

January 13, 2017

Ruth Greenblatt, PhD, Chair
UCSF Academic Senate
500 Parnassus Avenue
San Francisco, CA 94143

RE: Recommendations of the Allowable Effort Task Force

Dear Chair Greenblatt

On November 7th, 2016 faculty members of the Allowable Effort Task Force met to discuss the UCSF administration proposal to increase the maximum amount of effort allowable on Federal sponsored projects from 95% to 100%.

Background

In spring 2016, the Administration released a joint white paper from Research Management Services and Contracts & Grants Accounting, which recommended that UCSF should modify its current 95% maximum effort policy on federally funded projects and move to a 100% sponsor funded faculty policy. The prior policy limiting such effort to 95% was enacted in 2011 after a 2010 UCSF internal audit indicated that the higher education industry faced a relatively high risk exposure by the Office of Inspector General. To date, UCSF still maintains an effort reporting guideline tolerance of 5% for accuracy between unique activities.

Federal regulations have always required institutions to have internal controls to support the distribution of the employee's compensation salary among specific activities, such as various Federal awards, non-Federal awards, indirect cost activity, or unallowable activity. (2 CFR §200.430 (i) (vii)) Further, Federal regulations have always defined the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards, including the development of supporting data, as indirect cost activity. (2 CFR §200.460) It is these regulations that drove institutions in the 1990's to adopt rules similar to UCSF's stating the maximum effort allowed on sponsored activity is 95%.

In 2013, changes to federal regulations were negotiated with the drafting and eventual issue of the Uniform Guidance Rule that allowed faculty to spend 100% time on sponsor-funded research. However, it did not specifically provide advice on how to assess non-research-related activities, such as teaching and service. It also recognized that these activities are often intermingled in academic settings, and stated that the precise accounting of these contributing cost factors are not always feasible, nor are they expected. (2 CFR §200.430 (i) (x))

Under the Uniform Guidance Rule, allowable charges to Federal awards may include delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances and/or chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. (2 CFR §200.430 (h) (1) (i)). However neither clinical activities nor University or public service are covered by these changes.

It is also important to note that the Uniform Guidance no longer requires effort reporting as the required documentation support for salary charged to Federal awards.

Process

In September 2016 at the UCSF Academic Senate Leadership Retreat, a short-term task force was created to explore faculty opinion on the topic and to conduct due diligence on the topic within the campus and with other Universities nationally so as to make a final recommendation. The Task Force was comprised of faculty representatives from the Committees on Academic Personnel, Faculty Welfare, and two members from the Committee on Research. They met once in person and once via a conference call; they also presented this report in a draft format at the Senate's Executive Council in January 2017. Professor Shuvo Roy, PhD, Bioengineering and Therapeutic Sciences, served as Task Force Chair.

As part of the task force, Chair Roy spoke individually to the following universities who had established policies supporting 100% sponsor-funded faculty: University of Illinois Urbana-Champaign, University of Washington, and Oregon Health & Science University.

Separately, Task Force members asked faculty their opinion in the Academic Senate's November Question of the Month as well as asked Department Managers and Manager Services Officers (MSO).

Other Universities

Discussions with other universities that had instituted similar policies emphasized to task force members the uniqueness of UCSF. Most other universities had a large undergraduate program, with faculty on nine-month appointments and few on NIH or Federal funding for research. This naturally resulted in a much smaller faculty pool who would be eligible to become 100% sponsor-funded.

Regardless several of those universities that had instituted 100% sponsor-funded options had also eliminated their version of an effort reporting system, although they remained in internal compliance.

Of those faculty who did become 100% sponsor-funded, most applied to be considered and went through an internal review process, before becoming so for a short duration. In those cases, the faculty in question were younger, and even pushed back on the 100%. In addition, those faculty had summer salaries which accounted for two and a half months, so even in those cases they were not one hundred percent salary all the time.

The task force learned the following specific information from those universities it spoke with:

- University of Washington had few faculty who could qualify to become 100% sponsor-funded, and many exceptions as well.
 - Junior faculty in particular have pushed back on the 100% effort, citing potential inability to consistently acquire grants; campus Administration agreed to cover the five percent if they were unable to do so.
- Oregon Health & Science University examined developing a 100% sponsor-funded policy, but ultimately decided to keep the maximum allowable effort at 95%.
 - Junior faculty in the basic sciences at OHSU felt challenged by the 100% bar, and also determined it would be a recruiting issue.
- Several of the universities commented that faculty felt like being at 95% maximum allowable effort was equivalent to a 5% pay cut. Others wanted some fiscal investment by their respective Administrations in the faculty.

Task Force Discussion

UCSF has a unique administrative and compensation structure which must be considered when exploring these changes. Present campus regulations and requirements are in conflict with moving faculty to be 100% sponsor-funded research. In fact doing so would make it unfeasible for many faculty to satisfy them honestly.

Having faculty, in series other than Adjunct and possibly Health Sciences Clinical, receive 100% of their support via Federal grants would make them run afoul of the criteria for advancement and promotion from the Academic Personnel Manual. It could also cause faculty to file inaccurate effort reports on the UC Effort Reporting System (ERS) or possibly run afoul of Federal regulations by extending federally supported academic activities beyond those with a nexus to the supported projects. Adjunct and HS Clinical faculty can be out of balance, with a heavier research or clinical load than teaching, but University and public service are still required elements for advancement and promotion.

Twice a year, faculty must certify their effort in ERS, which documents their certification that their effort is apportioned in to the sources of their salary funding. So a faculty member who received one hundred percent of their funding from NIH would have to certify that all of their effort is devoted to those sponsored projects. While the Uniform Guidance no longer requires effort reporting, it's unclear if the UC ERS will be eliminated.

For faculty preparing for an Academic Affairs merit personnel action, they would need to document their teaching and service contributions, which would not, for the most part, be supported by Federal sources. Some mentoring activities, that have nexus to the Federally-funded project, are supported. But if they had accurately completed the ERS, then faculty wouldn't meet the criteria for advancement and promotion as per the APM.

This presents an ethical conundrum for UCSF faculty. And while the Uniform Guidance Rule no longer requires effort reporting, whether UC will eliminate that as well hasn't been communicated.

The existing requirement for five percent non-Federal funding creates a category of support under which many requisite academic contributions can be considered. However some departments don't cover the five percent and those faculty may have a difficult time finding a non-Federal sources to cover what is institutionally-mandated effort.

While the white paper states "[t]his policy change shifts the focus from a forced limitation on the funding to an accurate evaluation of the Faculty's efforts," it only cites "proposal activities" as something to be funded from non-sponsored funding sources. There are many other activities—from teaching to shared governance and University and public service—which fall within the current 5% other activities.

In addition, it's conceivable that a true evaluation of Faculty's efforts would yield far more than a 5% effort put towards non-sponsored or administrative activities. In those cases, if the Administration required the faculty member stop conducting some portion of business, would the burden fall to other non-research faculty to complete it? And if those faculty were heavily involved in clinical or teaching matters, how would they be expected to balance pre-existing expectations with new workload?

As currently presented by administration, faculty will still be expected to participate in these other activities despite receiving no support for their participation. This could disincentivize faculty from participation in non-research activities – an opinion shared by one of the Universities the task force spoke with. Faculty at other Universities who are 100% sponsor-funded do not participate in non-sponsored activities and if they do it requires a plan to temporarily decrease percent effort.

Task force members also determined that administration and departments get more out of faculty doing 95% sponsor-funded effort than from faculty when they're at 100% sponsor-funded effort. If faculty are at 100%, then administration and departments won't have to contribute to the success or failure of such faculty. From a faculty point of view there needs to be some investment or support in faculty by the administration or department. Options imagined included either not participating in non-sponsored activities or request a 5% pay cut. The burden remains on the faculty to come up with the solution.

Overall it was determined that moving to 100% sponsor-funded faculty will not eliminate but add to the burden already placed on faculty in accomplishing non-grant funded activities like service, instruction, other proposal preparation, or non-sponsor-funded research. It will also add an administrative burden to staff involved in grants management within departments and divisions as they would need to adopt other workaround methods to insure compliance.

Task Force Concerns

In addition to the above the following concerns were raised by task force members:

- a. *Advancement/Promotion*: How might moving to a 100% sponsor-funded faculty model impact advancement and promotion of faculty if they are still to be measured on systemwide Academic Personnel Manual guidelines for their relevant faculty series step and rank?

Task Force members would recommend that Administration pursue creation of a waiver or a short-term research model, identifying such faculty as being 100% sponsor-funded for a limited period of time during any academic year. Such faculty would need to have their status identified as such within an AA personnel packet up for advancement or promotion, so as to explain any lapse in non-sponsor-funded activities.

- b. *Audits*: If an outside agency audits UCSF, will there be a consistent way across the campuses on how faculty who are 100% sponsor-funded answer pertinent questions? Plus for those faculty, how would they be impacted in an audit? Instituting a uniformed Department or School support for the five percent non-sponsored effort would put the campus in a better position for an external audit.
- c. *Departments/Divisions Support of Faculty*: How would Departments handle having faculty at 100% sponsor-funded faculty? A great deal of business at a Departmental-level is handled by faculty; would they be exempt from participation, or would it still be expected?
 1. If one hundred percent of the burden sits on faculty and a Department and the campus still expects participation in committee and public service, etc., there is no investment in faculty. There needs to be some way to hold such groups accountable to faculty members at a financial level.
 2. Alternately, if Departments and Schools intend to still require participation in non-sponsor funded research activities, they should provide the additional five percent in exchange for services. It's increasingly difficult for faculty who are on Federal funds to find non-Federal funds to cover that five percent.
- d. *Effort Reporting System*: If faculty become 100% sponsor-funded, and yet are also expected to fulfill APM requirements for advancement and promotion, then they would be presented with an ethical issue when filling out ERS. If UCSF intends to follow the Uniform Guidance rule, then this may not be an issue moving forward, however that hasn't been clear as of yet.

- e. *Recruitment*: It's already difficult to recruit faculty to UCSF. But with a 100% sponsor-funded faculty policy it will be that much more difficult, especially if the expectation to participate in non-sponsored activities remains. It suggests to some faculty that they had better go elsewhere to find campus support.
- f. *Faculty Inequality*: Having a policy where some faculty are 100% Federally sponsor-funded and yet still expected to handle non-sponsor funded activities could set up different classes of faculty and lead to diminishment of worth. Plus what starts with In Residence or Adjunct faculty could eventually spread out to all faculty with an expectation of it remaining always at that 100% level of research focus, plus additional activities.

Recommendations:

The Task Force recommends **maintaining a maximum 95% allowable effort** on Federal sponsored projects. It further encourages the UCSF Administration to provide financial information to the Academic Senate, on the cost to support faculty that remaining 5%.

If UCSF opts to pursue allowing faculty 100% sponsor-funded faculty we recommend the following:

1. The establishment of guidelines for faculty who are 100% sponsor-funded, including an application, screening and review process for eligible faculty. UCSF should follow an option similar to other Universities where such faculty must justify being so.
2. Creation of a waiver which could be included in academic personnel files citing a start and end date for faculty who have become 100% sponsor-funded. This waiver would detail how such faculty would balance or not pursue other non-research activities such that they aren't penalized within the advancement and promotion process by violation of the Academic Personnel Manual guidelines for their respective faculty series.
3. The creation of a campuswide workgroup to provide clarification on how the one hundred percent classification would impact the myriad of areas highlighted in this brief report. Task Force members would also request the campus provide corrections for any unintended consequences.
 - i. A campus representative from each of the above areas should be on the workgroup as should a Senate representative and/or a member of this Task Force. Members would also encourage a representative from the Academic Senate's Committee on Equal Opportunity serve on this campuswide workgroup.

While neither option will satisfy all faculty, task force members propose the creation of a manageable system for both faculty and Administration, rather than additional complications.

The Task Force and the Academic Senate is open to discussing these recommendations and concerns with Administration if it is so inclined.

Sincerely,

Task Force on Allowable Effort

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