

April 7, 2021

Dear Vice President Maldonado:

We, the Board of the Berkeley Faculty Association, write to express our deep concern about the University's new proposed Research Data and Tangible Research Materials Policy. We believe the policy represents a grave infringement of faculty rights: it imperils faculty's rights to our intellectual property, impedes our ability to share our work publicly, limits our capacity to engage in collaborative research, and for social scientists and humanities scholars, removes appropriate guarantees of anonymity to those whose experiences we represent.

The document opens with the unprecedented and summary statement, "The Regents of the University of California owns all Research Data and Tangible Research Materials." We fail to discern from the Policy itself what has suddenly motivated the University to make this assertion. Certainly this claim is a surprising move in a historical relationship in which the University has, until now, paid scholars to teach, research and write in our capacity as professionals, vesting in scholars the capacity to act as independent experts in their fields. However, the document rarely refers to faculty in this way. Instead, it consistently references faculty among "Workforce Members," implicitly categorizing us as researchers for hire by a central administration, rather than as members of a self-governing faculty senate. Although the bulk of the proposed policy is dedicated to policies that would in some way clarify how the University should manage this new ownership, our central misgivings concern the basis and implications of this larger claim itself. One key implication would be that the University could then re-use data that it "owns," effectively dispossessing faculty of the product of their intellectual labor. Finally, it is worth reminding the University that faculty are paid for nine months, and that the three months in which they do the majority of their research are not salaried time.

In addition to the fundamental governance and intellectual property issues raised by the new policy, we would like to highlight three more pragmatic problems generated by the Policy as currently conceived. First, the University has recently made important strides in advocating for and enabling faculty to share our research. The Policy's claim of "ownership" of our research materials and data will make this more difficult, as it will bring us into entirely avoidable conflict with funders and other parties who might require that our research be openly available. Second, this ownership claim will make collaborative research, an increasingly essential element in contemporary research, unnecessarily challenging and sometimes impossible. Many scholars from other institutions will balk at the claim that the data produced by collaborative work should be "owned" outright by the University of California. And finally, and most challenging for social scientists and humanities scholars, the Policy will make the already difficult process of guaranteeing anonymity and confidentiality to "human subjects" virtually impossible. How many interviewees will happily sign a document promising them full anonymity, except for the University of California? This is in itself quite different from a document that promises that no one but the researcher will have access to identifying information.

As we said above, it is curious that the document circulated gives no account of the problem it attempts to solve. If the problem is financial, that the University has funded work and then lost access to its fruits, surely a solution that operates at the scale of the actual problem would be more appropriate. It should be possible, as the University provides funding for faculty labs or computers or other especially expensive tools and materials, for the University to draw up specific contracts with those researchers, laying out the conditions of that funding. It seems entirely unreasonable to subject every scholar in the system to this new claim of ownership to

their creative production, in order to avoid writing those more tailored and no doubt more appropriate contracts for specifically university-sponsored research.

As representatives of the Berkeley faculty, we ask that you take this policy back to the drawing board, and create a set of regulations that better fits the problem at hand.

Sincerely,

**The Board of the Berkeley Faculty Association (BFA)**

**Leslie Salzinger**, Associate Professor and Vice Chair for Research, Gender and Women's Studies, Affiliated faculty, Sociology Department

**Sharad Chari**, Associate Professor, Department of Geography

**Michael Burawoy**, Professor, Department of Sociology

**Paul Fine**, Professor, Department of Integrative Biology and Chair of Academic Senate Committee on Academic Programs and Resource Allocation (CAPRA)

**Mara Loveman**, Professor of Sociology and Demography; Chair Department of Demography

**Celeste Langan**, Associate Professor, Department of English

**James Vernon**, Helen Fawcett Distinguished Professor of History

**Anne-Lise François**, Associate Professor, Departments of English and Comparative Literature

**Cori Hayden**, Associate Professor, Department of Anthropology

**You-tien Hsing**, Professor of Geography, Pamela P. Fong and Family Distinguished Chair in China Studies, Chair of Global Studies Programs

**Peter Glazer**, Associate Professor, Department of Theater, Dance, and Performance Studies; Graduate Group in Performance Studies; Affiliated Faculty, Folklore Program

**Amanda Jo Goldstein**, Associate Professor, Department of English

**Alastair Iles**, Associate Professor, Department of Environmental Science, Policy and Management

**Poulomi Saha**, Associate Professor, Department of English

**Shannon Steen**, Associate Professor, Department of Theater, Dance, and Performance Studies

**Christine Rosen**, Associate Professor, Haas School of Business