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Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

May 9, 2018

**ARTHUR ELLIS, VICE PRESIDENT
RESEARCH AND GRADUATE STUDIES**

Re: Proposed Revised Presidential Policy on Export Control

Dear Art:

At its April 25, 2018 meeting, the Academic Council approved the attached recommendation from the University Committee on Research Policy (UCORP) to endorse a revised proposed Presidential Policy on Export Control. As you know, the Academic Senate expressed serious concerns about the original version of the policy in a June 2017 letter to Vice Provost Carlson. I asked UCORP to lead the review of the additional policy revisions drafted to address those concerns; your March 2 letter responded specifically to each concern, and the revised Export Control [Frequently Asked Questions website](#) has now been created.

Thank you for working closely with UCORP to address these issues and produce a clearer policy. The Academic Council agrees with UCORP that the revised policy is a reasonable and appropriate response to the University's need to demonstrate its intention to comply with government export control laws, and to provide a practical framework for this purpose. We also appreciate the policy's emphasis on giving each UC location the responsibility for managing its own export control compliance program. We agree that maintaining the FAQ website as a "living document" will provide a valuable resource for faculty members who need a real-world understanding of export control issues.

UCORP looks forward to working with you to monitor local implementation and outcomes. Please do not hesitate to contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane N. White".

Shane N. White, Chair
Academic Council

Encl.

Cc: Academic Council
Senate Director Baxter
Senate Executive Directors



UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Jeffrey D. Richman, Chair
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University of California
Academic Senate
1111 Franklin Street, 12th Fl.
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April 16, 2018

SHANE WHITE
CHAIR, ACADEMIC COUNCIL
Re: Revised UC Export Control Policy

Dear Shane,

The University Committee on Research Policy (UCORP) has reviewed three documents related to the Presidential Policy on Export Control (“Export Control Policy”) that were attached to the March 2, 2018 letter from Vice President Ellis to you on this subject. These documents include the revised version of the Export Control Policy, an accompanying Frequently Asked Questions (FAQ) document designed to help faculty members understand the policy, and UCOP’s responses to Jim Chalfant’s letter to Vice Provost Susan Carlson of June 8, 2017. In his letter, Dr. Chalfant summarized the concerns and questions raised during the systemwide Senate review of the proposed policy.

In the opinion of UCORP, the revised policy is a reasonable and appropriate response to the University’s need to demonstrate its intention to comply with government export control laws and to provide a practical framework for this purpose. We are also pleased to see that UCOP has carefully responded, point by point, to the main concerns raised by the Academic Senate, and that UCOP has made some modifications to the policy itself to help address these concerns. UCORP has reviewed the FAQ document and has provided suggestions in a separate message to Wendy Streitz; we are satisfied that this “living document” will be a valuable resource for faculty members who need to understand these issues.

A key feature of the policy is the delegation by UCOP to each “UC Location” (UC campuses and Health Systems, LBNL, and ANR) of the responsibility for “managing its own Export Compliance Program.” Given the complexity of the relevant law and procedures specified in International Traffic In Arms Regulations (ITAR) and Export Administration Regulations (EAR), this approach will require a very substantial effort at the campus level. However, local responsibility does have the virtue of facilitating communication and collaboration between faculty members and the local Export Control Compliance Officer (ECO) and staff.

The policy states that each of the local compliance programs must be documented, and it lists a minimal set of elements that each such program must include. These include the “Establishment of a committee or workgroup, comprised of various responsible offices and

stakeholders...to facilitate communications and to provide input to the ECO.” This statement provides flexibility for different implementations of this committee, but UCORP is pleased to see a mechanism that can in principle provide a way for faculty members have input in the local processes. UCORP believes that it is critical to monitor the level of success of this approach as the campuses implement this policy requirement.

UCORP is pleased that UCOP has been responsive in providing discussions of key issues and concepts in the FAQ. Two concepts are of central importance: the deemed export and the Fundamental Research Exclusion (FRE). Under the concept of a deemed export, “Releasing or otherwise transferring technical data to a foreign person in the United States” constitutes a type of export under ITAR, and similar language applies under EAR. Thus, faculty members new to the subject may misconstrue the word “export” to encompass only actual items shipped out of the country and may therefore not appreciate the full scope of these policies. As noted in the UC policy document (Section IV.A), “our principle strategy for compliance with U.S. export control regulations is based upon maintaining an open, fundamental research environment.” Within the legal definition of this research environment, “the export control regulations permit U.S. universities to allow foreign nationals (e.g., students, faculty, academic appointees, and non-employee participants in University programs) to participate in fundamental research projects without securing a license.”

UCORP anticipates that implementing this policy framework will not be simple or easy, and that campuses will need to work to educate the faculty in these matters. We are pleased that UCOP has already provided a table listing the ECOs for each UC Location. This table appears in UCOP’s response to the recommendations from the Academic Senate, not in the FAQ. It seems to us that the response document could also be made available to the UC faculty together with the FAQ and that some of the information in the response document, particularly the list of ECOs, might also be included in the FAQ for maximum visibility.

UCORP requests that ORGS present a status report sometime in the 2018-2019 academic year that would provide an initial assessment of progress and problems in implementing this policy.

Sincerely,



Jeffrey D. Richman
Chair, University Committee on Research Policy

cc: Robert May, Academic Council Vice Chair
Hilary Baxter, Academic Senate Director
UCORP members