A POLICY ON CLASSIFIED AND PROPRIETARY RESEARCH

UH Mānoa Faculty Senate Committees on Research and on Professional Matters
Approved by the UH Mānoa Faculty Senate on November 14, 2007

Draft_Research_Policy_4_20_07.doc
  Proposed policy on classified and proprietary research from the Committee on
  Research, April 2007
Document_List4_07.doc
  A list of documents from UH Manoa and other universities regarding classified and
  proprietary research
Earlier_UH_Work
  A collection of 12 documents produced at UH Manoa regarding classified and
  proprietary research policy
Other_Universities
  A collection of 20 documents from 18 universities regarding their policies on
  classified and/or proprietary research

Purpose

The research component of its mission is what distinguishes Mānoa from the other campuses in
the University of Hawaiisystem. 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 has the obligation to 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.

*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.

*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 under the authority and responsibility of the Mānoa Chancellor. 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, Proprietary, or Restricted Research in Theses or Faculty Evaluations*
Classified, proprietary, or restricted research results that are not available for public review cannot be used in tenure or promotion decisions, or in student theses or dissertations.

**Classified, Proprietary, or Restricted 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, Proprietary, or Restricted Research Results**

Scholarly results of proprietary, restricted, 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 Vice Chancellor for Research with the assistance of the Office of Research Services will maintain an up-to-date publicly accessible list of all active classified, restricted, and proprietary research projects under the authority and responsibility of the Mānoa Chancellor or being conducted by UH Mānoa researchers at sites under the authority and responsibility of the UH President. The list shall include titles, brief descriptions of the location and scope of activity, PI name (by permission of PI), contract/grant/task order number, funding level, sponsoring agency (including program element number) and nature of publication restrictions (including time restrictions).

In an annual report to the Faculty Senate, at a date specified by the SEC, the Mānoa Faculty Senate’s Committee on Research will report its findings based on:

* its review of restrictions in new propriety and restricted research contracts, grants, task orders and a review of restrictions in unclassified summaries in the case of classified research contracts, grants and task orders,

* its review of exceptional matters, if any, arising from the conduct of classified, proprietary and restricted research contracts, grants and task orders,

* its proposed revisions to this policy, if warranted.

Prior to final presentation at Faculty Senate, the Committee on Professional Matters will review the annual findings and any proposed revisions to this policy from the standpoint of professional interests of the Mānoa Faculty.

**Exceptions**
Exceptions to this policy may be granted under extraordinary circumstances after review by the Faculty Senate or the SEC when the Senate is not in session. Any exceptions are expected to be well defined both in terms of activities covered and the time period required. Exceptions may not be indefinite in nature.