

An Open Access Policy for the University of California: Materials for discussion and consultation

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Introduction

This document is intended to spur discussion about a university-wide open access policy at the University of California. The Faculty of the University of California (coordinated by the University Committee on Libraries and Scholarly Communication) has created a model version of this policy, included here, along with many frequently asked questions about the issue. This is not an official proposed policy, but a document for discussion and debate. UCOLASC hope to make UC faculty broadly aware of the issues, and to help answer questions about it before the official policy is drafted and circulated in the spring of this year (2012).

The policy we are considering would make it a condition of our employment that we grant the University of California the right to make as much of our research as possible as openly and easily accessible as possible, on our behalf. The policy must be proposed *by the faculty* and passed by system-wide Academic Senate in order to take effect. It would be implemented with the help of the California Digital Library and the local campus libraries, who are well prepared to do so.

Support for open access to scholarly work has grown over the last decade. In the age of digital dissemination, scholars are increasingly seeking ways to maximize the availability and impact of their work. Many institutions have adopted policies that aim to facilitate digital distribution of scholarly work via open access repositories.

Open access repositories allow the public to view taxpayer-funded research and scholarly activities, and offer an economically sustainable alternative to fee-based access. Under this policy, faculty would continue to publish in the venue of their choice; but would retain the right to make available a *version* of the work in an open access repository, such as the eScholarship repository, run by the California Digital Library, or the PubMed repository run by the National Institutes of Health, or any other such repository.

An effect of the policy would be to encourage scholarly publishers to change their expectations about who should retain which rights in a publication. The Current [UC Policy on Copyright Ownership](#) already establishes that UC Faculty hold the copyright for their scholarly work. Yet, Faculty routinely give up their copyrights completely to commercial publishers who then manage these rights for profit. Under an Open Access Policy, scholars would retain a specific non-exclusive right to disseminate their work, rather than granting publishers exclusive control over a publication. Publishers can still provide valuable services and create high-quality final versions of our publications, but under this policy they would no longer be able to control the circulation of our work completely.

The University of California attempted to pass an open access policy in 2007—and there were well-considered objections to that policy. The current proposal is written in light of those objections, and is close in form to policies that have been

successfully passed by [Harvard](#), [MIT](#), [Kansas](#), [Duke](#), and [Princeton](#), among many [others](#).

The previous policy was proposed in 2006 by the Academic Council's Special Committee on Scholarly Communication (SCSC) and unanimously endorsed by the UC Academic Assembly. The SCSC also issued "[The Case of Scholars' Management of Their Copyright](#)" as a related white paper. An ad hoc working group was subsequently appointed to draft a [detailed policy](#), released in January 2007. The ensuing UC-wide discussion raised a variety of concerns, especially around the complicated Faculty opt-out mechanisms. These and other reactions are reflected in a July 2007 [memo](#) summarizing Academic Senate review of the draft policy. In light of these concerns, the UC Open Access Policy did not move forward.

Subsequently, several peer institutions (notably MIT and Harvard) drew on this experience to propose simplified versions of an open access policy, such as the [Harvard Model Policy](#). These policies retain the right for faculty to opt out for whatever reason, without have to ask permission from the administration or the repository. This change has the virtue of being consistent with faculty control over their work, but it has less force with respect to publishers who might wish to force faculty to opt out.

The policy we are proposing is by itself is a very strong statement about the values the faculty holds with respect to the wide dissemination of scholarly research, especially taxpayer-funded research. The implementation of the policy, however, would take place in a rapidly changing publishing environment, where there are open questions about scholarly publishing business models, technological change, and issues of quality, authoritativeness and reliability of scholarly research. Such issues will continue to require input from faculty.

It is important to emphasize that the primary goal of this policy is to increase the availability and impact of research produced by the University of California, without adding new costs or undue burdens on faculty. Current scholarly publishing models do not achieve this goal to the extent that is possible today—scholarship is artificially restricted in order to maintain the subscription-based business models of publishers. It is thus a secondary or related goal of the policy that it encourage scholarly publishers to adopt models which achieve the equivalent of open access without adding further burden on or expense to faculty. If they do so, this policy may eventually become unnecessary; if they do not, this policy provides an alternative.

UCOLASC asks that faculty members distribute this document widely, and engage in debate and discussion of these issues, in preparation for an official policy to be drafted and circulated in the Spring and Fall of 2012. In addition to the information in this document, there are knowledgeable and committed faculty members on all ten campuses who can provide guidance and answer questions.

Christopher M. Kelty, Chair, UCOLASC

Model Policy (with annotations for discussion)

(The policy itself will be proposed as a change to the Academic Personnel Manual which governs the entire University. Many campuses would like to pass the policy on their own, but there is no feasible way to achieve this without making it part of the APM. However, each campus senate will be asked to consider the change as part of the normal procedures for adopting such a change. In reality, the policy will be most effective only when it governs the entire faculty. The implementation of the policy, by contrast, may occur with slight differences from campus to campus, if necessary.)

The Faculty of The University of California is committed to disseminating its research and scholarship as widely as possible.

(The preamble articulates the justification for the open access policy. Most policies articulate a justification based on making research available, with the implication that availability benefits scientific progress or enhanced public dialogue. Our preamble might also articulate a commitment to the People of California who fund the university and who arguably have a right to our research.)

In keeping with that commitment, the Faculty adopts the following policy:

(There are two parts to the policy: one is the promise we make to allow UC to disseminate a copy of our research (the open access mandate). The other is the promise to provide a copy of all of our scholarly articles to the California Digital Library (the deposit requirement). Faculty should consider which of these two promises comes first.)

Each Faculty member grants to The University of California permission to make available his or her scholarly articles and to exercise the copyright in those articles.

(This clause states the open access mandate generally, and specifies that this is an issue of granting copyright. It clearly states that this is a blanket grant for all works going forward, which relieves individual faculty members from the burden of having to do so in every case.)

More specifically, each Faculty member grants to The California Digital Library, acting on behalf of the Regents of 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, provided that the articles are not sold for a profit, and to authorize others to do the same.

(This clause states the open access mandate specifically and in legal terms that refer specifically to copyright law. Faculty of the University of California, according to the UC intellectual property policy, maintain copyright in their scholarly work, and as such, may exercise those rights, including transferring them completely to a publisher or granting a license which permits particular uses of a work. This clause grants a very limited and specific license to the California Digital Library. The CDL is the only UC entity that would actually exercise these rights other than the faculty. They must do so "on behalf of the Regents of the University of California" however, because the Regents is the corporate body capable of receiving the license. The acting regents (the 15 appointed members) would have no direct interest in or control over these rights. The term "nonexclusive" means that the faculty member can still grant the same rights, or other rights, to other parties; irrevocable and worldwide mean that the UC maintains the right and is not limited by jurisdiction; "to exercise any and all rights under

copyright” specifies that UC can copy, distribute, make derivative works and other actions defined in the statute, whether electronic or print. “Not sold for profit” prohibits most commercial uses but would allow cost-recovery for photocopied course readers, for example. And “to authorize others” has the feature of allowing UC the right to allow further dissemination consistent with the terms of the license.)

The policy applies to all scholarly articles authored or co-authored while the person is a member of the Faculty

(The policy covers “scholarly articles” —which is deliberately vague but does not include fiction, poetry, textbook, visual works, etc. Extending the policy to cover these categories of works would likely be controversial (and has not generally been done by peer institutions). In those cases where a faculty member explicitly wants an excluded work to be covered (as for instance, a scholarly monograph), that faculty member has the right if he or she chooses to grant the same license to the university in advance of any agreement with a publisher. The policy also covers jointly authored publications, since each co-author may exercise copyright in a joint publication. The policy applies only during the time that an individual is a member of the Faculty.)

except for any articles completed 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.

(The policy only applies to work going forward in time. Some universities, such as Harvard, have taken the extra, possibly expensive step of trying to deposit copies of past research to whatever extent possible. This policy would not require that, though the faculty might wish to encourage themselves and the office of the president to make reasonable attempts to do so. This is a separate issue of implementation.)

The University of California will waive application of the license for a particular article or delay access for a specified period of time upon express direction by a Faculty member.

(The option to opt out of this policy is absolute and rests with the faculty member. Faculty members may either waive the open access requirement completely for a particular article, or delay it for a specified time. This opt-out requirement is simple to implement and in order to allow faculty to ultimately determine which materials should be widely available. It is possible that publishers could abuse this option, by refusing to publish unless the faculty opts out. But many publishers already allow open access deposits (so-called “green OA”), and we hope that the policy encourages others to do so as well. Note also that this waiver is intended to apply to the open access requirement and not to the deposit requirement (see below); as such it may make sense to list the deposit requirement first, and then the open access requirement second so as to avoid confusion on this point.)

Each Faculty member will provide an electronic copy of the author’s final version of each article no later than the date of its publication at no charge to the California Digital Library, or its successors, in an appropriate format. The California Digital Library, or its successors, may make the article available in an open access repository.

(This is the deposit requirement, which is separate from the open access mandate. This requirement is necessary in order to make open access a reality rather than a symbolic gesture. How this requirement is implemented, however, is not something that needs to

be specified in the text of the policy. To “provide an electronic copy” might mean either uploading a copy of the text to a repository or indicating where an alternative open access version exists, such as in the PubMed database. “The author’s final version” usually means the version after peer review but prior to type-setting by a publisher. The California Digital Library controls the eScholarship repository, which is more than suitable for these purposes, and can be coordinated with other repositories.)

The California Digital Library, or its successors, will be responsible for interpreting this policy, resolving disputes concerning its interpretation and application, and recommending changes to the Faculty from time to time.

(The CDL is part of the University of California Office of the President, specifically under the Provost for Academic Planning, Projects and Coordination. They provide many of the digital services enjoyed by all ten campuses, and they negotiate directly with publishers on behalf of the university. They are funded, however, by a combination of contributions from the ten campus libraries, and the University. As such, they are the most likely entity to be responsive to, and in direct communication with the campuses.)

The policy will be reviewed after three years and a report presented to the Faculty.

(The policy has the virtue of clearly separating the faculty-led mandate from the implementation by CDL. Nonetheless, some important concerns about how this policy will be implemented should be discussed as early and as often as possible.)

Frequently Asked Questions

This FAQ is divided into three sections: questions about open access generally, questions about the specific proposed OA Policy at UC and questions about the implementation of that policy. It is important to recognize that it is the Faculty of the University of California who would propose and pass (via the Academic Senate(s)) this policy; but it is the Office of the President, The California Digital Library and the campus libraries who would be charged with implementing it.¹

FAQ: What is Open Access and what are the issues?

1. What does the term Open Access mean?

“Open Access” is a term commonly used for a movement that promotes free availability and unrestricted use of research and scholarship. Open-access (OA) literature is digital, online, free of charge to the reader, and free of most copyright and licensing restrictions, so there are no price barriers and no permission barriers.

The definition of the concept emerged from three conferences:
[Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities](#)
[Bethesda Statement on Open Access Publishing](#)
[Budapest Open Access Initiative](#)

Also see:
[An Overview of Open Access](#)
[A short video clip](#) on open access and scholarly publishing.

2. What is the difference between open access, public access and free access?

Open access generally means free of charge and free of copyright or licensing restrictions. Public access (as for instance in NIH Policy of [Enhanced Public Access to NIH Research Information](#)) can mean access without charge, but many copyright restrictions may remain in place. Free Access generally only means free of charge, but says nothing about copyright or licensing restrictions.

3. Why do researchers support open access?

Many OA advocates support this unrestricted access because they believe the results of tax-payer funded research should be shared; since citizens have paid for this research, they should be able to access it at no additional charge. Many OA advocates also support unrestricted access because knowledge itself, or information, is a public good. A public good is something beneficial to everyone who seeks it, without added use diminishing its value. Common examples of public goods include: law enforcement, lighthouses, clean air and other environmental goods, and information goods, such as software development, authorship, and invention.

Open access has been driven by several forces:

The web offers new methods of publication: it makes distribution of research easier, wider, faster, and frequently less expensive. The web offers new outlets and methods for sharing and using research and for supporting teaching, creating demand for an access model that allows faculty and universities to take full advantage of these new outlets and methods or in institutional or discipline-based repositories for research (e.g. UC’s

¹ Sections of this FAQ are taken from The MIT open access faq (); the Harvard University Scholarly Communication FAQ. Questions and answers were compiled with the help of UC Faculty and librarians.

eScholarship repository, SSRN, PubMed Central or the archive for physics and related fields, [ArXiv](#) and others). Some supporters believe that open access will address entrenched problems with high prices and strict use and purchase terms faced by universities buying traditional journals in digital form.

4. *Why would an author be interested in pursuing an open access channel for publication?*

Most academic authors are interested in creating as wide a readership as possible; open access extends readership.

Most academic authors are interested in their research having as big an impact as possible; open access [improves citation rates](#). See also: a [summary of open access citation advantage studies](#).

Most academics share the belief that scholarship builds on itself, and that wide access is a precondition of progress, debate, critique and understanding.

5. *Does open access apply equally to all disciplines and types of work in a university?*

Open access applies equally to any work covered under copyright. However, there is great variation in the formats, disciplinary expectations, and relative access to research money available for different disciplines. Generally not included in open access policies are works for which an author expects to make a profit (such as novels, plays or textbooks), or work not intended for publication or circulation, such as classroom teaching materials. Most OA policies focus specifically on the scholarly research article; some scholars in the humanities argue that books (especially scholarly monographs) should also be included. The proposed policy for UC covers only “scholarly articles” (a discussion of this term is in the annotations to the policy included above).

6. *How do the economics of open access work?*

Open access to research and scholarship is not free—there are costs involved in making research available. The economic models to support unrestricted access to research are still being developed; the common thread among the models is that open access research is available at no charge to all readers.

One model that exists is for there to be a payment when an article is accepted for publication. Usually this charge to publish an open access article is covered by research grant funds. In 2004, one study by [Elsevier](#) found that this “author side” payment model encompassed just 17% of open access journals. In an updated study in 2007, [Bill Hooker did a survey](#) of all known open access journals and found that only 18% charged fees. The open access publisher BioMed Central offers a [table comparing such author side payments](#), generally referred to as “Article Processing Fees” or APCs). Springer has also published a list of such [“article processing fees”](#) for open access by the major publishers in 2012.

Other economic models are also being experimented with. For example, some new open access publishers, such as the for-profit [BioMed Central](#) and the not-for-profit PLoS ([Public Library of Science](#)), require author payments, but offer a range of library or institutional memberships options to offset these fees. Membership options can range from a partial subsidy that procures a discounted fee for affiliated authors, to a full subsidy that underwrites all author fees.

Other titles are subsidized, often by scholarly societies, institutions, or foundations. The 2004 Elsevier study found that government or university subsidies accounted for 55%

of the total open access titles, the largest portion. The remaining open access titles (28%) that were not supported by 'author side' payments, or by government or universities, were found to be subsidized by paid subscriptions to their print equivalents.

Some journals are entirely open access; every article is available without restriction. Other journals are 'hybrid' in that they are traditional subscription-based journals, but offer authors the choice to pay a fee to make their individual article freely accessible to anyone worldwide. The other articles in the journal remain accessible only through subscription.

Some publishers offer all their titles under one kind of open access policy, and others have different policies for different titles. In 2006, the MIT Press launched its first entirely open access journal, [Information Technologies and International Development](#).

In short, there are number of different approaches to making open access economically viable, and it will only become clear with time which approaches benefit scholars the most.

7. *Many publishers are offering me an "Open Access" option? Is that good enough? How do I know whether to choose that option?*

Traditional publishers are also struggling to find ways to make open access a part of their business plans, in response to demand. Many publishers offer open access options for a price (ranging from about \$1000 to \$5000 or more per article). Choosing this option in a 'hybrid' journal makes your work open access, but the rest of the journal remains subscription. From the perspective of libraries and universities, this is not an ideal situation because it means paying twice (once to subscribe and once to make your article open access). From an individual's perspective it achieves the goals of making work available. University libraries have also tried to find ways to explore hybrid models that avoid this situation, but there are no obvious solutions available currently.

8. *Is OA a scheme to move the burden of subscription costs on to faculty?*

No. Open Access is a movement to make research publications as widely available as possible. How to do that in a sustainable fashion that involves the assistance of publishers is an open question. In general the consensus is that there must be a shift from the current model (which relies on subscription payments to receive research) to a model that funds the publication of research but makes it openly accessible. Currently, university libraries pay for subscription to journals, and so the burden of subscription costs already fall on faculty in the form of reduced library services, reduced library acquisitions, and reduced staffing and services. This disproportionately affects faculty, students and (at public universities) the public who shoulder a greater burden of the costs than those who do not use the library, but it also affects faculty who would like greater access to more scholarly publications.

Many OA proponents recognize the need to create a sustainable scholarly publishing ecosystem in which publishing is a cost of research, and universities are responsible for ensuring that their faculty have equitable, efficient access to funds necessary for publishing research.

Two such endeavors are the Compact for OA Publishing Equity (<http://www.oacompat.org/compact/>) and the [Berkeley Research Impact Initiative \(BRII\)](#) at UC.

9. *Is OA a more sustainable model in the long-run than the current one?*

OA is not a business model—it concerns the availability of the work. Publishers are naturally concerned about the sustainability of their businesses because they use a

business model where work is restricted from circulation in order to generate revenue—a subscription model. Other models are possible, but there is no consensus on which is most sustainable for the industry.

10. What is the NIH Public Access Policy?

The [National Institutes of Health public access policy](#) requires NIH authors to deposit their peer-reviewed articles in PubMed Central (the NIH's digital repository for biomedical research) at the time of submission to a publisher. This policy became a requirement as of December 26, 2007.

Other funding organizations around the world have mandated open access for research. One of the most prominent examples in 2006 was the [UK's Wellcome Trust](#), an independent charity that funds research to improve human and animal health. The Wellcome trust makes deposit mandatory for authors when submitting for publication, though a delay of up to six months prior to release to the public is acceptable. (Such a delay is called an embargo by the open access movement.)

Other research funding organizations also have open access policies. To review these policies, see:

[SHERPA's Juliet database of funder policies](#)

[BioMed Central's table of funder policies](#)

The [ROARMAP list](#) of the strongest funder and university policies

11. How can I make my work more openly available?

There are several options for making your research more widely available:

Publish in an open access journal. The [Directory of Open Access Journals](#) offers a list of free, full text, quality controlled scientific and scholarly journals in a broad array of disciplines. Select "For authors" to see the various open access options available.

Choose an open access option in a traditional journal that has become "[hybrid](#)," giving the author the option to pay for an individual article to be open access.

Publish your work in eScholarship, UC's open access repository and publishing platform. In addition to providing a repository for previously published materials, eScholarship supports the original publication/dissemination of a great many scholarly materials, including preprints, conference papers, working papers and monographs. In addition, eScholarship is the publisher of 45 UC-affiliated, peer-reviewed journals (see below).

Include your work in one of the [Discipline-based repositories](#), e.g.:

Computer science: [Citeseer](#)

Physics, Math, nonlinear sciences, computer science, quantitative biology: [ArXiv](#)

Economics: [RePec](#)

Psychology, neuroscience, linguistics, and other disciplines as they relate to the study of cognition: [Cogprints](#)

(Note that these options are not mutually exclusive, but can be used in combination. For instance, a publication deposited to a discipline-based repository can also be submitted to eScholarship.)

12. How can I make my data openly available—and accessible from the OA version of my publication?

Initially OA focused on journal literature, but increasingly it is being applied across a range of scholarly materials including data sets and other primary source materials. All of these materials can be made open and accessible through deposit into Merritt Repository, UC's systemwide digital curation repository. These materials can then be cross-linked to related publications through the use of persistent identifiers like ARKs, DOIs, etc. Work is underway to further expose these materials to search engines such as Google and indexing services like the Web of Science and thereby providing a method for researchers to get credit for their work. Evidence suggests by making data openly available authors see a marked increase in citation rates.

13. What other ways are there to participate in the evolution of scholarly publishing?

You can exert your influence through publishing decisions:

Consider publishing in a [more cost-effective journal](#), which you can find by searching in a database that allows you to check the relative cost and value of a journal as assessed by a formula developed by an Economist at the University of California Santa Barbara, Ted Bergstrom.

Consider publishing in an [open access journal](#). You can check a range of [impact factors](#) to help evaluate journals.

Consider publishing in an [alternative journal](#); such journals are lower cost and offer publishing models that encourage broad distribution and reuse of content.

Consider starting an alternative or open access journal:

[Open Access Journal Business Guides](#) from the Budapest Initiative.

[Chemistry Central](#) offers a service to researchers to start independent, open access journals.

eScholarship supports the publication of 45 UC-affiliated open access journals with a robust manuscript and peer-review management system and customized journal sites. Start an open access journal here – or consider transitioning your current journal to this UC-sponsored platform. Supports both digital and print publication.

[Read what the Faculty Committee on the Library System said about publishing decisions in 2004](#), including ideas about approaches you can take as a journal editor or member of a society.

The UC [California Digital Library's](#) (especially [the eScholarship](#) repository) provides many ways to make research more available and accessible.

14. What are common myths about open access?

Visit [Dispelling Myths about Open Access](#)

15. Are OA journals peer-reviewed to the same degree as more traditional publications?

Open Access is not a designation of quality—an OA journal can be peer-reviewed or not, just as any traditional journal can. The peer review process can be conducted in exactly the same fashion as in the case of traditional publications.

16. There are a lot of bad open access journals out there, how do we distinguish the good journals from the bad ones?

Open access is not a designation of quality. OA journals should be judged on exactly the same criteria as any traditional publication: the quality of the research published there, the peer review process, the composition of the editorial board and staff, impact factors or any other trusted metrics of quality in existence, and specific to field and discipline.

17. *If I'm asked to serve on the editorial board of an OA journal, how do I assess its quality?*

In exactly the same way you assess the quality of any other journal.

18. *What's the difference between green and gold OA?*

Green OA means making work available through a repository, whether a individual website, a disciplinary repository or a university repository (like eScholarship).

Gold OA generally refers to journals that provide free and open access to articles. More info is available [at Peter Suber's overview](#).

19. *Where can I learn more?*

Peter Suber has long provided an amazing amount of [detailed information](#) on his website

FAQ: A UC Open Access Policy?

1. *Why are we doing this?*

A UC-wide open access policy would be a very powerful, collective statement about the faculty commitment to promote the access to and use of the fruits of our scholarship by the wider public. Its primary aim is to make our scholarship—especially our taxpayer funded research—more widely available and accessible. It would assert faculty control over the publication of scholarly research, and recognize our responsibility for making that process sustainable and true to the intentions of scholars. It would also send a strong collective message to scholarly publishers about our values and the system we would like to see put in place.

2. *What type of scholarship does this policy apply to? Does it cover all disciplines and formats?*

The proposed model policy currently applies only to "scholarly articles." The language is deliberately vague but clearly does not include works of fiction, poetry, textbooks, visual works, etc. Extending the policy to cover these categories of works would likely be controversial (and has not generally been done by peer institutions). In those cases where a faculty member explicitly wants an excluded work to be covered (as for instance, a scholarly monograph), that faculty member has the right if he or she chooses to grant the same license to the university in advance of any agreement with a publisher. The policy also covers jointly authored publications, since each co-author may exercise copyright in a joint publication. And it applies only during the time that an individual is a member of the Faculty.

3. *Why does the policy use an automatic license? Why not just let individuals and campuses do it themselves?*

First, experience has shown that mere exhortations have little effect on authors' behavior. For instance, before Congress made it a requirement, participation in the NIH

Public Access Policy was optional. During that period, there was only a 4% level of compliance.

Second, experience in many areas has shown that opt-out systems achieve much higher degrees of participation than opt-in systems, even while remaining noncoercive.

Third, by making a blanket policy, individual faculty benefit from their membership in the policy-making group. The University can work with publishers on behalf of the faculty to simplify procedures and broaden access. Without a blanket policy, the unified action benefit of the policy would be vitiated.

4. *What must faculty do to comply with this policy?*

The policy operates automatically to give CDL (on behalf of the UC regents) a license to make available any scholarly articles faculty members complete after the adoption of the policy.

To be thorough, you should communicate this policy to your publisher and add to any copyright license or assignment for scholarly articles a statement (in the form of a boiler-plate addendum) that the agreement is subject to this prior license. That way, you will avoid agreeing to give the publisher rights that are inconsistent with the prior license to UC that permits open-access distribution. Part of the implementation plan will be to provide a standard addendum for this purpose. Whether you use the addendum or not, the license to UC still will have force.

5. *Why must this policy be part of the Academic Personnel Manual?*

The Faculty of the University of California are subject one unified set of regulations administered through the Academic Senate. The policy, to be effective, should govern all faculty equally, and so should be adopted by the system-wide Academic Senate and Legislature. The implementation of the policy however, may vary in some respects by campus, as necessary.

6. *The policy grants rights to the Regents of the University of California? Why?*

In order for the policy to be legally binding, a non-exclusive license must be granted to a individual or corporate entity. The Regents are the only such corporate entity in the UC system. This may seem counter-intuitive for a policy on open access, but in order to effectively and uniformly achieve open access to UC research, we must designate a legal entity with the right to implement the policy. In practice the entities who will deal with implementation are the California Digital Library and the individual faculty in question.

7. *Will this policy cover only Senate Faculty? What about post-docs, graduate students, or other researchers who publish at UC?*

If the policy is added to the UC Academic Policy Manual, it will cover all those whom the Manual covers in matters of employment, namely "academic appointees."

8. *What are the advantages for UC Faculty?*

The Internet and web have enabled individual faculty to make their articles widely, openly, and freely available. Research has repeatedly shown that articles available freely online are more often cited and have greater impact than those not freely available, and this trend is increasing over time. Consequently, many faculty already make their writings available on their web pages, sometimes in potential violation of copyright law and sometimes through individual copyright negotiations with publishers. The Open-

Access Policy allows faculty authors to make their writings openly accessible, and it enables the University to help them do so.

9. *What effect will this have on the ability of faculty to publish in top-ranked journals?*

None. The policy is completely agnostic with respect to where a faculty member chooses to publish: it only requires that faculty retain the right to make the work available in a repository. If a publisher refuses to publish a work due to the policy, the faculty member has several options: he or she can choose to publish elsewhere, ask the local campus or CDL to help negotiate with the publisher, or in the last instance, simply opt out of the open access requirement.

10. *How will this policy affect articles that make extensive use of copyrighted material such as images or film?*

The possible effect on the market for licensing images or other material for publication is not known. The requirement of open access could change the dynamics of negotiating usage rights for images in either positive or negative ways. On the one hand, rights-holders might demand higher prices for Open Access publications, or put restrictions on their use in an OA repository versus a final publication. On the other hand, the policy could serve faculty as a negotiating lever for stronger rights than they might otherwise receive. In either case, faculty should be aware of and take advantage of fair use rights where appropriate.

11. *Can I opt out of this policy?*

Yes. The policy allows faculty members to opt out of making a work open access. If for any reason, the scholar does not want the work to be made publicly available, he or she simply needs to inform eScholarship when depositing it.

The policy does not, however, allow faculty to opt out of the deposit requirement. We are in essence, agreeing to make a copy of our scholarly articles either actually or potentially available through the medium of eScholarship (or an equivalent repository, such as PubMed).

12. *Doesn't this opt-out approach mean that the policy has no teeth? Won't publishers just demand that all authors opt out?*

Many publishers already allow deposit of articles in their standard agreements, and will have no issue with this policy. The goal of this policy is not to make large publishers capitulate to faculty demands for open access, but to find ways to make our work have greater impact and accessibility. If there is any message to publishers, it is that we hope they will continue to explore options for more sustainable open access publishing solutions in the future, so that policies such as this one become unnecessary.

13. *Why require the faculty to deposit an article even if they opt out of the Open Access requirement?*

There are at least three possible advantages: 1) it allows the faculty member to change their mind later; 2) it allows an independent entity (UC/CDL) to preserve a copy of any publication in the case that a publisher goes out of business or decides to sell or close a particular journal or venue; and 3) it retains for the faculty member the right to republish an article in another venue in the case that a publisher refuses permission. An

unintended effect might be the creation of a robust archive of UC faculty publications for the purposes of review for promotion and tenure.

14. *Would a UC Open Access policy increase faculty vulnerability to piracy of our intellectual property? Will it enable plagiarism?*

The proposed policy creates an open access version of a scholarly article covered by copyright. All of the rights and duties that exist in the case of traditional publication remain in the case of the Open Access version, including the ability to prosecute in cases of piracy or plagiarism. If anything, it will deter piracy by allowing individuals access to a freely available version of an article that might otherwise be distributed unlawfully. Plagiarism is something that cannot be addressed by an open access policy,

15. *Would adherence to a UC OA policy be mandatory? If UC had an OA policy, how could I opt out if I wanted to?*

The proposed policy is automatic for UC Faculty, meaning that the policy gives CDL the right to redistribute a copy of the relevant scholarly article. However, faculty have the right to opt out of the policy in any case they deem necessary, and the mechanism for doing so will be implemented by CDL.

16. *Who would own the copyright if UC adopted an OA policy?*

Current UC Policy is that faculty members retain their copyright in what they create. This would not change with the proposed OA policy. The only difference is that UC faculty would grant the university a non-exclusive license to their work enabling UC to make the work available via eScholarship.

17. *Frequently publishers require faculty to check a box indicating transfer of copyright when they submit a paper. Would faculty be in compliance with the policy if they checked the box?*

Faculty will be free to transfer their copyright to whomever they wish, but scholarly articles would henceforth be subject to a pre-existing license. In practice, faculty may opt out of the open access requirement, meaning that the policy requires only that a copy of the pre-publication version of an article be deposited with CDL, though not necessarily made available. Publishers should be alerted to this fact using an addendum provided by CDL.

18. *Is OA a scheme to move the burden of publication costs on to faculty?*

No. Open Access refers to a goal for the dissemination of scholarly work, not a business model for publication. The question of how the goal or open access can be met while making scholarly publishing sustainable is part of a much larger discussion amongst both universities and scholarly publishers. Scholars already bear many of the costs, via their University libraries, or in some cases through fees for publication. An OA mandate will not change the reality that scholars must bear some of the costs of publication of scholarly research, but it is not yet clear how that can be balanced with the costs borne by scholarly publishers.

19. Have other universities done this?

Yes. Open access policies have been adopted at a number of prominent research universities, including [Duke](#), [Harvard](#), [MIT](#), and [Stanford](#). The [Registry of Open Access Repository Material Archiving Policies \(ROARMAP\)](#) lists over 200 open access policies adopted by academic institutions, departments, and research funders worldwide.

FAQ: Implementing a UC Open Access Policy

1. What steps would faculty need to take to comply with the policy? How time-consuming and burdensome would this be?

Faculty would simply need to deposit a copy of any published article, upon publication, within an open access repository. For many disciplines, the best choice will be UC's eScholarship repository, which already houses over 7,000 postprints within its more than 45,000 UC-affiliated publications. For disciplines with already established disciplinary repositories (e.g. arXiv, PubMed, SSRN), you may continue to deposit in those locations with the understanding that a copy of your publication will also be harvested and deposited in eScholarship, unless you opt out of this policy altogether.

The eScholarship submission process will be quite minimal. UC faculty currently fill out a simple web form in order to submit their content to eScholarship. The CDL's technical team intends to further refine this process by developing a system that, upon receipt of a document, will harvest all of that publication's available, pertinent metadata and return the information to the author for approval/correction prior to final submission.

2. What support is available to assist faculty in complying with the policy?

The ten campus libraries, while chronically understaffed and underfunded, nonetheless they all have specific resources and staff dedicated to scholarly communication, and are in general eager to assist with making open access a success. It may be necessary to create a system-wide Scholarly Communications & Copyright Resources (SCCR) office, staffed and resourced to provide UC and students with expert consultation and contract negotiation services in the areas of copyright and intellectual property management—but the need for this is as yet unknown.

3. Do faculty have to deposit their articles in both PubMedCentral and eScholarship? If I submit my postprint to eScholarship, can I also put it elsewhere?

There is no need to submit your article to multiple repositories. eScholarship will be extended to serve either as a gateway, distributing deposited articles to all desired additional repositories or as a harvester, requesting and collecting publications from discipline-specific repositories for local deposit. CDL will continually gather information from faculty about these additional repositories in order to ensure ease of compliance and the widest distribution of faculty work.

Any deposit in eScholarship represents a non-exclusive granting of rights. You may post your paper anywhere else you desire in addition to submitting it to eScholarship.

4. What version do I submit to the repository?

The policy requires that the author submit the “author’s final version” —which usually means the manuscript copy post-peer review but before a publisher typesets and finalizes it. In the case that the author is publishing in an open access journal, the version submitted might be the final published version.

5. *How will eScholarship and publishers deal with the proliferation of different versions of an article. How will other scholars know which version (down to the page number) to cite?*

The issue of proliferating versions is a troublesome aspects of the current scholarly publishing environment. The eScholarship repository makes every effort to manage correct metadata for the final published version. However, the open access version is not intended to replace the final published version of a publication, but to make a version available to to tax-payers who would not otherwise be able to access it—from journalists to small businesses or independent researchers, to colleagues at universities who do not subscribe to the journal.

6. *Once I have submitted a publication to eScholarship, am I able to remove it at a later date if I deem necessary?*

CDL takes the notion of “persistant access” very seriously. Although you are technically able to remove publications from eScholarship should you deem it necessary, we encourage you to reserve that option for extreme circumstances. In the event of a paper withdrawal, we reserve the right to maintain a metadata record of that paper (author, title, date, etc.) within the system along with a “withdrawn” notation. Our primary goal is to avoid introducing broken links to previously available publications.

7. *Which versions of prior publications can legally be made available through OA? How can I keep up with the changing rights agreements of various publishers?*

Most publishers who allow postprint publication of articles require that you post the “author’s version.” This term refers to the author’s final, accepted manuscript after peer-review but before the publisher’s copy-editing and typesetting. In some instances, publishers do allow postprint publication of the “publisher’s version,” which is the final, published version of the article after copy editing and typesetting and branded with the journal’s name and/or logo. You may be able to find this information on your publisher’s website or by contacting the publisher directly.

While most journal publishers allow posting on a nonprofit site associated with the author’s institution or on his or her homepage, some do not. It is necessary to refer to your original publication agreement and/or contact the original publisher to determine your rights to disseminate your previously published scholarship via open access.

If you have already signed a contract, you should review the language of that contract to determine whether or not you have the right to post your article in an open access site maintained by your institution. If you are still unsure, the [SHERPA/RoMEO](http://www.sherpa.ac.uk/romeo/) (Publisher Copyright Policies & Self-Archiving) website is a resource for determining the postprint and preprint policies of a wide range of — though not all — publishers and journals: <http://www.sherpa.ac.uk/romeo/> . Be aware that the University of California has not verified the information on this site. You should contact your publisher directly if you have questions.

8. *Is there a way I can aggregate usage of my paper in all its different locations/versions?*

Because usage metrics are generated independently by each location (and often using differing methods of calculation), there is currently no centralized service aggregating usage. However, the increasing number of OA mandates at institutions of higher education presents an opportunity for repositories to collaborate to produce better statistics and better coordination about usage.

9. *What do I do if a publisher refuses to comply? How do I negotiate with publishers that don't allow OA postprints or that require an onerous embargo?*

If a faculty member encounters resistance to this policy, he or she has several options. Faculty are always free to find another publisher, which will be appropriate in some cases and not in others, depending on the prestige of the publication. Local library staff, or members of CDL may be able to help negotiate with a publisher on your behalf to accept the agreement, reduce the embargo period or find another solution. Finally, if all else fails, the faculty member may choose to opt-out of the part of the policy that requires open access, and merely provide a "dark" (metadata only) copy to eScholarship instead.

10. *Do articles published in OA journals get as much credit during T&P reviews as articles published in commercial journals? Would there be a disproportionate impact on junior faculty who have not yet been tenured?*

The proposed policy should have no effect—positive or negative—on tenure and promotion. The policy does not prescribe or proscribe the venues in which an author may publish. It could have a positive effect on some scholarship insofar as it would require faculty to fairly and accurately assess open access venues by the same standards applied to any other venue.

Implementation Plan

The California Digital Library is the entity that would be responsible for interpreting and implementing this policy. CDL is a partnership among the 10 campus libraries and the office of the president, and is funded by both the office of the president and the local campus library budgets. It provides many different services, including negotiation with major scholarly publishers for the purchase of scholarly content. It is the most obvious, and most well prepared central infrastructure to deal with requirements that this policy would create.

The eScholarship Repository

The [eScholarship](#) repository is one of CDL's flagship projects. eScholarship is an open access repository for the University of California; it currently hosts close to fifty thousand publications and 45 open access journals from all disciplines. While eScholarship is more than capable of handling the deposit of all UC scholarship going forward, there are many open issues of implementation to consider.

Currently, uploading an article to eScholarship is similar (though simpler) to uploading one to a manuscript review system for a journal. The current version uses a simple web-form in which a scholar can fill out the meta-data (title, journal, co-authors, etc.) and upload a pdf or word processing document. A proposed refinement would allow uploading of a document from which data will be extracted and presented to the scholar who can then confirm or correct it. eScholarship provides a link to an official publisher's website, if it exists, and also offers extensive statistics on downloads and views. It is possible to upload a document that is not made available, for instance, if an author opts out of the OA policy. In that case a record would be created and would display the metadata, a link to the publisher version, but not the article itself.

The Library system itself is led by the Council of University Librarians. Reporting directly to the CoUL is the Systemwide Operations Planning and Advisory Group (SOPAG), which develops papers, reports and action plans for consideration by CoUL. Consultation with the University is currently achieved through the Systemwide Library and Scholarly Information Advisory Committee (SLASIAC), which also reviews the work of CDL.

The role of the local campus

eScholarship is a robust central repository for the purpose of open access archiving, but the staff at CDL is small in comparison to the potential needs of the UC faculty. Many procedural issues of implementation—education, training, legal and technical assistance—will need to be handled by the local campuses and their units. Most libraries already have staff who are familiar with these issues, and the University Librarians are all well aware of the issues relating to open access and scholarly communication. Each campus has a scholarly

communication officer who reports directly to SOPAG. Campus libraries are already a frequent source of information and education about open access.

Whether our libraries are currently sufficiently funded to handle this is not clear. However, library and library staff have long been in the fore-front of open access and repository innovation, and are well prepared, eager even, to see the faculty take advantage of these resources.

Compliance with the policy

If the policy is passed, it requires faculty to deposit a copy of each scholarly article going forward. Compliance with this policy will be a challenge. Faculty, even those fully in support of the policy, have little or no incentive to spend even an extra 5 minutes depositing their work with a central repository.

There are, however, available incentives. One obvious course would be to consider making it a condition of review for promotion and tenure that articles be available via the eScholarship repository. The incentive for the faculty member would be that the process becomes a part of preparing a dossier, rather than a separate requirement within the cycle of research and publication. The incentive from the Committee's perspective would be the relative streamlining of access to publications. It should be clear that this does not have any bearing on the choice of venue in which faculty publish; it does not imply that faculty must publish in open access journals. It would only require that they provide a copy to eScholarship, as part of the preparation of a dossier.

There is precedent for this approach, most clearly in the requirements associated with NIH grants and the PubMed repository. In that case, researchers are required to provide PubMed accession IDs for any published research as a condition of their funding.

Such an incentive does not need to be part of the initial implementation of the policy, however, but could wait until some evidence of compliance has been accumulated.

Consultation with faculty

Any system implemented to carry out this policy must be subject to review and comment by the faculty. At the very least, there is already a mechanisms in place for this to happen via the system of shared governance, primarily via consultation with SLASIAC and UCOLASC. However, there may be a need for CDL, as the main interpreter of the policy, to more frequently and more directly gather information and advice from faculty for the purpose of improving the system or changing it in response to the scholarly publishing environment.

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Kenneth Goldberg(EECS/IEOR), fall 11 only

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Michael Jordan (EECS)

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Steven Justice (Engl)

Ethan Ligon (ARE)

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