FAQs, question 7, the use of the term "typically" is vague.

The Council appreciates the opportunity to comment.

On behalf of the Council,

Donald Felt Senear

Don Senear, Chair

CC: Kate Brigman, Executive Director, Academic Senate
Gina Anzivino, Associate Director, Academic Senate
Michelle Chen, CPB Analyst

UCI University of California, Irvine

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May 3, 2021

JEFFREY BARRETT, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Systemwide Review of Proposed Presidential on Classification of Gifts and Sponsored Awards

At its April 15, 2021 meeting, the Council on Research, Computing, and Libraries (CORCL) discussed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

The policy outlines the process through which external support should be characterized as a *gift* or *sponsored award*. It replaces the UC Policy on Review of Gifts and Grants for Research adopted in 1980. Substantively, the policy (i) describes the process through which clarifications should be made; (ii) identifies the criteria that should be considered in characterizing external support, and (iii) describes the manner in which such criteria are to be weighted and considered.

The Council applauds the effort to provide additional guidance on the process and substantive criteria for characterizing external support. The existing 1980 policy provides limited guidance as to implementation. There were no objections to the criteria identified, and the general process outlined in the policy—in terms of the parties involved and the hierarchical decision-making process to be applied in cases where the result is unclear—seems reasonable. However, the Council is concerned by the policy's inconsistent stance on whether the criteria are to be considered in a balancing test or whether certain criteria are individually determinative.

The Council's first concern is that the policy contains inconsistent advice regarding whether any single criterion will determine the proper characterization of support or whether all criteria must be considered together in a balancing test. Section III. Policy Text provides,

> *"The decision as to whether Support should be considered a Gift or a Sponsored Award should not be made based upon the presence or absence of a single characteristic or criterion."*

This idea of a balancing test is further supported in Section V. Policy Implementation, which provides that the treatment of external support as a gift or sponsored award will depend on the "preponderance of information." However, only a few paragraphs below the quote above from the Policy Text, the policy states,

> *"Support should **always** be classified as Sponsored Awards when the following characteristics exist: Testing or evaluating of proprietary materials (including software) provided by or on behalf of the Funder is involved; or University intellectual property rights are requested by Funder."*

This confusion is only worsened by FAQ #3, which states,

> *"This revised Policy recognizes that certain factors should be given more weight than others. For example, providing intellectual property rights to a Funder indicates that Support should be classified as a Sponsored Award—even if all other factors might suggest a Gift."*

This characterization of the policy is inaccurate in two ways. First, the policy does not provide any guidance as to the relative weight of different criteria. Second, by indicating that intellectual property rights are a disqualifying

characteristic, the policy is not simply weighting criteria differently; rather, it is making some criteria individually determinative.

The question of which criteria, if any, are determinative regardless of the presence or absence of other indicia is further confused by the appended checklist. That checklist indicates that the presence of any of the following circumstances mandates the designation of the external support as a sponsored award: the funder is a federal, state, or local government; the funder is "primarily" a foreign government; the funder expects intellectual property rights; or the funder requires project specific deliverables. Likewise, the checklist indicates that support "intended for endowment" is to be classified as a gift. The checklist thus indicates that these criteria are determinative and are not simply individual criteria to be considered as a part of a larger balancing test.

The Council's second concern is the limited treatment of the issue of indemnification of funders. FAQ #10 notes that the University's ability to provide such indemnification will depend, in part, on the classification of the external support. The issue should perhaps be outlined in a more definitive manner within the text of the policy itself.

The Council also noted typographical errors in the appended checklist. The appended checklist provides that,

> *"If you answered 'Yes' to any question in sections 1 & 2, the determination of Gift vs. Sponsored Award should be clear."*

This sentence is intended to refer to question sections I and II (which are substantively problematic for the reasons noted above). Section 1 directs those implementing the policy to obtain relevant documents; it does not include any yes or no questions.

The Council appreciates the opportunity to comment.

On behalf of the Council,



Michele Guindani, Chair

CC: Kate Brigman, Executive Director, Academic Senate
Gina Anzivino, Associate Director, Academic Senate
Michelle Chen, CPB Analyst
Brandon Haskey-Valerius, Senate Analyst

UCLA Academic Senate

May 14, 2021

Mary Gauvain
Chair, UC Academic Senate

Re: **(Systemwide Senate Review) Proposed Presidential Policy on Classification of Gifts and Sponsored Awards**

Dear Chair Gauvain,

The Divisional Executive Board, councils, and committees appreciated the opportunity to review the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards. The Executive Board reviewed the proposal and divisional committee feedback at its meeting on May 13, 2021. Members appreciated the good intent of this written policy. Some members noted their appreciation for the attempt to enhance precision and transparency and for addressing complex topics such as crowd-sourcing and conditions of awards from foundations. Others questioned the inclusion of an exception clause that allows the whole policy to be undone with a chancellor's approval. Overall, members concluded that the quality of the actual proposal did not meet its aspiration. Members voted unanimously to oppose the proposal as written because it lacked the needed clarity. We welcome an opportunity to review a future revision.

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

UCLA Academic Senate
Faculty Welfare Committee

May 4, 2021

Shane White, Chair
Academic Senate

Re: Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair White,

At its meeting on April 28, 2021, the Faculty Welfare Committee discussed the Proposal for Presidential Policy on Classification of Gifts and Sponsored Awards. Committee members offered the following comments.

The policy is intended to better define gifts and sponsored awards and clarifies the distinction between the two. Members found that this policy is timely and meets current needs, given that the existing policy was adopted four decades ago in 1980 and there has been a significant increase in external support. Members also think that the policy is clearly stated, and the examples in the FAQ section are relevant and helpful, especially for the purpose of funds from foundations. This policy is important and the committee supports it.

If you have any questions, please contact us via the Faculty Welfare Committee's interim analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,

Huiying Li, Chair
Faculty Welfare Committee

cc: Jody Kreiman, Vice Chair/Chair Elect, Academic Senate
Michael Meranze, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Interim Analyst, Faculty Welfare Committee
Members of the Faculty Welfare Committee

UCLA Academic Senate
Council on Planning & Budget

April 30, 2021

Shane White, Chair
Academic Senate

Re: Systemwide Senate Review: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair White,

At its meeting on April 12, 2021, the Council on Planning and Budget (CPB) had an opportunity to review and discuss the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

Members observed that this policy is a good opportunity for the university to clearly articulate its policies to external entities. Small differences on the use of terms may have important consequences on how gifts or sponsored awards are classified. In addition, members noted that section IV.C., *Exceptions to the Policy*, provides the chancellor(s) with the power to grant exceptions, which may undermine the consistency of policy in actual practice. Finally, members expressed appreciation for the clarification on the issue of crowd-sourcing.

If you have any questions for us, please do not hesitate to contact me at groeling@comm.ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,



Tim Groeling, Chair
Council on Planning and Budget

cc: Jody Kreiman, Vice Chair/Chair-Elect, Academic Senate
Michael Meranze, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Principal Policy Analyst, Council on Planning and Budget
Members of the Council on Planning and Budget

UCLA Academic Senate
Council on Research

April 29, 2021

Shane White, Chair
Academic Senate

Re: Systemwide Review: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair White,

At its meeting on April 7, 2021, the Council on Research (COR) had an opportunity to review the proposed Presidential Policy on Classification of Gifts and Sponsored Awards. Members offered the following comments.

Members observed that although the policy is intended to provide clarity, it has ineffectual and unclear aspects. It lacks flexibility built into the process to classify awards that have a specific intent. Members indicated that some might take advantage of the ambiguity to avoid certain institutional taxes.

Moreover, a few members proposed different tiers for indirect cost recovery as a mechanism for facilitating funding in which the agency or foundation is unable to afford the indirect cost.

Thank you for the opportunity to review and comment. If you have any questions for us, please do not hesitate to contact me at julianmartinez@mednet.ucla.edu or via the Council's analyst, Elizabeth Feller, at efeller@senate.ucla.edu.

Sincerely,

Julian Martinez, Chair
Council on Research

cc: Jody Kreiman, Vice Chair/Chair-Elect, Academic Senate
Michael Meranze, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Elizabeth Feller, Principal Policy Analyst, Council on Research
Members of the Council on Research

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OFFICE OF THE ACADEMIC SENATE, MERCED DIVISION
ROBIN DELUGAN, CHAIR, DIVISIONAL COUNCIL

UNIVERSITY OF CALIFORNIA, MERCED

May 5, 2021

To: Mary Gauvain, Chair, Academic Council

Re: Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair Gauvain,

The proposed Presidential Policy on Classification of Gifts and Sponsored Awards was distributed for comment to the Merced Division Senate Committees and the School Executive Committees. The following committees offered several comments for consideration. Their comments are appended to this memo.

- Committee on Research (CoR)
- Committee on Academic Planning and Resource Allocation (CAPRA)
- Graduate Council (GC)

CoR inquired whether questions 2.a and 2.6 on page 13 are in conflict. Specifically, what if the "Support" is provided by a foreign government *and* intended for endowment? Should the Support be classified as sponsored award or gift?

CAPRA had no objections to the proposed policy and noted that it is a more explicit codification of current practice. CAPRA did observe that the proposed policy enumerates a series of criteria for determining whether something is classified as a gift or a sponsored project/award. Gifts/Awards can have characteristics of both, so making the determination is something of a judgement call. The only exceptions are if an award involves assignment of intellectual property rights or involves testing or evaluating proprietary materials of the Funder, then it must be a classified as a Sponsored Award.

GC endorsed the proposed policy as it effectively clarifies the distinction between gifts and sponsored awards. The committee found the FAQ section particularly helpful in dispelling any misguided perceptions about how gifts and sponsored awards are classified and processed. GC believed this clarification is beneficial for the management of graduate student fellowships and research assistantships. GC did register its concern with the apparent lack of consultation with the Senate prior to

distribution of this draft policy for Senate review.

Divisional Council reviewed the committees' comments via email and supports their various points and suggestions.

We thank you for the opportunity to comment on this proposed policy.

Sincerely,



Robin DeLugan
Chair, Divisional Council
UC Merced

Cc: DivCo Members
Hilary Baxter, Systemwide Senate Executive Director
Michael LaBriola, Systemwide Senate Assistant Director
UCM Senate Office

Encl. (3)

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON RESEARCH
KARA MCCLOSKEY, CHAIR
kmccloskey@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

April 12, 2021

To: Robin DeLugan, Chair, Division Council

From: Kara McCloskey, Chair, Committee on Research (COR)

Re: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

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CoR reviewed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards. We offer the below comments:

On Page 13, do the questions 2.a and 2.6 have any conflict? What if the Support is provided by a foreign government AND intended for endowment? Should be the Support classified as sponsored award or gift? CoR believes this section would benefit from clarification.

We appreciate the opportunity to opine.

cc: Senate Office

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ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON ACADEMIC PLANNING AND RESOURCE ALLOCATION
PATTI LIWANG, CHAIR
pliwang@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343

March 31, 2021

To: Robin DeLugan, Chair, Division Council

From: Patricia LiWang, Chair, Committee on Academic Planning and Resource Allocation (CAPRA)

Re: Proposed Presidential Policy of Classification of Gifts and Sponsored Awards

---

At its March 29 meeting, CAPRA reviewed the proposed Presidential Policy of Classification of Gifts and Sponsored Awards. We offer the below comments.

The proposed policy enumerates a series of criteria for determining whether something is classified as a gift or a sponsored project/award. Gifts/Awards can have characteristics of both, so making the determination is something of a judgement call. The only exceptions are if an award involves assignment of intellectual property rights or involves testing or evaluating proprietary materials of the Funder, then it must be a classified as a Sponsored Award.

The language appears unremarkable and is mostly a more explicit codification of current practice. CAPRA has no objections to the proposed policy.

We appreciate the opportunity to opine.

cc: Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

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OFFICE OF THE ACADEMIC SENATE
HRANT HRATCHIAN, CHAIR, GRADUATE COUNCIL
hhratchian@ucmerced.edu

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MERCED, CA 95343

MARCH 24, 2021

TO: ROBIN DELUGAN, CHAIR, DIVISIONAL COUNCIL

FROM: HRANT HRATCHIAN, CHAIR, GRADUATE COUNCIL

RE: PRESIDENTIAL POLICY ON CLASSIFICATION OF GIFTS AND SPONSORED AWARDS

Graduate Council (GC) has reviewed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards, which will replace the UC Policy on Review of Gifts and Grants for Research. GC found the proposed policy to effectively clarify the distinction between gifts and sponsored awards. The FAQ section is particularly helpful in dispelling any misguided perceptions about how gifts and sponsored awards are classified and processed. GC believes this clarification is beneficial for the management of graduate student fellowships and research assistantships.

At the same time, GC would note its concern with the apparent lack of consultation with the Senate prior to the distribution of this draft policy for Senate review. Nevertheless, GC is pleased to endorse the proposed policy.

Graduate Council appreciates the opportunity to opine.

CC: Graduate Council
Senate Office

UNIVERSITY OF CALIFORNIA, RIVERSIDE

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CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

JASON STAJICH
PROFESSOR OF BIOINFORMATICS
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TEL: (951) 827-6193
EMAIL: JASON.STAJICH@UCR.EDU

May 12, 2021

Mary Gauvain, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: (Systemwide Review) Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Mary,

I attach the consultative feedback provided by the Committee on Planning & Budget and the Committee on Research of the Riverside Division of the Academic Senate regarding the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards. This item was on the Divisional Executive Council May 10, 2021 agenda and members had no additional comments.

Sincerely yours,
Jason Stajich
Professor of Bioinformatics and Chair of the Riverside Division

CC: Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate Office

UC RIVERSIDE

Academic Senate

April 7, 2021

To: Jason Stajich, Chair
Riverside Division

From: Hai Che, Chair
Committee on Research

Re: 20-21. SR. **Proposed Presidential Policy on Classification of Gifts and Sponsored Awards**

The committee reviewed the proposed policy on Classification of Gifts and Sponsored Awarded and suggested improving communication.

UC RIVERSIDE

Academic Senate

PLANNING & BUDGET

April 13, 2021

To: Jason Stajich, Chair
Riverside Division

From: Katherine Kinney, Chair
Committee on Planning and Budget

RE: [Systemwide Review] Proposed Policy: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Planning & Budget discussed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards at their April 13, 2021 meeting. The committee had no objections to the proposed policy.

UC SANTA BARBARA

Academic Senate
Susannah Scott, Chair
Shasta Delp, Executive Director

1233 Girvetz Hall
Santa Barbara, CA 93106-3050
http://www.senate.ucsb.edu

May 19, 2020

To: Mary Gauvain, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division

Re: Systemwide Review of Proposed Presidential Policy on Classification of Gifts and Sponsored Award

The Santa Barbara Division distributed the proposed Proposed Presidential Policy on Classification of Gifts and Sponsored Award to the Council on Planning and Budget (CPB), the Committee on Research Policies and Procedures (CRPP), and the Committee on Library, Information, and Instructional Resources (CLIIR). CLIIR opted not to opine.

CPB welcomes the University initiative to update this policy, particularly since there has been a substantial increase in the past decade in both the number of grants to the university and the diversity of foundations making grants, especially from private foundations and individuals. Members find the criteria and decision process for classifying money as gifts or sponsored awards to be clearly laid out. In particular, they expect that the specification of weighting criteria will be useful in cases in which grants may have characteristics of both gift and sponsored awards.

The Council recognizes the clear statement that a foundation's or individual's policy toward indirect costs should not be a consideration for determining the classification of an award as a gift or sponsored award. This distinction is clear, but CPB notes that there is some contention on campus regarding whether campuses should expect private foundation grants to include indirect cost levels comparable to negotiated government rates. The proposed policy does not provide useful guidance on this issue.

CRPP is supportive of the draft in its current form. The committee commends the expanded toolkit for campuses to determine the best classification to serve the needs of both funders and the respective campus.

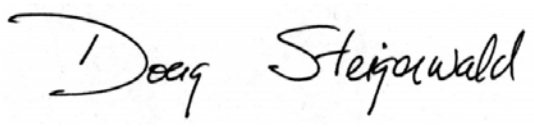
We thank you for the opportunity to comment.

UNIVERSITY OF CALIFORNIA
ACADEMIC SENATE
SANTA BARBARA DIVISION
Council on Planning & Budget

April 7, 2021

To: Susannah Scott, Divisional Chair
UCSB Academic Senate

From: Douglas Steigerwald, Chair
Council on Planning & Budget



Re: Revised UC Policy - Classification of Gifts & Sponsored Awards

The Council on Planning & Budget (CPB) has reviewed the proposed revised Policy on the Classification of Gifts & Sponsored Awards. The aim of the changes to the Presidential Policy is to update and provide greater clarity for properly classifying private support in contemporary circumstances. The revision also includes definitions, FAQs, and a checklist with weighted criteria. The inclusion of guidance on which criteria should be weighted more than others is a new addition to this update. The last time the policy was revised was in 2012.

CPB welcomes the University initiative to update this policy, particularly since there has been a substantial increase in the past decade in both the number of grants to the university and the diversity of foundations making grants, especially from private foundations and individuals. The criteria and decision process for classifying money as gifts or sponsored awards were clearly laid out. In particular, the specification of which criteria should be weighed more than others will be useful in cases in which grants may have characteristics of both gift and sponsored award.

One aspect of the revised policy noted by CPB was the clear statement that a foundation's or individual's policy toward indirect costs should not be a consideration for determining the classification of an award as a gift or sponsored award. This distinction is clear, but CPB noted that there is some contention on campus regarding whether campuses should expect private foundations grants to include indirect cost levels comparable to negotiated government rates, but this document does not provide guidance on this issue which would be useful.

cc: Shasta Delp, Academic Senate Executive Director

Academic Senate
Santa Barbara Division

May 12, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Forrest Brewer, Chair
Committee on Research Policy and Procedures

Re: Classification of Gifts and Sponsored Awards Policy Draft

The Committee on Research Policy and Procedures (CRPP) reviewed this policy at its meeting of April 16, 2021 and invited comments from Vice Chancellor for Research Joe Incandela (Ex Officio) as well as Assistant Vice Chancellor for Research Jean Jones. Based on their feedback that the Office of Research does not perceive negative impacts as a result of this policy, the committee is supportive of the draft in its current form. The committee commends the expanded toolkit for campuses to determine the best classification to serve the needs of both funders and the respective campus.

CC: Shasta Delp, Executive Director, Academic Senate

UNIVERSITY OF CALIFORNIA, SAN DIEGO UCSD

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OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
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May 14, 2021

Professor Mary Gauvain
Chair, Academic Senate
University of California
VIA EMAIL

Re: Divisional Review of Proposed UC Policy on Classification of Gifts and Sponsored Awards

Dear Professor Gauvain,

The UC Policy on Classification of Gifts and Sponsored Awards proposal was distributed to San Diego Divisional Senate standing committees and discussed at the May 10, 2021 Divisional Senate Council meeting. Senate Council endorsed the proposal.

Council did, however, provide some comments for consideration. Due to the increase in external support, particularly from corporations and private foundations, it was suggested that the source of such funds should to be verified to ensure that they are not violating UC principles (i.e. banned or "frowned upon" sources related to the tobacco industry, exploitation of human labor, or discriminatory practices). The eligibility of sources becomes even more important if from a foreign country. While the policy allows for flexibility, it is unclear who determines the amount of indirect costs for Sponsored Awards, what criteria should be used to determine those amounts, and what the policies are if the faculty received the gift while previously at another institution. It was suggested that a category classified as "research gifts" would be beneficial to add to the policy, which could provide valuable flexibility for industry-academia partnerships, as well as release some of the tension caused when donors and members of the campus try to manage the dichotomy between gifts and sponsored awards.

The responses from the Divisional Committee on Faculty Welfare, Committee on Planning and Budget, and Committee on Research are attached.

Sincerely,

Steven Constable
Chair
San Diego Divisional Academic Senate

Attachments

cc: Tara Javidi, Vice Chair, San Diego Divisional Academic Senate
Ray Rodriguez, Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, UC Systemwide Academic Senate

April 30, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Policy on Gifts and Sponsored Awards

The CFW reviewed the UC Policy on Gifts and Sponsored Awards at its April meeting. The CFW had no objections to the proposed policy. This systemwide consideration of these policies is well-timed, given the last review was instituted four decades ago (July 8, 1980). The topic itself is straight forward, and the different sections, particularly the FAQ are quite relevant and helpful in clarifying different facets of the problem. The section at the end, presented in the form of a questionnaire, assisting one to clarify whether a certain fund is a gift or a sponsored award, is rather effective. The CFW had a few relatively minor questions/issues:

1. Given that one of the rationales for the need of this new review is (as stated in Pg. 8 of 15), the "*significant increase in external support – especially from private foundations (including family foundations) and from corporations*", there should be some effort to clarify the nature of the source of such funds, and whether they are compatible with the principles that UC abides by. Particularly, some effort should be spent by some responsible party within the UC to ensure that these sources are not those violating UC principles i.e. banned by or "frowned upon" by the UC system such as tobacco-related, exploitation of human labor, discriminatory practices (based on various Title IX parameters), and of emergent concern, fossil fuel sources having tangible impact on the climate crisis. The document should clearly state which party within the UC system is responsible for investigating this issue, what standards will be required to meet the required criteria, and what steps will be taken if such criteria are met, partially met, or violated.

2. The above point becomes particularly important when the sources originate from foreign countries, where monitoring of the donor's activity may not be as straight forward. What steps will be taken to monitor the eligibility of the sources when they originate in foreign countries?

3. Faculty often transit from other Universities/Institutions to the UC. What are the rules governing Indirect Costs that will be imposed on Gifts/Sponsored grants that a faculty originally received in another institution where such IDC's might have been different? Just stating that the rates prevailing at UC will be imposed might possibly pose intractable problems for the incoming faculty. If the UC rates are much higher, the adjustments needed to accommodate it might be prohibitive for the faculty to even continue with the grant within the UC. The adjustments needed to meet the higher IDC rates within UC compared to e.g. the salaries may simply be prohibitive. Some statement that in such cases the IDC rates will be adjusted to the lower of the two institutions on a case by case basis should be included.

4. Most Gifts/Sponsored awards are very important to the career of the faculty member, particularly when moving from one institution to another. The UC should commit to helping the faculty member satisfy the infrastructure requirements asked by the granting body for continuation of the

grant within the UC. Often, the UC's attitude, has been "just get us the grants, you can't expect us to make accommodations so that you can meaningfully carry out the work promised in your proposal." can be very detrimental to the progress of the research promised in the original proposal. The UC system should make a firm commitment to try its best to satisfy such infrastructure requirements so that the faculty member can successfully carry out the work within the UC.

Sincerely,

Shantanu Sinha, Chair
Committee on Faculty Welfare

cc: T. Javidi

April 30, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Policy on Gifts and Sponsored Awards

The CPB reviewed the UC Proposed Policy on Gifts and Sponsored Awards at its April meeting. The committee endorsed the policy. The CPB supports the principle that the decision as to whether Support should be considered a Gift or a Sponsored Award should not be made based upon the presence or absence of a single characteristic or criterion but should be determined holistically. The CPB also understands that the policy sets the principle for the classification of Gifts and Sponsored Awards but the question of the criteria for accepting or declining Support is outside of the ambit of the policy. During the discussion, some of the questions raised include:

• While the policy allows for flexibility, it is unclear who determines the amount of indirect costs for Sponsored Awards and what criteria should be used to determine the rates.

• What would happen if the donor/sponsor is only willing to pay indirect costs that are below what the University considers as necessary?

Sincerely,

Kwai Ng, Chair
Committee on Planning & Budget

cc: T. Javidi

ACADEMIC SENATE: SAN DIEGO DIVISION, 0002
UCSD, LA JOLLA, CA 92093-0002
COMMITTEE ON RESEARCH

March 24, 2021

STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: Review of Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

The Committee on Research (COR) discussed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards at their March 15, 2021 meeting. The Committee endorsed the proposed policy, but opined that a category classified as "research gifts" would be beneficial to consider in future iterations or modifications to the Policy. Including such a category could provide valuable flexibility for industry-academia partnerships, as well as release some of the tension caused when donors and members of the campus try to manage the dichotomy between gifts and sponsored awards.

We thank you for the opportunity to comment on the proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

Sincerely yours,

Victor Ferreira, Chair
Committee on Research

cc: G. Cauwenberghs
T. Javidi
J. Lucius
R. Rodriguez

UCSF Academic Senate

http://senate.ucsf.edu

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Sharmila Majumdar, PhD, Chair
Steven Cheung, MD, Vice Chair
Pamela Ling, MD, Secretary
Jae Woo Lee, MD, Parliamentarian

May 19, 2021

Mary Gauvain, PhD
Chair, Academic Council
Systemwide Academic Senate
University of California Office of the President
1111 Franklin St., 12th Floor
Oakland, CA 94607-5200

Re: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Mary:

The San Francisco Division has reviewed the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

Whether a project is classified as a gift or sponsored award can have material implications for the project administration.

The UCSF Committee on Research (COR) notes that the Office of Sponsored Research and the Development Office will work together to determine the appropriate classification in instances when the project's characteristics fall into both categories of gifts and sponsored awards. As the final determination will impact the project managed by the Principal Investigator, COR requests that the policy explicitly state that the Office of Sponsored Research and the Development Office would consult with the PI before classifying such an award in these instances.

Sincerely,

S. Majumdar

Sharmila Majumdar, PhD, 2019-21 Chair
UCSF Academic Senate

Enclosures (1)
Cc: Marguerita Lightfoot, PhD, Chair, UCSF Committee on Research

UCSF Academic Senate

http://senate.ucsf.edu

May 18, 2021

Professor Sharmila Majumdar, PhD
Chair, UCSF Academic Senate

RE: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Chair Majumdar,

We have reviewed the Proposed Presidential Policy on Classification of Gifts and Sponsored Awards.

UCOP advises that "Though key concepts remain the same […] the presentation and formatting changes from the previous UC policy on Review of Gifts and Grants for Research are extensive, we have not provided a redlined comparison." This presents a challenge to reviewing the proposed policy for changes.

The proposed policy focuses on classification of gifts and sponsored awards.

- Funding classified as sponsored awards must go through the Office of Sponsored Research.
- Funding classified as gifts must go through the Development Office.

We are concerned about the following classification criterion for gifts: "While the area of work to be supported may be specified, there is no detailed scope of work, line-item budget, or period of performance specified by the Funder or promised by the University." There are some projects that may be more appropriately classified as a gift even though there is in fact the existence of a detailed scope of work, line-item budget, or period of performance specified by the Funder or promised by the University.

We appreciate that the determination is based on all available information related to the funding and that the presence or absence of one factor may not be determinative. We note that if there is disagreement about how the funding should be classified, the Office of Sponsored Research and the Development Office will work together to resolve the disagreement. We are concerned with how these classifications would be made in such instances absent input from the Principal Investigator. Noting that the administrative units would work together to resolve the classification, we request the inclusion of faculty in the process.

Sincerely,

Marguerita Lightfoot, PhD
Chair, Committee on Research
UCSF Academic Senate
2020-2021

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UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Shelley Halpain, Chair
Shalpain@ucsd.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200

May 19, 2021

MARY GAUVAIN, CHAIR
ACADEMIC COUNCIL

RE: Proposed Presidential Policy on Classification of Gifts and Sponsored Awards

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has reviewed the proposed Presidential Policy on Classification of Gifts and Sponsored Awards, and we have several comments. We recognize the necessity of updating this policy dating from the early 1980s, but better implementation guidelines are needed, although the FAQs are already considerable. How the gift factors are to be weighted should be clarified, as should the treatment of gift fees. Some members worry that too much campus flexibility could lead to disparate outcomes, and others raised concerns that purposes other than strict accounting could lead to shaming or bullying of donors or solicitors. We also note that alumni, retirees, and emeriti give generously, and better reporting on these gifts would benefit the University. Finally, pointing researchers to resources on Indirect Costs would improve the FAQs.

Thank you for your support.

Sincerely,

Shelley Halpain, UCFW Chair

Copy: UCFW
Hilary Baxter, Executive Director, Academic Senate
Robert Horwitz, Academic Council Vice Chair