A POLICY ON CLASSIFIED AND PROPRIETARY RESEARCH
DRAFT 5, April 20, 2007
UH Manoa Faculty Senate Committee on Research

Purpose

The research component of its mission is what distinguishes Manoa from the other campuses in the University of Hawaii system. Research advances and strengthens our society and builds the framework for future benefits in ways that can rarely be foreseen. Research is both a collaborative and an independent undertaking.

Regarding research’s collaborative aspects, researchers build on the work of their colleagues, whether in affirmation and expansion, or in repudiation and redirection. Publication and sharing of research results is one of the foundations of this system of collaboration.

Regarding research’s independent aspects, University of Hawaii Board of Regents policy states that researchers/scholars have the right to “inquire and disseminate the results of inquiry according to the established forms of academic freedom.” Academic freedom, including the freedom to conduct research in a manner that complies with prevailing laws and regulations, should not be constrained by the University, except under the rarest and most exceptional circumstances.

The University must establish clear guidelines to balance the freedom to conduct research with the responsibility to make the results of research accessible.

Definitions

Classified research
Classified research is usually government funded and can further be defined as “national security information at the levels of Top Secret, Secret, and Confidential,” and as being governed by Department of Defense National Industrial Security Program Operating Manual (NISPOM) requirements. Publication of classified research results can be withheld or restricted, legally.

Proprietary research
Proprietary research, usually privately funded, is defined as research activities undertaken pursuant to a contract between the University and an outside sponsor with commercial interests, and carried out under the auspices of the University. Publication of proprietary research results can be withheld or restricted, contractually.

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1 Hawaii, University of Hawaii, Board of Regents, "Board of Regents Policies," sec. 5-15 (c) (1).
2 Massachusetts Institute of Technology, Ad Hoc Faculty Committee on Access To and Disclosure Of Scientific Information, "In the Public Interest" (Cambridge, MA: MIT, 2002), 43.
Restricted research
Restricted research is research where publication may require advance review by, or permission of the funding entity. Restricted research may have constraints imposed by the funding entity, whether it be the state, a federal agency, or a private sponsor with or without commercial interests. Constraints can include the approval of principal investigator or other key personnel, and changes in the budget or the scope of the project.

Open research
Open research is research where the data and results may be freely shared, and where there are no constraints imposed by the funding agency.

Policy Elements / Procedure

General
Research explicitly intended to produce weapons of mass destruction, or research in violation of federal or state laws and regulations, is prohibited.

Requirements for compliance with regulations on safety, human subjects and animal subjects shall be the same for classified/proprietary, restricted or open research.

Researchers cannot be coerced to undertake any research.

Classified Research on Campus

Classified research shall be prohibited at any campus location. Any research project that becomes classified because of unanticipated results is to be moved off campus as soon as possible.

Classified Information on Campus

Classified information shall not be stored at or accessed from any campus location used for student research or academic instruction.

Classified or Proprietary Research in Theses or Faculty Evaluations

Classified or proprietary research results that are not available for public review cannot be used in tenure or promotion decisions, or in student theses or dissertations.

Classified or Proprietary Research Restrictions

Researchers are free to accept or reject restrictions imposed on their research proposals by the funding agencies, within the limits set in this policy. Criteria for restrictions, terms of restrictions and descriptions of anticipated scholarly results must be articulated or referenced in the funding instrument. Sponsors may not be allowed unilateral discretion.
on restricting scholarly research results beyond those restrictions defined in the initial funding instrument, except as may be required by law.

**Classified or Proprietary Research Results**

Scholarly results of proprietary or classified research must have a reasonable expectation of timely publication. Any pre-publication or pre-release review periods and any extensions may not be indefinite and must be clearly defined in the initial funding instrument or addenda as either a specific period of time or as ending upon the passing of a specified event.

**Transparency**

The University will publish an annual list of all classified and proprietary research projects with brief descriptions of their scopes of activity, without PIs’ names.

The Manoa Faculty Senate’s Committee on Research will do the following, relying on unclassified summaries of classified research projects:

- review summaries of restrictions in new classified and proprietary research contracts
- review exceptional matters arising from the conduct of classified or proprietary research
- propose revisions to this policy if warranted
Selected documents relating to classified research available at ftp://ftp.soest.hawaii.edu/wilkens/CoR/

University of Hawaii

Vince Peterson to Fujio Matsuda, memo re policies at other campuses, 1985

Vince Peterson to Hawaii Legislature, testimony re classified research policy, 1986

Manoa Faculty Senate resolution, Jan. 29, 1986 (approved)

Manoa Faculty Senate, Dec. 2002

Proposed revisions to Board of Regents policy (not acted upon by BOR)

Background to 2002 proposed changes

Manoa Faculty Senate Resolution, 2002 (approved)

Manoa Faculty Senate minutes, Dec. 11, 2002

Manoa Faculty Senate Ad Hoc Committee on Proprietary & Classified Research report, March 2005

Manoa Faculty Senate resolution, March 2005 (approved)

UH Board of Regents policy re classified research, current

MIT

In the Public Interest - 46 page 2002 Report by MIT Faculty Committee on the disclosure of Scientific Information

Widnall - 2002 testimony before the US House of representatives (5pp)

Lincoln Labs

MIT GLOBE Ed - Editorial from the Boston Globe on Lincoln Labs controversy (2pp)

The Tech - Timeline of Lincoln Labs dispute from 2004 (5pp)
Other Universities

Arizona State – Faculty manual excerpt (2pp)

Berkeley – Research Regulations on publication freedom excerpt (4pp)

Brown – Faculty Rules excerpt (1pp)

Columbia – Faculty handbook excerpt (1pp)

Duke - Faculty handbook excerpt (1pp)

Miami – Policy on clearances and publication (2pp)

Michigan – Regents policy on Grants (6pp)

New Mexico – Faculty handbook excerpt (1pp)

Notre Dame – Office of Research policy (1pp)

Ohio State – Policy on restricted publication (1pp)

Oregon – Policy statement (1pp)

Santa Cruz - 2002 testimony before the US House of Representatives (5pp)

Stanford – Policy handbook on openness (4pp)

Texas – Handbook excerpt (1pp)

UCSD (Scripps) – Marine Physical Lab clearance (1pp)

Washington – Research Policy (3pp)