

Executive Board

(Second Systemwide Senate Review) Proposed Presidential Policy on UC Research Data

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OF
CALIFORNIA

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DIVISION OF AGRICULTURE AND
NATURAL RESOURCES

August 9, 2022

CHANCELLORS
ACADEMIC SENATE CHAIR
LAWRENCE BERKELEY NATIONAL LABORATORY DIRECTOR
VICE PRESIDENT–AGRICULTURE AND NATURAL RESOURCES

RE: University of California Research Data Policy

Dear Colleagues:

Attached is the new University of California Research Data Policy for your records and information. This new Policy went through two systemwide reviews on December 17, 2021 for 90-day comment period and on February 15, 2022 for 60-day comment period, respectively. All the relevant and applicable feedback received from these systemwide reviews was incorporated into the attached policy.

Ownership of Research Data by the Regents of the University of California is a long-standing precept originally articulated in Section 020 of the Academic Personnel Manual ([APM-020](#)), or Regulation 4. Specifically, APM-020 Part II. Sec. 5 states that “Notebooks and other original records of the research are the property of the University.” The intent of this new Presidential Policy is to clarify the ownership of and responsibility for research data generated during the course of University research, encourage active data management and sharing practices, and provide guidance with respect to procedures when a University researcher leaves the University.

The new Presidential Policy is effective July 15, 2022, and will be posted online at <http://policy.ucop.edu/>.

Sincerely,

Michael V. Drake, MD
President

Enclosure

cc: Division Leaders
Vice President Maldonado
Executive Director Motton
Associate Director DeMattos
Policy Research Manager Balla
Universitywide Policy Office



University of California Research Data Policy

Responsible Officer:	VP – Research and Innovation
Responsible Office:	RI – Research and Innovation
Issuance Date:	8/9/2022
Effective Date:	7/15/2022
Last Review Date:	New Policy
Scope:	This policy (“Policy”) applies to all Research Data generated or collected during the course of University Research.

Contact:	Deborah Motton
Title:	Executive Director
Email:	Deborah.Motton@ucop.edu
Phone:	(510) 987-6053

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I. POLICY SUMMARY

The Regents of the University of California owns Research Data generated or collected in the course of University Research, and exercises this responsibility to support research, collaborations, public dissemination of information, and to meet its responsibilities under sponsored research awards and other research agreements.

Ownership of Research Data by the Regents of the University of California is a long-standing precept originally articulated in Regulation 4 ([Academic Personnel Manual 020](#)) which states “Notebooks and other original records of the research are the property of the University.” The intent of this Policy is to clarify the ownership of and responsibility for Research Data generated during the course of University Research, encourage active data management and sharing practices, and provide guidance with respect to procedures when a University Researcher leaves the University.

II. DEFINITIONS

Principal Investigator(s): The University Researcher primarily responsible for a research project, including design, conduct and reporting, regardless of funding source or formal title.

Research Data: Recorded information embodying facts resulting from a scientific inquiry, regardless of the form or media in which they may be recorded. Research Data do not include:

- “Scholarly & Aesthetic Works” defined under the University of California’s [Copyright Ownership Policy](#);
- Informal notes, preliminary analyses, drafts of scientific papers, and communications with colleagues that do not include recorded information embodying facts resulting from a scientific inquiry;
- Administrative records incidental to award administration such as financial records, contract and grant records, or records related to institutional reviews and approvals; and
- Patient source documents and medical records created in the course of clinical care.

University Research: Research conducted by a Principal Investigator or University Researcher that is within the course and scope of their assigned or assumed duties, uses University resources, and/or is funded by or through the University.

University Researchers: The academic appointees, faculty, staff, post-doctoral scholars, trainees, clinicians, and any others involved in the design, conduct or reporting of University Research regardless of the funding source. Students who participate in the design, conduct or reporting of a Principal Investigator’s research project are considered University Researchers for the purpose of this Policy.

III. POLICY TEXT

The University of California is committed to disseminating research results as widely as possible. As part of this mission, and in accordance with numerous University policies, the University supports the free and unfettered dissemination of information, knowledge, and discoveries generated by University Researchers.

The University’s ownership of Research Data facilitates the University’s ability to

University of California – Policy Research Data Policy

promote its mission and to carry out its legal responsibilities, including its responsibilities as the contracting party for extramural awards that impose obligations of access to and maintenance of Research Data. At the same time, the University has an obligation to ensure that its resources are used to further develop knowledge and not impede its research mission.

Consistent with federal and state¹ laws and University of California Regulation No. 4 (APM-020)², the Regents of the University of California retain ownership of Research Data created by or at the direction of University Researchers or Principal Investigators during the course of University Research, unless specifically agreed otherwise by the University under sponsorship or other related agreements. University policies and guidance ensure that such ownership will prevent impediments to the use of Research Data for:

- Other University Research,
- Sharing with collaborators and academic communities,
- Independent publication of outcomes, and
- Creation of Scholarly & Aesthetic Works.

It is important to note that this Policy does not:

- Restrict Principal Investigators' decision-making autonomy regarding what Research Data should be preserved or dispositioned, provided that legal and contractual obligations are met.
- Assert exclusive ownership of Research Data owned by third parties or that is jointly owned, (e.g., as agreed upon between the University and a third party collaborator on a joint research project).
- Interfere with requirements to share Research Data in accordance with the standards of their scholarly discipline and/or data management plan, as well as with any legal, funder, or contractual requirements.

To fulfill the University's research mission and the free exchange of ideas as well as to meet obligations with legal, funder, and contractual requirements, Principal Investigators are the primary stewards of Research Data. Research Data will be retained by the Principal Investigator of a research project. However, the University may take custody of Research Data under certain circumstances, such as where necessary to perform any investigations associated with allegations of research misconduct, litigation, or to ensure continuity of research.

¹ California Labor Code §2860 provides that everything that an employee acquires by virtue of his/her employment (except compensation) belongs to the employer whether acquired during or after the term of employment.

² Issued in 1958, University of California Regulation No. 4 (APM-020) states, "Notebooks and other original records of the research are the property of the University." This Policy elaborates on expectations established in Regulation No. 4.

IV. COMPLIANCE / RESPONSIBILITIES

A. Vice Chancellors for Research

At each campus, the Vice Chancellor for Research or their designee(s), in consultation with the appropriate campus stakeholders, including the Academic Senate, is responsible for the interpretation, implementation, and oversight of this Policy and shall:

- Establish local policies or procedures as necessary for implementing this Policy.
- Provide guidance to promote campus compliance with Research Data obligations arising by law, regulation or agreement.
- Sequester or otherwise obtain access to Research Data as needed for a required investigation pursuant to University policy and/or legal, funder, or contractual requirements.
- Protect the rights of University Researchers, including their right to access Research Data from University Research in which they participated.

B. University Researchers

University Researchers have the right to choose the nature and the direction of their investigations, to maintain and use Research Data they generated or collected in the course of their University Research to pursue future research, to publish their results, and to share their findings with scientific and academic communities.

University Researchers have the following responsibilities:

- Follow best academic practices with respect to research integrity, including in the collection, recording, and storing of Research Data.
- Manage and share Research Data in accordance with the standards of their scholarly discipline, and/or data management plan, and University policies, legal requirements, and the terms and conditions of applicable third-party agreements (such as sponsored awards, material transfer agreements, or data use agreements). University Researchers are encouraged to consult with the California Digital Library, campus libraries, or other campus or systemwide resources for advice on documenting, preserving, and appropriately disposing of Research Data.
- Consult with the Principal Investigator and/or Vice Chancellor for Research (or their designee) for clarification of obligations and resolution of disputes related to Research Data.

C. Principal Investigators

As stewards of the Research Data, Principal Investigators have the following responsibilities:

- Provide scholarly leadership pertaining to Research Data, including the collection, recording, managing, retention, and disposal of Research Data.
- Determine use of the Research Data by other University Researchers and collaborators on the project in accordance with relevant agreements and their

scholarly discipline's practices, and taking into account the need for academic progress of academic appointees, post-doctoral scholars, degree candidates, and other students.

- Make decisions regarding what Research Data should be preserved or dispositioned, provided that legal, funder, or contractual requirements are met. Principal Investigators are responsible for knowing retention requirements of their scholarly discipline, campus departments, funding agencies, and applicable law and regulation, and for following the most stringent of these multiple requirements. Principal Investigators must take the following key circumstances into account when determining the retention period:
 - **Inventions:** Research Data must be kept as long as necessary to protect intellectual property and to complete University patenting and licensing procedures for inventions.
 - **Allegations, Investigations and Litigation:** If Research Data are the subject of any allegations of research or other misconduct, investigations or litigation, the University and University Researchers must preserve potentially relevant information until the Vice Chancellor for Research (or their designee), in consultation with Campus Counsel, issues instructions regarding disposition.
 - **FDA-Regulated Research:** If a research project involves articles regulated by the U.S. Food and Drug Administration (FDA), consistent with 21 C.F.R. §§ 312.6 and 812.140, Principal Investigators must keep records for two years or as long as required following the date a marketing application is approved for the product; or if a marketing application is not filed or FDA-approved, for two years after the investigation is terminated, completed, or otherwise discontinued and the FDA is notified.
 - **Student Participation in Research:** If, in advancing to a degree, a student participates in the design, conduct or reporting of research, the Research Data connected to that research must be retained until the student has been awarded a degree, or until the student is no longer working on the project or is not enrolled in the University.

V. PROCEDURES

Procedures in the Event that an Investigator Leaves the University

When University Researchers (other than the Principal Investigator) involved in a University Research project leave the University or the research project, they may take copies of Research Data that they generated or collected in the course of their University Research, subject to approval by the Principal Investigator and any applicable sponsor requirements. In this event, the ownership of the Research Data remains with the University and Principal Investigators continue to be the primary stewards of Research Data.

University of California – Policy Research Data Policy

When a Principal Investigator leaves the University and a University Research project is to be moved to another institution, the ownership of Research Data may be transferred or licensed to the new institution in accordance with a locally developed process. This may include approval from the applicable institution, school, department and/or other academic units. The University may impose conditions on such transfer or may require the Principal Investigator to leave copies of the Research Data with the University.

In either of these instances:

- The remaining members of the research team retain the rights to use the Research Data needed to continue their work.
- The individual who leaves the University must arrange with their school, department and/or other academic unit for the management or disposition of any Research Data that remain at the University in accordance with University policies and/or legal, funder, or contractual requirements. This may include the use of data repositories.
- The University has the right to sequester or otherwise obtain access to Research Data for a required investigation pursuant to University policy and/or legal, funder, or contractual requirements, litigation, or to ensure continuity of research, regardless of the location of Research Data.

VI. RELATED INFORMATION

University Policies and Guidance

- [University of California Regulation No. 4](#)
- [UC Copyright Ownership Policy](#)
- [UC Records Retention Schedule](#)
- [Electronic Communications Policy](#)
- [Electronic Information Security Policy \(IS-3\)](#)
- [California Digital Library – Resources for Faculty](#)
- [Export Control Policy](#)
- [University Policy on Integrity in Research](#)
- [The Faculty Code of Conduct \(APM 015\)](#)

Federal and State Rules and Regulations

- [Federal Copyright Act](#)
- [California Labor Code § 2860](#)

VII. FREQUENTLY ASKED QUESTIONS

Frequently Asked Questions and implementing guidance related to this Policy is posted on the [UCOP Research Policy Analysis and Coordination](#) (RPAC) website.

VIII. REVISION HISTORY

July 15, 2022: Effective date of this NEW Policy. It expands on University of California Regulation No. 4 (APM-020).

This policy is also reformatted to meet the Web Content Accessibility Guideline 2.0.



*Robert Horwitz
Telephone: (510) 987-0887
Email: robert.horwitz@ucop.edu*

*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*

April 29, 2022

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Proposed Presidential Policy on University of California Research Data (Second Round Review)

Dear Susan:

As requested, I distributed for systemwide Senate review a revised version of the proposed Presidential Policy on University of California Research Data. All ten Academic Senate divisions and three systemwide committees (UCAF, UCORP, and UCPB) submitted comments. These comments were discussed at Academic Council's April 27 meeting and are attached for your reference.

The Academic Senate reviewed an earlier version of the policy in winter and spring 2021. At that time, we withheld our support due to strong faculty concerns about the purpose and intent of the policy, its overly broad scope and applicability to specific disciplines, the consequences of its compliance requirements for faculty workload and campus budgets, and its effect on intellectual property and academic freedom.

We appreciate efforts to address these concerns and improve the policy over the past year. The UCOP Department of Research and Innovation has been particularly open to working with the Academic Senate, and has visited UCORP and campus CORs multiple times to discuss the policy.

We understand that the policy has been restructured to 1) clarify ownership of and responsibility for research data generated during the course of University Research; 2) differentiate between data owned by the Regents and data covered under the UC Copyright Ownership Policy; 3) remove tangible research materials; 4) clarify exceptions to UC ownership when precluded by sponsorship; 5) encourage active data management practices; and 6) provide guidance on procedures when a researcher leaves the University.

The Senate continues to have strong concerns about the policy and is unable to support it as written. Senate members identified continuing issues with several aspects of the policy:

- 1) The scope of the policy is too far-reaching, and its intent is still unclear.
- 2) The definitions of terms such as “data” and “compliance” and provisions and procedures for securely storing, organizing, and preserving data are vague and require additional clarification in the policy or the FAQs. For example, the policy speaks of lab notes as an example of data that should be kept and stored, but not other kinds of research data or storage about which Senate committees had questions, e.g., videos. Additional examples would help clarify what is intended and guide faculty on what they may have to do.
- 3) There is concern that the policy will impose additional unfunded mandates on campuses, given the additional staff, space, data security, digital infrastructure, and other resources that will be required to support the new data storage and preservation requirement. Moreover, procedures for properly archiving data are highly variable across disciplines and will burden PIs and/or administrative staff. The call for archiving of data also conflicts with open access practices.
- 4) The policy provides little clarification or protection for PIs when it comes to whether the “unfettered access to research data” granted to Vice Chancellors for Research (VCRs) could result in use of their data without their consent; nor does it provide guidance about how data and resources will be maintained and shared when a PI leaves the University without direction or consent from the PI who originally led the work.
- 5) The policy has not addressed prior questions about how it will apply to collaborative multi-institution research and/or requirements by an agency that funded the original research.
- 6) The policy has not addressed prior questions about the issue of data sovereignty in the context of native peoples’ ownership of data, and other community-engaged research.
- 7) It will not be feasible to implement the policy without more infrastructure, and it will be virtually unenforceable without strong buy-in by faculty

To help mitigate some of these concerns, we recommend that the policy be altered in the following ways:

- 1) Add a statement regarding making the policy cost-neutral for PIs
- 2) Add a statement requiring VCRs to consult with divisional Senates on implementation
- 3) Require each campus to create an independent review board if the VCR decision is different from the faculty decision
- 4) Require the central coordination of a new data repository with sufficient security and privacy protections, at no cost to the investigators
- 5) Add a list of what would NOT constitute research data, with provisions for the routine review and updating of that list
- 6) Describe different practices in different fields in the FAQs
- 7) As part of implementation guidelines, create a data retention checklist to be completed as part of the faculty separation process from UC

In sum, the Council finds the policy as written to be overly broad, burdensome, difficult to enforce, and a potential danger to faculty intellectual property. The policy is presented as a necessary element of compliance with existing policy, but it instead seems to represent an expansion of University control over research data and analysis, at the cost of overburdening all faculty with compliance efforts to protect against rare policy violations that might bring harm to the institution. The policy should do more to identify the problem it is trying to solve and adjust its provisions accordingly.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Horwitz".

Robert Horwitz, Chair
Academic Council

Cc: Academic Council
Vice President Maldonado
Research Policy Manager Balla
Campus Senate Directors
Executive Director Baxter

Encl.



320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

April 19, 2022

ROBERT HORWITZ
Chair, Academic Council

Subject: Proposed Presidential Policy on UC Research Data – Second Systemwide Review

Dear Chair Horwitz:

I forward Berkeley's comments on the second review of the proposed *Presidential Policy on UC Research Data*. Our comments were developed by the Academic Senate Committee on Research (COR), which I endorse on behalf of the Council of the Berkeley Division (DIVCO).

We also note that *Section VII* will be a more useful document for the public, and for researchers joining UC after training outside of the U. S., if the following acronyms are spelled out the first time they appear in the Frequently Asked Questions: IACUC, IRB, and CC0.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald Cohen'.

Ronald C. Cohen
Professor of Chemistry
Professor of Earth and Planetary Science
Chair, Berkeley Division of the Academic Senate

Enclosure

cc: Mary Ann Smart, Vice Chair, Berkeley Division of the Academic Senate
Lia Fernald, Chair, Committee on Research
Jocelyn Surla Banaria, Executive Director
Deborah Dobin, Senate Analyst, Committee on Research



April 4, 2022

PROFESSOR RONALD COHEN
Chair, Berkeley Division of the Academic Senate

Re: COR comments on proposed Presidential Policy on UC Research Data

At its March 16th meeting, COR reviewed the proposed Presidential Policy on UC Research Data, which is the latest revision of the policy. Several key concerns had been raised in response to the previous version, including concerns about an overly broad scope, challenges to implementation (costs, management plan), and potential unintended impacts on core research facilities or relationships with tribal nations. In response to the previous document, several changes were introduced, including the removal of tangible research materials, the new differentiation about what is owned by the Regents and what is covered under copyright ownership policy, clearer exceptions about when ownership is precluded by sponsorship, and clarifications about what happens if you are a UCB researcher and you leave UC Berkeley.

COR notes that this policy will have a major impact on the campus, and that in spite of the revisions, there are continued areas of concern outlined below. In an area as complex as this and with as many stakeholders, implementation of the policy will be critical to its success. To support its implementation, COR raises the following concerns and questions with the hopes that they can be addressed in a future version of this document:

- **Definition of data.** What “data”, exactly, are included? Lab notebooks are mentioned in the brief, but there are questions about other types of data.
 - For example, where does video fit in? How will it be cataloged? How would it be saved as a video archive? Or would it need to be transcribed?
 - Another example, what about bodily samples (e.g. blood, urine) that haven’t been analyzed yet? If you keep the sample for possible future assays, how would the data be defined in that case - as the sample itself or the values extracted from the samples?
- **Clarification of compliance.** What does “compliance” mean? How will compliance be implemented and monitored? What are the practical/budget applications of managing and overseeing compliance?

- **Storage of secure data.** Who will maintain the data? What is the centralized approach to storing it? Will Box, Google drive, Amazon cloud be used? How will security be ensured? How will potentially sensitive data be protected? Will notebooks be converted to electronic files? How will the integrity and security of the data be ensured? Who will be responsible for uploading data?
- **Organization of data.** How will data be cataloged? What infrastructure will be used to organize data storage? How will this be implemented consistently across fields and data sources? Will there be a central repository for all researchers who have their own data in their own servers or in the cloud?
- **Administration of data.** Who will be responsible for ensuring that data are preserved in the appropriate manner? What person/people will ensure that researchers are in compliance, or is this additional work that will be pushed onto faculty?
- **Length of time for storage.** How long will data be preserved? Within the policy, it is not clear how long the data needs to be preserved for; that seems like one of the most important things it'd be good to clarify. For example, how long would a researcher need to hold onto lab notes?
- **Ownership of data.** If someone leaves UC and leaves the data at UC, then could someone else use the data and continue the work? Data can be lost if a researcher leaves, retires, or dies, so who will be responsible for making sure that they are in compliance with data requirements?
- **Communication plan.** How will this policy be comprehensively communicated to researchers on campus? What will be the consequences for lack of compliance and how will this be communicated?

The committee agrees with the intent of the policy but still has many concerns about how it will be implemented and whether its implementation will have significant unintended consequences.

Thank you for the opportunity to comment.

With best regards,



Lia Fernald, Chair
Committee on Research



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April 19, 2022

Robert Horwitz
Chair, Academic Council

RE: Second Review of Proposed Presidential Policy on University of California Research Data

Dear Robert,

The second review of the proposed Presidential Policy on University of California Research Data was forwarded to all standing committees of the Davis Division of the Academic Senate. The Committee on Research (COR) responded.

COR reiterated its concerns from the first review about vague procedures when a principal investigator (PI) leaves the university:

- Procedures for properly archiving data are highly variable across disciplines and may place undue burden on the PI and/or university administrative staff.
- Prior questions on how the policy will apply to collaborative multi-institution research and/or requirements by the agency that funded the original research remain unanswered.
- There is major concern regarding data sharing that results in publication without the PI's consent; doing so may lead to publications without context of the bigger picture or even erroneous information that misleads the field of research that, if found, will require retraction.

The Davis Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tucker".

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

April 8, 2022

Richard Tucker

Chair, Davis Division of the Academic Senate

RE: Request for Consultation on the Second Review of Proposed Presidential Policy on University of California Research Data

Dear Richard:

The Committee on Research (COR) has reviewed the Request for Consultation (RFC) on the Second Review of Proposed Presidential Policy on University of California Research Data. As noted in our previous review, the committee remains concerned about the vagueness of the procedures when a Principal Investigator (PI) leaves the university, particularly how data and resources will be maintained and shared without guidance from the PI who originally led the work. Additional details as follows:

1. The committee noted that procedures for properly archiving data are highly variable across disciplines and may place undue burden on the PI and/or university administrative staff.
2. Prior questions on how the policy will apply to collaborative multi-institution research and/or requirements by the agency that funded the original research remain unanswered.
3. There is major concern regarding data sharing that results in publication without the PI's consent; doing so may lead to publications without context of the bigger picture or even erroneous information that misleads the field of research that, if found, will require retraction.

Sincerely,



Cyndi Schumann

Chair, Committee on Research

April 5, 2022

Robert Horwitz, Chair
Academic Council

Re: Second Systemwide Review of Proposed Presidential Policy – University of California Research Data

Dear Chair Horwitz,

The Irvine Division discussed the proposed presidential policy on UC research data at its April 5, 2022 Cabinet meeting. The Council on Research, Computing and Libraries (CORCL) also reviewed the policy. CORCL's feedback is attached for your review.

Overall, CORCL members agreed that the revisions adequately addressed the issues they raised in their initial review of the policy. Cabinet members had no additional feedback.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Joanna Ho, Chair
Academic Senate, Irvine Division

Enclosure: CORCL memo

Cc: Georg Striedter, Chair Elect-Secretary
Jisoo Kim, Executive Director
Gina Anzivino, Associate Director



April 5, 2022

JOANNA HO, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Second Systemwide Review of Proposed Presidential Policy on UC Research Data and Tangible Research Materials

At its meeting on March 17, 2022, the Council on Research, Computing, and Libraries (CORCL) reviewed the revised proposed presidential policy on UC Research Data and Tangible Research Materials.

In CORCL's initial review of the proposed policy, the Council suggested the following:

- Additional language is needed to exempt "sales and service" research arrangements in which the Regents do not have ownership of data generated in University labs.
- Clarification is needed where proprietary data is acquired by the PI from the private sector with university funds, and then the PI leaves the university.

For the second review of the revised policy, the Council was particularly pleased to see that the revision states that university researchers leaving a university may take copies of research data they generated or collected in the course of their university research, subject to approval by the principal investigator and applicable sponsor restrictions. Members also observed that the policy language was made briefer, perhaps to allow for flexible local implementation. CORCL reiterated that although this is a welcome effort, the policy may benefit from additional articulation of possible complications that may arise. This would provide clear guidance for campuses to follow. However, the Council acknowledged that specifying examples may be difficult given the range of research disciplines.

Nevertheless, members found that the revisions adequately address the issues raised in the initial review.

The Council appreciates the opportunity to comment.

On behalf of the Council,



Michele Guindani, Chair

c: Jisoo Kim, Executive Director
Gina Anzivino, Assistant Director
Michelle Chen, CORCL Analyst
Matthew Hurley, Senate Analyst



April 18, 2022

Robert Horwitz
Chair, UC Academic Senate

Re: (Second Systemwide Senate Review) Proposed Presidential Policy on UC Research Data

Dear Chair Horwitz,

The Divisional Executive Board, councils, and committees appreciate the opportunity to review the Proposed Presidential Policy on UC Research Data. The Executive Board reviewed the proposal and divisional council and committee feedback at its meeting on April 14, 2022. Although members support measures to uphold research ethics, the Executive Board is unable to endorse the proposed revised policy because of ongoing concerns about its scope and purpose, possible contradictions and unintended consequences, and poor fit with ethnographic and community-based research.

Members agree with the importance of addressing unethical and careless behavior in research. They acknowledged that university policy long has included assertions of ownership over research records, yet they are concerned that this proposed policy unnecessarily expands this in ways that are likely to impinge on the integrity, practicality, and disciplinarily accepted norms of scholarly research.

Members concluded that the purpose and intent of the proposed policy was neither clear nor helpful. It appears from the proposed language that the University is concerned about tenured faculty leaving the institution and taking research-related resources, and members understand that concern. However, members questioned whether this proposed policy is the right way to address it. Members suggested more clearly identifying the problem this proposed policy is trying to solve, and then refining the scope accordingly.

Members noted many facets to research ownership including patent, copyright, funding, and myriad activities that are not patentable, copyrightable, transferable, or quantifiable. Ownership can, for example, be a story owned by an Indigenous clan or data generated under an agreement recognizing data sovereignty of a community or nation.

In addition to concerns about its expansive scope, members suggested the proposed policy as written may cause potential conflicts of interest, have internal contradictions, and lead to unintended consequences. Specifically, members noted the proposal has important discipline-specific practices that might contradict the VCR's "unfettered access" to data, and that the latter might in some cases be in tension with IRB protections. Sometimes data may be co-owned with communities as is the case with some anthropological research (in ways more profound than the language of "third-party agreement" addresses). Members appreciated the reference to disciplinary norms, but the default approach to data in this policy would make it difficult to pursue community-engaged scholarship.

Thank you again for the opportunity to review this proposal. These are matters of great importance to researchers.

Sincerely,

A handwritten signature in cursive script, reading "Jessica R. Cattelino".

Jessica Cattelino
Chair
UCLA Academic Senate

Encl.

Cc: April de Stefano, Executive Director, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate

April 11, 2022

To: Jessica Cattelino, Chair
Academic Senate

From: Alex Bui, Chair
Committee on Data, Information Technology and Privacy

Re: (Second Systemwide Senate Review) Proposed Presidential Policy on UC Research Data

Dear Chair Cattelino,

At its meeting on March 9th, 2022, the Committee on Data, Information Technology, and Privacy (CDITP) reviewed and discussed the second review of the proposed Presidential Policy on UC Research Data. Recognizing the complexity of the issue, members agreed that the University needs clear guidelines outlining what constitutes research data, and ownership. Past Academic Senate and UC-wide reports that dive deeply into these issues – many of which were published only in the past few years – should thus be appropriately referenced to guide the proposed policy. CDITP members broadly discussed the following three issues:

1. Policy scope. Clarity regarding scope and intent of the policy was not addressed within the second draft. The responsibilities associated with data, its collection, and ultimately its curation is not clearly defined. In part, this problem arises given the heterogeneous nature of research data, its generation, and varying reporting requirements. Recognizing these issues as part of the policy will better facilitate future procedural and operational implementation.
2. Policy framing. The current draft is overly long and complex, and despite attempts to provide summaries, it is unhelpful in providing faculty with concise, actionable guidance. Although the intent of the policy may be to be comprehensive, its complexity challenges accurate and precise interpretation.
3. Interaction with other requirements. Members voiced concerns and recognized gaps as it relates to issues around compliance, for instance, and feared future adjudication issues. Similarly, the proposed policy does address how these methods are also regulated/interact with institutional review boards (IRBs) or requirements for open access science/publishing.

Ultimately, CDITP members commented that the proposal should continue to be vetted as the landscape for research is continuously evolving. The thought is to keep the policy simple, limiting unintended (downstream) consequences.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact buia@mii.ucla.edu or the Committee Analyst, at rrouzankay@senate.ucla.edu.

cc: Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Committee Analyst, Academic Senate
Members of the Committee on Data, Information Technology and Privacy

April 4, 2022

To: Jessica Cattelino, Chair
Academic Senate

From: Robert Zeithammer, Chair
Committee on Library and Scholarly Communication

Re: (Second Systemwide Senate Review) Proposed Presidential Policy on UC Research Data

Dear Chair Cattelino,

At its meeting on March 7, 2022, the Committee on Library and Scholarly Communication reviewed and discussed the second review of the proposed Presidential Policy on UC Research Data. Members shared the following comments:

Members concurred with the UC Academic Senate statement in the letter dated March 22, 2021. 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.

In addition, members suggested that it seems unnecessary and counterproductive for the university to create and adopt such an intricate and far-reaching policy in response to one specific data controversy in 2015. It is understood from the supporting documents that faculty requested additional clarity regarding scope and intent of the policy with regards to the first draft. It is unclear as to how the second draft improves on the earlier draft. The current draft is long and complex appearing to be unhelpful in providing faculty with clear practicable guidance.

Given the ownership issues (re collaboration) and confidentiality issues (re faculty who conduct interviews in the field), it was the sense of the committee that this draft is likely to create new problems rather than helpfully clarify the intent of existing policy. Members see it unfortunate for all concerned if a policy--that was primarily prompted by one lawsuit--ends up resulting in numerous unintended disputes and lawsuits in the future.

Members support the concerns that faculty have voiced in the review process, however it is not clear whether the draft effectively resolves the concerns outlined. The majority of members were not in support of adopting this draft given its current intricacy and the unintended consequences it may have.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact robert.zeithammer@anderson.ucla.edu, or the Committee Analyst, at rrouzankay@senate.ucla.edu.

cc: Shane White, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Senior Policy Analyst, Committee on Library and Scholarly Communication
Members of the Committee on Library and Scholarly Communication



OFFICE OF THE ACADEMIC SENATE
LEROY WESTERLING, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

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

April 19, 2022

To: Robert Horwitz, Chair, Academic Council

From: LeRoy Westerling, Chair, UCM Divisional Council

Re: [Proposed Presidential Policy on University of California Research Data](#)

The proposed Presidential Policy on UC Research Data was distributed for comment to the Merced Division Senate Committees and the School Executive Committees. The following committees offered comments for consideration. Their comments are appended to this memo.

- Committee on Research (CoR)
- Committee on Faculty Welfare and Academic Freedom (FWAF)
- Committee on Library and Scholarly Communications (LASC)

Divisional Council (DivCo) discussed the committees' comments and supports their various viewpoints. DivCo offers additional thoughts:

DivCo finds several general issues with the draft policy. First, there is a lack of consideration or clarity for team science across multiple institutions, which may create problems with collaboration. There are many instances in which data will be shared across multiple institutions. This policy seems to bind collaborators outside the UC system to our restrictions, and this might disincentivize UC researchers from hosting grants at the UC because of greater restrictions. Second, there are many hidden costs or potential unfunded mandates in the current policy draft, particularly regarding archiving the data. Data-heavy projects would require many resources for archiving the data in perpetuity. Must researchers fund this? This seems like an unreasonable expectation, and this also creates an undue burden tasking UC librarians with helping UC researchers find solutions without increased staff or budgets. Additionally, the proposed policy seems to interfere with open science practices. There is a trend towards greater sharing in the scientific endeavor. The policy seems both symbolically and practically opposed to this laudable trend. Finally, the revised policy invests a lot of authority in campus Vice Chancellors for Research. FWAF has suggested more faculty oversight in data management decisions.

The Merced Division thanks you for the opportunity to comment on these proposed revisions.

CC: Divisional Council
Senate Office
Hilary Baxter, Executive Director, Systemwide Academic Senate
Michael LaBriola, Assistant Director, Systemwide Academic Senate



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON FACULTY WELFARE AND ACADEMIC FREEDOM
DAVID JENNINGS, CHAIR
djennings3@ucmerced.edu

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

April 1, 2022

To: LeRoy Westerling, Chair, Division Council

From: David Jennings, Chair, Committee on Faculty Welfare and Academic Freedom (FWAF)

Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

At its March 30, 2022 meeting, FWAF discussed the proposed Presidential Policy on University of California Research Data. We offer the below comments.

The goal of the policy is "to clarify ownership of and responsibility for Research Data generated during the course of University Research, encourage active data management practices, and provide guidance with respect to procedures when a researcher leaves the University". It aims to balance the ownership rights the University has over data "created by or at the direction of University Researchers or Principal Investigators during the course of University Research" with the rights PIs and Researchers have "to use [that] data for University purposes that they have generated or collected in the course of their University research," such as publishing findings, creating scholarly works, and transmitting copies of it.

Vice Chancellors for Research (VCR) on each campus are "responsible for [its] interpretation, implementation, and oversight". To that end, they should establish local policies and procedures and guidance on how to comply and, according to the policy, they are to have "unfettered access to Research data for University purposes".

In the first review of this proposed policy in AY 20-21, FWAF raised concerns about the amount of power over faculty it vests in the VCR. The revised policy, however, remains unchanged in this respect. FWAF suggests the creation of some faculty check on, or faculty voice in, the decisions made by the VCR and we advocate for the empaneling of an independent appeals entity, perhaps with representation from the Senate Committee on Research. We are concerned that by investing such a degree of authority in the VCR, the policy's processes around research data are too far removed from faculty oversight.

Aside from this worry, FWAF finds that the revised policy adequately respects the rights of faculty to their data as it seems to guarantee faculty right to use their data while employed at the University and makes

provisions about how to transfer it, should they leave. And, the policy appeals to conventions and best practices in the relevant disciplines as standards for the proper use, storage, transmittal, etc. of the data.

FWAF supports the proposed revisions but with the aforementioned concerns about faculty oversight on VCR decisions.

We appreciate the opportunity to opine.

cc: Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATIONS
MARIA DEPRANO, CHAIR
mdeprano@ucmerced.edu

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

April 4, 2022

To: LeRoy Westerling, Senate Chair

From: Maria DePrano, Chair, Committee on Library & Scholarly Communications (LASC) & LASC Committee Membership

Re: Presidential Policy on University of California Research Data

LASC has read the revised University of California Research Data Policy, the FAQ, and the UC campus review input to the original Policy submitted for review in 2020.

Despite efforts to adequately respond to comments to the original 2020 policy, problems remain in the revised University of California Research Data Policy.

LASC has three significant concerns.

First, the policy states that, “Principal Investigators are responsible for ensuring that Research Data, whether generated by them or their research team, are recorded, stored, and used in accordance with the standards of their respective discipline, data management plan if applicable, campus department, and any requirements of applicable federal or state law or regulations, University policies and guidelines, and University contractual commitments” (p. 3).

Later the Policy states, “As stewards of the University’s Research Data, University Researchers shall: Securely collect, record, manage, and store Research Data throughout the research life cycle, from design to preservation” (p. 4).

This policy thus requires that the PI function as an archivist. This policy does not recognize that archivists earn degrees in information science which trains them in records management, archives, and information governance. (For an example degree, please see Masters of Archives and Records Administration degree at San José State University School of Information, https://ischool.sjsu.edu/master-archives-and-records-administration?gclid=Cj0KCQiAmeKQBhDvARIsAHJ7mF7oQx0wOsn4xJiicBLly15ltWlfl5-cMGlgHxMzeUuxQPg70pMxeFsaApyEALw_wcB

The University of California PI or University Researcher, however, probably does not have the training (or the time) to function as an archivist.

Second, the Policy advises, “University Researchers are encouraged to leverage the California Digital Library, campus libraries, or other campus systemwide resources for advice on documenting and preserving Research Data” (p. 4). The Policy does not clarify where the financial resources will originate to hire additional librarians, archivists, and data managers at the CDL and campus libraries in order to support this new Policy. This is, in other words, an unfunded mandate on the CDL and the campus libraries.

This Policy is also an unfunded mandate on campuses who will need to generate and maintain the digital and physical space to preserve the data and ancillary research materials.

[?? Keep or cut?] Third, the Policy recognizes that graduate students play a role in research, “For the purpose of the Policy, students who participate in the design, conduct, or reporting of a Principal Investigator’s research project are subject to this Policy” (p. 2). Later, it reiterates that, “If, in advancing to degree, a student participates in the design, conduct, or reporting of research, the Research Data connected to that research shall be retained until the student has been awarded a degree, or until the student is no longer working on the project or has otherwise left the University” (p. 5).

[? Keep or cut?] However, this Policy inadequately conceptualizes the potential roles graduate students might play in data generation, and the “mixed ownership” of data in a working laboratory in the real world. In some cases, students on fellowships of varying length, ranging from a month to multiple years, generate their own design and will themselves be the PI for an experiment, while working in UC faculty’s lab. In the case of graduate students on a fellowship, according to definitions in the revised Policy, the graduate student serves as the PI of their project. Yet, are graduate students on fellowship actually considered a PI by university policy? Or are they always a University Researcher? This policy seems like it might create a situation in which the graduate student on fellowship might design, fund, and conduct work that generates research data, yet they would not be able to determine the use of their data and they would need to seek approval from the PI to use the data, when the graduate from the university. This does not seem appropriate.

LASC appreciates the opportunity to comment on the proposed policy.

Cc: Senate Office



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

JASON STAJICH
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April 12, 2022

Robert Horwitz, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Second Systemwide Senate Review-Proposed Presidential Policy on UC Research Data

Dear Robert,

The Riverside Executive Council discussed the subject proposal during their April 11, 2022 meeting and had no additional comments to include with the attached comments from Riverside Divisional committees.

Sincerely yours,

/s/Jason

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

COMMITTEE ON ACADEMIC FREEDOM

March 29, 2022

To: Jason Stajich, Chair
Riverside Division Academic Senate

From: Ivy Zhang, Chair
Committee on Academic Freedom

Re: Proposed Presidential Policy on University of California Research Data

The Committee on Academic Freedom reviewed the proposed Presidential Policy on University of California Research Data at their March 22, 2022 meeting.

The Committee's concerns and recommendations focus on the following four issues:

1. The Committee expresses concerns about accessing archived research data. The Committee recommends that the policy be updated to clarify whether the Regents of the University or the principal investigator has the authority to grant access, especially when the data access request involves public interests or after a principal investigator leaves the University. The committee notes the need to properly protect academic freedom and intellectual properties in the process of granting access to research data.

2. The Committee expresses concerns about the following statement:

“Any individual who leaves the University, whether to move to another institution or because of retirement or separation, must arrange with their school, department or center for the storage of any Research Data that remain at the University in accordance with any policy adopted by the applicable school, department or center.” (p. 6)

Specifically, the Committee notes the lack of clarity in “any policy adopted by the applicable school, department or center” and the potential of such policy affecting academic freedom. The Committee recommends that the proposal clarify the responsibilities of the University in maintaining the research data after a principal investigator leaves the University.

3. The Committee recommends that the proposed policy be updated to provide greater clarity regarding the boundaries of Research Data. For example, the Committee believes that more detail should be provided on how research data of collaborative research projects involving researchers from other institutions should be managed.

4. The Committee notes the potentially significant costs to faculty of implementing the proposed policy. The Committee believes that sufficient support should be provided for data storage and security as defined in the policy.



Academic Senate

April 4, 2022

To: Jason Stajich, Chair
Riverside Division

From: Weixin Yao, Chair
Committee on Research

Re: 21-22. SR. Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

The committee on research reviewed the proposed policy and had no comments



Academic Senate

GRADUATE COUNCIL

March 18, 2022

To: Jason Stajich, Chair
Riverside Division

From: Don Collins, Chair
Graduate Council

Re: [Systemwide Review] Proposed Policy: Second Systemwide Senate Review-
Proposed Presidential Policy on UC Research Data

Graduate Council reviewed the second proposed Presidential Policy on UC Research Data and was supportive of the policy.



Academic Senate

April 4, 2022

To: Jason Stajich, Chair
Riverside Division

From: Manu Sridharan, Chair
Committee on Library and Information Technology

Re: 21-22. SR. Second Systemwide Review of Proposed Presidential Policy on University of California Research Data.

The Committee on Library and Information Technology reviewed the proposed policy and had no comments.



OFFICE OF THE ACADEMIC SENATE

9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

April 19, 2022

Professor Robert Horwitz
Chair, Academic Senate
University of California
VIA EMAIL

Re: Divisional Second Review of Proposed Presidential Policy on University of California Research Data

Dear Professor Horwitz,

The second review of the proposed Presidential Policy on University of California Research Data was distributed to San Diego Divisional Senate standing committees and discussed at the April 18, 2022 Divisional Senate Council meeting. Senate Council had no objections to the proposal. Members commended proposers for taking reviewer comments from the first systemwide review into account when revising the policy draft. Council offered the following comments to further strengthen the proposed policy.

The policy would benefit from additional clarity on what constitutes research data and who is responsible for retaining it. Reviewers supported adding a statement to make clear there will be safeguards to keep the implementation of the policy's requirements cost neutral for PIs and to minimize additional burdens on faculty. Council also supported employing a data retention "checklist" to be completed by researchers as part of the separation process to provide proof of data created by the researcher and to ensure that PIs have access to record, store and use the data in accordance with the standards of their discipline per the policy. Finally, Council recommended adding a statement in Section IV, Compliance/Responsibilities, requiring Vice Chancellors for Research to consult with divisional Senates on implementation decisions and local procedures.

The responses from the Divisional Committee on Academic Information Technology, Committee on Faculty Welfare, Committee on Library, Committee on Planning and Budget, Committee on Research and Graduate Council are attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Javidi", with a long horizontal flourish extending to the right.

Tara Javidi
Chair
San Diego Divisional Academic Senate

Attachments

cc: Nancy Postero, Vice Chair, San Diego Divisional Academic Senate
Lori Hullings, Executive Director, San Diego Divisional Academic Senate
Hilary Baxter, Executive Director, UC Systemwide Academic Senate

April 8, 2022

PROFESSOR TARA JAVIDI, Chair
Academic Senate, San Diego Division

SUBJECT: Second Review of Proposed Presidential Policy on University of California Research Data

Dear Chair Javidi,

At its April 1st meeting, the Committee on Academic Information Technology (CAIT) discussed and reviewed the proposed UC Presidential Policy on Research Data, and find it much improved from the previous draft. CAIT is grateful for the responsiveness to feedback and added clarity, especially around the Compliance / Responsibilities section, and finds the FAQ is likewise much improved over previous versions. CAIT is glad that the policy includes references to data curation and publishing. However, the committee notes that the flexibility intrinsic to the current policy pushes the burden of implementation specifics to the Vice Chancellor for Research or their designate. Any such implementation should ensure that:

- The University cover additional costs required to support new data storage and preservation requirements.
- Implementation minimizes additional burden on faculty that would adversely affect their primary research, teaching and service activities.

Additional remaining concerns and questions are enumerated below:

Section II: Definitions

The definition of a “PI” remains confusing to us. Is the intention that each research project will designate a particular team member as “PI” for the purposes of research data oversight?

Under the definition of “Research Data,” what is meant by “methods” in the phrase “recorded information reflecting original observations and methods resulting from a scientific inquiry”? CAIT is concerned that the concept of “methods” is too broad and vague in this context.

Section V: Procedures

Regarding the procedures for when PIs leave the university, the draft policy says, “When the University permits a Principal Investigator to leave the University with Research Data, they must hold the Research Data in trust for the University. A departing Principal Investigator must return the Research Data to the University if requested.” This phrasing indicates that a PI has a distinct responsibility to hold the research data in trust for the university. Is there a need to define in a more detailed way what this means? For example, is a PI who leaves the university with research data subject to this policy or is ‘hold in trust’ a more general concept? Additionally, it was not clear to me if under the above quoted statement if “return the Research Data” meant that the PI could not keep a copy of the data for continued use.

Other than this handful of concerns, CAIT finds the policy satisfactory and supports moving forward with its implementation.

ACADEMIC SENATE: SAN DIEGO DIVISION
UCSD, LA JOLLA, CA 92093-0002
(858) 534-3640
FAX (858) 534-4528

Sincerely,

Ian Galton, Chair
Committee on Academic Information Technology

cc: Barry Grant
Lori Hullings
Jenna Lucius
Nancy Postero

March 29, 2022

TARA JAVIDI, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Research Data Policy

The Committee on Faculty Welfare (CFW) reviewed the UC Research Data Policy at its March meeting. The draft policy is updated to address concerns regarding the scope of the University's ownership and the implementation policy. The CFW believes that the changes addressed most of these concerns. The proposed changes look reasonable.

However, in Section IV, "Compliance/responsibilities, A. Vice Chancellors for Research" the Committee would like to suggest adding "*in consultation with the campus Academic Senate*", after the first sentence.

That is, change "At each campus, the Vice Chancellor for Research or their designee(s), is responsible for ...", to:

"At each campus, the Vice Chancellor for Research or their designee(s), *in consultation with the appropriate campus Academic Senate committee or faculty*, is responsible for ...".

The rationale for this suggestion is primarily to ensure that the faculty's interest in safeguarding and utilizing this research data is given due consideration, given it's the faculty who generates this data. For example, a conflict may arise if the VC of Research's office decision to share this data with some person/entity runs contrary to the PI's interests, wishes or logic. Some discussion with the relevant faculty is then warranted.

Sincerely,

Shantanu Sinha, Chair
Committee on Faculty Welfare

cc: N. Postero

April 8, 2022

PROFESSOR TARA JAVIDI, Chair
Academic Senate, San Diego Division

SUBJECT: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

Dear Chair Javidi,

At its March 31, 2022, meeting, the Committee on Library (COL) reviewed the Second Systemwide Review of Proposed Presidential Policy on University of California Research Data. The COL recognizes that the Policy mentions the library in one specific instance and more generally alludes to it in others. The COL has discussed the new policy and agreed upon the following feedback.

1. The present proposal explains the role of the library as a source for advice on “data management, data publication, and data services.” The COL discussed what it means to curate data over the long term and how curation of raw data is economically unfeasible. Curation of refined second or third order data may be feasible. The committee asks if a more detailed definition of data and a differentiation between ‘first order’ data and ‘final’ or “public” data might help clarify for researchers the type of management and curation decisions the library can usefully support. Although the term “Notebook” clearly has some legal meaning in the policy proposal, it does not differentiate between the kind of raw data acquired by a historian of the seventeenth century and that of a climate scientist. One committee member cited [NASA’s research data definition](#) as a potential source of a more nuanced data definition level. Related to the definition of data the committee observed that there may be value in differentiating active research data and final/publish-ready data in encouraging VCRs to consider solutions appropriate for these different forms of data. The library’s primary role is the protection of data for future decades rather than the short-term management of massive amounts of raw data.
2. Within the FAQ, item 10 comments on who researchers can *consult* (including library staff) regarding the length of time that research data should be preserved. The COL determined that the policy should more explicitly determine who holds the responsibility for determining the retention period to ensure that this does not fall under the library’s purview.
3. The COL agreed that the current document does not present a coherent plan going forward regarding the actual implementation of this policy for both the management of data (storage) and the curation of data (the assurance of accessibility, including the inevitable migration of data). This is clearly a complex issue and we recognize that by defining specific responsibilities of the VCR, PIs, and researchers this policy raises significant questions regarding scope, cost and funding source. On this point, the COL observed that this policy does not speak to whether or not such future implementation should occur at the campus level or UC-wide level. This topic arose because of the intended scope of the solution and how university organizations like the library

might be called on to respond to this policy.

If you seek further elaboration from me or the COL, please do not hesitate to contact me.

Sincerely,

Mark Hanna, Chair
Committee on Library

cc: Lori Hullings
Jenna Lucius
Nancy Postero

March 29, 2022

TARA JAVIDI, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Research Data Policy

The Committee on Planning and Budget considered the UC Research Data Policy at its March meeting. The committee endorsed the proposed revisions to the policy and had no further suggestions or concerns.

Sincerely,

Gedeon Deák, Chair
Committee on Planning & Budget

cc: N. Postero

April 8, 2022

TARA JAVIDI, Chair
Academic Senate, San Diego Division

SUBJECT: Second Review of UC Policy on Research Data

The Committee on Research (COR) discussed the revisions to the proposed Presidential Policy on University of California Research Data at their February 28, 2022 meeting. The Committee endorsed the revisions to the proposed policy while offering specific recommendations for its effective and efficient implementation.

The revised draft of the policy could still offer greater clarity on what constitutes research data, who is responsible to retain it, and how to ensure its integrity and secure access. Research data are now very broadly defined, and yet the examples given are limited to various forms of laboratory notebooks. Funding agencies such as the National Institutes of Health specify more precise language on what data generated from research needs to be retained, how long it is to be retained, and how it is to be shared and made available to the research community. While Principal Investigators are ultimately responsible for retention of research data in their laboratories, they have no means to facilitate that retention when research members separate from the laboratory. As in its review of the original draft of the policy, COR recommends that explicit language be added to the policy requiring University Researchers (including academic appointees, staff, postdoctoral scholars, research trainees, and medical center staff, clinicians, and students) to proactively provide research data to the Principal Investigator (PI). To enforce such a practice, COR suggests that UC implements a data retention “checklist” to be completed as part of the separation process of a University Researcher. This checklist should provide proof of data created by the University Researcher and ensure that the PI has access to it, so that the PI can record, store, and use the data in accordance with the standards of their respective discipline per the policy.

In order to assist the Vice Chancellors for Research’s obligation to ensure effective systems are in place for the maintenance, preservation, and accessibility of Research Data, COR urges centralized coordination to address the need for resources for a data repository that would allow for the secure storage of, and permanent access to, research data. There is currently no central repository system at UC San Diego, nor at other UC campuses, to deposit and store such data. COR strongly suggests that such a system be developed in close coordination with the San Diego Supercomputer Center, given their knowledge and expertise in large-scale high-performance storage and data management tools development. Given the recent ransomware attacks, it is particularly vital that the University provide secure methods of data storage and retrieval to counter risk of major loss as manifested in wide-sweeping incidents of ransomware attacks affecting academic institutions such as a recent one costing UCSF \$1.14M.

We thank you for the opportunity to give further feedback on the revised proposed Presidential Policy on University of California Research Data and Tangible Research Materials, and we look

forward to its successful implementation delivering shared, centralized, secure research data repository resources to all active members of the research community.

Sincerely yours,

Gert Cauwenberghs, Chair
Committee on Research

cc: S. Golden
L. Hullings
J. Lucius
N. Postero

April 5, 2022

TARA JAVIDI, Chair
Academic Senate, San Diego Division

SUBJECT: Review of Proposed Presidential Policy on University of California Research Data

At its March 14, 2022 meeting, the Graduate Council reviewed the proposed Presidential Policy on University of California Research Data. The Council had no objections to establishing this new policy.

Sincerely,

Arshad Desai, Chair
Graduate Council

cc: P. Ghosh
L. Hullings
J. Lucius
N. Postero

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Steven W. Cheung, MD, Chair
Steve Hetts, MD, Vice Chair
Pamela Ling, MD, Secretary
Kathy Yang, PharmD, Parliamentarian

April 21, 2022

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

**Re: UCSF Comments on the Proposed Presidential Policy on UC Research Data -
Second Review**

Dear Robert:

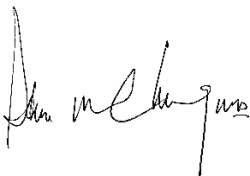
The San Francisco Division of the Academic Senate recently reviewed the proposed Presidential Policy on UC Research Data in the second-round review. Our Committee on Faculty Welfare (CFW), Committee on Research (COR), and Rules & Jurisdiction (R&J) commented on the following:

- **Definition of Principal Investigator(s) (PI):** CFW and R&J wondered if people who are not designated by external research sponsors or by UC as PIs still be considered PIs for purposes of this definition? R&J specifically recommends that the policy specifically state whether faculty PIs who are employed by an outside institute, but who have a UC faculty appointment, are subject to this policy.
- **Access to Data:** The proposed policy states that the Vice Chancellor for Research (VCR) or their designee(s) shall "have unfettered access to Research Data for University purposes[.]" Later in the proposed policy it states, "...Research Data must be available to external sponsors, designated government officials and other University investigators who are collaborators with the departing Principal Investigator." CFW is concerned that the language is not accompanied by limitations that protect the privacy of patients and research subjects. Access to data is governed by HIPAA, IRB decisions, data transfer agreements, and similar policies and regulations. Generally, a Vice Chancellor for Research would not have unfettered access to a researcher's data. CFW recommends that the Proposed Presidential Policy be revised to clarify that access to data is protected and will remain protected by existing regulations, policies, and agreements.
- **Policy Development/Resources:** The policy delegates the responsibility for formulating many of the details of the Research Data Policy to the campus VCRs at the individual campuses. For example, the policy obligates the VCRs "to ensure that (the University's) resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data" and to "implement local policies and procedures...according to established campus, academic discipline, and journal standards." COR comments that developing systems and procedures is a non-trivial task and will likely increase the administrative burden on the VCRs and their offices, which are already overstretched at research-intensive campuses like UCSF. Delegating this responsibility may also lead to the inconsistent formulation and implementation of Research Data Policies across the individual UC campuses, which may create issues of real or perceived unfairness. The Committee questions the purpose of developing a systemwide policy if the formulation and implementation of the policy is ultimately left up to the individual campuses. COR adds that the policy does not address the concerns raised in the responses to the previous draft regarding the costs and physical resources needed to implement the Research Data Policy.
- **Overreach:** COR comments that the 'Procedures in the Event that an Investigator Leaves the University' seem to give the University very broad control over the transfer of research data without clear specification of the rationale for that control

Additionally, UCSF's COR has commented that the following aspects of the policy remain unclear:

- PIs: The third bullet point under PIs holds PIs responsible for knowing the retention requirements of their scholarly discipline, campus departments, funding agencies, and applicable laws and regulations. Doing so may be difficult in practice because these requirements generally have not been codified or, if codified, are inconsistent across academic disciplines, departments, UC campuses, and US universities. Additionally, the requirements may conflict in some cases. COR specifically asks whether such issues were considered and how the University can enforce adherence to this guideline.
- The Procedures in the 'Event that an Investigator Leaves the University' indicate that research data "must be returned to and retained by the Principal Investigator on behalf of the University." In the case of an ongoing project, research data will necessarily continue to evolve after an investigator has left the University. It would be helpful to clarify whether researchers have any obligation to return data that have been modified since leaving the University or whether the expectation is that data will be returned only in their form as of the time of departing.
- Holding Research Data in Trust: Further clarification on the meaning of "holding Research Data in trust for the University," as mentioned on p. 6 of the Policy.
- FAQ: The FAQ provide a set of resources to help researchers manage and publish Research Data. In the case of UCSF, the list of resources is very long and mainly pertains to clinically-derived data and not to data from basic research, clinical trials, secondary analyses, and population and community-based research. The Committee would like to recommend that the final version of this part of the FAQ be developed with input from each campus regarding the resources that would best serve their research communities if such input was not already provided.

Thank you for the opportunity to opine on the second round of review for this important Presidential Policy. If you have any questions, please let me know.



Steven W. Cheung, MD, 2021-23 Chair
UCSF Academic Senate

Enclosures (3)

Cc: Lindsay Hampson, Chair, UCSF Committee on Faculty Welfare
Mijung Park, Chair, UCSF Rules & Jurisdiction
Penny Brennan, Chair, UCSF Committee on Research

Committee on Faculty Welfare
Lindsay Hampson, MD, MAS, Chair

April 14, 2022

Steven Cheung, MD
Division Chair, UCSF Academic Senate

Re: Second Systemwide Review of Proposed Presidential Policy on UC Research Data

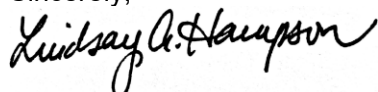
Dear Chair Cheung:

The Committee on Faculty Welfare (CFW) writes to comment on the second systemwide review of the [Proposed Presidential Policy on UC Research Data](#). CFW found the updated to Proposed Presidential Policy on UC Research Data to be an improvement from the previous version. CFW offers the following suggestions that CFW believes would further improve the proposed policy.

1. **Definition of Principal Investigator(s) (PI):** The proposed policy includes a definition for a “principal investigator.” The definition states, “For purposes of this Policy, the term PI is used whether or not it is a formal title designated by an external research sponsor.” CFW wondered whether the term would also apply regardless of whether the University of California designates the formal title. Can people who are not designated by external research sponsors or by UC as PIs still be considered PIs for purposes of this definition?
2. **Access to Data:** The proposed policy states that the Vice Chancellor for Research or their designee(s) shall “have unfettered access to Research Data for University purposes[.]” Later in the proposed policy it states, “...Research Data must be available to external sponsors, designated government officials and other University investigators who are collaborators with the departing Principal Investigator.” CFW appreciates that these provisions are meant to enable the University to continue research and to conduct investigations. However, CFW is concerned that the language is not accompanied by limitations that protect the privacy of patients and research subjects. Access to data is governed by HIPAA, IRB decisions, data transfer agreements, and similar policies and regulations. Generally, a Vice Chancellor for Research would not have unfettered access to a researcher’s data. CFW recommends that the Proposed Presidential Policy be revised to clarify that access to data is protected and will remain protected by existing regulations, policies, and agreements.

Thank you for the opportunity to comment on this review. Please contact me or our Senate analyst Kristie Tappan if you have questions about CFW’s comments.

Sincerely,



Lindsay Hampson, MD, MAS
Committee on Faculty Welfare Chair

Communication from the Academic Senate Committee on Research

Penny Brennan, PhD, Chair

April 12, 2022

TO: Steven Cheung, Chair of the UCSF Division of the Academic Senate

FROM: Penny Brennan, Chair, UCSF Committee on Research

CC: Todd Giedt, Executive Director of the UCSF Academic Senate Office

RE: Second Systemwide Review of the Proposed Presidential Policy on University of California Research Data

Dear Chair Cheung:

The Committee on Research (COR) writes to comment on the Second Systemwide Review of the Proposed Presidential Policy on University of California Research Data. The Committee appreciates the Research Policy and Analysis Unit's efforts to consider and incorporate our comments on the first policy as well as the thoughtful comments from other responding parties. The Committee feels that this draft addresses many of our previous comments and is a clear improvement over the previous draft. However, the Committee has identified four aspects of the revised policy that continue to raise some questions and concerns.

- (1) The policy delegates the responsibility for formulating many of the details of the Research Data Policy to the Vice Chancellors of Research at the individual campuses. For example, the policy obligates the campus Vice Chancellors for Research "to ensure that (the University's) resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data" and to "implement local policies and procedures...according to established campus, academic discipline, and journal standards." Developing systems and procedures is a non-trivial task and will likely increase the administrative burden on the Vice Chancellors of Research and their offices, which are already overstretched at research-intensive campuses like UCSF. Delegating this responsibility may also lead to the inconsistent formulation and implementation of Research Data Policies across the individual UC campuses, which may create issues of real or perceived unfairness. The Committee questions the purpose of developing a systemwide policy if the formulation and implementation of the policy is ultimately left up to the individual campuses.
- (2) The policy does not address the concerns raised in the responses to the previous draft regarding the costs and physical resources needed to implement the Research Data Policy. For example, the policy does not provide guidance regarding the storage or maintenance of data left behind or returned by departing PIs, nor does it assign responsibility for any of the costs of storing those data. The Committee feels that the policy should acknowledge these potential costs and provide some guidance regarding the responsibility for these costs.
- (3) Some aspects of the policy remain unclear. The Committee would like to request further clarification in the following instances:
 - The definition of Research Data refers to "original observations and methods." "Methods" could have several interpretations in this context, ranging from the statistical software code and outputs generated in the course of statistical analyses to written descriptions that allow for study replication. The Committee therefore suggests that a specific definition of "methods" be provided.

- The third bullet point under *Principal Investigators* holds Principal Investigators responsible for knowing the retention requirements of their scholarly discipline, campus departments, funding agencies, and applicable laws and regulations. Doing so may be difficult in practice because these requirements generally have not been codified or, if codified, are inconsistent across academic disciplines, departments, UC campuses, and US universities. Additionally, the requirements may conflict in some cases. The Committee would like to ask whether such issues were considered and how the University can enforce adherence to this guideline.
 - The *Procedures in the Event that an Investigator Leaves the University* indicate that research data “must be returned to and retained by the Principal Investigator on behalf of the University.” In the case of an ongoing project, research data will necessarily continue to evolve after an investigator has left the University. The Committee feels that it would be helpful to clarify whether researchers have any obligation to return data that have been modified since leaving the University or whether the expectation is that data will be returned only in their form as of the time of departing.
 - The Committee would like further clarification on the meaning of “holding Research Data in trust for the University,” as mentioned on page 6 of the Policy.
 - The FAQ provide a set of resources to help researchers manage and publish Research Data. In the case of UCSF, the list of resources is very long and mainly pertains to clinically-derived data and not to data from basic research, clinical trials, secondary analyses, and population and community-based research. The Committee would like to recommend that the final version of this part of the FAQ be developed with input from each campus regarding the resources that would best serve their research communities if such input was not already provided.
- (4) Some aspects of the policy seem to constitute overreach on the part of the University. The *Procedures in the Event that an Investigator Leaves the University* seem to give the University very broad control over the transfer of research data without clear specification of the rationale for that control. Moreover, as mentioned above, the development and dissemination of transfer processes may create unnecessary new administrative burden at the individual campus level. Additionally, on page 4, the Policy states that Vice Chancellors for Research shall “have unfettered access to Research Data for University purposes, including for the purposes of carrying out University responsibilities...” This Committee feels that the word “unfettered” implies access to individual research participants’ data that runs counter to human subjects protections and consent form contents and would therefore like to ask that it be removed. The “purposes of carrying out University responsibilities” should also be clarified to prevent overreach.

Thank you for the opportunity to comment on this important issue. If you have any questions on the Academic Senate Committee on Research’s comments, please contact me or Academic Senate Analyst Liz Greenwood (liz.greenwood@ucsf.edu).

Committee on Rules and Jurisdiction
Mijung Park, PhD, MPH, RN, Chair

April 14, 2022

Steven Cheung, MD
Division Chair
UCSF Academic Senate

Re: Second Systemwide Review of Proposed Presidential Policy on UC Research Data

Dear Chair Cheung:

The Committee on Rules and Jurisdiction (R&J) writes to comment on the Proposed Presidential Policy on UC Research Data that is out for systemwide review. The proposed policy defines "University Researchers" as follows:

University Researchers: The University-affiliated or employed persons involved in the design, conduct or reporting of research regardless of the funding source, including academic appointees, staff, postdoctoral scholars, research trainees, and medical center staff and clinicians. For the purpose of the Policy, students who participate in the design, conduct or reporting of a Principal Investigator's research project are subject to this Policy

R&J recommends that the policy specifically state whether faculty PIs who are employed by an outside institute, but who have a UC faculty appointment, are subject to this policy. Thank you for the opportunity to comment on this systemwide review. Please reach out if you have any questions.

Sincerely,

Mijung Park, PhD, MPH, RN
Committee on Rules and Jurisdiction, Chair



March 18, 2022

To: Robert Horwitz, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division 

Re: Systemwide Review of Draft Presidential Policy – UC Research Data

The Santa Barbara Division distributed the proposed revisions to Senate councils and committees, including the Council on Research and Instructional Resources (CRIR), Council on Faculty Welfare, Academic Freedom, and Awards (CFW), Council on Planning and Budget (CPB), Graduate Council (GC), Committee on Academic Personnel (CAP), Committee on Diversity and Equity (CDE), and the Faculty Executive Committees (FECs) of the College of Letters and Science (L&S), College of Engineering (COE), Gevirtz Graduate School of Education (GGSE), Bren School of Environmental Science and Management (BREN), and the College of Creative Studies (CCS). The CCS and BREN FECs, and CAP opted not to opine.

The Santa Barbara Division recognizes the need to address issues concerning the ownership of data generated during the course of UC research, and we appreciate the revisions that have been made thus far to address faculty questions and concerns submitted during the first round of review. Nevertheless, the responding groups express remaining issues that indicate the need for further consideration of the proposed policy.

A continuing theme among the responses is concern about the resource requirements associated with the management, retention, preservation, access and sharing of research data. The reviewing groups focus attention on the increased workload for faculty and researchers, given the lack of sufficient information about the personnel, infrastructure, funding and space on the campuses necessary to support the proposed activities. They express the need for further guidance regarding available resources. CPB urges the administration to create policies and systems that lead to compliance at minimal time cost to the university researchers so that their time can be effectively spent on the University's primary mission. The COE FEC noted the impracticality of storing all research data and materials, and the need to invoke the faculty member's judgment. In the absence of more specific requirements, expectations, and penalties, GC suggested that the policy would be better reframed as advisory or best practices.

The reviewers further call attention to many persistent issues in the revised policy, among them the hazy definition of research data, the unclear distinction between intellectual property and data as well as between scholarly work and data, the incompatibility of the policy with protections for data necessitated by human subjects protocols and the sensitivity of data generated in work involving communities of color/marginalized communities, and for issues related to research on Sexual Violence and Sexual Harassment (SVSH). The policy is also unclear on data ownership in cases of inter-university collaboration. These are all issues that need to be further addressed, and the Santa Barbara Division recommends that the proposed policy be revisited and resubmitted for Senate review.

We thank you for the opportunity to comment.

April 11, 2022

To: Susannah Scott, Divisional
Chair Academic Senate

From: Karen Lunsford, Chair 
Council on Research, Information, and Instructional Resources

**Re: Second Systemwide Review of Proposed Presidential Policy on
University of California Research Data**

The Council on Research and Instructional Resources reviewed the revised Proposed Presidential Policy on University of California Research Data in its respective subcommittees. The Committee on Information Technology (CIT) discussed the policy at its meeting of February 25, 2022 and subsequently by email. Both the Committee on Research Policy and Procedures (CRPP) and the Committee on Library, Information and Instructional Resources (CLIIR) met to discuss the policy at separate meetings on April 1, 2022. Both CIT and CRPP did not register particular objections to the policy and generally viewed the revision as an improvement on the previous draft; they have questions about local implementation but do not feel those need to be addressed by the policy per se.

CLIIR however identified several concerns with the revised policy, the principle concern being how the policy defines research data. The revised policy defines research data as “Recorded information reflecting original observations and methods resulting from a scientific inquiry...” (Section II). Members felt that there are embedded assumptions about what constitutes “scientific inquiry,” but this in fact remains murky: is it anything executed in a quantitative manner, is it STEM-specific, is it work funded by NIH or NSF? Some members observed that some of their research techniques could be considered “scientific,” but the data are governed by a contradictory IRB policy that mandates destruction of the source material. This conflict over what data the policy actually covers was also observed in the initial draft policy that was reviewed last year.

CLIIR members are also concerned about the language of “work for hire” (footnote 1) added to justify the Regents’ ownership of research data. As response #5 in the FAQs acknowledges, the University already has complicated policies regarding faculty patents and faculty copyrights to scholarly work. Declaring that research data are separately under the “work for hire” jurisdiction calls those intellectual property policies into doubt. The policy posits a distinction between scholarly output and research data when there is none. This makes an objectivist claim about science. What is the design of questions, what is the design of a research plan, what is the processing of data into usable information, if not scholarly work? Why shouldn’t faculty own their research data in the same way they own their other intellectual products? They don’t seem fundamentally distinct.

Members would like to see more detail provided as to the definition of “research data,” perhaps with qualifiers that reserve judgment on the part of the PI as to what is appropriate to save.


They also would like to see the policy establish guidance on matters of university/author ownership in

cases of inter-university collaboration.

CC: Shasta Delp, Executive Director, Academic Senate

April 12, 2022

To: Susannah Scott, Divisional Chair
Academic Senate

From: Lisa Parks, Chair 
Council on Faculty Welfare, Academic Freedom, and Awards

Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

The Council on Faculty Welfare, Academic Freedom, and Awards reviewed the Proposed Presidential Policy on University of California Research Data at its meeting on April 6, 2022. Generally, most members approve of the policy, or at least acquiesce that they may have implicitly agreed to the terms upon their initial hire, given the reference to a standing UC policy from the 1950s. They also acknowledge the importance of preserving research data so that such data can be accessed and used by future generations.

That said, several members expressed concern over the inclusion of “notebooks” as research data and generally rejected the university’s broad claims of ownership over such material, absent more specifics. They observed nuances in the term; a notebook could be strictly a medium of data storage but alternatively, it could include interpretive commentary or insights that wouldn’t necessarily be considered “research data” - in some cases, these materials contain personalized accounts or private details that are covered by human subject protocols. The members would therefore like to see additional clarification on the inclusion of “notebooks,” perhaps clarifying that those used to prepare published work are not considered part of university property. They drew a parallel to lecture notes which are considered the intellectual property of the professor and not the university.

They also expressed concern about whether the university has adequate plans (and funding) to provide the appropriate infrastructure to facilitate the requisite data retention; they observed that other campuses have considerably more resources detailed in the policy than UCSB. One member pointed out that his department facilitates computer backups, but acknowledged that data retention requirements are difficult to navigate autonomously if you’re not a data management expert; this raised additional concerns about redundancy and making sure that local procedures for archiving research data are clear on campus.

A small minority objects to the University’s broad claim of ownership over research data.

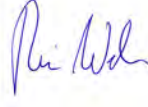
CC: Shasta Delp, Executive Director, Academic Senate

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

April 6, 2022

To: Susannah Scott, Divisional Chair
UCSB Academic Senate

From: Rene Weber, Chair
Council on Planning & Budget



Re: UC Research Data Policy

The Council on Planning & Budget (CPB) has reviewed the proposed revision to the proposed Presidential Policy on UC Research Data. The proposed revision is much improved from the first draft. In the revision, the definition of Research Data is more restricted and no longer covers scholarly works or other research products that are subject to copyright.

The proposed revision now makes three basic points:

1. The UC Regents own Research Data.
2. The PI of a research project is responsible for knowing and following: federal regulations, state regulations, funding agency requirements, campus department policies, and scholarly discipline best practices regarding retention of Research Data created during the research project.
3. The Vice Chancellor (VC) for Research at each UC campus is responsible for creating local policies necessary for implementing this new UC Policy.

None of these points are controversial. This bare-bones UC Policy statement defers all the implementation policy creation to the campuses. It does not address how faculty might inform themselves about the actual details of their responsibilities regarding Research Data. It does not address how Vice Chancellors for Research might create effective policies, or discover new and better policies for implementation.

Towards providing some faculty input on the establishment of effective policies, we offer the following comments: Although compliance with federal and state regulations and funding agency requirements regarding Research Data is important, the University's primary mission is teaching and research. Yes, compliance with regulations is a requirement, but it does not come at zero cost. We urge the administration to create policies and systems that lead to compliance at minimal time cost to the university researchers so that their time can be effectively spent on the University's primary mission.

cc: Shasta Delp, Academic Senate Executive Director

**Academic Senate
Santa Barbara Division**

April 4, 2022

To: Susannah Scott, Chair
Academic Senate

From: Adam Sabra, Chair
Graduate Council



Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

At its meeting of February 28, 2022, Graduate Council (GC) discussed the second systemwide review of the Proposed Presidential Policy on University of California Research data. GC reviewed the first draft last year, and stated that it was vehemently opposed to any new regulations that put more work on faculty. The revised policy still does not address the extra burden that would be placed on faculty, the requirements are vague, and penalties for not following these rules are not well defined. This policy would be an unnecessary duplication of work, as many federal funding agencies already have guidelines on the storing and collection of research data. GC's suggestion that a cost-benefit analysis should be undertaken was ignored; the Council still sees this as a step that should be taken. The Council suggests that this policy could be reframed as an advisory or best practices document that could be useful for newer faculty members just getting started in their labs or on their research projects.

CC: Shasta Delp, Executive Director, Academic Senate

**Academic Senate
Santa Barbara Division**

April 8, 2022

To: Susannah Scott, Divisional Chair
Academic Senate

From: Jean Beaman, Chair
Committee on Diversity and Equity



Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

At its meeting of March 14, 2022, the Committee on Diversity and Equity (CDE) discussed the second systemwide review of the proposed presidential policy on University of California Research Data. CDE discussed the first draft of this policy last year. CDE still thinks that there is a need for protections for experiments with communities of color/marginalized communities so that subjects feel comfortable, and that human research protocols should be stated within the policy.

The Committee also suggests adding reporting exemption language from UC's Sexual Violence and Sexual Harassment policy (FAQ point 10), and encouraging principal investigators to provide resources when SVSH disclosures are shared. These additions would offer SVSH survivors a greater sense of safety, and may increase the likelihood of their participation in human subject studies.

CC: Shasta Delp, Executive Director, Academic Senate

April 7, 2022

To: Susannah Scott
Chair, Divisional Academic Senate

From: Sabine Frühstück
Chair, L&S Faculty Executive Committee 

Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

At its Meeting on March 31, 2022, the Faculty Executive Committee of the College of Letters and Science (FEC) reviewed the second revision of the proposed Presidential Policy on University of California Research Data. The revision includes the removal of “tangible resources” as a covered category, clarification on research material retention, and numerous other edits.

The FEC cited no objections to the proposed revisions, and voted to support the proposed policy.

cc: Pierre Wiltzius, Executive Dean of the College and Dean of Science
Michael Miller, Interim AVC and Interim Dean of Undergraduate Education
Mary Hancock, Acting Dean of Humanities and Fine Arts
Charlie Hale, Dean of Social Sciences

April 11, 2022

TO: Susannah Scott, Divisional Chair, Academic Senate

VIA: Shasta Delp, Academic Senate

FROM: Tobias Höllerer, Chair
College of Engineering, Faculty Executive Committee

DocuSigned by:
Tobias Höllerer
41EFFEAB98F442F...

RE: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

The College of Engineering FEC between February 28th, 2022 and April 4th, 2022 reviewed the February 15th, 2022 draft Presidential Policy on University of California Research Data, with its aims to 1) clarify ownership of and responsibility for research data generated during the course of University Research, 2) encourage active data management practices, and 3) provide guidance with respect to procedures when a researcher leaves the University.

The Committee, after extensive consultation, arrived at the following feedback to this second systemwide review draft of the Presidential Policy:

First, the FEC felt that the proposed revisions to the originally disseminated draft policy included positive clarifications, updates, and additions. In particular, the removal of the inclusion of tangible research materials in this policy was welcomed.

Extensive discussion arose on the question of the feasibility of storing research data as outlined. Several members of the CoE FEC reported from their and their colleagues' research experiences that it is clearly impractical for the University to store **all** research materials. In several Engineering disciplines, computer files capturing physical and simulated measurements easily peta- or exabytes of digital data (for example, DNA molecules can store up to 215 petabytes, or 215 million gigabytes, of data in a single doubled stranded molecule), and simulations often explore data spaces growing exponentially with the number of input parameter variations, so are practically limitless in the amount of data that could be generated. The policy draft addresses this by placing the responsibility for ensuring the recording, storing, and usage of research data "in accordance with the standards of their respective discipline, data management plan if applicable, campus department, and any requirements of applicable federal or state law or regulations, University policies and guidelines, and University contractual commitments." This met with agreement of FEC faculty members, who feel that ultimately, only the PI can make an informed decision about what data are sufficiently relevant for archival storage.

It becomes more complicated when the policy states that "The University, through the campus Vice Chancellors for Research or their designee(s), has an obligation to ensure that its resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data." Who will ultimately make the decision that University resources are being used appropriately? Who exactly decides what part of an individual PI's research data should be stored? The CoE FEC feels that if the determination of "appropriate" use of university resources for

storage purposes lies outside of a PI's control, they cannot make the necessary informed decisions.

These decisions would only become more difficult (and the danger of disagreement on the definition of terms such as "appropriately" more pronounced) in the case of archiving requirements after PI separation from the university.

Apart from digital data, there are also the storage requirements of specimens, chemical samples, archived strains, etc. Do these still fall under the current policy now that the specific notion of "tangible research materials" was removed?

The encouragement to leverage Digital Libraries or other campus systemwide resources for advice on documenting and preserving Research Data was appreciated by the CoE FEC members, but some faculty members felt that services and initiatives such as, e.g., (<https://www.library.ucsb.edu/research-data-services>) do not go far enough for Engineering research needs, and that there perhaps should be (or maybe already are, unbeknownst to the faculty?) separate data center entities that could provide additional support for truly large-scale research data storage.


March 18, 2022

To: Susannah Scott, Chair
Academic Senate

From: Ty Vernon, Chair
Faculty Executive Committee, GGSE

Re: Second Systemwide Review of Proposed Presidential Policy on University of
California Research Data

The GGSE FEC supports the drafted changes.



Ty Vernon, Ph.D.

Faculty Executive Committee Chair

Gevirtz Graduate School of Education

UC SANTA BARBARA



COLLEGE OF CREATIVE STUDIES

SANTA BARBARA, CALIFORNIA 93106-6110

April 7, 2022

To: Theresa Maldonado, Vice President, Research & Innovation
University of California Office of the President

Fr: Phill Conrad, FEC Chair, College of Creative Studies.

Re: CCS Response to Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

At the April 5, 2022 FEC meeting, the Faculty Executive Committee was given the opportunity to opine on the "Second Systemwide Review of Proposed Presidential Policy on University of California Research Data." No one expressed any concerns, so we are declining to opine at this time.

Thank you for the opportunity to review this policy.



1156 HIGH STREET
SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

April 18, 2022

ROBERT HORWITZ, Chair
Academic Council

RE: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

Dear Robert,

The Santa Cruz Division of the Academic Senate has completed its review of the proposed Presidential Policy on University of California Research Data with the Committees on Information Technology (CIT) and Library and Scholarly Communication (COLASC) providing comment. The reviewing committees agreed that the proposed policy does little to increase clarity over the previous iteration, and in places, may have increased its vagueness.

An overarching concern raised by the reviewing committees is that the policy lacks a clear *raison d'être*. CIT was left to wonder if the policy was drafted to address some as yet unrevealed legal requirement stating that the policy appears to be an “empty checkbox serving some unknown purpose for the University.” COLASC concurred, writing “The policy appears to have been written to address a specific problem — we are not sure what problem, but perhaps a desire to ensure that data is preserved, perhaps for legal reasons?”

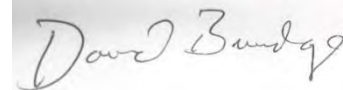
From this common theme the committees diverge. CIT was primarily concerned with the implications of this policy for faculty workload. This workload issue is a result of the lack of clarity in the policy with regard to how faculty are to comply with the policy. Specifically, they note that the prior draft contained examples that have been removed leaving it open to interpretation by “each discipline and/or to the Vice Chancellor of Research (VCR).” Hence, the faculty are left without any guidance on just how much effort will be required to comply with the policy. Moreover, without a clear process outlined, it is unclear how or when the campus is to provide compensation for the time needed to fulfill the requirements of the policy.

COLASC voiced three areas of concern. As mentioned above, they were troubled by how vague the policy is. An example of this is that it lacks any clear definition or guidance on what constitutes “research data.”

They suggest that the policy should include a list of things that don't constitute research data. Their second concern revolves around the status of data resulting from a collaboration between two or more Primary Investigators (PI), when one either arrives from or leaves for another institution. Will the remaining PI be able to impose conditions on the data? Since the University appears to state an interest in the data, this could create hardships for the departing PI. The third and final concern expressed by COLASC is the lack of understanding of how this new policy will interact with existing open access policies and why the University is claiming ownership of data that "is supposed to be made publicly available?"

In closing, the committees have expressed that the policy lacks clarity and as such could place as yet unknown burdens on faculty with regard to the efforts required to comply with it. On behalf of the Santa Cruz division, I thank you for the opportunity to provide comment on this evolving policy.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Brundage", is shown on a light-colored rectangular background.

David Brundage, Chair
Academic Senate, Santa Cruz Division

encl: Senate Committee Responses (Bundled)

cc: Kirsten Silva Gruesz, Chair, Committee on Affirmative Action and Diversity
Abraham Stone, Chair, Committee on Library and Scholarly Communication
Peter Alvaro, Chair, Committee on Information Technology
Nicolas Davidenko, Chair, Committee on Research

March 31, 2022

David Brundage, Chair
Academic Senate

Re: Proposed Presidential Policy on UC Research Data

Dear David,

During its meeting of March 2, 2022, the Committee on Information Technology (CIT) discussed the second systemwide review of the draft Presidential Policy on University of California Research Data. The committee questioned the intent of the policy, and raised concerns about the vagueness of the policy, and the lack of funding and support designated for any associated implementation workload.

The intent and purpose of the policy is still not clear in this revision. Members questioned whether the policy is merely a statement that the UC needs to make for legal/liability reasons. Whereas the original draft policy that included tangible materials seemed to be a "vague unfunded mandate" with a demanding associated workload, this revised draft appears to be an empty checkbox serving some unknown purpose for the University, lacking guidelines for any desired action, and not at all informative to faculty and other campus researchers.

It would appear that in an effort to respond to feedback from the first draft, the policy has become shorter, less specific, and more vague than the original. Members noted that much of the text from the first draft contained examples whose removal makes the policy even less specific, and hence leaves the policy interpretation up to each discipline and/or to the Vice Chancellor of Research (VCR). Faculty will now likely need to make an extra effort to check in with the Office of Research to make sure that they are in compliance. Further, the associated workload for faculty compliance is unknown, and whatever that workload may be, it appears to remain unremunerated. As such, CIT finds in the revised policy no significant improvement in clarity over the original, and reiterates our concerns from earlier communications.

Thank you for the opportunity to provide feedback.

Sincerely,



Peter Alvaro, Chair
Committee on Information Technology

cc: Abraham Stone, Chair, Committee on Library and Scholarly Communications
Jarmila Pittermann, Chair, Committee on Research

May 13, 2022

David Brundage, Chair
Academic Senate

RE: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

Dear David,

The Committee on Library and Scholarly Communication has reviewed the Second Systemwide Review of Proposed Presidential Policy on University of California Research Data at its February 24th meeting.

In COLASC's initial review (March 17, 2021) members noted two concerns: how the proposed policy would impact faculty that wished to take their research data to a different institution and how the proposed policy differed from the existing Intellectual Property policies already in place. While both of these issues are addressed in the second draft, COLASC did feel that the revision was incomplete. Members had three main areas of concern:

1. The policy is extremely vague as to what exactly constitutes "research data." Are field notes research data? What about notes taken while reading a book? How, if at all, does this policy apply to research based on public data? We urge that the policy be explicitly narrowed to the actual cases of interest, in part by including **a long list of examples of things that *don't* constitute research data for these purposes.**
2. There remains much unclarity about how the policy applies to work done partly at other institutions. In many fields, collaboration generally involves two people working together, neither of whom is in any sense the "PI." How does this policy apply to that situation? In addition, it is still unclear to us when and how the university is claiming ownership of data in situations where a researcher arrives from elsewhere or leaves during an ongoing project. As a particular concern, we note that when a researcher leaves to join another institution, they are allowed to transfer a copy of the data only with approval of the PI, who "may impose conditions." This sounds like it could create serious difficulties for the researcher who is leaving, and we wonder why the PI has been given this power.
3. We would like further clarification as to how this policy interacts with existing open access policies. Why is the university claiming ownership of data that is supposed to be made publicly available?

The policy appears to have been written to address a specific problem — we are not sure what problem, but perhaps a desire to ensure that data is preserved, perhaps for legal reasons? — and with a very particular type of research in mind (research in a large science or engineering lab, under the direction of a PI). But it has nevertheless been written very broadly and vaguely, and we fear that, if it were to be applied in this form, there would be many unintended consequences. COLASC therefore strongly recommends against adopting this policy without the above clarifications.

Sincerely,

A handwritten signature in dark ink, appearing to read "Abe Stone", with a stylized flourish at the end.

Abe Stone, Chair
Committee on Library and Scholarly Communication

cc: Peter Alvaro, Chair, Committee on Information Technology
Jarmila Pittermann, Chair, Committee on Research



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
Ty Alper, Chair
Clinical Professor of Law, Berkeley Law
talper@law.berkeley.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466

April 14, 2022

**ROBERT HORWITZ, CHAIR
ACADEMIC SENATE**

RE: PROPOSED PRESIDENTIAL POLICY ON RESEARCH DATA

Dear Robert,

In March 2021, UCAF provided comments regarding the December 2020 version of the proposed Presidential Policy on University of California Research Data. In those comments, UCAF wrote that “[w]e feel strongly that the Policy should not be enacted in anything like its current form, and we urge the Academic Senate to speak out against it.”

We appreciate the consideration of our previous comments. We have now reviewed the revised proposed policy and offer the following additional comments:

According to the proposed policy, Vice Chancellors for Research (VCR) on each campus are “responsible for [its] interpretation, implementation, and oversight”; they should establish local policies and procedures and guidance on how to comply and, to this end, they are to have “unfettered access to Research data for University purposes.” (page 4)

UCAF is concerned that by investing such a degree of authority in the VCR, the policy’s processes around research data are too far removed from faculty oversight. We suggest two remedies:

1. UCAF recommends that VCRs consult faculty to help ensure that, as implemented on a specific campus, the policy conforms to best practices within each discipline and respects faculty’s right to their data. Faculty expertise likely extends to knowledge of the best practices in their discipline for using, storing, and sharing data. And since they collected the data in the first place, faculty (Researchers, University Researches, PIs, etc.) are likely more inclined to take seriously their right to it. Campus-level Committees on Research and Division Councils might be ready to provide the needed guidance.
2. When there is a dispute between faculty and the VCR, it is critical that faculty (Researchers, University Researches, PIs, etc.) have a meaningful avenue to protect their rights to the data they collected. According to a statement by the [AAUP](#), “Academic freedom gives faculty members and students the right to seek redress or request a hearing if they believe their rights have been violated.” UCAF recommends that each campus create an independent review board, constituted at least in part by other faculty members, to handle appeals to the VCR’s decisions concerning that researcher’s data.

UCAF Comment on Proposed Policy Regarding Research Data
April 14, 2022

UCAF has another concern related to the VCR's "unfettered access to Research Data for University purposes." It is unclear what procedures should be followed to access archived research data for purposes not specified in the policy, such as in response to requests from other researchers or institutions. UCAF recommends that the policy be revised to clarify who has the authority to grant access, especially in case a principal investigator is no longer with the University. We note the need to properly protect academic freedom and intellectual properties in the process of granting access to research data.

In addition, the proposed policy states:

"Any individual who leaves the University, whether to move to another institution or because of retirement or separation, must arrange with their school, department or center for the storage of any Research Data that remain at the University in accordance with any policy adopted by the applicable school, department or center." (page 6)

UCAF is concerned about the uncertainty related to "any policy adopted by the applicable school, department or center" and the potential of such policy affecting academic freedom. The Committee recommends that the faculty be consulted when setting related school, department, or center policy and that the proposal clarify the responsibilities of the University in maintaining the research data after a principal investigator leaves the University.

UCAF appreciates the opportunity to comment on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Alper', with a stylized, flowing script.

Ty Alper, Chair



UNIVERSITY COMMITTEE ON PLANNING AND BUDGET (UCPB)
Kathleen McGarry, Chair
mcgarry@econ.ucla.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

APRIL 13, 2022

**ROBERT HORWITZ, CHAIR,
ACADEMIC COUNCIL**

RE: PROPOSED REVISIONS TO THE PRESIDENTIAL POLICY ON UC RESEARCH DATA

Dear Robert,

UCPB appreciates the opportunity to review the proposed revisions to the Presidential Policy on UC Research Data.

The proposed revision now makes clear three basic points:

1. The UC Regents own Research Data.
2. The PI of a research project is responsible for knowing and following all federal regulations, state regulations, funding agency requirements, campus department policies, and scholarly discipline best practices regarding the retention of Research Data created during the research project.
3. The Vice Chancellor (VC) for Research at each UC campus is responsible for creating local policies necessary for implementing this new UC Policy.

However, the UC Policy statement defers all the implementation policy creation to the campuses. It does not address how faculty might inform themselves about the details of their responsibilities regarding Research Data, nor does it indicate how VCs for Research at the various campuses might create effective policies or how such policies might best be implemented. The approach proposed here is sensible, but UCPB believes that to be effective there will need to be a significant and sustained effort to inform PIs and VCs of their responsibilities under these policies.

As a possible method for providing such ongoing education, UCOP suggests that a UC Learning Center training module on Research Data be created for UC PIs. Training ought also to be available

to enable PIs to stay current on the recommended procedures, software, and other tools that are available at UC to help them meet these responsibilities.

The VCs for Research would also likely benefit from documentation and dissemination of best practices developed and implemented by the individual campuses.

In summary, the Policy on UC Research Data is reasonable and clear. UCPB encourages efforts to implement the policy most effectively.

Sincerely,

A handwritten signature in black ink, reading "Kathleen McGarry". The signature is written in a cursive, flowing style.

Kathleen McGarry, Chair
UCPB

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Karen Bales, Chair
Email: klbales@ucdavis.edu

University of California
Academic Senate
1111 Franklin Street, 12th Fl.
Oakland, California 94607

April 19, 2022

ROBERT HORWITZ
CHAIR, ACADEMIC COUNCIL

RE: Proposed Presidential Policy on UC Research Data – Second Systemwide Review

Dear Robert,

UCORP discussed the current draft of the Proposed Presidential Policy on UC Research Data at two recent meetings. Prior to that, the committee offered comments directly to the policy drafters during meeting consultations over the past several years.

While the policy has come a long way since its original incarnation, UCORP has some suggestions, along with some lingering concerns and questions:

- The policy should recognize different practices in different fields and that should be described in an FAQ. There are disciplines for which it is common practice to destroy “data” created or used when doing research.
- The FAQ should include more information about how faculty are to store and manage their data.
- It is unclear what happens to a researcher’s data when it is left with UC. Can anyone at UC use it? There is concern about data that is used without the original PI’s consent, perhaps for opposing purposes.
- Is graduate student data protected in the same way as currently?
- The policy expands the role of researchers into the realm of archivists, but without more resources. On a related note, some worry about additional work for librarians, also without necessary funding or resources.

Some faculty are still not convinced of the need for this policy and would like to see a clearer rationale provided.

UCORP appreciates the opportunity to comment on this policy.

Sincerely,

A handwritten signature in blue ink that reads "Karen L. Bales".

Karen Bales
Chair, University Committee on Research Policy

April 18, 2022

Robert Horwitz
Chair, UC Academic Senate

Re: (Second Systemwide Senate Review) Proposed Presidential Policy on UC Research Data

Dear Chair Horwitz,

The Divisional Executive Board, councils, and committees appreciate the opportunity to review the Proposed Presidential Policy on UC Research Data. The Executive Board reviewed the proposal and divisional council and committee feedback at its meeting on April 14, 2022. Although members support measures to uphold research ethics, the Executive Board is unable to endorse the proposed revised policy because of ongoing concerns about its scope and purpose, possible contradictions and unintended consequences, and poor fit with ethnographic and community-based research.

Members agree with the importance of addressing unethical and careless behavior in research. They acknowledged that university policy long has included assertions of ownership over research records, yet they are concerned that this proposed policy unnecessarily expands this in ways that are likely to impinge on the integrity, practicality, and disciplinarily accepted norms of scholarly research.

Members concluded that the purpose and intent of the proposed policy was neither clear nor helpful. It appears from the proposed language that the University is concerned about tenured faculty leaving the institution and taking research-related resources, and members understand that concern. However, members questioned whether this proposed policy is the right way to address it. Members suggested more clearly identifying the problem this proposed policy is trying to solve, and then refining the scope accordingly.

Members noted many facets to research ownership including patent, copyright, funding, and myriad activities that are not patentable, copyrightable, transferable, or quantifiable. Ownership can, for example, be a story owned by an Indigenous clan or data generated under an agreement recognizing data sovereignty of a community or nation.

In addition to concerns about its expansive scope, members suggested the proposed policy as written may cause potential conflicts of interest, have internal contradictions, and lead to unintended consequences. Specifically, members noted the proposal has important discipline-specific practices that might contradict the VCR's "unfettered access" to data, and that the latter might in some cases be in tension with IRB protections. Sometimes data may be co-owned with communities as is the case with some anthropological research (in ways more profound than the language of "third-party agreement" addresses). Members appreciated the reference to disciplinary norms, but the default approach to data in this policy would make it difficult to pursue community-engaged scholarship.

Thank you again for the opportunity to review this proposal. These are matters of great importance to researchers.

Sincerely,

A handwritten signature in cursive script, reading "Jessica R. Cattelino".

Jessica Cattelino
Chair
UCLA Academic Senate

Encl.

Cc: April de Stefano, Executive Director, UCLA Academic Senate
Shane White, Immediate Past Chair, UCLA Academic Senate



OFFICE OF THE VICE PRESIDENT - RESEARCH AND INNOVATION

OFFICE OF THE PRESIDENT
1111 Franklin Street, 11th Floor
Oakland, California 94607-5200

February 15, 2022

CHANCELLORS
ACADEMIC COUNCIL CHAIR HORWITZ
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

Re: Second Systemwide Review of Proposed Presidential Policy on University of California Research Data

Dear Colleagues:

Enclosed for a second systemwide review is the draft *Presidential Policy on University of California Research Data*. This policy is new.

Ownership of research data by the UC Regents is a long-standing precept originally articulated in Regulation 4 ([Academic Personnel Manual 020](#)), where it states “Notebooks and other original records of the research are the property of the University.” Regulation 4 was issued in 1958, and it is still in effect. The purpose of the new *Presidential Policy on University of California Research Data* is to 1) clarify ownership of and responsibility for research data generated during the course of University Research, 2) encourage active data management practices, and 3) provide guidance with respect to procedures when a researcher leaves the University.

The first systemwide review of the draft policy, entitled *Presidential Policy on University of California Research Data and Tangible Research Materials*, was launched on December 17, 2020. The Research Policy and Analysis (RPAC) unit within Research and Innovation received many thoughtful comments on the policy and made revisions based on that feedback, which is broadly summarized below.

Feedback on the Originally Disseminated Draft Policy

The feedback RPAC received regarding the proposed *Presidential Policy on University of California Research Data and Tangible Research Materials* generally falls into four categories:

1. Concern that the scope of the University’s ownership of research data and tangible research materials is too broad, including by:
 - Extending into works that are copyrightable or works that are personal
 - Imposing ownership on data and materials owned by third parties
 - Overreaching into tangible artifacts (e.g., archeological material excavated out of the ground)
2. Concerns over how to implement the policy, including:
 - Costs
 - Management plans
 - Transfer process

3. Concerns regarding unintended impact on core research facilities performing services on a fee-for-service or recharge basis
4. Concerns over the unintended impact this policy might have on relationships with tribal nations

Revisions to the Originally Disseminated Draft Policy based on Feedback

RPAC made the following revisions and clarifications to the policy in response to the comments:

1. Explained that the intent of the policy is to clarify ownership of and responsibility for Research Data generated during the course of University Research and provide guidance with respect to procedures when a researcher leaves the University
2. Revised the definition of Research Data and rewrote the text of the policy concerning ownership to clearly differentiate between those data owned by Regents and those data covered under the Copyright Ownership Policy
3. Noted that there are exceptions to UC's ownership of Research Data when precluded by sponsorship or other related agreements
4. Removed the inclusion of tangible research materials in this policy
5. Revised the section of the policy related to procedures in the event that an investigator leaves the University

Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. A second systemwide review also includes a 60-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than **April 18, 2022**. Please submit your comments to RPAC@ucop.edu with the subject line "Research Data Policy Comments." If you have any questions, please contact Agnes Balla at agnes.balla@ucop.edu or (510) 987-9987.

Sincerely,



Theresa A. Maldonado, Ph.D., P.E.
Vice President, Research & Innovation
University of California Office of the President

Enclosures:

- 1) Draft Presidential Policy University of California Research Data (clean copy)
- 2) Draft Presidential Policy University of California Research Data (redline copy)
- 3) Draft Presidential Policy University of California Research Data FAQs
- 4) Model Communication

February 15, 2022

Page 3

cc: President Drake
Provost and Executive Vice President Brown
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Senior Vice President Bustamante
Vice President and Vice Provost Gullatt
Vice President Lloyd
Vice Provost Carlson
Vice Provosts/Vice Chancellors of Academic Affairs/Personnel
Deputy General Counsel Woodall
Associate Vice Provost Lee
Assistant Vice Provosts/Vice Chancellors for Academic Personnel
Executive Director Baxter
Executive Director and Chief of Staff Henderson
Executive Director Silas
Chief of Staff Kao
Chief of Staff Levintov
Chief of Staff Peterson
Chief Policy Advisor Marisa McAuliffe
Director Grant
Director Roller
Director Sykes
Associate Director Fishel
Manager Crosson
Analyst Durrin
Policy Advisory Committee
Executive Director Motton
Associate Director DeMattos
Research Policy Manager Balla



University of California Research Data and Tangible Research Materials Policy

Responsible Officer:	Vice President of Research and Innovation
Responsible Office:	Office of Research and Innovation
Issuance Date:	[Issuance Date]
Effective Date:	[Effective Date]
Last Review Date:	
Scope:	This policy (" <u>Policy</u> ") applies to all Research Data and Tangible Research Materials generated by those at created during the <u>course of</u> University involved in the design, conduct, or reporting of research <u>Research</u> .

Contact:	Name
Title:	Title
Email:	Name@ucop.edu
Phone:	(510) 987-XXXX

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I. POLICY SUMMARY

~~The Regents of the University of California owns all Research Data and Tangible Research Materials. To fulfill this obligation and in line with the University's mission of outstanding research, campus leadership and its Workforce Members are called to work in partnership, particularly as it relates to the management, retention, preservation, access and sharing of Research Data and Tangible Research Materials. Research Data and Tangible Research Materials must be retained as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law, relevant agreements, and in accordance with the standards of the Principal Investigators' scholarly disciplines. When Principal Investigators leave the University, Research Data and Tangible Research Materials remain the property of the Regents of the University of California, however, Principal Investigators may generally take copies of Research Data generated under their research projects.~~

Ownership of Research Data by the UC Regents is a long-standing precept originally articulated in Regulation 4 (Academic Personnel Manual 020) where it states "Notebooks and other original records of the research are the property of the University." Regulation 4 was issued in 1958 and is still in effect. The intent of this Policy is to clarify the ownership of and responsibility for Research Data generated during the course of University Research, encourage active data management practices, and provide guidance with respect to procedures when a researcher leaves the University.

II. DEFINITIONS

"Institutional Information": ~~A term that broadly describes all data and information created, received and/or collected by UC.~~⁴

"Principal Investigator": ~~(s) (PI): The Workforce Member who has primary responsibility~~University-affiliated or employed Researcher(s) primarily responsible for a research project, including ~~the design, conduct or~~and reporting of the project, regardless of the source of funding ~~or status of that project.~~² For the purpose of this Policy, the term PI is used whether or not it is a formal title designated by an external research sponsor.

"Research Data": ~~Recorded Institutional Information~~information reflecting original observations and methods resulting from a scientific inquiry, regardless of the form or ~~medium~~the media on which ~~the information is~~they may be recorded, ~~that are generated or collected in connection with research: (1) within the course and scope of a Workforce~~

⁴-See UC's Electronic Information Security Policy: <https://security.ucop.edu/policies/> and <https://security.ucop.edu/policies/quick-start-guides-by-role/researcher.html>

²-Contract and Grant Manual, Chapter 1-520: Leadership of a Sponsored Project.

~~Member's assigned or assumed duties; (2) using University research facilities or other University research resources; or (3) with funding from or through the University.³ Examples of recorded information include. Research Data include material contained in laboratory notebooks, field notes, digital images, data files, computer software, statistical records, etc. Administrative records, such as medical records, (whether physical or electronic), but are separate from Scholarly & Aesthetic Works that are not created exclusively for research purposes are excluded from this definition and are governed by other UC policies. Please see FAQs # 2 and # 3 defined in the UC Copyright Ownership Policy. See FAQs #1-5 of this Policy for more information.~~

~~**“Tangible University Research Materials”:** Tangible items produced or collected in the course of research: (1): Research conducted within the course and scope of a Workforce Member's Principal Investigator or University Researcher's assigned or assumed duties; (2), using University research facilities or other University research resources; or (3) with funding from funded by or through the University. Examples of tangible items include biological specimens, archaeological and environmental samples, devices, prototypes, circuits, chemical compounds, genetically engineered organisms, cell lines, cell products, viruses, genetic material, plasmids, vectors, and chemical compounds.~~

~~**“Workforce Members”:** An employee, faculty, staff, volunteer, contractor, researcher, student worker, student supporting/performing research, medical center staff/personnel, clinician, student intern, student volunteer or person working for UC in any capacity or through any other augmentation to UC staffing levels, who are **University Researchers:** The University-affiliated or employed persons involved in the design, conduct or reporting of research, regardless of the funding source for such activities, including academic appointees, staff, postdoctoral scholars, research trainees, and medical center staff and clinicians. For the purpose of the Policy, students who participate in the design, conduct or reporting of a Principal Investigator's research project are subject to this Policy.~~

III. POLICY TEXT

³ Other research data may be obtained through data or material transfer agreements, license agreements or other means. Such other research data that are not produced or collected by the University may be subject to third-party provider obligations, and should be handled in accordance with contractual commitments and applicable laws.

Exercising rights established by federal⁴ and state⁵ laws and University of California Regulation No. 4 (APM-020)⁶, the Regents of the University of California retain ownership of Research Data created by or at the direction of University Researchers or Principal Investigators during the course of University Research, unless specifically agreed otherwise by the University under sponsorship or other related agreements. Principal Investigators and University Researchers shall have a right to use Research Data for University purposes that they have generated or collected in the course of their University Research. This includes using Research Data for publishing the outcome of their research, creating scholarly works, and transmitting a copy of Research Data to others, unless precluded by law, policy or contract and subject to approval by the Principal Investigator.

As stewards of Research Data, Principal Investigators are responsible for ensuring that Research Data, whether generated by them or their research team, are recorded, stored, and used in accordance with the standards of their respective discipline, data management plan if applicable, campus department, and any requirements of applicable federal or state law or regulations, University policies and guidelines, and University contractual commitments.

The University, through the campus Vice Chancellors for Research or their designee(s), has an obligation to ensure that its resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data.

IV. COMPLIANCE / RESPONSIBILITIES

A. ~~Ownership of~~ Vice Chancellors for Research Data and Tangible Research Materials

~~The Regents of the University of California owns all Research Data and Tangible Research Materials. University policies and guidance ensure that such ownership does not impede Workforce Members' ability to conduct research, transmit Research Data and Tangible Research Materials to collaborators, independently publish the outcomes of their research, or create scholarly works.~~

~~To fulfill the University's mission of outstanding research and the free exchange of ideas as well as to meet obligations with legal, funder, and collaborator requirements, campus leadership and its Workforce Members are called to work in partnership to ensure that~~

⁴ Title 17, Section 201 of the Federal Copyright Act states: "(b) Works Made for Hire.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright."

⁵ California Labor Code §2860 provides that everything that an employee acquires by virtue of his/her employment (except compensation) belongs to the employer whether acquired during or after the term of employment.

⁶ Issued in 1958, University of California Regulation No. 4 (APM-020) states, "Notebooks and other original records of the research are the property of the University." This Policy elaborates on expectations established in Regulation No. 4.

~~all Research Data and Tangible Research Materials are properly curated, collected, securely stored, managed, and fully accessible. The~~

~~At each campus, the~~ Vice Chancellor for Research ~~at each campus~~ or their designee(s) ~~are~~ responsible for ~~establishing procedures as it relates to the oversight, the interpretation, and implementation, and oversight~~ of this Policy ~~while Workforce Members must provide stewardship of and shall:~~

- ~~Establish local policies or procedures as necessary for implementing this Policy, such as proposed minimum retention policies.~~
- ~~Provide guidance to assure campus compliance with Research Data and Tangible obligations arising by law, regulation or agreement.~~
- ~~Have unfettered access to Research Materials Data for University purposes, including for the purposes of carrying out University responsibilities (including sequestration, as may be needed) related to conducting an inquiry or investigation pursuant to University obligations, such as research misconduct investigations, or in response to agency inquiries or legal process.~~
- ~~Implement local procedures to manage the transfer of Research Data or copies of Research Data, for example upon the separation or death of a University Researcher or when a University Researcher can no longer fulfill responsibilities. (See Section V.)~~
- ~~Implement local policies and procedures to settle disputes over control, use, and publication of Research Data among University Researchers and their collaborators, according to established campus, academic discipline, and journal standards.~~

B. University Researchers

As stewards of the University's Research Data, University Researchers shall:

Securely collect, record, manage, and store Research Data throughout the research life cycle, ~~from the point of research design to preservation.~~

Access to and Retention of Research Data and Tangible Research Materials

~~Access to and use and retention of Research Data and Tangible Research Materials is not only critical to substantiate results, but also to provide a foundation for the advancement of scholarship. Because new research may build upon data collected before the importance of such data could have been envisioned, it remains critical that Research Data and Tangible Research Materials are properly curated, collected, recorded, securely retained, managed, and appropriately accessible.~~

- ~~Principal Investigators must retain Research Data~~ University Researchers are encouraged to leverage the California Digital Library, campus libraries, or other campus systemwide resources for advice on documenting and Tangible Research Materials as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law, and as indicated in other relevant agreements. To ensure proper preservation, Principal Investigators must

~~have systems or practices for maintaining and retaining~~ preserving Research Data.

- ~~Manage and Tangible~~ share Research ~~Materials~~ Data in accordance ~~with stated requirements and~~ with the standards of their scholarly ~~disciplines and~~ discipline, and/or data management plan, and University policies, legal requirements, and the terms and conditions of applicable third-party agreements (such as sponsored awards, material transfer agreements, or data use agreements).
- Consult with the Principal Investigator and/or Vice Chancellor for Research (or their designee) for clarification of obligations and resolution of disputes related to Research Data.

C. Principal Investigators

Principal Investigators shall, in the conduct of University Research, have the primary responsibility to:

- Follow best academic practices with respect to collecting, recording, managing, and storing Research Data.
- Determine use of the Research Data by other University Researchers and collaborators on the project in accordance with relevant agreements and their scholarly discipline's practices, and taking into account the need for academic progress of academic appointees, post-doctoral scholars, degree candidates, and other students.

Retain Research Data on behalf of the University. Principal Investigators are responsible for knowing retention requirements of their scholarly discipline, campus departments. Principal Investigators are responsible for consulting these requirements and must follow, funding agencies, and applicable law and regulation, and for following the most stringent requirement for retaining Research Data and Tangible Research Materials.

- ~~In addition to the above, of these multiple requirements.~~ Principal Investigators must take the following key circumstances into consideration account when determining the retention period:
 - **Inventions:** Research Data ~~and Tangible Research Materials~~ must be kept as long as necessary to protect intellectual property and to complete University patenting and licensing procedures for inventions ~~resulting from University research.~~
 - **Allegations, Investigations and Litigation:** If Research Data are the subject of any allegations ~~regarding the research arise, such as allegations of research misconduct, the Research Data and Tangible Research Materials must be retained by the University and maintained by the Workforce Member as long as required by any funder's requirements and/or federal regulations, but at least until all charges have been resolved and final action and appeals taken. If the Research Data or Tangible Research Materials are the subject of, investigations or litigation or investigation,~~ the University and ~~Workforce Members will have a duty to~~ University Researchers shall preserve potentially relevant information

until ~~the Vice Chancellor for Research (or their designee), in consultation with Campus Counsel, issues~~ instructions ~~have been provided~~ regarding ~~their~~ disposition.

- **FDA-Regulated Research:** If a research project involves articles regulated by the U.S. Food and Drug Administration (FDA), consistent with 21 C.F.R. §§ ~~312.63~~12.6 and ~~812.140, 812.140~~, Principal Investigators must keep records for two years or as long as required following the date a marketing application is approved for the product; or if a marketing application is not filed or FDA-approved, for two years after the investigation is terminated, completed, or otherwise discontinued and the FDA is notified.
- **Student Participation in Research:** If, in ~~the course of advancement~~ advancing to degree, a student participates in the design, conduct or reporting of research, the Research Data ~~and Tangible Research Materials~~ connected to that research ~~must~~ shall be retained until the student has been awarded a degree, or until the student is no longer working on the project or has ~~abandoned~~ otherwise left the ~~work~~ University.

~~The Vice Chancellor for Research at each campus or their designee(s) is responsible for each campus' oversight, interpretation, and implementation of this Policy. Further responsibilities are provided below.~~

~~B. Vice Chancellors for Research Responsibilities~~

~~The Vice Chancellor for Research at each campus or their designee(s) must:~~

- ~~Establish local procedures as necessary for managing Research Data and Tangible Research Materials upon the separation or death of a Workforce Member, or when a Workforce Member can no longer fulfill their responsibilities.~~
- ~~Assist in settling disputes between and among University researchers and research collaborators.~~
- ~~Meet obligations concerning Research Data and Tangible Research Materials that may be required in research agreements or for complying with laws and regulatory requirements.~~
- ~~Ensure that obligations undertaken to research sponsors and collaborators preserve University of California principles and policies, including retained rights for research and the right to publish.~~
- ~~Sequester or otherwise obtain access to Research Data and Tangible Research Materials for an investigation, inquiry or investigation pursuant to University policies, legal processes, and/or regulatory or funder requirements.~~

~~C. Workforce Members Responsibilities~~

~~All Workforce Members are responsible for:~~

- Accurately curating, generating, collecting, recording, managing, and securely storing⁷ Research Data and Tangible Research Materials.
- Executing management practices for Research Data and Tangible Research Materials in accordance with the standards of their scholarly discipline and according to University policies, legal requirements, and the terms and conditions of applicable agreements entered into by the University with third parties, including but not limited to sponsored awards, material transfer agreements, or data-use agreements.
- Consulting with their campus Vice Chancellor for Research or their designee(s) should there be any conflicts regarding obligations related to Research Data and Tangible Research Materials.

Workforce Members designated as Principal Investigators have additional responsibilities:

- Retaining Research Data and Tangible Research Materials on behalf of the University, as described in Section V below.
- Following best academic practices by ensuring that all necessary reviews and approvals are obtained with respect to collecting, managing, maintaining, and safeguarding Research Data and Tangible Research Materials prior to the collection, management, access, or disclosure of such data and materials.

V. PROCEDURES

Transfer of Research Data and Tangible Research Materials

Research Data and Tangible Research Materials shall remain the property of The Regents of the University of California. However, when Principal Investigators leave the University, they may generally take copies of Research Data generated under their research projects as discussed below. Taking copies of Research Data may be restricted if such Research Data are: (i) subject to confidentiality or other legal restrictions (including but not limited to data and materials protected by privacy (e.g., the Health Insurance Portability and Accountability Act) or human subjects protections laws and regulations); (ii) germane to disputes and investigations; or (iii) necessary for patent protection. In these instances, the Principal Investigator must obtain permission from the Vice Chancellor for Research or their designee(s) to take copies of Research Data, in addition to other applicable approvals.

In addition to the requirements above, co-investigators may take copies of Research Data generated under their research projects (or the portions of projects) only with the permission of Procedures in the Event that an Investigator Leaves the University

⁷ See UC's Electronic Information Security Policy: <https://security.ucop.edu/policies/> and <https://security.ucop.edu/policies/quick-start-guides-by-role/researcher.html>

When University Researchers (other than the Principal Investigator or, if the-) involved in a University Research project leave the University or the research project, they may take copies of Research Data that they generated or collected in the course of their University Research, subject to approval by the Principal Investigator and the co-investigator cannot reach agreement (or if any applicable sponsor restrictions. Research Data, however, must be returned to and retained by the Principal Investigator is not reasonably available to give permission), with the permission of the Vice Chancellor for Research or their designee(s), in addition to other applicable approvals.

On a case-by-case basis, the campus in consultation with the Vice Chancellor for Research or their designee(s) may allow for the on behalf of the University, absent University approval of a transfer of the Research Data or Tangible Research Materials to another institution if it has been determined that the transfer of the Research Data and/or Tangible Research Materials would not impede other Workforce Members from continuing their research, does not conflict with legal or contractual requirements, and as long as the new institution accepts custodial responsibilities for the Research Data or Tangible Research Materials. The University may retain a copy of the Research Data or Tangible Research Materials and must retain access to the Research Data or Tangible Research Materials should that become necessary.

When a Principal Investigator leaves the University and a University Research project is to be moved to another institution, Research Data may be transferred or licensed to the new institution in accordance with a locally developed process that most likely involves approval from the applicable school, department and/or other academic units. The University may impose conditions on such transfer or may require the Principal Investigator to leave copies of the Research Data with the University. In addition, other University investigators associated with a collaborative research project may make copies of Research Data prior to a permitted transfer by the Principal Investigator, unless restricted by the specific terms of an applicable agreement with the sponsor of the research.

Any individual who leaves the University, whether to move to another institution or because of retirement or separation, must arrange with their school, department or center for the storage of any Research Data that remain at the University in accordance with any policy adopted by the applicable school, department or center. When the University permits a Principal Investigator to leave the University with Research Data, they must hold the Research Data in trust for the University. A departing Principal Investigator must return the Research Data to the University if requested. In addition, such Research Data must be available to external sponsors, designated governmental officials and other University investigators who are collaborators with the departing Principal Investigator.

VI. RELATED INFORMATION

University Policies and Guidance

- [University of California Regulation No. 4](#)
- [UC Copyright Ownership Policy](#)
- [UC Records Retention Schedule](#)
- [Electronic Communications Policy](#)
- [Electronic Information Security Policy](#)
- [California Digital Library – Resources for Faculty](#)
- [Export Control Policy](#)
- [University Policy on Integrity in Research](#)
- [The Faculty Code of Conduct \(APM 015\)](#)

Federal and State Rules and Regulations

- [Federal Copyright Act](#)
- [California Labor Code § 2860](#)

VII. FREQUENTLY ASKED QUESTIONS

Please refer to the attachment for Frequently Asked Questions. [Implementing guidance related to this Policy may be posted on the UCOP Research Policy Analysis and Coordination \(RPAC\) website.](#)

VIII. REVISION HISTORY

~~Month XX~~ [February 11](#), 2022⁴ – This is a new policy. -This policy expands on University of California Regulation No. 4 (APM-020).

IX. APPENDIX

N/A



University of California Research Data Policy

Responsible Officer:	Vice President of Research and Innovation
Responsible Office:	Office of Research and Innovation
Issuance Date:	[Issuance Date]
Effective Date:	[Effective Date]
Last Review Date:	
Scope:	This policy ("Policy") applies to all Research Data created during the course of University Research.

Contact:	Name
Title:	Title
Email:	Name@ucop.edu
Phone:	(510) 987-XXXX

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I. POLICY SUMMARY

Ownership of Research Data by the UC Regents is a long-standing precept originally articulated in Regulation 4 ([Academic Personnel Manual 020](#)) where it states “Notebooks and other original records of the research are the property of the University.” Regulation 4 was issued in 1958 and is still in effect. The intent of this Policy is to clarify the ownership of and responsibility for Research Data generated during the course of University Research, encourage active data management practices, and provide guidance with respect to procedures when a researcher leaves the University.

II. DEFINITIONS

Principal Investigator(s) (PI): The University-affiliated or employed Researcher(s) primarily responsible for a research project, including design, conduct and reporting, regardless of the source of funding. For the purpose of this Policy, the term PI is used whether or not it is a formal title designated by an external research sponsor.

Research Data: Recorded information reflecting original observations and methods resulting from a scientific inquiry, regardless of the form or the media on which they may be recorded. Research Data include material contained in laboratory notebooks (whether physical or electronic), but are separate from Scholarly & Aesthetic Works that are defined in the UC Copyright Ownership Policy. See FAQs #1-5 of this Policy for more information.

University Research: Research conducted within the course and scope of a Principal Investigator or University Researcher's assigned or assumed duties, using University resources, or funded by or through the University.

University Researchers: The University-affiliated or employed persons involved in the design, conduct or reporting of research regardless of the funding source, including academic appointees, staff, postdoctoral scholars, research trainees, and medical center staff and clinicians. For the purpose of the Policy, students who participate in the design, conduct or reporting of a Principal Investigator's research project are subject to this Policy.

III. POLICY TEXT

Exercising rights established by federal¹ and state² laws and University of California Regulation No. 4 (APM-020)³, the Regents of the University of California retain ownership of Research Data created by or at the direction of University Researchers or Principal Investigators during the course of University Research, unless specifically agreed otherwise by the University under sponsorship or other related agreements. Principal Investigators and University Researchers shall have a right to use Research Data for University purposes that they have generated or collected in the course of their University Research. This includes using Research Data for publishing the outcome of their research, creating scholarly works, and transmitting a copy of Research Data to others, unless precluded by law, policy or contract and subject to approval by the Principal Investigator.

As stewards of Research Data, Principal Investigators are responsible for ensuring that Research Data, whether generated by them or their research team, are recorded, stored, and used in accordance with the standards of their respective discipline, data management plan if applicable, campus department, and any requirements of applicable federal or state law or regulations, University policies and guidelines, and University contractual commitments.

The University, through the campus Vice Chancellors for Research or their designee(s), has an obligation to ensure that its resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data.

IV. COMPLIANCE / RESPONSIBILITIES

A. Vice Chancellors for Research

At each campus, the Vice Chancellor for Research or their designee(s) is responsible for the interpretation, implementation, and oversight of this Policy and shall:

- Establish local policies or procedures as necessary for implementing this Policy, such as proposed minimum retention policies.
- Provide guidance to assure campus compliance with Research Data obligations arising by law, regulation or agreement.

¹ Title 17, Section 201 of the Federal Copyright Act states: “(b) Works Made for Hire.—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.”

² California Labor Code §2860 provides that everything that an employee acquires by virtue of his/her employment (except compensation) belongs to the employer whether acquired during or after the term of employment.

³ Issued in 1958, University of California Regulation No. 4 (APM-020) states, “Notebooks and other original records of the research are the property of the University.” This Policy elaborates on expectations established in Regulation No. 4.

- Have unfettered access to Research Data for University purposes, including for the purposes of carrying out University responsibilities (including sequestration, as may be needed) related to conducting an inquiry or investigation pursuant to University obligations, such as research misconduct investigations, or in response to agency inquiries or legal process.
- Implement local procedures to manage the transfer of Research Data or copies of Research Data, for example upon the separation or death of a University Researcher or when a University Researcher can no longer fulfill responsibilities. (See Section V.)
- Implement local policies and procedures to settle disputes over control, use, and publication of Research Data among University Researchers and their collaborators, according to established campus, academic discipline, and journal standards.

B. University Researchers

As stewards of the University's Research Data, University Researchers shall:

- Securely collect, record, manage, and store Research Data throughout the research life cycle, from design to preservation. University Researchers are encouraged to leverage the California Digital Library, campus libraries, or other campus systemwide resources for advice on documenting and preserving Research Data.
- Manage and share Research Data in accordance with the standards of their scholarly discipline, and/or data management plan, and University policies, legal requirements, and the terms and conditions of applicable third-party agreements (such as sponsored awards, material transfer agreements, or data use agreements).
- Consult with the Principal Investigator and/or Vice Chancellor for Research (or their designee) for clarification of obligations and resolution of disputes related to Research Data.

C. Principal Investigators

Principal Investigators shall, in the conduct of University Research, have the primary responsibility to:

- Follow best academic practices with respect to collecting, recording, managing, and storing Research Data.
- Determine use of the Research Data by other University Researchers and collaborators on the project in accordance with relevant agreements and their scholarly discipline's practices, and taking into account the need for academic progress of academic appointees, post-doctoral scholars, degree candidates, and other students.
- Retain Research Data on behalf of the University. Principal Investigators are responsible for knowing retention requirements of their scholarly discipline, campus departments, funding agencies, and applicable law and regulation, and for following the most stringent of these multiple requirements. Principal

Investigators must take the following key circumstances into account when determining the retention period:

- **Inventions:** Research Data must be kept as long as necessary to protect intellectual property and to complete University patenting and licensing procedures for inventions.
- **Allegations, Investigations and Litigation:** If Research Data are the subject of any allegations, investigations or litigation, the University and University Researchers shall preserve potentially relevant information until the Vice Chancellor for Research (or their designee), in consultation with Campus Counsel, issues instructions regarding disposition.
- **FDA-Regulated Research:** If a research project involves articles regulated by the U.S. Food and Drug Administration (FDA), consistent with 21 C.F.R. §§ 312.6 and 812.140, Principal Investigators must keep records for two years or as long as required following the date a marketing application is approved for the product; or if a marketing application is not filed or FDA-approved, for two years after the investigation is terminated, completed, or otherwise discontinued and the FDA is notified.
- **Student Participation in Research:** If, in advancing to degree, a student participates in the design, conduct or reporting of research, the Research Data connected to that research shall be retained until the student has been awarded a degree, or until the student is no longer working on the project or has otherwise left the University.

V. PROCEDURES

Procedures in the Event that an Investigator Leaves the University

When University Researchers (other than the Principal Investigator) involved in a University Research project leave the University or the research project, they may take copies of Research Data that they generated or collected in the course of their University Research, subject to approval by the Principal Investigator and any applicable sponsor restrictions. Research Data, however, must be returned to and retained by the Principal Investigator on behalf of the University, absent University approval of a transfer of the Research Data to another institution.

When a Principal Investigator leaves the University and a University Research project is to be moved to another institution, Research Data may be transferred or licensed to the new institution in accordance with a locally developed process that most likely involves approval from the applicable school, department and/or other academic units. The University may impose conditions on such transfer or may require the Principal Investigator to leave copies of the Research Data with the University. In addition, other University investigators associated with a collaborative research project may make copies of Research Data prior to a permitted transfer by the Principal Investigator, unless restricted by the specific terms of an applicable agreement with the sponsor of the research.

Any individual who leaves the University, whether to move to another institution or because of retirement or separation, must arrange with their school, department or center for the storage of any Research Data that remain at the University in accordance with any policy adopted by the applicable school, department or center. When the University permits a Principal Investigator to leave the University with Research Data, they must hold the Research Data in trust for the University. A departing Principal Investigator must return the Research Data to the University if requested. In addition, such Research Data must be available to external sponsors, designated governmental officials and other University investigators who are collaborators with the departing Principal Investigator.

VI. RELATED INFORMATION

University Policies and Guidance

- [University of California Regulation No. 4](#)
- [UC Copyright Ownership Policy](#)
- [UC Records Retention Schedule](#)
- [Electronic Communications Policy](#)
- [Electronic Information Security Policy](#)
- [California Digital Library – Resources for Faculty](#)
- [Export Control Policy](#)
- [University Policy on Integrity in Research](#)
- [The Faculty Code of Conduct \(APM 015\)](#)

Federal and State Rules and Regulations

- [Federal Copyright Act](#)
- [California Labor Code § 2860](#)

VII. FREQUENTLY ASKED QUESTIONS

Please refer to the attachment for Frequently Asked Questions. Implementing guidance related to this Policy may be posted on the [UCOP Research Policy Analysis and Coordination](#) (RPAC) website.

VIII. REVISION HISTORY

February 11, 2022 – This is a new policy. This policy expands on University of California Regulation No. 4 (APM-020).

IX. APPENDIX

N/A

DRAFT

Frequently Asked Questions

1. Do Research Data include data generated by any non-University party?

Research Data do not include any results generated by any non-University party, unless and to the extent such results have been: 1) modified by a University Researchers within the course and scope of their assigned or assumed role while employed by the University; 2) generated using University Research Facilities; 3) transferred to the University by contract, grant or law; or 4) generated using funds provided by or received through the University.

University Research Facilities means University research premises or resources dedicated to research that (a) is provided by University for performing research, and (b) is more than only general campus facilities (e.g., libraries, meeting room) and ordinary business office facilities such as office work premises, telephone, or Internet access. However, situation in which individuals use an approved recharge facility/equipment on behalf of an external party who is/are paying an approved external user fee is outside the scope of the Policy. Please see FAQ #2 below for further information.

2. How does this Policy affect the work of University Research Facilities, such as Core Research Facilities, that provide services to those outside of the University?

Research Data created by or at the direction of University Researchers or Principal Investigators during the course of University Research remain the property of the Regents of the University of California, unless specifically agreed otherwise by the University under sponsorship or other related agreements. Research Data generated by or at the direction of non-University parties using University Research Facilities performing fee-for-service work or under specific University agreements fall outside the scope of this Policy.

3. Do Research Data include administrative records related to a research project?

Research Data do not include administrative records incidental to award administration such as financial records, contract and grant records, or records related to institutional reviews and approvals, such as IACUC or IRB review. While such administrative records generated by University researchers are not included in the definition of Research Data under this Policy, as records, they are the property of the University and may be subject to terms and conditions of individual sponsored projects, federal and state regulations, other University policies and University retention and disposition requirements. Information on retention requirements related to research administrative records can be found [here](#).

Frequently Asked Questions

4. Under this Policy, do Research Data include data generated in the performance of a clinical trial or clinical research study including UC Health systems hospitals and outpatient clinics?

Clinical trial data generated by Researchers using University-administered research funding for clinical studies, regardless of where the information or material was generated (e.g., hospital or clinic), are considered Research Data under this Policy. Administrative documents, regardless of funding, such as patient source documents and medical records created in the course of clinical care are the property of the University along with other types of administrative records (see FAQ # 3 above) although they are not considered Research Data.

5. Do Research Data include scholarly works?

Research Data do not include scholarly works. Scholarly works has the same meaning as “Scholarly & Aesthetic Works” under the University of California’s [Copyright Ownership Policy](#). While the University of California Research Data Policy applies to all Research Data created during the course of University Research, unless specifically agreed otherwise by the University under sponsorship or other related agreements, it should not impede Researchers’ ability to create scholarly works. This Policy also does not change current copyright and patent policies, which also apply to research.

6. Are Research Data stored on personal devices property of The Regents of the University of California?

Research Data are the property of The Regents of the University of California regardless of the medium or where the Research Data is collected or stored. This includes Research Data that is collected or stored on personal devices. Note, however, that each campus may have its own policies on the use of personal devices.

7. Does the transfer of Research Data to another institution allow for the continued use of University equipment or software programs?

Permission to transfer Research Data after separation by the Principal Investigator or any other Researcher does not imply a right to transfer or continue to use equipment or software programs used in connection with the research project. Permission to transfer or to continue to use equipment or software programs must be separately obtained from the applicable school, department, or center, and must be documented in accordance with campus requirements before any equipment or software programs may continue to be used or may be transferred.

8. Where can Researchers go to get help with managing and publishing Research Data?

UC campus and systemwide groups, including UC libraries, Research IT, and others provide extensive services and advice regarding data management, data

Frequently Asked Questions

publication, and data curation. Across the UC, there are unique offerings designed to meet the local needs of different research communities. Campus-specific and systemwide resources are available to help researchers manage Research Data effectively and meet the standards of funding organizations and the University.

These resources include:

- UC Berkeley
 - [Berkeley Research Data Portal](#)
 - [Berkeley Research IT Research Data Management Program](#)
 - [Berkeley Library Data Services Program](#)
- UC Davis
 - [UC Davis Library Research Data Services](#)
 - [UC Davis Library Data Management, Publishing, and Preservation](#)
 - [UC Davis Health Research Data Management](#)
- UC Irvine
 - [UCI Libraries Digital Scholarship Services](#)
 - [UCI Libraries What We Do](#)
- UCLA
 - [UCLA Library Data Management and Curation Services](#)
 - [UCLA Office of Research Administration Resources for Researchers](#)
- UC Merced
 - [UC Merced Library Research Data Curation](#)
- UC San Diego
 - [UCSD Library Research Data Curation](#)
- UC San Francisco
 - [UCSF Library Data Management](#)
 - [UCSF Data Resources](#)
 - [UCSF Data Resources: DMPTool](#)
 - [UCSF Data Resources: Data Management](#)
 - [UCSF Data Resources: Data Management Consultation](#)
 - [UCSF Data Resources: Systems Services](#)
 - [UCSF Data Resources: Information Commons](#)
 - [UCSF Data Resources: Library Data Science Initiative](#)
 - [UCSF Data Resources: NLP@UCSF](#)
 - [UCSF Data Resources: Research Analysis Environment](#)
 - [UCSF Data Resources: Research Electronic Data Capture \(REDCap\)](#)
 - [UCSF Data Resources: San Francisco Coordinating Center](#)

Frequently Asked Questions

- UC Santa Barbara
 - [UCSB Library Research Data Services](#)
- UC Santa Cruz
 - [UCSC Library Research Data Management](#)
- California Digital Library:
 - All UC researchers have access to the [DMPTool](#), which provides a wizard for creating an optimal data management plan that complies with funder requirements. The application also has direct links to funder policies, help text for answering questions, and resources for best practices surrounding research data management.
 - [Support Your Data](#) provides a framework for research data management best practices across a research project's lifecycle so to ensure optimal reuse of that data.
 - The University of California has a partnership with the multidisciplinary repository, [Dryad](#), and all UC researchers may submit Research Data to be published, made publicly available, and archived at no cost.

9. Does posting Research Data to a repository comply with the policy to retain data?

Repositories are a great option for depositing data that may be made publicly available (or with restrictions). They also ensure long-term archiving and access to Research Data. Cloud-based services like Google Drive, Dropbox, Box, and AWS are not considered repositories and do not meet the requirements for long-term secure preservation of data.

Data that can be made publicly available should be submitted to an open data repository. If your field has standards around where data are held (e.g., NCBI repositories like Genbank), deposit your data in accordance with field best practices. If your field does not have standards around where data may be stored, use generalist data repositories. The University of California has a partnership with the generalist repository, Dryad, and all researchers may submit data to be publicly available and archived here at no cost. All UC datasets submitted to Dryad are also afforded long-term preservation in Merritt (UC's preservation repository). If Research Data have ethical and legal considerations, consult with your local IRB, IT security office, department, or other local offices on where the data may be held in a secure location.

10. How long should Research Data be preserved?

Recommended and required retention periods differ across disciplines, data types, funding agencies, applicable laws and regulations, and publishers. Researchers are encouraged to consult with a data librarian at their campus as well as other local and

Frequently Asked Questions

systemwide resources to determine if a recommended time period exists for Research Data.

11. Under what license should researchers share Research Data?

Research Data without ethical or legal restrictions may be made openly available under a CC0 license waiver. Refer to UC Office of Scholarly Communication's [blog post](#) for a detailed review of licensing options for data.

DRAFT

MODEL COMMUNICATION

The University of California Office of the President invites comments on a proposed Presidential Policy on University of California Research Data. This is the second systemwide review for this Policy. The first review of the Presidential Policy on the University of California Research Data and Tangible Research Materials was initiated on December 17, 2020 and closed April 7, 2021.

Ownership of research data by the UC Regents is a long-standing precept originally articulated in Regulation 4 ([Academic Personnel Manual 020](#)), where it states “Notebooks and other original records of the research are the property of the University.” Regulation 4 was issued in 1958, and it is still in effect. The purpose of the new *Presidential Policy on University of California Research Data* is to 1) clarify ownership of and responsibility for research data generated during the course of University Research, 2) encourage active data management practices, and 3) provide guidance with respect to procedures when a researcher leaves the University.

If you have any questions or if you wish to comment, please contact _____ at _____, no later than _____, 2022.



Mary Gauvain
Telephone: (510) 987-0887
Email: mary.gauvain@ucop.edu

*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*

April 13, 2021

**SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL**

Re: Presidential Policy on UC Research Data and Tangible Research Materials

Dear Susan,

As requested, I distributed for systemwide Senate review the proposed Presidential Policy on UC Research Data and Tangible Research Materials. All ten Academic Senate divisions and three systemwide committees (UCORP, UCFW, and UCAF) submitted comments. These comments were discussed at Academic Council's March 31 meeting and are attached for your reference.

Unfortunately, the Senate is unable to support the policy in its current form given the numerous questions and concerns from faculty about its purpose and intent, consequences for faculty workload and campus budgets, intellectual property, and academic freedom.

As we understand it, the policy reinforces existing UC Regents' ownership of faculty research data and tangible research materials, and describes the role of campus leadership, researchers, and other UC workforce members in managing, retaining, preserving, accessing, sharing, and transferring those data and materials. We also understand that such data and materials do not include scholarly works, administrative records, and medical records. We also suspect (though it is not stated in the policy) that the policy is a response to a high-profile 2015 incident involving a UC researcher who transferred his research data and federal funding to another university and was sued by the University of California.

One of the recurring themes in the letters is the policy's lack of context and clarity in defining a purpose and rationale. Faculty simply do not understand what the policy is trying to do, and why. Individual faculty appreciate the extent to which the policy appears to maintain campus flexibility for managing data transfer agreements on a case-by-case basis, and attempts to focus on principles over details; however, the lack of details also obscures the intent of the policy and subjects it to multiple interpretations.

Many reviewers are concerned that the policy imposes additional compliance requirements and administrative burdens on faculty researchers, and does not sufficiently distinguish differences across disciplines in data storage, sharing, and ownership practices. The policy appears to require all PIs to store and archive all research products, even items that are not commonly saved during the normal course of research in their specific field. Faculty find these provisions to be burdensome and unrealistic, and particularly inappropriate for social, cultural, ethnographic, and humanities research.

An example raised by several reviewers is the collaborative anthropological research done in communities that require tangible materials to be co-owned by the community. It would be difficult if not impossible to apply the policy to these situations. We appreciate the policy's emphasis on implementing the new requirements in accordance with the standards of individual scholarly disciplines, but the policy should make this clearer, include specific processes for community-partnered scholarship and data-sharing, or exemptions for such scholarship. Similarly, the policy should clearly articulate special provisions for data collection covered by human subjects, IRB, and HIPAA protocols and other privacy issues.

There is also concern that the policy will impose additional unfunded mandates on campuses, given the additional staff, space, digital infrastructure, and other resources that will be required to support new data storage and preservation requirements. Additional details would be helpful on removal, transfer, and sharing of research data and tangible research materials once a faculty member or researcher leaves UC employment. The University should also clarify the distinction between this policy on data and materials the University owns, and UC's policies on copyright and patents or UC's other intellectual property policies.

There are concerns that the policy gives campus Vice Chancellors sole authority for the oversight, interpretation, and implementation of the policy. The Senate should be a part of consultation to evaluate data transfer requests to ensure that faculty interests are represented.

The Academic Council finds the policy as written to be overly broad, difficult to enforce, and a potential danger to faculty intellectual property. We agree that systemwide UC policy should encourage ethical behavior and safeguard against egregious behaviors that harm the University, but this policy should emphasize that faculty own their research products, err on the side of protecting faculty's creative work, and provide them with flexibility to pursue research as they see fit.

We believe significant revisions are required to address the numerous concerns expressed across campuses; however, the concerns are so significant that we are unsure if the policy can be adapted to address them. We suggest the authors might consider an alternative policy that is more limited in its scope, perhaps targeted to areas for which there is a clear need and purpose, disciplinary areas where replicability of research results is an expected norm, or situations where legal requirements exist.

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: Associate Director Demattos
Research Policy Manager Balla
Academic Council
Senate Division Chairs
Executive Director Baxter

Encl.



March 23, 2021

MARY GAUVAIN
Chair, Academic Council

*Subject: Systemwide Review of Proposed Presidential Policy - University of California
Research Data and Tangible Research Materials*

Dear Chair Gauvain;

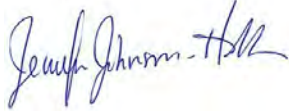
On March 15, 2021, the Council of the Berkeley Division (DIVCO) discussed the proposed Presidential policy titled, *University of California Research Data and Tangible Research Materials Policy*. The local Committee on Research (COR) reviewed the document and supports the intent and language of the proposed policy. COR's comments are appended to this letter.

The Berkeley Division agreed with COR in generally supporting the intent of the policy, especially as it relates to patentable IP. However, DIVCO members were concerned that the proposed policy is overly broad and subject to multiple interpretations. Particular concerns emerge around scholarship that is ethnographic, community-based, collaborative, or grounded in field work with historically marginalized people. Our discussion focused on three kinds of problems. First, some communities require as a prerequisite for research there that the tangible materials from the work be owned or co-owned by the community from which they were elicited. If this policy were in place as written, it could render research in those communities essentially impossible, as people would simply refuse to work with us. Second, in a broader class of cases, this policy appears to contradict some existing data agreements in the quantitative social sciences governed by IRB protocols that already specify length of time for storing data, or scholarship involving data sharing agreements with government and other agencies. Third, in many ethnographic projects there are grey zones where the line between "tangible research materials" and private memorabilia is thin or even porous. Journals, letters, photographs, and so on may straddle that line, and it seems very odd for the university to hold ownership of them.

Some of these problems could be overcome, for example with a specific and clear process for community-partnered scholarship and data-sharing, such as a decision tree for different kinds of research. Similarly, boilerplate text for the similar agreements with the same agency would be preferable to individually-negotiated legal agreements for each PI. Still, some straight-up exemptions may be necessary if community-based, collaborative scholarship is to continue.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, reading "Jennifer Johnson-Hanks". The signature is fluid and cursive, with the last name "Hanks" being more prominent and stylized.

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



February 4, 2021

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

*Re: COR comments on proposed Presidential Policy on UC Research Data and
Tangible Research Materials*

At its January 27th meeting, COR reviewed the proposed Presidential Policy on UC Research Data and Tangible Research Materials. The committee supports the intent and language of the proposed policy and endorses it in its current form.

Thank you for asking COR to review this policy.

With best regards,

Dennis Levi, Chair
Committee on Research



DAVIS DIVISION OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
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academicsenate.ucdavis.edu

March 22, 2021

Mary Gauvain
Chair, Academic Council

RE: Proposed Presidential Policy on UC Research Data and Tangible Materials Research

Dear Mary,

The proposed Presidential Policy on UC Research Data and Tangible Materials Research was forwarded to all standing committees of the Davis Division of the Academic Senate. Two committees responded: the Committee on Research (COR) and the Faculty Executive Committee of the School of Veterinary Medicine (SVM).

Committees support the overall effort of the document but note that additional details in some areas would be helpful. COR and SMV both comment that more detail is needed on removal, transfer, and sharing of research data and tangible research materials once a faculty member or researcher leaves UC employment. COR specifically recommends that additional details be provided for how to turn over data in a “usable format, such as with common data identifiers or specified data management plans,” as expressed in the background document.

COR and SVM have both relayed several questions and concerns, some of which may be specific to particular research areas and campuses. We relay some of those comments and questions below and recommend that the policyholders read through the committees’ full responses (enclosed):

- This policy may not be in agreement with already existing work performed under contracts. For instance, there are contracts where the samples and the notebooks go to the sponsor for storage after the study is concluded. When studies are done for industry endpoints when the work may influence policy, there is typically a requirement for use of a third party repository under the control of the group that paid for the work. These are contracts, not grants, and this requirement is spelled out in the paperwork that was completed and signed through the university.
- Will the university prevent a principle investigator moving an online crystal structure database he/she developed with extramural funding, when the PI accepts a position at a new university?
- Will the university claim all rights to a PI-created online textbook after the PI moves to private industry?
- Will the university demand that data in all research projects on campus be uploaded to shared drives within a designated timeframe, and if so, how will access to the data be controlled?
- Will the university prevent a PI from accepting funding from a private sponsor, if that sponsor wants to benefit from using the research data that is generated?

- Considering that all biospecimens collected during the course of externally and university funded, IRB approved, research are considered Tangible Research Materials, the policy should establish acceptable guidelines for storage and record keeping, and define generally acceptable best practices for biorepositories.

The Davis Division appreciates the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tucker", with a stylized flourish at the end.

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

March 15, 2021

Richard Tucker, Chair
Davis Division of the Academic Senate

RE: Proposed Presidential Policy on UC Research Data and Tangible Research Materials

Dear Professor Tucker,

The Committee on Research reviewed and discussed the proposed Presidential Policy on UC Research Data and Tangible Research Materials and has the following response.

The Committee on Research agreed with the general purpose of this document, however details on how the policy would be implemented are vague on some points. For example, the committee asked for clarification regarding the policy on data transfer (#2) if the PI moves to another university or private industry and the expectation that data is turned over to the University in a “usable format, such as with common data identifiers or specified data management plans” (#3). The committee also noted that disputes over publications between PI’s, graduate students, and collaborators (#6) are beyond the scope of this policy.

Specific questions below:

Will the UC prevent a principle investigator moving an online crystal structure database he/she developed with extramural funding, when the PI accepts a position at a new university?

Will the UC claim all rights to a PI-created online textbook after the PI moves to private industry?

Will the UC demand that data in all research projects on campus be uploaded to shared drives within a designated timeframe, and if so, how will access to the data be controlled?

Will the UC prevent a PI from accepting funding from a private sponsor, if that sponsor wants to benefit from using the research data that is generated?

Additional concerns were raised on how the policy will apply to animal research data. The committee suggests coordination with the Animal Research Transparency Committee. The Committee on Research will continue discussion on the policy with Craig Allisson, UCD Director of Research Compliance and Integrity, and Agnes Balla, UCOP Research policy manager.

Regards,

Cynthia Schumann, Chair
Committee on Research

SVM Comments to New UC Policy on Research Data and Tangible Research Materials

The following comments to this new policy, from the SVM Research Committee and individual SVM faculty members, are submitted by the SVM Executive Committee.

Key Points Discussed by the SVM Research Committee:

The UC Policy document is clear that professional activities leading to collection of data, their analysis, and all IP derived therefrom during one's employment at UC data are considered tangible research materials, including materials:

- Modified by employees ("Workforce Members") within the course and scope of their assigned or assumed role
- generated using University research facilities or research resources;
- transferred to the University by contract, grant or or law
- generated using funds provided by or received through the University

Several things need additional clarification. Firstly, the scope and purpose of the policy were not clearly laid out and we weren't clear what problem might need remedying. It would also be helpful if this policy document, which appears to be an amendment or clarification, would reference any original or base policies by number, URL, etc. More clarification is needed on UC policies regarding removal, transfer, or sharing of research data and tangible research materials once a faculty member (AS ladder rank or Federation), professional scientist (e.g., project scientist), or other career researcher appointee leaves UC employment. It was generally acknowledged that guidance and best practices should be articulated in the UC Policy document without getting into the weeds.

The guidance should address contingencies regarding removal or transfer of physical resources such as banked samples and large datasets procured by Workforce Members during their employment with UC once employment terminates. Specific issues that should be addressed include, but are not limited to:

- What constitutes permissible transfers?
- Establish best practices and a roadmap for permissible transfer of tangible materials
- Where are key decision points made and who makes them?
- Define acceptable use guidelines for sample/data sharing that are consistent with publicly funded programs (including individual and collaborative grants, subcontracts, consortia, etc.).
- Better define and articulate differences among basic, clinical, translational and other types of research materials, should such differences exist UC-wide.

The draft policy clearly states that all digital and physical research data are the property of The Regents of the University of California regardless of the medium or ownership where the Research Data is collected or stored, those data collected or stored on personal devices. This needs clearer definition of permissible and not permitted transfer of data upon leaving UC or data sharing with noncontracted individuals outside UC.

Considering that all biospecimens collected during the course of externally and University funded, IRB approved, research are considered Tangible Research Materials, the Policy must [should] establish acceptable guidelines for storage, record keeping and define generally acceptable best practices for biorepositories. The policy needs to address key issues that safeguard the integrity of samples and associated metadata. Suitable infrastructure, storage capacity, and dedicated staffing are critical essentials to the integrity of Biorepositories and the data derived from them, including responsibilities and resources for establishing biobanks. The policy needs to acknowledge that individual investigators may not have funds or other needed resources to maintain

freezers, curator staff, records etc. long after a project is complete and clarify who has responsibility to retain, e.g. School/College Dean, department chair, etc. The Policy should include guidelines and procedures for grandfathering biorepositories whose samples have aged-out and lost their integrity or value.

We didn't get clarity on mechanics of how investigators would implement the policy. For example, would they have to make declarations when they submit grants such as plans for permanent retention? Probably this is beyond the scope of the policy but UC likely needs to create an infrastructure including freezer farms, centralized sample and data management, staff to curate, procedures to record access, alarms, etc. Note that this is far beyond what would be reasonable for a PI to manage.

Other SVM Faculty Comments:

1. This policy may not be in agreement with already existing work performed under contracts. For instance, there are contracts where the samples and the notebooks go to the sponsor for storage after the study is concluded. When studies are done for industry endpoints when the work may influence policy, there is typically a requirement for use of a third party repository under the control of the group that paid for the work. These are contracts, not grants, and this requirement is spelled out in the paperwork that was completed and signed through UC.
2. The level of concern about research materials expressed in this new policy is not consistent with specific past experiences related to the university's efforts to preserve research samples after a study concludes. For example, when a disaster (fire/flood) compromises samples so that they are lost to further use. UC's self-insurance does not compensate investigators if the studies have concluded – but the samples were the basis for additional analysis and pending grants.
3. What happens if a lab moves? Will a researcher be prohibited from taking their -80 freezer and the samples from their grant-funded studies (either ongoing or ended) with them? And will the campus then archive and distribute what is left behind? This could become a tug of war between investigators, and if someone with a large biological sample repository leaves, UC may be then committed to maintaining and distributing the samples, which could be very expensive. This scenario doesn't just apply to human samples but also to large studies in animals or possibly exposure assessment samples from environmental sampling studies. Just stating that an IRB requires X and Y in the new policy doesn't begin to cover the possibilities.
 - 1) What is the actual problem trying to be addressed? i.e. what triggered this process? This is critical in determining an appropriate response.
 - 2) Is this just centered around UC wanting to retain anything that may have valuable IP associated, or a broader goal of ensuring the advancement of science by making "hard earned" material available to a broader pool of researchers?
 - 3) As an example. On retirement, making a specific biorepository of samples available to known colleagues and researchers in the field rather than UC merely maintaining storage even if there are no interested parties on campus seems to be scientifically and collegially appropriate.
 - 4) The financial and practical implications of storage (and the process of determining what is valuable to store) of samples, data etc are daunting.

March 19, 2021

Mary Gauvain, Chair
Academic Council

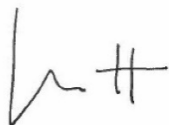
Re: Systemwide Review of the New Presidential Policy on UC Research Data and Tangible Research Materials

Dear Chair Gauvain,

At its March 16, 2021 meeting, the Irvine Division Senate Cabinet reviewed the New Presidential Policy on UC Research Data and Tangible Research Materials. The policy was also reviewed by the Council on Research, Computing, and Libraries (CORCL). Cabinet members agreed with the comments in the attached CORCL memo.

The Irvine Division appreciates the opportunity to comment.

Sincerely,



Jeffrey Barrett, Chair
Academic Senate, Irvine Division

Encl: CORCL memo

Cc: Joanna Ho, Chair Elect-Secretary
Michele Guindani, CORCL Chair
Kate Brigman, Executive Director
Gina Anzivino, Associate Director
Michelle Chen, CORCL Analyst
Hilary Baxter, Executive Director



February 26, 2021

JEFFREY BARRETT, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Systemwide Review of Proposed Presidential Policy on UC Research Data and Tangible Research Materials

At its meeting on January 21, 2021, the Council on Research, Computing, and Libraries (CORCL) reviewed the proposed presidential policy on UC Research Data and Tangible Research Materials.

The policy confirms that the University of California owns all Research Data and Tangible Research Materials. According to the FAQs, research data do not include scholarly works, administrative records, and medical records. In most circumstances, Principal Investigators (PIs) are responsible for maintaining and managing the Data and Tangible Research Materials for their projects. The Vice Chancellor for Research at each campus is responsible for establishing procedures as it relates to the oversight, interpretation, and implementation of this Policy. Should a PI leave the university, the UC continues to own all data and tangible research materials. Approval from the Vice Chancellor for research is needed to move tangible research materials to a new university.

Overall, the Council found the policy to be well considered. It focuses more on principles than details—which is wise considering the very diverse nature of research and scholarship in the UC system. The length of time required to maintain materials and data is set by rules from granting agencies, regulations and publishers, which may differ by field.

The Council made the following suggestions:

- From the FAQ, question 1: Research Data and Materials do not include any results generated by non-University parties, unless university workforce or facilities were involved. This section needs to be clarified to exempt “sales and service” research arrangements in which the Regents do not have ownership of data generated in University labs.
- Clarification is needed where proprietary data is acquired by the PI from the private sector with university funds, and then the PI leaves the university. If the university maintains a copy of the data, this could be problematic. There may be situations where this proprietary data is needed, for example when a remaining graduate student also uses the data, but it would be problematic for the PI because they might be liable for how the data is handled.
- On page 3, the list of Tangible Research Materials includes “chemical compounds” twice.
- Under the document titled “Points Considered,” 6. Publication of Research Data, Resolution, the word “we” should be deleted from the following phrase: “For example, we one way to tackle this issue”.

The Council appreciates the opportunity to comment.



On behalf of the Council,

A handwritten signature in black ink, appearing to read "Michele Guindani", with a long horizontal flourish extending to the right.

Michele Guindani, Chair

c: Kate Brigman, Executive Director
Gina Anzivino, Assistant Director
Michelle Chen, CORCL Analyst
Brandon Haskey-Valerius, Senate Analyst

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,

A handwritten signature in black ink, appearing to read "Shane White", enclosed within a rectangular border.

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

March 11, 2021

Shane White, Chair
Academic Senate

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

Dear Chair White,

At its meeting on February 9, 2021, the Faculty Welfare Committee discussed the New Presidential Policy on UC Research Data and Tangible Research Materials. Committee members offered the following comments.

Members observed whether this policy will complicate collaborations and communication with other institutions; it may cause bottlenecks. Conflicts of interest may arise. What will be the methods developed to evaluate conflicts of interest? While some members understand that the university owns the data, how would situations where the data are shared among collaborators from multiple institutes be handled? There are researchers collaborating from different institutions in the country. Given the prevalence of collaborative activities, to what degree do the investigators have the independence to handle their data? Will collaboration be restricted?

Additionally, strictly following the proposed policy may have costs associated to it. Who will pay for these added costs? Some people may not have the resources and what will be the consequence of this? Will it be up to the campuses to manage? Finally, what are the requirements and regulations about retaining data?

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

Committee on Data, Information Technology, and Privacy

March 11, 2021

To: Shane White, Chair
Academic Senate

From: Susan Cochran, Chair
Committee on Data, Information Technology, and Privacy

Re: Systemwide Senate Review: New Presidential Policy: Research Data & Tangible Research Materials

At its meeting on March 4, 2021, the Committee on Data, Information Technology, and Privacy (CDITP) reviewed and discussed the draft Presidential Policy: Research Data and Tangible Research Materials and offer the following comments for your consideration:

Members were concerned that it was not entirely clear what problem the university is attempting to solve through this policy. While members recognize that there are a few high profile situations where this policy might help for their resolution, members feared that the untargeted effects of the policy would be to create substantial burdens on principal investigators and other researchers on campus. Apart from proposing an unfunded mandate, the policy fails to address the fact that work product of all kinds is created during the course of research activities but only some is in need of retention after its useful purpose (to the research project) is met. Burdening principal investigators with the responsibility to retain, curate, and imagine all possible value of research data and tangible material is a substantial work effort and space burden that will likely 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 inadvertently lead them, whatever their intentions, into liability in terms of violation of the faculty code of conduct. Hence the policy, while apparently attempting to protect the University in high profile situations, may create substantial peril for faculty.

Members were also concerned about the exclusive focus on ensuring the rights of the university, without equally addressing the obligations of the university to be a good partner in these efforts.

Finally, while the policy addresses situations where the investigator separates, dies, or becomes incapacitated, there is no mention of the process of retirement and recall which is also part of the life cycle of many research faculty.

Thank you for the opportunity to review and comment. If you have any questions, please do not hesitate to contact me via the CDITP Analysts, Estrella Arciba/Taylor Lane Daymude, at earciba@senate.ucla.edu/tlanedaymude@senate.ucla.edu.

March 8, 2021

To: Shane White, Chair
Academic Senate

From: Gregory Leazer, Chair
Committee on Library and Scholarly Communication

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

At the Committee on Library and Scholarly Communication's meeting on January 25, 2021, the New Presidential Policy on UC Research Data and Tangible Research Materials was discussed. Members shared the following comments:

The policy provides some assertion of control and mechanism for the resolution of data ownership and retention issues, but lacks detail on the various considerations on how disputes will be resolved. Members felt there is a need for better clarification to determine who makes determinative decisions regarding retention and preservation of data, and access to it, if indeed all materials belong to the University. There is a lack of understanding regarding the transfer of research materials between researchers and the University, or between institutions when someone leaves the University.

Members were also curious to learn how data policies would be handled amongst workforce members, particularly students who in various scenarios 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. We note that data retention is required, but no guarantees of access were provided. We were also concerned about the University's custodial obligations under contractual agreements, noting that such processes may not be inexpensive and may require the library or a similar administrative unit to fulfill those obligations. In a nutshell, the policy is clear about issues of ownership and the VC of Research's role in implementing policy and in the resolution of disputes, but the principles that govern the policy are not articulated, beyond that they will confirm with the University's mission and disciplinary norms.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact leazer@g.ucla.edu or the Committee Analyst, at rrouzankay@senate.ucla.edu.

March 5, 2021

Shane White, Chair
Academic Senate

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

Dear Chair White,

At its meeting on February 10, 2021, the Council on Research (COR) had an opportunity to review the new presidential policy on UC Research Data and Tangible Research Materials.

Members found the policy to be straightforward. A few commented:

1. In certain fields, for example anthropological research, 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.
2. Photographic and video records of research has become increasingly ubiquitous and relevant in research. Most prominently, compliance requirements, for example with Freedom of Information Act requests, will likely create data storage challenges. Where are the research materials stored, and who will steward their curation and preservation over time?

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,
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

February 17, 2021

To: Shane White, Chair
Academic Senate

From: Andrea Kasko, Chair
Graduate Council

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

At the Graduate Council meeting on February 12, 2021, the *New Presidential Policy on UC Research Data and Tangible Materials* was presented as an information item. Although the Graduate Council was not required to opine on this issue, members offered the following observations for your consideration:

Members were concerned that the proposed policy comes across as an unfunded mandate without specific resources allocated by the University for implementation. If PIs are now responsible for ensuring that data retention strategies and methods are aligned with the proposed policy, members stated that the University should earmark resources for this purpose. Similarly, if the University owns the data, then it should have the infrastructure in place to support this new requirement.

Members also questioned the relationship between this mandate and that of intellectual property and, consequently, disclosures to the Office of Intellectual Property. Members would like to see this clarified in the proposed policy.

Members were also concerned about the lack of clarity regarding the transfer of research materials. For example, subjecting postdoctoral scholars to a special review and approval process can pose a challenge and be a barrier for this same population, many of whom are starting research careers. Members suggested that the philosophy behind the proposed policy in some way poses anticompetitive nature, which is antithetical to the academic enterprise, retaining what people can do with their discoveries and accomplishments and making it more difficult for them to continue on their path.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to contact me via the Graduate Council Analyst, Estrella Arciba, at earciba@senate.ucla.edu.



OFFICE OF THE ACADEMIC SENATE
ROBIN DELUGAN, CHAIR, ACADEMIC SENATE
senatechair@ucmerced.edu

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

February 26, 2021

To: Mary Gauvain, Chair, Academic Council

Re: [Presidential Policy on UC Research Data and Tangible Research Materials](#)

The Merced Division Senate and School Executive Committees were invited to comment on the proposed Presidential Policy on UC Research Data and Tangible Research Materials. Comments were received from the Committee on Research (CoR), the Committee on Faculty Welfare and Academic Freedom (FWAF), the Graduate Council (GC) and the School of Social Sciences, Humanities and Arts (SSHA) Executive Committee. Their comments are appended for your consideration. Committee comments on the policy varied. CoR raised several questions about the policy; FWAF found the policy to be generally aligned with standard policies of higher education institutions; however FWAF raised some concerns about the singular authority attributed to the Vice Chancellor for Research for the oversight, interpretation, and implementation of the policy at the campus level. GC commented that the policy is particularly relevant in the context of current campus discussions of topics related to research, especially involving graduate students. GC raised some questions regarding the policy section "Student Participation in Research" and how to address retention and ownership of the research data and materials for circumstances whereby students decide to leave their original advisors' labs. GC concluded that, with regards to the retention of research data, there are concerns that users of centralized data management systems may not be adequately redirected when their data has been transferred to a new system. In GC's view, it would seem beneficial for data managers to provide the pertinent information displayed permanently where users of the previous data management system have access to, beyond notifications sent via electronic mail. The SSHA Executive Committee stated that the policy should carefully define what research data UC actually wants to own and remarked that the policy as currently written is overly broad.

Divisional Council (DivCo) discussed committee comments at its February 19, 2021 meeting. Members' observations are summarized below.

It was pointed out that the previous policy was too vague, and the new policy aims to be more specific given the many different forms of data that faculty now generate. Members noted that the new policy is problematic because the UC seems to want to own faculty data, yet seemingly they do not wish to pay to keep it. Student participation with regard to data is also unclear.

Members remarked that the scholarly output that faculty produce can make it impossible for the UC to claim sole ownership. For example, faculty work on collaborative projects with other universities,

institutions, and communities of scholars. The data that results from these projects is owned by several entities. It is unclear how the proposed Presidential Policy would address that.

Echoing GC's comments, members of DivCo noted that it is not clear how the policy would apply to graduate students on fellowships. When graduate students secure their own funding and collect their own data, is their supervisor's laboratory still responsible for securing the students' data? Does the laboratory own the data? If a graduate student moves to another university or institution, does the student lose their rights to the laboratory's data? Also, what happens to the data if a faculty member is on a fellowship or on sabbatical? Some of these concerns can apply to postdocs as well, and it is not clear how the policy addresses their research data.

Assembly Bill 1755 (The Open and Transparent Water Data Act) mandates that any water quality data collected through state funds must be owned by the state and provided publicly in a state repository. This, or similar mandates, was not reflected in the proposed Presidential Policy.

DivCo wonders how the UC would enforce the policy given the open-ended definition of data which can include laboratory notebooks, mathematical models, and theories. Any successful enforcement will necessarily rely on faculty PIs for robust disclosure, compliance and enforcement. However, the process for generating this policy has not sought to engage those faculty in co-generating a policy with broad buy-in from those the system would rely on to enforce it.

DivCo agrees with the SSHA Executive Committee that the Presidential Policy should carefully define what research data the UC actually wants to own.

The Merced Division thanks you for the opportunity to review and offer comments on this policy.

Sincerely,



Robin DeLugan
Chair, Divisional Council
UC Merced

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

UNIVERSITY OF CALIFORNIA, MERCED

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SANTA BARBARA • SANTA CRUZ

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

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

February 12, 2021

To: Robin DeLugan, Chair, Division Council

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

A handwritten signature in black ink, appearing to read "Kara McCloskey".

Re: Proposed Presidential Policy on University of California Research Data and Tangible Research Materials

CoR reviewed the proposed Presidential Policy on University of California Research Data and Tangible Research Materials. We offer the below comments.

This draft of the policy seems to largely move in the right direction, as it replaces one size fits all requirements like "Researchers must keep all Tangible Materials for 6 years." with guidelines that allow for more flexibility, stating that: "Research Materials as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law."

A few comments/questions:

1. The document "UNIVERSITY OF CALIFORNIA DATA AND TANGIBLE RESEARCH MATERIALS POLICY POINTS CONSIDERED" states that this policy has emerged because there was no clear policy on the maintenance of research materials and data (at least not to the degree there is for administrative records). However, if the new requirement is simply to comply with the law, funders, and campus regulations, then what has actually changed? Weren't researchers always required to comply with campus regulations, the law, and contractual obligations to funders? If those existing regulations were sufficient or sufficiently clear, aren't they still that way?
2. How does this new policy relate to research that uses the assets of corporation or other private party? For example, what if researchers do a joint survey or behavioral experiment with Facebook using their platform. That likely won't be possible if the University of California demands ownership over all the data produced by that study.
3. The policy on the Transfer of Research Data or Tangible Materials to Another Institution states that "the University will always retain ownership of original Research Data and Tangible Research Materials even if the Principal Investigator or the research is transferred to another institution." However, it is unclear what this claim of "ownership" means legally. That is, what does it mean to say the UC own data? Is the UC asserting copyright over data we collect, even though it doesn't hold the copyright to other work we produce? If so, do we now need to get the UC's permission every time we send data to a colleague at another institution? What about jointly produced work with researchers at other institutions, who owns what part of that? Does each party have a veto over any transfer? If, instead of copyright, the UC is

asserting a license to the data, what are the terms of this license and where are they specified? These issues need to be clarified.

We appreciate the opportunity to opine.

cc: Senate Office



ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON FACULTY WELFARE AND ACADEMIC FREEDOM
CAROLIN FRANK, CHAIR
cfrank3@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343
(209) 228-4369

February 12, 2021

To: Robin DeLugan, Chair, Divisional Council

From: Carolin Frank, Chair, Committee on Faculty Welfare and Academic Freedom (FWAF)

Re: New Presidential Policy on UC Research Data and Tangible Research Materials

FWAF reviewed the proposed Presidential Policy on University of California (UC) Research Data and Tangible Research Materials at its meeting on February 10, 2021. While members found the policy to be generally aligned with standard policies of higher education institutions, concerns were raised about the singular authority attributed to the Vice Chancellor of Research (VCR) for the oversight, interpretation, and implementation of the policy at the campus level.

The policy document, on page 4, in Section IV.A., designates the VCR, or their designee(s), as the sole party responsible for establishing local procedures for managing research data and materials when a researcher (in any status including, but not exclusively, faculty, student, and staff) ends their affiliation with UC (either by choice or otherwise), or "can no longer fulfil their responsibilities." Questions arise from this provision, namely:

- How can the local procedures ensure that the rights of the researcher, who created the data or tangible research materials, are protected, if these procedures can be established by the VCR and/or persons chosen by the VCR only?
- What is the process by which a researcher is deemed unable to fulfil their responsibilities? Does the researcher have any recourse within the process when such a judgment is made against their will?

These questions are especially relevant if the VCR has had any personal conflicts or other negative interactions with the researcher.

A possible solution to address the above concerns may be found in page 6, where it is stipulated: "On a case-by-case basis, the campus in consultation with the Vice Chancellor for Research or their designee(s) may allow for the transfer of Research Data or Tangible Research Materials to another institution". FWAF strongly recommends that the Senate, through one or more of its committees (certainly the Committee on Research), be a part of the consultation to evaluate such transfer requests, to ensure that faculty interests are represented. It would be advisable that the Senate also be an active participant in the establishment of the local procedures for the management of research data and materials.

FWAF appreciates the opportunity to opine.

cc: FWAF
Senate office
Fatima Paul, Executive Director, Academic Senate

Enclosure: 1 (Proposed Presidential Policy)



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

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

FEBRUARY 12, 2021

TO: ROBIN DELUGAN, CHAIR, DIVISIONAL COUNCIL

FROM: HRANT HRATCHIAN, CHAIR, GRADUATE COUNCIL

RE: PROPOSED PRESIDENTIAL POLICY ON UC RESEARCH DATA AND TANGIBLE RESEARCH MATERIALS

Graduate Council (GC) has reviewed the proposed Presidential Policy on UC Research Data and Tangible Research Materials, and offers its comments below.

GC found the proposed policy to be of particular relevance to the ongoing discussions at the council and wider campus regarding research, especially involving graduate students.

The proposed policy document, in page 4 under "Student Participation in Research," states that research data and tangible materials "must be retained until the student has been awarded a degree or has abandoned the work." This raises a question about students who decide to change their advisors after participating in research projects their advisors lead, most commonly with external funding. Do the students retain their access to the research data and materials, given that the University owns the research data and materials regardless of the funding source, or are they considered to have "abandoned the work" when they leave the original advisors' labs?

In addition, there are student-initiated projects where the advisor still serves as the PI. It would seem unreasonable that the research materials could be discarded when the student is awarded the degree or at the time the student leaves the work. It is not uncommon that a project receives comments and additional analysis requests after it has been published. Thus, GC believes that research materials should be kept after the student leaves, but access to data may be cut as soon as they are no longer involved. It may be better to specify a more reasonable window of time after which materials can be destroyed, which should be consistent with the University policy.

GC also notes that, with regards to the retention of research data, there are concerns that the users of centralized data management systems are not adequately redirected when their data has been transferred to a new system. It would seem beneficial for data managers to provide the pertinent information displayed permanently where users of the previous data management system have access to, beyond notifications sent via electronic mail.

Graduate Council appreciates the opportunity to opine.

CC: Graduate Council
Senate Office

Encl: (1)



SCHOOL OF SOCIAL SCIENCES, HUMANITIES AND ARTS

UNIVERSITY OF CALIFORNIA, MERCED
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12 February 2021

To: Robin DeLugan, Chair, Merced Division

From: Susan Amussen, Chair, SSHA EC 

Re: Presidential policy on Research Data and Tangible Research Materials

The SSHA Executive Committee has reviewed this policy. The policy as currently written is overly broad, impossible to enforce, and a danger to the intellectual property of faculty members. It needs (ideally) to be completely scrapped, or else significantly revised. In our discussion, we noted that we have copyright in our written work and publications; the research data we collect is critical to our publications, and it is not clear why it is treated differently than our publications.

There were disciplinary differences in how EC members responded to the policy, differences that make evident the need for a more carefully drawn policy. For instance, historians laughed at the idea that anyone could sort out their "research data", while those who have done research, with members of the UCM community were horrified to think that records of interviews of those who had been promised confidentiality would now belong to the University. In both those cases, as with most humanities research, the research is a key part of the writing process, and as much our intellectual labor as writing. On the other hand, those who had worked with federal granting agencies were less alarmed.

If UC needs a policy governing research materials, the policy should carefully define what research data UC actually wants to own. A policy needs to **start** with the wide variety of research and research data collected by UC faculty, as well as issues of confidentiality, federal regulations regarding certain research data, commitments that faculty make to research participants, and issues raised by Digital Humanities projects. Finally, it also needs to address how the intellectual work of data gathering is acknowledged should anyone else utilize data that UC would own. Such a narrowed focus would also ensure also that any such policy can be enforced and monitored without just growing the administrative structure of UC.



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

JASON STAJICH
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March 8, 2021

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

RE: New Presidential Policy on UC Research Data and Tangible Research Materials

Dear Chair Gauvain,

The Riverside Division discussed the New Presidential Policy on UC Research Data and Tangible Research Materials and I transmit the comments provided by the Committee on Academic Freedom, Graduate Council, Committee on Library & Information Technology, and the Committee on Research.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jason Stajich".

Jason Stajich
Professor of Microbiology & Plant Pathology and Chair of the Riverside Division

CC: Michael LaBriola, Assistant Director of the Academic Senate
Hilary Baxter, Executive Director of the Academic Senate
Cherysa Cortez, Executive Director of UCR Academic Senate



Academic Senate

COMMITTEE ON ACADEMIC FREEDOM

January 22, 2021

To: Jason Stajich, Chair
Riverside Division Academic Senate

From: Frederick Wilhelm, Chair
Committee on Academic Freedom

Re: New Presidential Policy on UC Research Data and Tangible Research Materials

The UCR Senate Committee on Academic Freedom reviewed the Proposed UC President's Policy on Research Data and Tangible Research Materials, and did not find any eminent concerns regarding Academic Freedom.



Academic Senate

GRADUATE COUNCIL

February 25, 2021

To: Jason Stajich, Chair
Riverside Division

From: Amanda Lucia, Chair
Graduate Council

A handwritten signature in blue ink, appearing to read "Amanda Lucia".

Re: [Systemwide Review] Proposed Policy: New Presidential Policy on UC Research Data and Tangible Research Materials

Graduate Council discussed the proposed new Presidential Policy on UC Research Data and Tangible Research Materials at their February 18, 2021 meeting.

The Council was favorable of the new policy but would have liked more clarification about the history and potential impacts of the new policy, and definitions of distinctive terminology included therein (i.e. tangible versus non-tangible research). The Council noted that it is highly ineffective to distribute and solicit comments on new policy without attached memos that frame and contextualize existing policy and proposed changes.



Academic Senate

February 18, 2021

To: Jason Stajich, Chair
Riverside Division

From: Alejandra Dubcovsky, Chair
Committee on Library and Information Technology

RE: Systemwide Review: New Presidential Policy on UC Research Data and Tangible Research Materials

The committee discussed this report. The intentions and suggestions of the report seem good. However, the report lacks any specificity about how it would operate. For example, it fails to define what “data” actually entails. It is hard to envision what access and preservation of “data” looks like, when there is no clear definition of “data.” Moreover, discussions of preservation and access of research data have huge implications for ITS and the Library. Yet the report did not provide any details of how specific campuses should respond. There is the implicit, but never raised issues of budget. For example, data preservation is very costly; who would absorb those costs? If this a policy to be enacted across all UC campuses, then more explicit details should be provided about how (especially financially) the proposals are to be carried out. This unfunded mandate places a huge and unacknowledged burden on the Library and ITS.



Academic Senate

February 19, 2021

To: Jason Stajich, Chair
Riverside Division

From: Hai Che, Chair
Committee on Research

Re: 20-21. SR. New Presidential Policy on UC Research Data and Tangible Research Materials

The committee on research reviewed the New Presidential Policy on UC Research Data and Tangible Research materials and noted on page 11 of the proposal:

“On a case-by-case basis, the campus in consultation with the Vice Chancellor for Research or their designee(s) may allow for the transfer of Research Data or Tangible Research Materials to another institution if it has been determined that the transfer of the Research Data and/or Tangible Research Materials would not impede other Workforce Members from continuing their research, does not conflict with legal or contractual requirements, and as long as the new institution accepts custodial responsibilities for the Research Data or Tangible Research Materials. The University may retain a copy of the Research Data or Tangible Research Materials and must retain access to the Research Data or Tangible Research Materials should that become necessary.”

That “may” is extremely restrictive and should be “will” to ensure the transfer if deemed allowable by the relevant parties.



March 23, 2021

To: Mary Gauvain, Chair
Academic Senate

From: Susannah Scott, Chair
Santa Barbara Division

A handwritten signature in black ink that reads "Susannah L. Scott".

Re: Systemwide Review of Proposed Presidential Policy on University of California Research Data and Tangible Research Materials

The Santa Barbara Division distributed the Proposed Presidential Policy on University of California Research Data and Tangible Research Materials to the Council on Planning and Budget, Council on Research and Instructional Resources, Council on Faculty Welfare, Academic Freedom and Awards, Committee on Diversity and Equity, Graduate Council, Committee on Information Technology, Committee on Academic Personnel, and the Faculty Executive Committees (FECs) of the Bren School, the College of Creative Studies, the College of Engineering, the Gevirtz Graduate School of Education, and the College of Letters and Science. The Committee on Academic Personnel and the FECs of the Bren School and College of Creative Studies opted not to opine.

We understand the need to address issues concerning the ownership of data and tangible materials generated during the course of UC research. While this is a laudable aim, and we recognize the benefits of local discretion, the responding groups raise substantial practical concerns and questions (attached) that indicate the need for further consideration of the proposed policy.

The primary tenor of the responses is that the proposed policy creates an unfunded mandate that is likely to exceed organizational capacity and create compliance difficulties. Reviewers raise concerns about the costs and space associated with the management, retention, preservation, access and sharing of research data and tangible research materials, as specified. They emphasize the tremendous burden that principal investigators (PIs) and researchers will be forced to bear, given the lack of information about the personnel, infrastructure, funding and space on the campuses necessary to support the proposed activities. They express the need for further guidance regarding expectations and available resources.

Among the many issues the reviewers pinpoint is the distinction between intellectual property and data, the potential implications for social, cultural, ethnographic and humanities research, information privacy and security (HIPAA, human subjects), cloud storage and third-party vendors, academic freedom, open

access, training, long-term stewardship following employee separations, etc. These are all issues that need careful thought, and the Santa Barbara Division recommends that the proposed policy be revisited and resubmitted for Senate review.

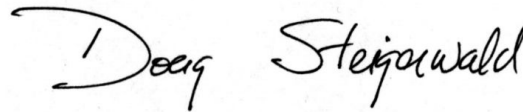
We thank you for the opportunity to opine.

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

January 22, 2021

To: Susannah Scott
Chair, Academic Senate

From: Douglas Steigerwald, Chair
Council on Planning & Budget



Re: Policy on UC Research Data and Tangible Research Materials

The Council on Planning & Budget (CPB) has reviewed the proposed Policy on UC Research Data and Tangible Research Materials.

Definitions: Research data is defined by recorded institutional information reflecting original observations, regardless of the form or medium, while tangible research materials are items produced or collected in the course of research. In either case, these materials and/or items are generated or collected in connection with research: (1) within the course and scope of a Workforce Member's assigned or assumed duties; (2) using University research facilities or other University research resources; or (3) with funding from or through the University. There are key exclusions to these details, such as administrative records and scholarly works.

Background: The proposed policy originates from the Research Policy Analysis and Coordination (RPAC) unit within the Department of Research and Innovation at UC Office of the President as an effort to harmonize the treatment of these materials and/or items under a single UC policy. Previously, individual campuses were left to develop ad-hoc policies.

CPB Analysis: This policy is considered a *preliminary* draft with the acknowledgment that there were certain aspects of the draft that could benefit from further discussion. The policy, while broad, is specifically constructed to address three broad issues:

1. Burden of compliance: meet requirements placed by federal funding and regulatory agencies to maintain data management plans.
2. Burden of proof: address potential UC patent and intellectual property disputes and other legal actions related to research work,
3. Burden of retaining rights: archive materials after separation of researchers from the UC or to protect student progress,

The proposed policy ultimately replaces one ad-hoc policy with another and shifts the burden of interpreting and implementing the policy to the campus Vice-chancellor of Research and individual Principal Investigator (PI). Furthermore, the policy seeks to establish the “burden” above in accordance with the standards of the Principal Investigators’ scholarly disciplines and, therefore, cannot provide a rigorous standard of data management.

In the three cases outlined above, the burdens imposed on the PI might be quite different and are not clearly addressed as a coherent policy. The policy suggests the need, but does not offer solutions, for how materials are properly curated, collected, recorded, securely retained, managed, and appropriately accessible for the maximum duration required. These details must also be coordinated with campus Chief Information Officers and Librarians responsible for archival information.

The Council on Planning & Budget (CPB) makes several recommendations.

- A. The policy does not explicitly mention the Health Insurance Portability and Accountability Act (HIPAA) and how HIPAA data is handled on campus information systems outside of a clinical environment. On some campuses, Google cloud services are HIPAA-approved, while on other campuses, Google cloud services are not HIPAA approved. Non-conforming information systems complicate collaborations between UC faculty across multiple campuses and the archiving of shared data.
- B. While the policy shifts the burden on PIs, most electronic storage on campus is handled by cloud-service providers (e.g., Google) managed by the campus Chief Information Officer (CIO). With most campuses eliminating on-campus servers to leverage cost efficiency, the data storage, retrieval and lifetime are handled through agreements worked out by CIOs with information system vendors.
- C. The cost and time required to identify potentially valuable research material at the time of creation is not discussed. While items such as laboratory notebooks are written records of the research product and might be easily copied (though rarely actually are copied), tangible items, such as machines or equipment that are produced, would require some method to document without explicit storage of the item. Oversight of the means of documentation would require support through an archival librarian, particularly if the goal is to meet an unanticipated legal burden of proof.
- D. The cost of maintaining research archives is not adequately described in the current policy and imposes a responsibility on the PI without establishing what resources (e.g., lab space) should be provisioned to capture all research materials over an adequate period of time. This requirement might be carved off and handled through a different policy.
- E. In the case of separation or retirement, the policy is impossible to enforce without shifting the burden of data archiving from the PI to another party on campus. In the case of tangible materials, maintain space or archives for research materials developed by researchers. Where does a researcher leave materials? Placing the burden on the University to retain a copy and access of the Research Data or Tangible Research Materials poses an expensive and complicated proposition with the need for librarians to catalog materials or the use of 3rd party services to undertake these roles.


- F. To prevent catastrophic loss of information, the policy should provide for long term safeguarding of faculty research. In the case of a faculty member who produces materials over a 40-year career, including course development, research, data collection and analysis, software development, visualizations, publications, professional communications, etc., will these materials be left on department websites, cloud-storage facilities, or deposited in the university's special collections? How will the data produced over the entire career of a faculty member be retrieved?
- G. Other efforts, coordinated through the American Association of Universities (AAU), seek to improve public access to UC-generated information, and funding agencies are trying to formulate policies to make data open access. In the process of building a UC policy, it might make sense to develop a campus-level working group for archiving and research curation.
- H. How would the policy define an expiration date for information archive and retrieval?

In short, while a policy need has been identified and several potential uses for the policy exist, the proposed policy leaves the campus VCR and PIs to interpret the policy without sufficient funding or information resources. In most cases, PIs can be motivated solely by the requirements of the funding agency, and placing additional, potentially expensive demands, will likely not serve the graduate student researchers. In each of the three "burdens" documented above, the UC should seek policies to address these by working with stakeholder groups that have an interest in the future recall of the research data and tangible materials.

cc: Shasta Delp, Academic Senate Executive Director

March 10, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Forrest Brewer, Chair 
Council on Research and Instructional Resources

Re: UC Research Data and Tangible Research Materials Policy

The Council on Research and Instructional Resources reviewed the proposed policy in its respective subcommittees, the Committee on Instructional Technology (February 26, 2021), and the Committee on Research Policy and Procedures and Committee on Library, Information and Instructional Resources (both on March 5, 2021).

Members requested additional context for the policy; they felt they didn't entirely grasp what the policy was trying to do or why. Is the purpose of this to guard resources, to promote safer research practice or to assert UC control of results to make way for fair treatment when PI's enter or leave the university?

That said, the overall reaction is that the policy presents an enormous burden for researchers without providing sufficient guidance or resources to execute its requirements.

There are many actions related to data referenced in the policy; while retention is the primary focus, it would be helpful for scoping and clarity if all the actions were reviewed to see if they were synonyms or distinct, and which pertained to whom and when. Any communications about options and services available to faculty to comply with this policy ought to be aligned with the cybersecurity initiative ("Protect UC's Digital Research Data").

The policy would be more palatable if broken into separate issues specific to the vastly different disciplines at the university. The original APM-020 has one sentence on this issue. Trying to broaden that without such specificity is the source of many problems. For example, members have significant concerns about the reach of this policy as it relates to sensitive research data i.e. human subjects/interview material.

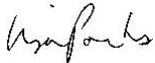
UCSB has efforts underway to preserve digital research through the library, but they are a work in progress, with hiring essentially frozen, and not remotely at the scale that this policy mandates.

Additionally, some members felt this was a massive change in the relationship between researchers and the University of California and they disputed the distinction between intellectual property and data. Given the research design determines data collection, they argue it is impossible to divorce from intellectual property. Although the policy attempts to distinguish by excluding "scholarly works," they feel the distinction is dubious. The policy should be a best-effort document describing the goals of the university and potentially specific areas where it can be sensibly adopted.

CC: Shasta Delp, Executive Director, Academic Senate

March 16, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Lisa Parks, Chair 
Council on Faculty Welfare, Academic Freedom, and Awards

Re: Review of UC Research Data and Tangible Research Materials Policy Proposal

The Council on Faculty Welfare, Academic Freedom, and Awards met on March 3, 2021 to discuss the proposed policy for UC Research Data and Tangible Research Materials. Council members' comments on the report are provided below.

Significant digital and other infrastructure will be required to support the new storage/preservation requirements outlined in this policy, but the document stops short of designating the university's responsibility for such infrastructure. As written, it is incumbent on PI's to include provisions for digital and other infrastructure. Members are concerned by the expansive language, "All Workforce Members are responsible for: Accurately curating, generating, collecting, recording, managing, and securely storing Research Data and Tangible Research Materials." This may place unreasonable burdens on all research faculty. The policy should charge campuses (e.g. EVCs for research; libraries; or other entities) with the responsibility of providing and maintaining an infrastructure for the storage and preservation of research data and tangible materials.

As written, this policy has significant implications for social, cultural, ethnographic and humanities research. It potentially undoes privacy controls inherent in human subjects' protections. This broad claim of UC ownership of all research data and tangible materials has serious implications for the social sciences, humanities, artists, and other work in which the privacy of respondents or participants has been promised. Researchers have a responsibility to protect the anonymity of human subjects in many research contexts. This policy seems incompatible with that mission. Moreover, if the data is property of the university, then it is de facto the property of the people of California. Does this mean anyone can request and gain access? The policy also does not adequately address data ownership in cases where the federal government has conflicting ownership claims through grant funds. The policy needs to better address such issues.

A more explicit explanation of what it means for the UC to "own" data is necessary. Faculty should have assurance that such ownership does not give the university the right to restrict data access and use, which would pose significant violations to academic freedom. Members expressed varying concerns about the UC owning 'knowledge' and how that was antithetical with open source movements and the dissemination of information in service of the University mission. Society at large is in the midst of reexamining colonial pasts and returning items from archaeological sites and museums back to their original "owners." Research projects involving Indigenous communities often designate enrolled

community members as the “collective owners” of research data that emerges. The policy has no provisions for such conditions.

Given such concerns, we believe it is urgent and necessary for the university to clarify that these policies do not apply to social, cultural, ethnographic, or humanities research. Those forms of data collection are covered by human subjects/IRB protocols, and have other norms of archiving and collection of findings where corporate-style IP “ownership” or museum-style capture and curation are ethically inappropriate.

The policy’s reach with regard to personal devices also requires further clarification. If someone uses their smartphone in the field, what are the provisions for meta data that is specific to the user and not within the purview of the UC?

Finally, there may be specific concerns related to STEM fields related to this policy that we have not commented on here that should be explored further.

The Council appreciates the opportunity to comment on the proposed policy and looks forward to further discussion of these vital issues.

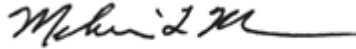
CC: Shasta Delp, Executive Director, Academic Senate

**Academic Senate
Santa Barbara Division**

March 12, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Melissa L. Morgan, Chair
Committee on Diversity and Equity



Re: UC Research Data and Tangible Research Materials

The Committee on Diversity and Equity (CDE) discussed the draft UC Research Data and Tangible Research Materials policy. The Committee viewed the policy through the lens of possible diversity and equity concerns. There is a need for protections for experiments with communities of color so that subjects feel comfortable; the care for confidentiality within these groups is commendable. Human research protocols should be stated within the policy.

There were some concerns about power differentials, especially between graduate and postdoctoral students and faculty members. Students may conduct a majority of research, but their PI will not allow them to take that work with them. It should be made more clear what it means that data stays at UCSB until the student leaves. There were also concerns with who gets their name on work. Implicit biases can influence these decisions, affecting underrepresented minority students at a greater rate, so this should be explicitly spelled out.

CC: Shasta Delp, Executive Director, Academic Senate

**Academic Senate
Santa Barbara Division**

March 15, 2021

To: Susannah Scott, Divisional Chair
Academic Senate

From: Tamara Afifi, Chair
Graduate Council



Re: UC Research Data and Tangible Research Materials

Graduate Council discussed the draft UC Research Data and Tangible Research Materials policy. Members agreed that research and data ownership issues can vary greatly across disciplines. However, Graduate Council unanimously agreed that new regulations that place increased work on faculty members should be vigorously opposed. Faculty who are active in research are increasingly distressed by the push by UC administration to continue to increase the amount of seemingly unnecessary record keeping. This takes faculty time away from the mission of the university, educating students and creating new knowledge. Federal funding agencies already have very specific data storage regulations. New regulations are also always imposed without any funding or personnel support to implement them.

Graduate Council vehemently disagrees with any new policy that places more administrative work on faculty. A careful cost benefit analysis should be conducted, and UC should be actively looking for ways to reduce the number of regulations.

CC: Shasta Delp, Executive Director, Academic Senate

March 2, 2021

TO: Susannah Scott
Divisional Chair, Academic Senate

FROM: Pradeep Sen, Chair
College of Engineering, Faculty Executive Committee

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RE: UC Research Data and Tangible Materials

The College of Engineering FEC met on Tuesday, March 2, 2021 and reviewed the policy and proposed changes.

The committee understands that the memo serves to reinforce the already-existing policy that research created at the University of California is the property of the University of California.

However, the committee seeks additional clarity regarding storage of materials and issues of cost, space, and other resources. Committee members are concerned that this policy will put undue burdens on Principal Investigators and their labs, as they will now have to store/archive all by-products from their research, even items that are not commonly saved during the normal course of research as per their specific field. Natural questions arise in terms of where are these physical things going to be stored? Who will be responsible for tracking these items? Normally physical items are often disassembled/recycled/destroyed in order to make space for new experiments/setups. If everything now has to be preserved, where is this additional space going to come from?

Furthermore, if a PI leaves the university, the committee wonders who will be responsible for storing materials in a safe and appropriate manner? Some of these materials could be dangerous (i.e., hazardous chemicals), sensitive in nature (i.e., data from a user study), etc., and only the PI and the researchers in their lab would be adequately trained to handle such items responsibly. It does not make much sense that these items would simply be "dumped" into some kind of university-wide repository where no one person would know how to handle all of these items properly.

February 8, 2021

To: Susannah Scott, Chair
Academic Senate

From: Carolyn Sattin-Bajaj, Vice Chair
Faculty Executive Committee, GGSE

Re: Systemwide Review of Proposed Presidential Policy – Research Data and Tangible Research Materials

The Faculty Executive Committee of the Gevirtz Graduate School of Education have reviewed the proposed Presidential Policy on Research Data and Tangible Research Materials. The GGSE FEC would like more information about the impetus for the policy to better understand its origins and the issue(s) to which it is responding. In addition, the GGSE FEC would like to know about the implications of the policy for informed consent procedures and how information about who will have access to or ownership of the data collected will be presented to research participations. Furthermore, how does the policy address instances in which sharing data or giving ownership to the University of California may not be appropriate for the research, may not in the participants' best interest, or participants do not want this? For example, in the case of community-based participatory research, ownership of "data" may be negotiated differently and/or may belong to the community or be shared in some way. Further clarification on these questions would be welcomed.



Carolyn Sattin-Bajaj, Vice Chair

February 23, 2021

To: Susannah Scott
Chair, Divisional Academic Senate

From: Sabine Frühstück
Chair, L&S Faculty Executive Committee



Re: UC Research Data and Tangible Research Materials

At its meeting on February 11, 2021, the Faculty Executive Committee of the College of Letters and Science (FEC) reviewed the proposed Presidential Policy on UC Research Data and Tangible Research Materials, which has been circulated for systemwide review at each campus. This document was developed by the Research Policy Analysis and Coordination (RPAC) unit within the UC Office of the President and includes the input of several Academic Senate committees. The draft policy states that the Regents of the University of California own Research Materials and Tangible Research Materials generated during the course of UC research, and also calls upon campus leadership and its researchers to work in partnership to manage, retain, preserve, protect, access, and share Research Data and Tangible Research Materials.

The FEC cited no objections to the proposed policy and voted to support it. What will be more significant to the committee are campus specifications on the logistics of data retention and transfer. The committee found that the supporting documentation's clarification of Scholarly Works as excluded from the Research Data category helpful in its evaluation of the policy.

cc: Pierre Wiltzius, Executive Dean of the College and Dean of Science
Jeffrey Stopple, Associate Vice Chancellor and Dean of Undergraduate Education
Charlie Hale, Dean of Social Sciences
Mary Hancock, Acting Dean of Humanities and Fine Arts



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125 CLARK KERR HALL
(831) 459 - 2086

March 22, 2021

MARY GAUVAIN, Chair
Academic Council

Re: Systemwide Review of Proposed Presidential Policy on University of California Research Data and Tangible Research Materials

Dear Mary,

The Santa Cruz Division of the Academic Senate has completed its review of the proposed Presidential Policy on University of California Research Data and Tangible Research Materials, with the Committees on Information Technology (CIT), Library and Scholarly Communication (COLASC), and Research (COR) responding. The overarching theme of the responses was one of concern over the lack of clarity in the rationale behind the need for the change in policy, how it differs from current IP policy, and how the University envisions the implementation of the new policy.

As noted above, the reviewing committees were unified with respect to what they observed to be a rather opaque policy. CIT refers to the policy as a “vague unfunded mandate.” COR puts a finer point on this when they worry that the policy “seemingly imposes on faculty researchers an administrative and financial burden that offers no hint of reimbursement.” Specifically, COR refers to pp. 3-4 of the proposed policy, under Section III, and the ambiguity in the language “Principal Investigators *must retain* Research Data . . .” Members were not sure if this would place on individual PIs the responsibility for the storage and curation of research data and the assumption of administrative financial costs as a result.

This lack of clarity left the committees unsure of where current obligations are implicated and new obligations imposed. CIT continues in this vein with their observation that the policy does not describe “who would control and manage the data/materials and how.” Inherent in both COR and CIT’s comments is the worry that additional uncompensated responsibilities will be imposed on faculty, and how materials are to be stored and the costs of storage met. It is also unclear what will be done with data and materials that are under UC’s ownership and how it will be protected.

The committees also are leery of increased administrative oversight and compliance requirements resulting from an augmented university bureaucracy that would be created to ensure compliance with the policy.

CIT took issue with what they perceived as the underlying assumption of the policy: that UC owns all research and data materials. On this point CIT reminds the authors of the proposed policy that, “there are many instances in which the UC does not own data and materials,” such as when the data is curated prior to employment with UC, and that some data is not owned by UC in the particular the context of a non-exclusive license.

On the whole, the proposed policy presented more questions than points of clarity particularly with regard to the role that the University intends individual faculty PIs to play in its implementation. The Senate recognizes that there is a tension between faculty and UC with regard to the ownership of research data and tangible materials, however vague policies such as the one proposed may serve only to heighten those tensions.

On behalf of the Santa Cruz Division, I thank you for the opportunity to comment on this important policy proposal.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Brundage", enclosed within a thin black rectangular border.

David Brundage, Chair
Santa Cruz Division of the Academic Senate

cc: Junko Ito, Chair, Committee on Academic Personnel
Nico Orlandi, Chair, Committee on Faculty Welfare
Brent Haddad, Chair, Committee on Information Technology
Paul Roth, Chair, Committee on Research
Jin Zhang, Chair, Committee on the Library and Scholarly Communication
Minghui Hu, Chair, Committee on Academic Freedom
Julie Guthman, Chair, Committee on Privilege and Tenure



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March 19, 2021

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

Re: Divisional Review of UC Policy on Research Data and Tangible Research Materials

Dear Professor Gauvain,

The UC Policy on Research Data and Tangible Research Materials proposal was distributed to San Diego Divisional Senate standing committees and discussed at the March 15, 2021 Divisional Senate Council meeting. Senate Council opposed the proposed policy as written.

The proposed policy is too vague and does not offer the necessary funding to implement its objectives. Clarification is needed for the ownership status of Research Data and Tangible Research Materials created with non-UC collaborators as well as the definition and role of "Principle Investigator (PI)" in collaborative work. The policy does not provide guidance for the separation of a workforce member, which would be particularly important as it relates to Graduate Students and their rights to Research Data upon separation, or the retirement of a PI. It is unclear exactly what type of data and materials fall under the proposed policy's purview so more detailed definitions may be necessary. Additional guidance regarding the curation and storage of data would be helpful since non-university data publishing sites may be utilized for this purpose. Council members fear that the problems that the proposed policy is meant to address would lead to the creation of new problems without further refinement.

The responses from the Divisional Committee on Academic Information Technology, Committee on Faculty Welfare, Committee on Library, Committee on Research, Committee on Planning and Budget, and the Graduate Council are attached.

Sincerely,

A handwritten signature in black ink, reading "Steven Constable".

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

February 17, 2021

PROFESSOR STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: UC Policy on Research Data and Tangible Research Materials

Dear Chair Constable,

At its February 11, 2021 meeting, the Committee on Academic Information Technology (CAIT) reviewed the proposed UC Presidential Policy on Research Data and Tangible Research Materials. Unfortunately, we believe that the proposed policy is not likely to be effective because it is too vague and does not offer any funding or material resources that will be necessary to implement its objectives.

The following are specific issues with the proposed policy that CAIT identified:

- The definition of “Principal Investigator” (PI) as a “Workforce Member who has primary responsibility for a research project” is problematic. It is often the case that multiple senior UCSD researchers collaborate on a research project with each collaborator being responsible for his or her own portion of the research. In each such case, no one person would have “primary responsibility” for the research project, so it would not make sense to arbitrarily designate one person as the PI.
- UC researchers often collaborate with non-UC researchers. The proposed policy should clarify the ownership status of Research Data and Tangible Research Materials generated as a result of such collaborations. For example this problem may arise in various big-data producing experiments. These typically are very large international collaborations such as LHC experiments, LIGO, large telescope collaborations, etc.. Such collaborations have their own rules on data preservation and ownership.
- The definition of “Research Data” as “Recorded institutional information reflecting original observations, regardless of the form or medium on which the information is recorded, that are generated or collected in connection with research” is too general and CAIT feels that the proposed policy does not clearly exclude notes and other non-data materials used in the creation of Scholarly Works, which are governed by other UC policies, from its definition of “Research Data”.
- The FAQ document is not fully consistent with the proposed policy document. For example, an academic journal article (which is considered under UC policy to be a Scholarly Work) could be construed as “Research Data” under the general definition provided in the proposed policy document, whereas the FAQ document suggests that this is not the case. In any event, the proposed policy document should contain the full details of the policy. If the proposed policy document is well-written, an FAQ document should not be necessary. Nevertheless, if an FAQ document is provided, it must be consistent with the proposed policy document, and it must not present additional policy details that are not fully and clearly articulated in the proposed policy document.

- UC researchers often choose to place their Research Data in the public domain. The policy should clarify whether data published in this way addresses data stewardship requirements and should cite the provisions under which a researcher can place data in public repositories and the licenses that would go with them.
- Many of the statements in the proposed policy are not actionable as written. For example, the proposed policy requires that PIs have “systems or practices for maintaining and retaining Research Data and Tangible Research Materials in accordance with stated requirements and with the standards of their scholarly disciplines and campus departments”. Yet such “systems or practices” are not stated in the document and, in fact, may not even exist for researchers in certain fields and certain departments. The policy should include guidance to campuses on how to provide for systems and protocols to support researcher stewardship responsibilities.
- Retaining Research Data and Tangible Research Materials requires both electronic and physical storage resources for which funding is necessary. Moreover, some Tangible Research Materials may have additional requirements such needing to be kept cold, and some may contain hazardous materials, thereby requiring additional resources to store safely. Consequently, the cost of complying with the proposed policy is likely to be significant. However, the proposed policy does not provide any mechanism through which the necessary funding can be garnered by researchers who do not have sufficient funding of their own.

While CAIT recognizes that the highly diverse nature of UC research makes it difficult to eliminate all ambiguities from such a policy, it believes that the proposed policy is ambiguous to the point of not being actionable by a large number of researchers. Furthermore, without any funding mechanism, even researchers who understand what is expected of them may not have the resources to comply with the policy. As such CAIT does not recommend that the proposed policy be implemented in its current form.

Sincerely,

Ian Galton, Chair
Committee on Academic Information Technology

cc: T. Javidi
J. Lucius
R. Rodriguez
B. Simon

February 26, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: Proposed Presidential Policy University of California Research Data and Tangible Research Materials

The Committee on Faculty Welfare (CFW) reviewed the proposed Presidential Policy University of California Research Data and Tangible Research Materials. The CFW has no objections to the proposed policy.

Sincerely,

Shantanu Sinha, Chair
Committee on Faculty Welfare

cc: T. Javidi

February 19, 2021

PROFESSOR STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: UC Policy on Research Data and Tangible Research Materials

Dear Chair Constable,

At its February 4, 2021 meeting, the Committee on Library (COL) reviewed the proposed UC Presidential Policy on Research Data and Tangible Research Materials. The COL has discussed the new policy and has agreed upon the following suggestions:

1. We note that the policy excludes scholarly works in defining research data (see FAQ item 4). The COL discussed phases of research data between “in-process” data which would clearly fall under the policy and data published alongside an article or other scholarly work. The policy may wish to clarify if/when research data transitions from being a university owned item to a “scholarly work,” if ever. For example, if a researcher creates an analyzed dataset and publishes it on a UC-managed data publishing service like Dryad, does that become a “scholarly work.”
2. In addition to pointing to the services of the California Digital Library (see VI. Related Information) the policy would benefit from referencing campus libraries and the expertise they provide to support researchers including:
 - a. Consultation on data and tangible research materials evaluation, organization, preservation and publishing
 - b. Potential support for storage and preservation of research data and tangible materials
 - c. Consultation with researchers regarding compliance with funder mandated data publishing (e.g. NIH policies)
3. The policy does not speak to the complex “valuing” process that a researcher naturally engages in when reviewing data for retention. The Committee on Library recognized that the work of evaluating the value of data likely resides with the researcher, or as a dialog between the researcher and the curation facility. How does this role align with the oversight role articulated for the VCR? A potential suggestion under B. workforce Members Responsibilities would be to include the concept of “data evaluation” to prioritize data needing retention/protection.
4. The policy is agnostic with regards to the mechanisms for curation/storage except that secure storage must comply with UC’s electronic information security policy (<https://security.ucop.edu/policies/>). The Committee on Library discussed how non-university data publishing sites (e.g. dataverse, publisher-maintained data publishing) factored into this policy and whether or not there is a stronger statement to make regarding the location of data on university-stewarded platforms. The Committee noted that as a matter of practicality, over time research data may only be retained on publicly available platforms and that there is risk associated with this, especially if the platform is managed by a commercial (or otherwise non-UC) entity.

If you would like COL to provide elaboration or have any other requests, please do not hesitate to contact me.

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Sincerely,

John Hildebrand, Chair
Committee on Library

cc: T. Javidi
J. Lucius
R. Rodriguez

February 16, 2021

STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: Review of UC Policy on Research Data and Tangible Research Materials

The Committee on Research (COR) discussed the proposed Presidential Policy on University of California Research Data and Tangible Research Materials at their January 25, 2021 meeting. The Committee endorsed the proposed policy, and while COR was pleased that many of the policies and practices in the document were already commonly practiced at UC San Diego, we offer the following feedback about the UC Policy.

COR members believe that it would be valuable if the policy stressed the importance and obligation of workforce members providing their research data to Principal Investigators (PI) upon their separation from the University. The policy states that all workforce members are responsible for accurately curating, generating, collecting, recording, managing, and securely storing Research Data and Tangible Research Materials. This is important, but it would be of greater practical value if it also states that workforce members need to proactively provide their research to the PI in order for the PI to carry out the recording, managing and storing of said data and research materials. Without such a policy, COR members fear that for separating workforce members, the path of least resistance is to permit any materials that they were responsible for to be ignored or neglected.

We thank you for the opportunity to comment on the proposed new Presidential Policy on University of California Research Data and Tangible Research Materials.

Sincerely yours,

Victor Ferreira, Chair
Committee on Research

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

February 24, 2021

STEVEN CONSTABLE, CHAIR
Academic Senate, San Diego Division

SUBJECT: Proposed Presidential Policy University of California Research Data and Tangible Research Materials

The Committee on Planning & Budget reviewed the Proposed Presidential Policy University of California Research Data and Tangible Research Materials. The committee has no objections to the proposed policy. A few issues were raised during our discussion which we would like to share.

1. Regarding the Research Data and Tangible Research Material Retention, it is still unclear how such retention of data will be funded in circumstances when the project is terminated, when the project's funds have run out and/or when the project's Principal Investigator is separated from the University.
2. Regarding the Transfer of Research Data or Tangible Research Materials to Another Institution, the updated policy states that the campus may allow for the transfer of original Research Data or Tangible Research Materials to another institution *on a case-by-case basis*. The policy also leaves open whether a formal agreement would be required, with the goal that this is also managed by the campus *on a case-by-case basis*. It is unclear whose responsibility it will be to make the abovementioned decisions for each case.
3. Regarding the use of Common Data Identifiers and Data Management Plans for Data Retention, it is suggested that further resources would be helpful and could be addressed in future policy guidelines. Given that retention of data by the University will only be useful if the data retained are identifiable, it would be important to include in the current policy guidelines ways to ensure that data are retained in a usable manner.

Sincerely,

Kwai Ng, Chair
Committee on Planning & Budget

cc: T. Javidi

February 23, 2021

PROFESSOR STEVEN CONSTABLE, Chair
Academic Senate, San Diego Division

SUBJECT: Review of UC Policy on Research Data and Tangible Research Materials

At its February 8, 2021 meeting, the Graduate Council reviewed the UC Policy on Research Data and Tangible Research Materials. In general, the Council had no objections to establishing this new policy. Council members offered the following comments for consideration:

- It seems that the local procedures that will be developed by the campus leadership to comply with the policy will have a significant impact on researchers at UC San Diego. The Council recommends that if this policy is adopted, then the Senate should have an opportunity to review and comment on the proposed local procedures prior to implementation.
- The Council recommends adding an explicit statement in recognition of graduate students and their rights to access data that they created. Graduate students are currently included under references to research collaborators and an explicit treatment, noting explicit rights and responsibilities, of their role would be helpful.

Sincerely,

Lynn Russell, Chair
Graduate Council

cc: B. Cowan
T. Javidi
J. Lucius
R. Rodriguez

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

March 23, 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: Systemwide Review of Proposed Presidential Policy University of California Research Data and Tangible Research Materials

Dear Mary:

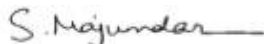
The San Francisco Division of the Academic Senate has reviewed the proposed Presidential Policy University of California Research Data and Tangible Research Material.

The UCSF Committee on Faculty Welfare (CFW) and the UCSF Committee on Research (COR) both expressed concern that the proposed policy would create new and substantial responsibility for principal investigators and campuses without providing sufficient guidance about implementation. Both committee letters, which are enclosed here, articulate many unaddressed issues and concerns about implementation arising from this proposed policy.

In addition to questions about implementation, we are also concerned about resource support for this proposed policy. For example, how will UC and each campus pay for the costs associated with the policy, including but not limited to, infrastructure and training? Without appropriate resources, the implementation of this policy will essentially amount to an unfunded mandate for UCSF, as well as other UC campuses.

We urge the University to revise this proposed policy, providing additional guidance. In doing so, we request that UCSF faculty be included in the drafting process. UCSF receives the most NIH funding in the UC system and yet a representative from UCSF was not included in the original group that developed the proposed policy.

Sincerely,



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

Enclosures (2)

Cc: Marguerita Lightfoot, PhD, Chair, UCSF Committee on Research
Jill Hollenbach, PhD, Chair, UCSF Committee on Faculty Welfare

Committee on Faculty Welfare

Jill Hollenbach, PhD, MPH, Chair

March 16, 2021

Sharmila Majumdar, PhD
UCSF Academic Senate Division Chair

Re: Presidential Policy on UC Research Data and Tangible Research Materials –
Systemwide Review

Dear Chair Majumdar:

The Committee on Faculty Welfare (CFW) writes to express concerns about the proposed Presidential Policy on UC Research Data and Tangible Research Materials that is out for a systemwide review.

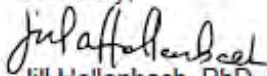
The proposal gives principal investigators (PIs) significant responsibility for maintaining data and specimens on behalf of the Regents, but the policy provides little guidance about how to do this. CFW acknowledges that the proposed policy expects campuses will develop standards at the Vice Chancellor for Research level for retention that are in accordance with scholarly disciplines, but the proposed policy should give the campuses some directives and guidance. Otherwise, there is little reason to have a systemwide policy.

The proposed policy mandates that PIs have systems and practices in place to retain data and materials, but the proposed policy does not say what that means. Do PIs need backups? Do PIs need redundancies? Who judges if the systems and practices are adequate? Will PIs be regularly reviewed for compliance? What are the enforcement mechanisms for ensuring data and specimens are retained? Are there penalties if a faculty member is found to be out of compliance with the policy? These unanswered questions suggest the proposed policy is a mandate without guidance.

CFW also wonders how each campus and the university will pay for the infrastructure and training needed to ensure compliance with data retention policies and procedures.

CFW believes that this systemwide proposal gives campuses inadequate guidance and should be revised. CFW also believes that representative(s) from UCSF should be a part of the review process. UCSF is the biggest recipient of NIH funding in the UC system. A representative from UCSF should have been included on the original group that developed the proposed policy, and a representative from UCSF should be part of any additional review.

Sincerely,



Jill Hollenbach, PhD, MPH
Committee on Faculty Welfare Chair

March 22, 2021

Professor Sharmila Majumdar, PhD
Chair, UCSF Academic Senate

RE: Systemwide Review of Proposed Presidential Policy University of California Research Data and Tangible Research Materials

Dear Chair Majumdar,

The proposed policy Research Data and Tangible Research Materials is germane to the Committee on Research and thus we appreciate this opportunity to comment.

- The rationale for the draft proposed policy is not clearly articulated. Science is rarely conducted by substantiating, or building upon, other scientists' results by digging into the archived, granular-level data, "retained and managed" by their host institutions. Rather, in fact, it is a sine qua non for advancement of scientific knowledge for one researcher to replicate the work of another applying identical methods to new, independent samples, drawn from the overall population of things-under-study. These populations are rarely contained by a single university or university system.
- The definition of tangible research data and research material is too broad. If applied as defined in the draft, this would, for example, mean that even processing pipelines, computer codes developed for the analysis of the data etc., would automatically become property of the University. On the one hand, this kind of research output would in the case of a dispute no longer be available to the PI after leaving the UC system. On the other hand, this policy would be difficult to enforce because these output could be duplicated without access to the UC version.
- We request that the final policy define the terms "curated" and "appropriately accessible."
- On page 6, under "patenting and licensing", as licensing happens years after patent filing and many patents are not licensed at all in the end, we recommend either changing "and" to "or" or removing "and licensing".
- On page 8, the proposed policy states that co-investigators may take copies of research data. However, the policy does not address multiple principal investigators (MPIs). Is there an additional requirement for co-investigator?
- The policy seems to neglect some important recent developments in research. The first and most important is that funding agencies and publishers increasingly demand that de-identified raw data, and, in some cases, also the processed data is made available to other qualified

researchers on demand or by uploading it onto suitable data repositories. It is not clear how the ability to share the data in this way will be affected by this policy. Furthermore, multi-site collaborations with collaborators outside the UC system are also becoming more common. It is not clear how this policy will influence the ability of the PIs to engage in such collaborations.

- An important caveat to UC's property right over research data and tangible research material is that PIs "may generally take copies" when they leave. That particular privilege can be restricted in certain instances, requiring the PI to seek permission from the Vice Chancellor for Research before taking copies of research data and/or tangible research material. However, it may not always be apparent to the PI, at the time of leaving, that their research is impacted by one of these restrictive categories. In particular, for example, there may be instances in which a dispute or investigation begins after the PI has separated from the University. Moreover, it is possible that a PI may reasonably, albeit erroneously, believe that particular research data and/or tangible research material is not necessary for patent protection.
- The policy does not define the consequence of failing to comply, inadvertently or otherwise. In this area, additional guidance would be appreciated.
- This policy may require an increase of investment, both financial and in-kind activity. For example, who is to pay for the "curating", "secure retention", and "making accessible" of data after completion of funded projects, or after the death of or separation of a Principal Investigator from the University? The exiting PI or their former colleagues should not be responsible for this expense.
- A practical problem is the physical space needed to securely retain, over an indefinite time period, the vast quantities research data and tangible research materials accruing across the UC campuses systemwide. Does the UC system have capacity for this storage? Can it assist with procedures (e.g., digitalization) to help reduce the amount of physical space required for retention of these research data and related materials?
- To assist in the implementation of this policy, we hope that UCOP will provide additional guidance and information about the complex requirements of "funders, publishers, campus policy, compliance or regulatory bodies, applicable law, relevant agreements, and the Principal Investigators' scholarly disciplines."
- The proposed policy raises some important human subjects issues, including consent forms that may not currently disclose to the research subject that their information will be retained indefinitely, in some unspecified place, to potentially be made accessible to unknown persons or entities.
- The proposed policy conflicts with policies of certain Federal agencies whose data are vital to the research programs of many UC PIs. For example, Centers for Medicare and Medicaid (CMS) data use agreements allow use of CMS data in only 1-year increments; each year CMS requires from PIs either application for a 1-year extension of data use to meet a specific research

project's goals or close-out of the project. The latter requires destruction of the data secured through the data use agreement. Policy conflicts such as this are only vaguely acknowledged in the current draft of this policy memo.

- The potential for confusion and misunderstanding about requirements may be most prevalent with respect to “obligations undertaken to research sponsors and collaborators preserve University of California principles and policies, including retained rights for research and the right to publish.” This is an example of an area where PIs may need assistance such as education or consultation.

Sincerely,

A handwritten signature in black ink, appearing to be 'Marguerita Lightfoot', with a stylized, overlapping loop and a long horizontal stroke extending to the right.

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



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

March 24, 2021

**MARY GAUVAIN, CHAIR
ACADEMIC COUNCIL**

RE: Presidential Policy on UC Research Data and Tangible Research Materials

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has discussed the Presidential Policy on UC Research Data and Tangible Research Materials, and we have several comments. First, we would prefer more context for why this policy is being promulgated at this time and what UC's previous efforts in this area were. Absent background and framing, we are unable to determine if this policy is step in the right direction.

Second, we note that the "cost of compliance" does not seem to have been considered during the development of the policy. Faculty recordkeeping has a cost, as does the development of a common nomenclature for a single, searchable dashboard/database, which then must be maintained. Maintenance of reagents and experimental organisms (for example mouse colonies) can be very costly, and impractical to maintain by the University upon departure of a principle investigator. Enforcement mechanisms also have a cost, and duties and responsibilities are not yet clearly defined. The sections on use of personal devices and meta-data need to be clarified and disentangled. UCFW believes that the cost of implementing any policy should not be passed to grants held by individual investigators, but rather should be supported separately by the University.

Third, many emphasized that special provisions for human subjects and privacy must be clearly articulated in the policy. Researchers have a responsibility to protect the anonymity of human subjects in many research contexts, including medical, humanities, and social science research. If the data are the property of the University, would this mean that the public would have access to these records, thereby undermining human subjects protections? Moreover, research projects involving Indigenous communities often designate enrolled community members as the "collective owners" of research data that emerges. The policy has no provisions for such conditions.

We look forward to a more nuanced and thoughtful policy that addresses these and other concerns.

Sincerely,

Shelley Halpain, UCFW Chair

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



UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Richard Desjardins, Chair
Email: desjardins@ucla.edu

University of California
Academic Senate
1111 Franklin Street, 12th Fl.
Oakland, California 94607

March 23, 2021

MARY GAUVAIN
CHAIR, ACADEMIC COUNCIL

RE: Proposed Presidential Policy on UC Research Data and Tangible Research Materials

Dear Mary,

UCORP members discussed the most recent draft of the Proposed Presidential Policy on UC Research Data and Tangible Research Materials with Research Policy Manager Agnes Balla at its meeting on March 8, 2021.

Members communicated a number of concerns about the policy and questioned the purpose and efficacy of issuing an all-encompassing, one size fits all policy given that the nature of research data/materials and related policies, practices, and norms vary so widely across the range of disciplines and fields at the University of California. A question arose about whether the policy could be more limited in its scope, perhaps to those areas for which there is a clear need and purpose, or to introduce specific distinctions such as grant-funded and non-grant funded research, areas where replicability of research results is an expected norm, or situations where legal related requirements exist.

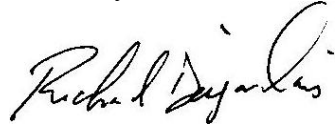
Of particular concern was in the context of certain disciplines and fields where data storage, sharing and ownership at a university level (or centralized custodial role) have not been previously addressed, and for which few, if any, policies or processes exist. These fields may receive little logistical or financial support at the university or department level. For example, in many cases, it is not clear whether there are systems that exist or may be used to retain the data/materials, or more importantly who is to pay for retaining data/materials.

Separately, the notion of university ownership of data in the social sciences such as anthropology, psychology, or in other areas in which confidential data is collected from respondents raises many concerns and issues when it comes to authority to access, view, handle, reuse and/or share the data. From this perspective, it is not clear whether it is necessary or appropriate for the university to assert indiscriminately its ownership over all data/materials in a one size fits all approach. It is likely that different areas would require different accommodations in practice, and in some cases it may not be advisable (e.g. when the stakes of violating anonymity/confidentiality are high or when respondents' have not explicitly authorized it).

Finally, another serious concern raised by UCORP members was about burden on faculty, including the increased bureaucratization of the research process, and the introduction of new or unforeseen constraints to the research enterprise.

UCORP appreciates the opportunity to comment on this proposed policy.

Sincerely,

A handwritten signature in black ink, reading "Richard Desjardins". The signature is written in a cursive style with a large, looped initial "R".

Richard Desjardins
Chair, University Committee on Research Policy



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
Brian Soucek, Chair
bsoucek@ucdavis.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466

March 29, 2021

MARY GAUVAIN
CHAIR, ACADEMIC SENATE

**RE: Systemwide Review of Proposed Presidential Policy on University of California
Research Data and Tangible Research Materials**

Dear Mary,

The University Committee on Academic Freedom has reviewed the proposed Presidential Policy on Research Data and Tangible Research Materials, along with the background materials and FAQ that were circulated in December 2020. We feel strongly that the Policy should not be enacted in anything like its current form, and we urge the Academic Senate to speak out against it. The Policy asserts an ambiguous and poorly cabined claim of ownership, imposes an undefined and unfunded mandate on researchers to preserve the data and materials the University claims to own, then sidesteps the most serious questions and potential conflicts that the Policy triggers. UCAF points in particular to the following five areas of confusion and concern.

1. UCAF is unclear about the line being drawn between Research Data/Materials, which this policy governs and the University is said to own, and Scholarly and Aesthetic Works governed by the University's Copyright Ownership Policy, which generally transfers copyright to their "Academic Authors." The FAQ, though not the proposed Policy itself, clarifies that Research Data/Materials "do not include scholarly works." But it is difficult to know when one becomes the other or what happens when the former is incorporated into the latter. Given the significant consequences that turn on the distinction, much greater clarity is needed.
2. We are not told what it means for the University to assert ownership over those data and materials that *do* fall under the proposed Policy. Vague mention is made in the Policy of "University policies and guidance" that are said to "ensure that such ownership does not impede Workforce Members' ability to conduct research," share data with fellow researchers, and "publish the outcomes of their research." But neither the Policy nor the FAQ describes what those relevant policies and guidance documents are, or how specifically they constrain the University's control over the data and tangible materials that it claims to own.
3. One specific ambiguity about the University's control over Research Data/Materials involves issues of privacy or confidentiality. On page 3, the Policy calls on campus leadership and "Workforce Members" to ensure that "all Research Data and Tangible Research Materials" are "fully accessible." The Policy qualifies that later on the same page, calling it "critical" that Research

Data/Materials are “appropriately accessible.” Given the extent to which Research Data/Materials may involve private information or information obtained with assurances of confidentiality (often as required by campus IRBs), requiring appropriate accessibility is clearly preferable to full accessibility. UCAF notes, however, that the Policy’s mention of appropriate accessibility comes in a paragraph that motivates the need for accessibility by observing that “new research may build upon data collected before the importance of such data could have been envisioned.” This suggests that the University, as owner of Research Data/Materials, may have an interest in sharing Research Data/Materials with others beyond the “Workforce Members” who are responsible for generating or collecting them. Is this part of what is entailed by the University’s purported ownership?

4. The Committee wonders whether there is a reason why Principal Investigators who leave the University should need permission to take a *copy* of their Research Data/Materials simply because they are “germane to disputes and investigations”? It is clear why the University would need to retain access to the Data/Materials in such cases; less clear is why the Principal Investigator could not also retain a copy without first obtaining permission from the administration.
5. The “Points Considered” document raises the issue of collaborators or graduate students publishing data before, or without the consent of, the Principal Investigator. However, the “Points Considered” document, like the Policy itself, ultimately sidesteps the question, concluding that “the issue of publication was outside the scope of this policy,” the “main intent” of which is to establish “that the Regents own Research Data.” The document adds that “efforts to arbitrarily resist or delay use Research Data for critical University purposes flies in the face of the policy.” This responses raises more questions than it answers. It suggests that the Regents’ ownership over Research Data/Resources includes control over how it is used, at least when unspecified “critical University purposes” are involved. The perhaps unintended suggestion that it should be up to the Regents to decide how Principal Investigators are to manage their investigations and make decisions about publication is clearly contrary to the University’s fundamental commitment to academic freedom. The document also ignores the way that faculty, graduate students, and other researchers may be differently situated when it comes to academic freedom, and the protections in place for guarding it, under APM-010 and -011. Once again, the University’s assertion of ownership needs to be clarified to avoid any suggestion that freedom of research, teaching, or the public dissemination of knowledge will even potentially be impaired.

Addressing the concerns above will require a rethinking of the Policy, not mere revisions. For that reason, we hope that the Academic Senate will work to ensure that the proposed Policy is not enacted in anything like its current form.

UCAF appreciates the opportunity to comment on this matter.

Sincerely,

A handwritten signature in black ink that reads "Brian Soucek". The signature is fluid and cursive, with a large, stylized 'B' and 'S'.

Brian Soucek, Chair
UCAF



University of California Research Data and Tangible Research Materials Policy

Responsible Officer:	Vice President of Research and Innovation
Responsible Office:	Office of Research and Innovation
Issuance Date:	[Issuance Date]
Effective Date:	[Effective Date]
Last Review Date:	
Scope:	This policy applies to all Research Data and Tangible Research Materials generated by those at the University involved in the design, conduct, or reporting of research.

Contact:	Name
Title:	Title
Email:	Name@ucop.edu
Phone:	(510) 987-XXXX

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I. POLICY SUMMARY

The Regents of the University of California owns all Research Data and Tangible Research Materials. To fulfill this obligation and in line with the University's mission of outstanding research, campus leadership and its Workforce Members are called to work in partnership, particularly as it relates to the management, retention, preservation, access and sharing of Research Data and Tangible Research Materials. Research Data and Tangible Research Materials must be retained as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law, relevant agreements, and in accordance with the standards of the Principal Investigators' scholarly disciplines. When Principal Investigators leave the University, Research Data and Tangible Research Materials remain the property of the Regents of the University of California, however, Principal Investigators may generally take copies of Research Data generated under their research projects.

II. DEFINITIONS

“Institutional Information”: A term that broadly describes all data and information created, received and/or collected by UC.¹

“Principal Investigator”: The Workforce Member who has primary responsibility for a research project, including the design, conduct or reporting of the project, regardless of the source of funding or status of that project.²

“Research Data”: Recorded Institutional Information reflecting original observations, regardless of the form or medium on which the information is recorded, that are generated or collected in connection with research: (1) within the course and scope of a Workforce Member's assigned or assumed duties; (2) using University research facilities or other University research resources; or (3) with funding from or through the University.³ Examples of recorded information include laboratory notebooks, field notes, digital images, data files, computer software, statistical records, etc. Administrative records, such as medical records, that are not created exclusively for research purposes are excluded from this definition and are governed by other UC policies. Please see FAQs # 2 and # 3 for more information.

“Tangible Research Materials”: Tangible items produced or collected in the course of research: (1) within the course and scope of a Workforce Member's assigned or assumed duties; (2) using University research facilities or other University research resources; or (3) with funding from or through the University. Examples of tangible items

¹ See UC's Electronic Information Security Policy: <https://security.ucop.edu/policies/> and <https://security.ucop.edu/policies/quick-start-guides-by-role/researcher.html>

² Contract and Grant Manual, [Chapter 1-520: Leadership of a Sponsored Project](#).

³ Other research data may be obtained through data or material transfer agreements, license agreements or other means. Such other research data that are not produced or collected by the University may be subject to third-party provider obligations, and should be handled in accordance with contractual commitments and applicable laws.

include biological specimens, archaeological and environmental samples, devices, prototypes, circuits, chemical compounds, genetically engineered organisms, cell lines, cell products, viruses, genetic material, plasmids, vectors, and chemical compounds.

“Workforce Members”: An employee, faculty, staff, volunteer, contractor, researcher, student worker, student supporting/performing research, medical center staff/personnel, clinician, student intern, student volunteer or person working for UC in any capacity or through any other augmentation to UC staffing levels, who are involved in the design, conduct or reporting of research, regardless of the funding source for such activities.

III. POLICY TEXT

Ownership of Research Data and Tangible Research Materials

The Regents of the University of California owns all Research Data and Tangible Research Materials. University policies and guidance ensure that such ownership does not impede Workforce Members’ ability to conduct research, transmit Research Data and Tangible Research Materials to collaborators, independently publish the outcomes of their research, or create scholarly works.

To fulfill the University’s mission of outstanding research and the free exchange of ideas as well as to meet obligations with legal, funder, and collaborator requirements, campus leadership and its Workforce Members are called to work in partnership to ensure that all Research Data and Tangible Research Materials are properly curated, collected, securely stored, managed, and fully accessible. The Vice Chancellor for Research at each campus or their designee(s) are responsible for establishing procedures as it relates to the oversight, interpretation, and implementation of this Policy while Workforce Members must provide stewardship of Research Data and Tangible Research Materials throughout the research life cycle, from the point of research design to preservation.

Access to and Retention of Research Data and Tangible Research Materials

Access to and use and retention of Research Data and Tangible Research Materials is not only critical to substantiate results, but also to provide a foundation for the advancement of scholarship. Because new research may build upon data collected before the importance of such data could have been envisioned, it remains critical that Research Data and Tangible Research Materials are properly curated, collected, recorded, securely retained, managed, and appropriately accessible.

Principal Investigators must retain Research Data and Tangible Research Materials as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law, and as indicated in other relevant agreements. To ensure proper preservation, Principal Investigators must have systems or practices for maintaining and retaining Research Data and Tangible Research Materials in accordance with stated requirements and with the standards of their scholarly disciplines and campus departments. Principal Investigators are responsible for consulting these requirements

and must follow the most stringent requirement for retaining Research Data and Tangible Research Materials.

In addition to the above, Principal Investigators must take the following key circumstances into consideration when determining the retention period:

- **Inventions:** Research Data and Tangible Research Materials must be kept as long as necessary to protect intellectual property and complete patenting and licensing procedures for inventions resulting from University research.
- **Allegations, Investigations and Litigation:** If any allegations regarding the research arise, such as allegations of research misconduct, the Research Data and Tangible Research Materials must be retained by the University and maintained by the Workforce Member as long as required by any funder's requirements and/or federal regulations, but at least until all charges have been resolved and final action and appeals taken. If the Research Data or Tangible Research Materials are the subject of litigation or investigation, the University and Workforce Members will have a duty to preserve potentially relevant information until instructions have been provided regarding their disposition.
- **FDA-Regulated Research:** If a research project involves articles regulated by the U.S. Food and Drug Administration (FDA), consistent with 21 C.F.R. §§ [312.6](#) and [812.140](#), Principal Investigators must keep records for two years following the date a marketing application is approved for the product; or if a marketing application is not filed or FDA-approved, for two years after the investigation is terminated, completed, or otherwise discontinued and the FDA is notified.
- **Student Participation in Research:** If, in the course of advancement to degree, a student participates in the design, conduct or reporting of research, the Research Data and Tangible Research Materials connected to that research must be retained until the student has been awarded a degree or has abandoned the work.

IV. COMPLIANCE / RESPONSIBILITIES

The Vice Chancellor for Research at each campus or their designee(s) is responsible for each campus' oversight, interpretation, and implementation of this Policy. Further responsibilities are provided below.

A. Vice Chancellors for Research Responsibilities

The Vice Chancellor for Research at each campus or their designee(s) must:

- Establish local procedures as necessary for managing Research Data and Tangible Research Materials upon the separation or death of a Workforce Member, or when a Workforce Member can no longer fulfill their responsibilities.
- Assist in settling disputes between and among University researchers and research collaborators.

- Meet obligations concerning Research Data and Tangible Research Materials that may be required in research agreements or for complying with laws and regulatory requirements.
- Ensure that obligations undertaken to research sponsors and collaborators preserve University of California principles and policies, including retained rights for research and the right to publish.
- Sequester or otherwise obtain access to Research Data and Tangible Research Materials for an investigation, inquiry or investigation pursuant to University policies, legal processes, and/or regulatory or funder requirements.

B. Workforce Members Responsibilities

All Workforce Members are responsible for:

- Accurately curating, generating, collecting, recording, managing, and securely storing⁴ Research Data and Tangible Research Materials.
- Executing management practices for Research Data and Tangible Research Materials in accordance with the standards of their scholarly discipline and according to University policies, legal requirements, and the terms and conditions of applicable agreements entered into by the University with third parties, including but not limited to sponsored awards, material transfer agreements, or data use agreements.
- Consulting with their campus Vice Chancellor for Research or their designee(s) should there be any conflicts regarding obligations related to Research Data and Tangible Research Materials.

Workforce Members designated as Principal Investigators have additional responsibilities:

- Retaining Research Data and Tangible Research Materials on behalf of the University, as described in Section V below.
- Following best academic practices by ensuring that all necessary reviews and approvals are obtained with respect to collecting, managing, maintaining, and safeguarding Research Data and Tangible Research Materials prior to the collection, management, access, or disclosure of such data and materials.

V. PROCEDURES

Transfer of Research Data and Tangible Research Materials

Research Data and Tangible Research Materials shall remain the property of The Regents of the University of California. However, when Principal Investigators leave the

⁴ See UC's Electronic Information Security Policy: <https://security.ucop.edu/policies/> and <https://security.ucop.edu/policies/quick-start-guides-by-role/researcher.html>

University of California – Policy
Research Data and Tangible Research Materials

University, they may generally take copies of Research Data generated under their research projects as discussed below. Taking copies of Research Data may be restricted if such Research Data are: (i) subject to confidentiality or other legal restrictions (including but not limited to data and materials protected by privacy (e.g., the Health Insurance Portability and Accountability Act) or human subjects protections laws and regulations); (ii) germane to disputes and investigations; or (iii) necessary for patent protection. In these instances, the Principal Investigator must obtain permission from the Vice Chancellor for Research or their designee(s) to take copies of Research Data, in addition to other applicable approvals.

In addition to the requirements above, co-investigators may take copies of Research Data generated under their research projects (or the portions of projects) only with the permission of the Principal Investigator or, if the Principal Investigator and the co-investigator cannot reach agreement (or if the Principal Investigator is not reasonably available to give permission), with the permission of the Vice Chancellor for Research or their designee(s), in addition to other applicable approvals.

On a case-by-case basis, the campus in consultation with the Vice Chancellor for Research or their designee(s) may allow for the transfer of Research Data or Tangible Research Materials to another institution if it has been determined that the transfer of the Research Data and/or Tangible Research Materials would not impede other Workforce Members from continuing their research, does not conflict with legal or contractual requirements, and as long as the new institution accepts custodial responsibilities for the Research Data or Tangible Research Materials. The University may retain a copy of the Research Data or Tangible Research Materials and must retain access to the Research Data or Tangible Research Materials should that become necessary.

VI. RELATED INFORMATION

University Policies and Guidance

- [University of California Regulation No. 4](#)
- [UC Copyright Ownership Policy](#)
- [UC Records Retention Schedule](#)
- [Electronic Communications Policy](#)
- [Electronic Information Security Policy](#)
- [California Digital Library – Resources for Faculty](#)
- [Export Control Policy](#)
- [University Policy on Integrity in Research](#)

- [The Faculty Code of Conduct \(APM 015\)](#)

Federal and State Rules and Regulations

- [Federal Copyright Act](#)
- [California Labor Code § 2860](#)

VII. FREQUENTLY ASKED QUESTIONS

Please refer to the attachment for Frequently Asked Questions.

VIII. REVISION HISTORY

Month XX, 2021 – This is a new policy. This policy expands on University of California Regulation No. 4 (APM-020).

IX. APPENDIX

N/A

UNIVERSITY OF CALIFORNIA DATA AND TANGIBLE RESEARCH MATERIALS POLICY

POINTS CONSIDERED

Background

RPAC has been working on a policy document for some time that addresses issues concerning the ownership of research data and tangible research materials generated at UC. This has been an effort started, stalled, and stopped for many years, and in the interim both [UCSD](#) and [UCLA](#) issued Guidance on Access and Management of Research Data that closely resembles early drafts that RPAC worked on. Over the past year and a half, RPAC met with a small advisory group made up of representatives from UCSD, UCLA, Berkeley, the Office of General Counsel, and more recently CDL to better understand the issues at hand and to polish off the old data policy draft. The draft that was shared with several Academic Senate committees at the end of 2019 as a *preliminary* draft with the acknowledgement that there were certain aspects of the draft that could benefit from further discussion. The general feedback received during these meetings is that the draft tried to cover too much ground, including by imposing an unrealistic retention requirement for maintaining research data and tangible research materials, and thereby muddying the true intent of this policy.

Given this feedback, with the help colleagues at CDL, RPAC made revisions to the draft by staying focused on the question of who owns the data and materials generated during the course of research, in addition to better highlighting the value of research data and materials. The thought behind this is that we can address specific questions in subsequent implementing guidance. The list below details the discussions that had taken place to get the policy to its current state.

Resolved Issues:

1. **Research Data and Tangible Research Material Retention:** The University has a detailed records retention schedule specific to administrative records. Research Data, however, are not included in that schedule. In fact, UC does not have a policy on the minimum length of time for which Research Data and Tangible Research Materials are to be retained. Early versions of the policy draft stated that Research Data and Tangible Research Materials must be maintained for a minimum of 6 years, with certain exceptions where data may need to be retained for longer. The policy did not include a provision for who may approve earlier destruction or removal, and whether that is a campus or case-by-case decision.

Resolution: After discussions with several groups (VCRs, UCORP, SLASIAC, CoUL, and others) in late 2019 about the initial policy draft, it was stressed that the cost (both financially and administratively) to maintain Research Data and Tangible Research Materials is significant and in some cases would not make sense (e.g., while researchers may keep data from collected blood samples, they may not keep the blood sample itself due to its cost to keep it in the fridge; researchers may keep notes from interviews but not the video of the interview itself). Thus, this iteration of the draft policy does not state a minimum length of time for which all Research Data and Tangible Research Materials must be retained. Rather, the policy explains that Principal Investigators must retain Research Data and Tangible Research Materials as long as required by funders, publishers, campus policy, compliance or regulatory bodies, applicable law, and as indicated in other relevant agreements. To ensure proper preservation, Principal Investigators must have systems or practices for maintaining and retaining Research Data and Tangible Research Materials in accordance with stated requirements and with the standards of their scholarly disciplines and campus departments. The policy also points out cases where retention periods may need to be longer.

2. **Transfer of Research Data or Tangible Research Materials to Another Institution:** The draft policy states that the University will always retain ownership of original Research Data and Tangible

UNIVERSITY OF CALIFORNIA DATA AND TANGIBLE RESEARCH MATERIALS POLICY

POINTS CONSIDERED

Research Materials even if the Principal Investigator or the research is transferred to another institution, but on a case-by-case basis, the campus may allow for the transfer of original Research Data or Tangible Research Materials to another institution in such situations.

Resolution: We did not describe whether there is an expectation for a formal agreement with the new institution, such as an MTA, DUA or other agreement. We left this open so that the campus has flexibility to manage this on a case-by-case basis. For example, for a small project, a campus may only require an email acknowledgement from the institution receiving the data or materials; however, for a major research project, there may be a need for a formal contractual arrangement.

3. **Common Data Identifiers and Data Management Plans:** If UC will be requiring the retention of Research Data, it would be beneficial if that data is retained in a usable format, such as with common data identifiers or specified data management plans. Should this policy encourage/require the use of data management plans or common data identifiers?

Resolution: The policy now states that Principal Investigators must have systems or practices for maintaining and retaining Research Data and Tangible Research Materials in accordance with stated requirements and with the standards of their scholarly disciplines and campus departments. We discussed that should further resources be helpful on this point, we can address them in subsequent policy guidance.

4. **Copyright Policy:** The initial draft of the data policy included “Scholarly Works” as part of the definition of Research Data so to only point out that “Scholarly Works” is not included in the definition of Research Data.

Resolution: In the current iteration, the term “Scholarly Works” is not included in the definition of Research Data. This issue is instead addressed with an FAQ question.

5. **Use of personal devices for research purposes:** What is UC’s stance on Research Data and Tangible Research Materials collected and stored on personal devices?

Resolution: We addressed this point with an FAQ at the end.

6. **Publication of Research Data:** The question came up of whether this policy should address the issue of research collaborators, graduate students or others working on a Principal Investigator’s project who publish data ahead the Principal Investigator or without the Principal Investigator’s consent.

Resolution: This iteration of the draft is silent on addressing this issue, but we discussed several ways in which we can try to tackle the issue in the policy. For example, we one way to tackle this issue is to include a bullet under University Employee Responsibilities that states the requirement to confer with the Principal Investigator about the use of Research Data generated under a research project to ensure that there are no independent publications prior to first publication by the Principal Investigator. However, there was debate as to what happens if a lower level researcher does not agree with a Principal Investigator?; would a Principal Investigator need to confirm with all the collaborators (a term not defined in the policy) before they can publish or re-use the data?; what would the agreement need to look like?; What criteria can the Principal Investigator use to fairly deny the request? Another way to try to address this issue is to support mutual agreement between a Principal Investigator and collaborators on how and when and by

UNIVERSITY OF CALIFORNIA DATA AND TANGIBLE RESEARCH MATERIALS POLICY
POINTS CONSIDERED

whom the research data may be released/published/shared (such as by including a statement about securing agreement among all research collaborators in regard to data use, sharing, and reuse.) Ultimately, it seemed like the issue of publication was outside the scope of this policy and should not be addressed in this policy. In addition, in trying to come up with the right approach to address the issue seems to counter the main intent of this policy, that the Regents own Research Data and efforts to arbitrarily resist or delay use Research Data for critical University purposes flies in the face of the policy.



OFFICE OF THE VICE PRESIDENT – RESEARCH AND INNOVATION

OFFICE OF THE PRESIDENT
1111 Franklin Street, 11th Floor
Oakland, California 94607-5200

December 17, 2020

CHANCELLORS
ACADEMIC COUNCIL CHAIR GAUVAIN
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

Re: Systemwide Review of Proposed Presidential Policy University of California Research Data and Tangible Research Materials

Dear Colleagues:

Enclosed for systemwide review is the Presidential Policy on University of California Research Data and Tangible Research Materials.

The enclosed Presidential Policy University of California Research Data and Tangible Research Materials addresses issues concerning the ownership of data and tangible materials generated during the course of UC research. Over the past two years, the Research Policy Analysis and Coordination (RPAC) unit within the department of Research and Innovation at UC Office of the President met with a small advisory group made up of representatives from UCSD, UCLA, UC Berkeley, the Office of General Counsel, the California Digital Library, and several Academic Senate committees. The resulting draft policy states that the Regents of the University of California own Research Materials and Tangible Research Materials. The policy draft also calls upon campus leadership and its researchers to work in partnership to manage, retain, preserve, protect, access and share Research Data and Tangible Research Materials. For additional information on the points considered during the writing of this draft policy, please see attached materials.

Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

December 17, 2020

Page 2

We would appreciate receiving your comments no later than April 7, 2021. Please submit your comments to RPAC@ucop.edu with the subject line "Research Data and Tangible Research Materials Policy Comments." If you have any questions, please contact Agnes Balla at agnes.balla@ucop.edu or (510) 987-9987.

Sincerely,



Theresa A. Maldonado, Ph.D., P.E.
Vice President, Research & Innovation
University of California Office of the President

Enclosures:

- 1) Presidential Policy University of California Research Data and Tangible Research Materials (clean copy)
- 2) Presidential Policy University of California Research Data and Tangible Research Materials Policy Points Considered
- 3) Model Communication

cc: President Drake

Provost and Executive Vice President Brown
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Senior Vice President Bustamante
Vice President and Vice Provost Gullatt
Interim Vice President Lloyd
Vice Provost Carlson
Deputy General Counsel Woodall
Vice Provosts/Vice Chancellors of Academic Affairs/Personnel
Assistant Vice Provosts/Assistant Vice Chancellors/Directors – Academic Personnel
Associate Vice Provost Lee
Executive Director Baxter
Executive Director Chester
Executive Director and Chief of Staff Henderson
Chief of Staff and Chief Policy Advisor Kao
Chief of Staff Levintov
Chief of Staff Peterson
Director Grant
Director Sykes
Manager Crosson
Manager Smith
Analyst Durrin
Policy Advisory Committee
Associate Director DeMattos
Research Policy Manager Balla