



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.

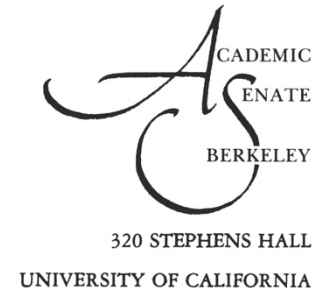
Sincerely,



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;

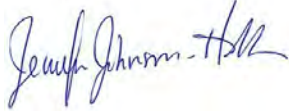
On March 15, 2021, the Council of the Berkeley Division (DIVCO) discussed the proposed Presidential policy titled, *University of California Research Data and Tangible Research Materials Policy*. The local Committee on Research (COR) reviewed the document and supports the intent and language of the proposed 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 27<sup>th</sup> 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  
(530) 752-2220  
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

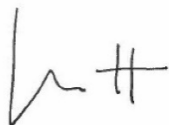
**Re: Systemwide Review of the New Presidential Policy on UC Research Data and Tangible Research Materials**

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](mailto: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

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## 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

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

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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](mailto:earciba@senate.ucla.edu)/[tlanedaymude@senate.ucla.edu](mailto: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**

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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](mailto:leazer@g.ucla.edu) or the Committee Analyst, at [rrouzankay@senate.ucla.edu](mailto: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](mailto:julianmartinez@mednet.ucla.edu) or via the Council's analyst, Elizabeth Feller, at [efeller@senate.ucla.edu](mailto: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**

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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](mailto:earciba@senate.ucla.edu).



OFFICE OF THE ACADEMIC SENATE  
ROBIN DELUGAN, CHAIR, ACADEMIC SENATE  
[senatechair@ucmerced.edu](mailto: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

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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)

**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)

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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**

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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)

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SANTA BARBARA • SANTA CRUZ

SCHOOL OF SOCIAL SCIENCES, HUMANITIES AND ARTS

UNIVERSITY OF CALIFORNIA, MERCED  
5200 N. LAKE ROAD BLDG A  
MERCED, CA 95343  
(209) 228-7742  
FAX (209) 228-4007

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  
PROFESSOR OF MICROBIOLOGY & PLANT  
PATHOLOGY  
RIVERSIDE, CA 92521-0217  
TEL: (951) 827-6193  
EMAIL: JASON.STAJICH@UCR.EDU

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.



UC SANTA BARBARA

Academic Senate

Susannah Scott, Chair  
Shasta Delp, Executive Director

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

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.

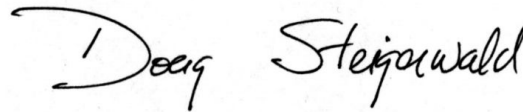
We thank you for the opportunity to opine.

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 3<sup>rd</sup> 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.

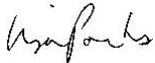
CC: Shasta Delp, Executive Director, Academic Senate



**Academic Senate  
Santa Barbara Division**

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.

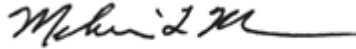
CC: Shasta Delp, Executive Director, Academic Senate

**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

DocuSigned by:  
  
4CC5BF671D9549E...

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



1156 HIGH STREET  
SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate  
SANTA CRUZ DIVISION  
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 dark ink, appearing to read "David Brundage", is 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



OFFICE OF THE ACADEMIC SENATE

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

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.

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

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

**Office of the Academic Senate**

500 Parnassus Ave, MUE 230  
San Francisco, CA 94143-0764  
Campus Box 0764  
tel: 415/514-2696

[academic.senate@ucsf.edu](mailto:academic.senate@ucsf.edu)  
<https://senate.ucsf.edu>

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., 12<sup>th</sup> Floor  
Oakland, CA 94607-5200

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

Dear Mary:

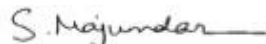
The San Francisco Division of the Academic Senate has reviewed the proposed Presidential Policy University of California Research Data and Tangible Research Material.

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.

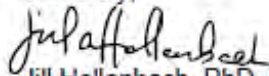
The proposal gives principal investigators (PIs) significant responsibility for maintaining data and specimens on behalf of the Regents, but the policy provides little guidance about how to do this. CFW acknowledges that the proposed policy expects campuses will develop standards at the Vice Chancellor 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, looped design.

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





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

Assembly of the Academic Senate  
1111 Franklin Street, 12<sup>th</sup>  
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](mailto: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.

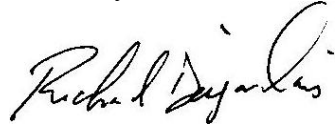
Of particular concern was in the context of certain disciplines and fields where data storage, sharing and ownership at a university level (or centralized custodial role) have not been previously addressed, and for which few, if any, policies or processes exist. These fields may receive little logistical 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, 12<sup>th</sup> 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 the first name "Brian" and last name "Soucek" clearly distinguishable.

Brian Soucek, Chair  
UCAF