



OFFICE OF THE VICE PRESIDENT - RESEARCH AND INNOVATION

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

February 15, 2022

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

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

Dear Colleagues:

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

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

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

Feedback on the Originally Disseminated Draft Policy

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

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

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

Revisions to the Originally Disseminated Draft Policy based on Feedback

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

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

Systemwide Review

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

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

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

Sincerely,



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

Enclosures:

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

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



University of California Research Data Policy

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

Contact:	Name
Title:	Title
Email:	Name@ucop.edu
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I. POLICY SUMMARY

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

II. DEFINITIONS

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

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

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

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

III. POLICY TEXT

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

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

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

IV. COMPLIANCE / RESPONSIBILITIES

A. Vice Chancellors for Research

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

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

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

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

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

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Research Data Policy

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

B. University Researchers

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

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

C. Principal Investigators

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

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

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

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

V. PROCEDURES

Procedures in the Event that an Investigator Leaves the University

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

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

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

VI. RELATED INFORMATION

University Policies and Guidance

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

Federal and State Rules and Regulations

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

VII. FREQUENTLY ASKED QUESTIONS

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

VIII. REVISION HISTORY

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

IX. APPENDIX

N/A

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Frequently Asked Questions

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

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

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

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

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

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

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

Frequently Asked Questions

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

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

5. Do Research Data include scholarly works?

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

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

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

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

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

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

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

Frequently Asked Questions

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

These resources include:

- UC Berkeley
 - [Berkeley Research Data Portal](#)
 - [Berkeley Research IT Research Data Management Program](#)
 - [Berkeley Library Data Services Program](#)

- UC Davis
 - [UC Davis Library Research Data Services](#)
 - [UC Davis Library Data Management, Publishing, and Preservation](#)
 - [UC Davis Health Research Data Management](#)

- UC Irvine
 - [UCI Libraries Digital Scholarship Services](#)
 - [UCI Libraries What We Do](#)

- UCLA
 - [UCLA Library Data Management and Curation Services](#)
 - [UCLA Office of Research Administration Resources for Researchers](#)

- UC Merced
 - [UC Merced Library Research Data Curation](#)

- UC San Diego
 - [UCSD Library Research Data Curation](#)

- UC San Francisco
 - [UCSF Library Data Management](#)
 - [UCSF Data Resources](#)
 - [UCSF Data Resources: DMPTool](#)
 - [UCSF Data Resources: Data Management](#)
 - [UCSF Data Resources: Data Management Consultation](#)
 - [UCSF Data Resources: Systems Services](#)
 - [UCSF Data Resources: Information Commons](#)
 - [UCSF Data Resources: Library Data Science Initiative](#)
 - [UCSF Data Resources: NLP@UCSF](#)
 - [UCSF Data Resources: Research Analysis Environment](#)
 - [UCSF Data Resources: Research Electronic Data Capture \(REDCap\)](#)
 - [UCSF Data Resources: San Francisco Coordinating Center](#)

Frequently Asked Questions

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

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

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

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

10. How long should Research Data be preserved?

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

Frequently Asked Questions

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

11. Under what license should researchers share Research Data?

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

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