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Chair of the Assembly and the Academic Council
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University of California
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August 1, 2013

AIMÉE DORR, PROVOST AND EXECUTIVE VICE PRESIDENT

Re: Open Access Policy

Dear Aimée:

At its July 24, 2013, meeting, the Academic Council voted (13 in favor; two abstentions) to adopt an Open Access policy for Senate faculty and to recommend that the President issue a similar policy for the entire University of California system. The policy grants a default non-exclusive license to the University to make faculty-authored published articles freely available to the public in an open access repository where faculty will deposit digital copies of their published articles. The policy, as adopted, is attached.

Council urges issuance of a Presidential policy to extend similar provisions more broadly. We understand that the California Digital Library (CDL) will lead implementation of the deposit system with oversight by the Senate's University Committee on Libraries and Scholarly Communication (UCOLASC).

Council's endorsement of the policy follows two years of in-depth review and is premised on the understanding that the policy will be implemented on the principle of "do no harm" to faculty authors. The policy does not limit any author's choice of journals in which to publish their work. Authors who wish to opt out of the policy for any article at any time may request and will be automatically granted a waiver. Similarly, authors may specify that an article placed in the repository must be embargoed for a designated period of time before being made available for public access.

We anticipate that adoption of this policy will immediately affect some publishers' interaction with UC authors and understand that CDL is prepared to offer support, including communicating this policy to all scholarly publishers, in order to ensure that each of them understand the rights we are reserving. Some publishers routinely ask faculty authors to waive or embargo these rights. The experience at the San Francisco campus (UCSF), where a nearly identical policy has been in place since spring 2012, suggests that publishers will begin such making such requests immediately upon announcement of this policy.

Although the policy is now in effect, we ask that implementation be phased in and carefully monitored. This will allow for modification if unintended consequences become apparent. We

expect that faculty at two campuses in addition to UCSF will begin depositing their articles on November 1, 2013 and that expansion to the remaining seven campuses will occur after a year. We request formal reports on implementation progress, issues that have emerged, and proposed solutions at six-month intervals for the first year.

Although the policy became operative the day it was adopted, the November 1 start date for required deposit of articles will ensure that CDL has the appropriate tools in place to begin the one-year pilot phase. CDL tools will include a new streamlined deposit process that will minimize the work required of an author to deposit an article or request a waiver.

Council appreciates your written pledge to provide resources for the CDL infrastructure necessary to make this policy feasible. Council also understands that each time a faculty author places an article in the repository he or she will have the opportunity to select and apply a Creative Commons license to delimit the exact permissions that are being granted to those who access the material.

As noted above, Council's decision to endorse the policy followed an extensive review period that led to the conclusion that only a robust period of trial implementation would produce answers to the many questions that have repeatedly arisen as the Senate discussed this proposal. Indeed, some members arrived at the Council meeting expecting to request another review, but after considering the unknowns that underlie many of the concerns expressed, they voted to go forward now. Council understands that it may rescind the policy in the future if experience indicates that it is not advantageous to faculty. In the meanwhile, Council reiterates its commitment to the provision that individual faculty may opt out (decline to grant the license) whenever they consider it appropriate to do so.

I anticipate that this experiment will generate many questions and may have some unanticipated consequences. On behalf of my successors, I look forward to working with you and the CDL to continue the joint project of implementing and refining an open access policy for UC that serves all faculty as well as the larger research mission. We look forward to seeing this policy succeed, and welcome cooperation with the Office of the President in making open access work for faculty, the University, our research sponsors, and the public.

Sincerely,



Robert L. Powell, Chair
Academic Council

Encl (1)

Cc: Academic Council
Christopher Kelty, Chair, UCOLASC
Laine Farley, Executive Director, CDL
Martha Winnacker, Senate Executive Director



Open Access Policy for the Academic Senate of the University of California Adopted 7/24/2013

Preamble

The Faculty of the University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as part of a public university system, the Faculty is dedicated to making its scholarship available to the people of California and the world. Furthermore, the Faculty recognizes the benefits that accrue to themselves as individual scholars and to the scholarly enterprise from such wide dissemination, including greater recognition, more thorough review, consideration and critique, and a general increase in scientific, scholarly and critical knowledge. Faculty further recognize that by this policy, and with the assistance of the University, they can more easily and collectively reserve rights that might otherwise be signed away, often unnecessarily, in agreements with publishers. In keeping with these considerations, and for the primary purpose of making our scholarly articles widely and freely accessible, the Faculty adopts the following policy:

Grant of License and Limitations

Each Faculty member grants to the University of California a nonexclusive, irrevocable, worldwide license to exercise any and all rights under copyright relating to each of his or her scholarly articles, in any medium, and to authorize others to do the same, for the purpose of making their articles widely and freely available in an open access repository. Any other systematic uses of the licensed articles by the University of California must be approved by the Academic Senate. This policy does not transfer copyright ownership, which remains with Faculty authors under existing University of California policy.

Scope and Waiver (Opt-Out)

The policy applies to all scholarly articles authored or co-authored while the person is a member of the Faculty except for any articles published before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy. Upon express direction by a Faculty member, the University of California will waive the license for a particular article or delay access to the article for a specified period of time.

Deposit of Articles

To assist the University in disseminating and archiving the articles, Faculty commit to helping the University obtain copies of the articles. Specifically, each Faculty member who does not permanently waive the license above will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication, for inclusion in an open access repository. When appropriate, a Faculty member may instead notify the University of California if

the article will be freely available in another repository or as an open-access publication. Faculty members who have permanently waived the license may nonetheless deposit a copy with the University of California or elsewhere for archival purposes.

Notwithstanding the above, this policy does not in any way prescribe or limit the venue of publication. This policy neither requires nor prohibits the payment of fees or publication costs by authors.

Oversight of Policy

The Academic Senate and the University of California will be jointly responsible for implementing this policy, resolving disputes concerning its interpretation and application, and recommending any changes to the Faculty. Any changes to the text of this policy will require approval by both the Academic Senate and the University of California. The Academic Senate and the University of California will review the policy within three years, and present a report to the Faculty and the University of California.

The Faculty calls upon the Academic Senate and the University of California to develop and monitor mechanisms that would render implementation and compliance with the policy as convenient for the Faculty as possible.