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

April 29, 2022

SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL

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

Dear Susan:

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

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

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

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

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

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

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

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

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

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

Sincerely,

Robert Horwitz, Chair
Academic Council

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

Encl.

April 19, 2022

ROBERT HORWITZ
Chair, Academic Council

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

Dear Chair Horwitz:

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

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

Sincerely,

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

Enclosure

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

April 4, 2022

PROFESSOR RONALD COHEN
Chair, Berkeley Division of the Academic Senate

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

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

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

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

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

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

Thank you for the opportunity to comment.

With best regards,

Lia Fernald, Chair
Committee on Research

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April 19, 2022

Robert Horwitz
Chair, Academic Council

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

Dear Robert,

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

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

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

The Davis Division appreciates the opportunity to comment.

Sincerely,

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

Enclosed: Davis Division Committee Responses

c: Hilary Baxter, Executive Director, Systemwide Academic Senate

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

April 8, 2022

Richard Tucker
Chair, Davis Division of the Academic Senate

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

Dear Richard:

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

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

Sincerely,

Cyndi Schumann
Chair, Committee on Research

UCI University of
California, Irvine

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April 5, 2022

Robert Horwitz, Chair
Academic Council

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

Dear Chair Horwitz,

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

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

The Irvine Division appreciates the opportunity to comment.

Sincerely,

Joanna Ho, Chair
Academic Senate, Irvine Division

Enclosure: CORCL memo

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

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April 5, 2022

JOANNA HO, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

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

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

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

- Additional language is needed to exempt "sales and service" research arrangements in which the
  Regents do not have ownership of data generated in University labs.

- Clarification is needed where proprietary data is acquired by the PI from the private sector with
  university funds, and then the PI leaves the university.

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

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

The Council appreciates the opportunity to comment.

On behalf of the Council,

Michele Guindani, Chair

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

April 18, 2022

Robert Horwitz
Chair, UC Academic Senate

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

Dear Chair Horwitz,

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

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

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

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

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

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

Sincerely,

Jessica Cattelino
Chair
UCLA Academic Senate

Encl.

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

UCLA Academic Senate

Committee on Data, Information Technology, and Privacy

April 11, 2022

To: Jessica Cattelino, Chair
        Academic Senate

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

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

Dear Chair Cattelino,

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

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

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

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

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

UCLA **Academic Senate**
Committee on Library & Scholarly Communication

April 4, 2022

To: Jessica Cattelino, Chair
        Academic Senate

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

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

Dear Chair Cattelino,

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

Members concurred with the UC Academic Senate statement in the letter dated March 22, 2021. Committee and Council members had numerous concerns about unintended consequences. Members worried that the policy may be a barrier to collaboration, and create conflicts of interest among researchers. They noted that in certain fields, it is rare to claim ownership for fieldwork and field notes. Knowledge is co-generated with the understanding that confidentiality and consent are based on trust and ensuring no harm. Applying the proposed definitions of data and ownership to those fields could strip the work of proper personal context and endanger the very nature of the scholarly process.

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

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

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

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

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

UNIVERSITY OF CALIFORNIA, MERCED

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April 19, 2022

To: Robert Horwitz, Chair, Academic Council

From: LeRoy Westerling, Chair, UCM Divisional Council

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

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

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

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

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

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

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

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

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April 1, 2022

To: LeRoy Westerling, Chair, Division Council

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

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

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

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

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

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

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

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

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

We appreciate the opportunity to opine.

cc: Senate Office

UNIVERSITY OF CALIFORNIA, MERCED

ACADEMIC SENATE, MERCED DIVISION
COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATIONS
MARIA DEPRANO, CHAIR
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April 4, 2022

To: LeRoy Westerling, Senate Chair

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

Re: Presidential Policy on University of California Research Data

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

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

LASC has three significant concerns.

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

Later the Policy states, "As stewards of the University's Research Data, University Researchers shall: Securely <u>collect, record, manage, and store</u> Research Date throughout the research life cycle, from design to preservation" (p. 4).

This policy thus requires that the PI function as an archivist. This policy does not recognize that <u>archivists earn degrees in information science which trains them in records management, archives, and information governance</u>. (For an example degree, please see Masters of Archives and Records Administration degree at San José State University School of Information, https://ischool.sjsu.edu/master-archives-and-records-administration?gclid=Cj0KCQiAmeKQBhDvARIsAHJ7mF7oQx0wOsn4xJiicBLly15ltWlfl5-cMGlgHxMzeUuxQPg70pMxeFsaApypEALw_wcB

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

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

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

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

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

LASC appreciates the opportunity to comment on the proposed policy.

Cc: Senate Office

UNIVERSITY OF CALIFORNIA, RIVERSIDE

CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
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JASON STAJICH
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April 12, 2022

Robert Horwitz, Chair, Academic Council
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Oakland, CA 94607-5200

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

Dear Robert,

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

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

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

COMMITTEE ON ACADEMIC FREEDOM

March 29, 2022

To: Jason Stajich, Chair
            Riverside Division Academic Senate

From: Ivy Zhang, Chair
            Committee on Academic Freedom

Re: Proposed Presidential Policy on University of California Research Data

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

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

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

2. The Committee expresses concerns about the following statement:

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

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

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

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

April 4, 2022

To: Jason Stajich, Chair
        Riverside Division

From: Weixin Yao, Chair
        Committee on Research

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

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

GRADUATE COUNCIL

March 18, 2022

To: Jason Stajich, Chair
        Riverside Division

From: Don Collins, Chair
        Graduate Council

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

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

April 4, 2022

To: Jason Stajich, Chair
        Riverside Division

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

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

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

OFFICE OF THE ACADEMIC SENATE

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

April 19, 2022

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

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

Dear Professor Horwitz,

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

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

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

Sincerely,

Tara Javidi
Chair
San Diego Divisional Academic Senate

Attachments

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

April 8, 2022

PROFESSOR TARA JAVIDI, Chair
Academic Senate, San Diego Division

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

Dear Chair Javidi,

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

- The University cover additional costs required to support new data storage and preservation requirements.

- Implementation minimizes additional burden on faculty that would adversely affect their primary research, teaching and service activities.

Additional remaining concerns and questions are enumerated below:

Section II: Definitions

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

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

Section V: Procedures

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

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

Sincerely,

Ian Galton, Chair
Committee on Academic Information Technology

cc: Barry Grant
        Lori Hullings
        Jenna Lucius
        Nancy Postero

March 29, 2022

TARA JAVIDI, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Research Data Policy

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

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

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

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

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

Sincerely,

Shantanu Sinha, Chair
Committee on Faculty Welfare

cc: N. Postero

April 8, 2022

PROFESSOR TARA JAVIDI, Chair
Academic Senate, San Diego Division

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

Dear Chair Javidi,

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

1. The present proposal explains the role of the library as a source for advice on "data management, data publication, and data services." The COL discussed what it means to curate data over the long term and how curation of raw data is economically unfeasible. Curation of refined second or third order data may be feasible. The committee asks if a more detailed definition of data and a differentiation between 'first order' data and 'final' or "public" data might help clarify for researchers the type of management and curation decisions the library can usefully support. Although the term "Notebook" clearly has some legal meaning in the policy proposal, it does not differentiate between the kind of raw data acquired by a historian of the seventeenth century and that of a climate scientist. One committee member cited NASA's research data definition as a potential source of a more nuanced data definition level. Related to the definition of data the committee observed that there may be value in differentiating active research data and final/publish-ready data in encouraging VCRs to consider solutions appropriate for these different forms of data. The library's primary role is the protection of data for future decades rather than the short-term management of massive amounts of raw data.

2. Within the FAQ, item 10 comments on who researchers can *consult* (including library staff) regarding the length of time that research data should be preserved. The COL determined that the policy should more explicitly determine who holds the responsibility for determining the retention period to ensure that this does not fall under the library's purview.

3. The COL agreed that the current document does not present a coherent plan going forward regarding the actual implementation of this policy for both the management of data (storage) and the curation of data (the assurance of accessibility, including the inevitable migration of data). This is clearly a complex issue and we recognize that by defining specific responsibilities of the VCR, PIs, and researchers this policy raises significant questions regarding scope, cost and funding source. On this point, the COL observed that this policy does not speak to whether or not such future implementation should occur at the campus level or UC-wide level. This topic arose because of the intended scope of the solution and how university organizations like the library

might be called on to respond to this policy.

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

Sincerely,

Mark Hanna, Chair
Committee on Library

cc: Lori Hullings
       Jenna Lucius
       Nancy Postero

March 29, 2022

TARA JAVIDI, CHAIR
Academic Senate, San Diego Division

SUBJECT: UC Research Data Policy

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

Sincerely,

Gedeon Deák, Chair
Committee on Planning & Budget

cc: N. Postero

April 8, 2022

TARA JAVIDI, Chair
Academic Senate, San Diego Division

SUBJECT: Second Review of UC Policy on Research Data

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

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

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

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

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

Sincerely yours,

Gert Cauwenberghs, Chair
Committee on Research

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

April 5, 2022

TARA JAVIDI, Chair
Academic Senate, San Diego Division

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

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

                              Sincerely,

                              Arshad Desai, Chair
                              Graduate Council

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

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

April 21, 2022

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

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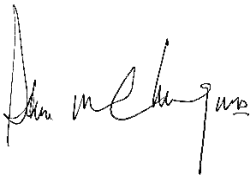
Dear Robert:

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

- Definition of Principal Investigator(s) (PI): CFW and R&J wondered if people who are not designated by external research sponsors or by UC as PIs still be considered PIs for purposes of this definition? R&J specifically recommends that the policy specifically state whether faculty PIs who are employed by an outside institute, but who have a UC faculty appointment, are subject to this policy.

- Access to Data: The proposed policy states that the Vice Chancellor for Research (VCR) or their designee(s) shall "have unfettered access to Research Data for University purposes[.]" Later in the proposed policy it states, "...Research Data must be available to external sponsors, designated government officials and other University investigators who are collaborators with the departing Principal Investigator." CFW is concerned that the language is not accompanied by limitations that protect the privacy of patients and research subjects. Access to data is governed by HIPPAA, IRB decisions, data transfer agreements, and similar policies and regulations. Generally, a Vice Chancellor for Research would not have unfettered access to a researcher's data. CFW recommends that the Proposed Presidential Policy be revised to clarify that access to data is protected and will remain protected by existing regulations, policies, and agreements.

- Policy Development/Resources: The policy delegates the responsibility for formulating many of the details of the Research Data Policy to the campus VCRs at the individual campuses. For example, the policy obligates the VCRs "to ensure that (the University's) resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data" and to "implement local policies and procedures...according to established campus, academic discipline, and journal standards." COR comments that developing systems and procedures is a non-trivial task and will likely increase the administrative burden on the VCRs and their offices, which are already overstretched at research-intensive campuses like UCSF. Delegating this responsibility may also lead to the inconsistent formulation and implementation of Research Data Policies across the individual UC campuses, which may create issues of real or perceived unfairness. The Committee questions the purpose of developing a systemwide policy if the formulation and implementation of the policy is ultimately left up to the individual campuses. COR adds that the policy does not address the concerns raised in the responses to the previous draft regarding the costs and physical resources needed to implement the Research Data Policy.

- Overreach: COR comments that the 'Procedures in the Event that an Investigator Leaves the University' seem to give the University very broad control over the transfer of research data without clear specification of the rationale for that control

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

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

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

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

Enclosures (3)
Cc: Lindsay Hampson, Chair, UCSF Committee on Faculty Welfare
    Mijung Park, Chair, UCSF Rules & Jurisdiction
    Penny Brennan, Chair, UCSF Committee on Research

UCSF Academic Senate

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

April 14, 2022

Steven Cheung, MD
Division Chair, UCSF Academic Senate

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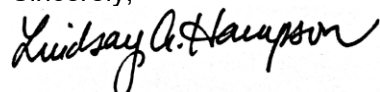
Dear Chair Cheung:

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

1. **Definition of Principal Investigator(s) (PI):** The proposed policy includes a definition for a "principal investigator." The definition states, "For purposes of this Policy, the term PI is used whether or not it is a formal title designated by an external research sponsor." CFW wondered whether the term would also apply regardless of whether the University of California designates the formal title. Can people who are not designated by external research sponsors or by UC as PIs still be considered PIs for purposes of this definition?

2. **Access to Data:** The proposed policy states that the Vice Chancellor for Research or their designee(s) shall "have unfettered access to Research Data for University purposes[.]" Later in the proposed policy it states, "...Research Data must be available to external sponsors, designated government officials and other University investigators who are collaborators with the departing Principal Investigator." CFW appreciates that these provisions are meant to enable the University to continue research and to conduct investigations. However, CFW is concerned that the language is not accompanied by limitations that protect the privacy of patients and research subjects. Access to data is governed by HIPPAA, IRB decisions, data transfer agreements, and similar policies and regulations. Generally, a Vice Chancellor for Research would not have <u>unfettered</u> access to a researcher's data. CFW recommends that the Proposed Presidential Policy be revised to clarify that access to data is protected and will remain protected by existing regulations, policies, and agreements.

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

Sincerely,

Lindsay Hampson, MD, MAS
Committee on Faculty Welfare Chair

UCSF Academic Senate

Communication from the Academic Senate Committee on Research
Penny Brennan, PhD, Chair

April 12, 2022

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

FROM: Penny Brennan, Chair, UCSF Committee on Research

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

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

Dear Chair Cheung:

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

(1)   The policy delegates the responsibility for formulating many of the details of the Research Data Policy to the Vice Chancellors of Research at the individual campuses. For example, the policy obligates the campus Vice Chancellors for Research "to ensure that (the University's) resources are used appropriately and that there are effective systems in place for the maintenance, preservation, and accessibility of Research Data" and to "implement local policies and procedures...according to established campus, academic discipline, and journal standards." Developing systems and procedures is a non-trivial task and will likely increase the administrative burden on the Vice Chancellors of Research and their offices, which are already overstretched at research-intensive campuses like UCSF. Delegating this responsibility may also lead to the inconsistent formulation and implementation of Research Data Policies across the individual UC campuses, which may create issues of real or perceived unfairness. The Committee questions the purpose of developing a systemwide policy if the formulation and implementation of the policy is ultimately left up to the individual campuses.

(2)   The policy does not address the concerns raised in the responses to the previous draft regarding the costs and physical resources needed to implement the Research Data Policy. For example, the policy does not provide guidance regarding the storage or maintenance of data left behind or returned by departing PIs, nor does it assign responsibility for any of the costs of storing those data. The Committee feels that the policy should acknowledge these potential costs and provide some guidance regarding the responsibility for these costs.

(3)   Some aspects of the policy remain unclear. The Committee would like to request further clarification in the following instances:
- The definition of Research Data refers to "original observations and methods." "Methods" could have several interpretations in this context, ranging from the statistical software code and outputs generated in the course of statistical analyses to written descriptions that allow for study replication. The Committee therefore suggests that a specific definition of "methods" be provided.

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

(4) Some aspects of the policy seem to constitute overreach on the part of the University. The *Procedures in the Event that an Investigator Leaves the University* seem to give the University very broad control over the transfer of research data without clear specification of the rationale for that control. Moreover, as mentioned above, the development and dissemination of transfer processes may create unnecessary new administrative burden at the individual campus level. Additionally, on page 4, the Policy states that Vice Chancellors for Research shall "have unfettered access to Research Data for University purposes, including for the purposes of carrying out University responsibilities..." This Committee feels that the word "unfettered" implies access to individual research participants' data that runs counter to human subjects protections and consent form contents and would therefore like to ask that it be removed. The "purposes of carrying out University responsibilities" should also be clarified to prevent overreach.

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

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

April 14, 2022

Steven Cheung, MD
Division Chair
UCSF Academic Senate

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

Dear Chair Cheung:

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

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

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

Sincerely,

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

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 18, 2022

To: Robert Horwitz, Chair
        Academic Senate

From: Susannah Scott, Chair
        Santa Barbara Division

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

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

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

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

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

We thank you for the opportunity to comment.

April 11, 2022

To: Susannah Scott, Divisional
        Chair Academic Senate

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

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

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

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

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

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

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

cases of inter-university collaboration.

CC: Shasta Delp, Executive Director, Academic Senate

April 12, 2022

To: Susannah Scott, Divisional Chair
         Academic Senate

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

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

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

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

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

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

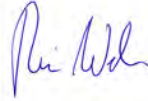CC: Shasta Delp, Executive Director, Academic Senate

April 6, 2022

To: Susannah Scott, Divisional Chair
UCSB Academic Senate

From: Rene Weber, Chair
Council on Planning & Budget

Re: UC Research Data Policy

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

 The proposed revision now makes three basic points:

1. The UC Regents own Research Data.

2. The PI of a research project is responsible for knowing and following: federal regulations, state regulations, funding agency requirements, campus department policies, and scholarly discipline best practices regarding retention of Research Data created during the research project.

3. The Vice Chancellor (VC) for Research at each UC campus is responsible for creating local policies necessary for implementing this new UC Policy.

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

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

cc: Shasta Delp, Academic Senate Executive Director

April 4, 2022

To: Susannah Scott, Chair
        Academic Senate

From: Adam Sabra, Chair
        Graduate Council

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

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

CC: Shasta Delp, Executive Director, Academic Senate

April 8, 2022

To: Susannah Scott, Divisional Chair
        Academic Senate

From: Jean Beaman, Chair
        Committee on Diversity and Equity

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

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

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

CC: Shasta Delp, Executive Director, Academic Senate

UC **SANTA BARBARA**

Faculty Executive Committee
College of Letters and Science

April 7, 2022

To: Susannah Scott
       Chair, Divisional Academic Senate

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

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

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

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

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

April 11, 2022

TO: Susannah Scott, Divisional Chair, Academic Senate

VIA: Shasta Delp, Academic Senate

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

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

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

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

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

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

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

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

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

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

The encouragement to leverage Digital Libraries or other campus systemwide resources for advice on documenting and preserving Research Data was appreciated by the CoE FEC members, but some faculty members felt that services and initiatives such as, e.g., (https://www.library.ucsb.edu/research-data-services) do not go far enough for Engineering research needs, and that there perhaps should be (or maybe already are, unbeknownst to the faculty?) separate data center entities that could provide additional support for truly large-scale research data storage.
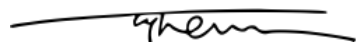
March 18, 2022

To: Susannah Scott, Chair
        Academic Senate

From: Ty Vernon, Chair
        Faculty Executive Committee, GGSE

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

The GGSE FEC supports the drafted changes.

Ty Vernon, Ph.D.
Faculty Executive Committee Chair
Gevirtz Graduate School of Education
UC SANTA BARBARA

April 7, 2022

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

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

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

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

Thank you for the opportunity to review this policy.

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SANTA CRUZ, CALIFORNIA 95064

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

April 18, 2022

ROBERT HORWITZ, Chair
Academic Council

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

Dear Robert,

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

An overarching concern raised by the reviewing committees is that the policy lacks a clear *raison d'etre*. CIT was left to wonder if the policy was drafted to address some as yet unrevealed legal requirement stating that the policy appears to be an "empty checkbox serving some unknown purpose for the University." COLASC concurred, writing "The policy appears to have been written to address a specific problem — we are not sure what problem, but perhaps a desire to ensure that data is preserved, perhaps for legal reasons?"
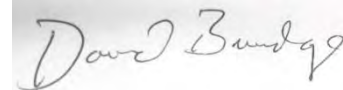
From this common theme the committees diverge. CIT was primarily concerned with the implications of this policy for faculty workload. This workload issue is a result of the lack of clarity in the policy with regard to how faculty are to comply with the policy. Specifically, they note that the prior draft contained examples that have been removed leaving it open to interpretation by "each discipline and/or to the Vice Chancellor of Research (VCR)." Hence, the faculty are left without any guidance on just how much effort will be required to comply with the policy. Moreover, without a clear process outlined, it is unclear how or when the campus is to provide compensation for the time needed to fulfill the requirements of the policy.

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

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

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

Sincerely,

David Brundage, Chair
Academic Senate, Santa Cruz Division

encl: Senate Committee Responses (Bundled)

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

March 31, 2022

David Brundage, Chair
Academic Senate

Re: Proposed Presidential Policy on UC Research Data

Dear David,

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

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

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

Thank you for the opportunity to provide feedback.

Sincerely,

Peter Alvaro, Chair
Committee on Information Technology

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

May 13, 2022

David Brundage, Chair
Academic Senate

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

Dear David,

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

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

1. The policy is extremely vague as to what exactly constitutes "research data." Are field notes research data? What about notes taken while reading a book? How, if at all, does this policy apply to research based on public data? We urge that the policy be explicitly narrowed to the actual cases of interest, in part by including **a long list of examples of things that _don't_ constitute research data for these purposes**.

2. There remains much unclarity about how the policy applies to work done partly at other institutions. In many fields, collaboration generally involves two people working together, neither of whom is in any sense the "PI." How does this policy apply to that situation? In addition, it is still unclear to us when and how the university is claiming ownership of data in situations where a researcher arrives from elsewhere or leaves during an ongoing project. As a particular concern, we note that when a researcher leaves to join another institution, they are allowed to transfer a copy of the data only with approval of the PI, who "may impose conditions." This sounds like it could create serious difficulties for the researcher who is leaving, and we wonder why the PI has been given this power.

3. We would like further clarification as to how this policy interacts with existing open access policies. Why is the university claiming ownership of data that is supposed to be made publicly available?

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

Sincerely,

Abe Stone, Chair
Committee on Library and Scholarly Communication

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

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UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
Ty Alper, Chair
Clinical Professor of Law, Berkeley Law
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Phone: (510) 987-9466

April 14, 2022

ROBERT HORWITZ, CHAIR
ACADEMIC SENATE

RE: PROPOSED PRESIDENTIAL POLICY ON RESEARCH DATA

Dear Robert,

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

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

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

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

1. UCAF recommends that VCRs consult faculty to help ensure that, as implemented on a specific campus, the policy conforms to best practices within each discipline and respects faculty's right to their data. Faculty expertise likely extends to knowledge of the best practices in their discipline for using, storing, and sharing data. And since they collected the data in the first place, faculty (Researchers, University Researches, PIs, etc.) are likely more inclined to take seriously their right to it. Campus-level Committees on Research and Division Councils might be ready to provide the needed guidance.

2. When there is a dispute between faculty and the VCR, it is critical that faculty (Researchers, University Researches, PIs, etc.) have a meaningful avenue to protect their rights to the data they collected. According to a statement by the AAUP, "Academic freedom gives faculty members and students the right to seek redress or request a hearing if they believe their rights have been violated." UCAF recommends that each campus create an independent review board, constituted at least in part by other faculty members, to handle appeals to the VCR's decisions concerning that researcher's data.

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

In addition, the proposed policy states:

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

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

UCAF appreciates the opportunity to comment on this matter.

Sincerely,

Ty Alper, Chair

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

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APRIL 13, 2022

ROBERT HORWITZ, CHAIR,
ACADEMIC COUNCIL

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

Dear Robert,

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

The proposed revision now makes clear three basic points:

    1. The UC Regents own Research Data.

    2. The PI of a research project is responsible for knowing and following all federal regulations, state regulations, funding agency requirements, campus department policies, and scholarly discipline best practices regarding the retention of Research Data created during the research project.

    3. The Vice Chancellor (VC) for Research at each UC campus is responsible for creating local policies necessary for implementing this new UC Policy.

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

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

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

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

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

Sincerely,

Kathleen McGarry, Chair
UCPB

UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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

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

April 19, 2022

ROBERT HORWITZ
CHAIR, ACADEMIC COUNCIL

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

Dear Robert,

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

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

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

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

UCORP appreciates the opportunity to comment on this policy.

Sincerely,

Karen Bales
Chair, University Committee on Research Policy