

Proposed Presidential Policy on Open Access: Additional Information and Frequently Asked Questions for Systemwide Review

Prepared by the Provost's Task Force on Open Access

The Provost's Task Force on Open Access was created in response to a request by the Academic Senate, which passed an Open Access Policy governing all Senate members on July 24, 2013, after two years of thorough review. In passing its own Open Access Policy, the Academic Senate requested that the President and the Provost and Executive Vice President for Academic Affairs extend the same rights and responsibilities to all those at the University of California who author scholarly articles but are not members of the Academic Senate. *This proposed Presidential Policy on Open Access covers all employees of the UC system who author scholarly articles but who are not members of the Academic Senate.* This policy would facilitate access to scholarly articles published by members of the UC community by reserving strong but non-exclusive rights to make such scholarly articles available via open access repositories. Both the Academic Senate Open Access Policy and this proposed Presidential Policy on Open Access are similar to those adopted at over 200 academic institutions and are aligned with the policies of federal funding agencies. This policy would not commit authors to publish in open access journals, nor would it require (or prevent) payment to publish.

All open access policies, including the one under review, make use of existing US copyright law in order to do the following four things. *First*, the policy collectively reserves a non-exclusive copyright license that pre-empts any transfer of copyright to a publisher and allows an author to make his or her work available as he or she sees fit, independently of the published version in a scholarly journal. *Second*, the policy commits authors to depositing their work in a digital repository and gives them the option to make it openly and freely available. (The default repository for UC is the eScholarship repository of the California Digital Library, but the use of other open access repositories will satisfy the policy.) *Third*, the policy allows individuals to opt out of making their work available in any given case, or to delay access to a work (embargo). And *fourth*, the policy outlines procedures by which authors may deposit work in eScholarship, and request a waiver or embargo (to delay access).

The draft policy covers two cases for members of the UC community: 1) those non-Senate authors who own their copyright; and 2) those non-Senate authors whose copyright is owned by the University. (See FAQs for a brief description of UC copyright policy, which outlines these differences in copyright ownership at UC.) This Presidential Policy on Open Access does not change UC copyright policy; it merely relies on it to determine who owns a copyright in a scholarly work and who does not. This policy is designed to facilitate open access regardless of whether the employees own the copyright in their work. Where employees do not own their copyright, this policy retains sufficient rights to allow open access and allows such authors to set an embargo where necessary.

In cases where UC owns the copyright in a work, the UC Office of General Counsel will determine whether a waiver will be granted to a publisher who requests it or to an author who wishes to transfer a copyright completely. In all other cases, authors may obtain a waiver or set an embargo by visiting the California Digital Library Open Access site (<http://uc-oa.info>).

Section V of the proposed policy outlines open access procedures for all authors of scholarly articles, both Senate and non-Senate members. The proposed policy defines implementation procedures that all employees may use to make their work available, or to obtain a waiver or an embargo.

The proposed policy, and specifically section III, differs from the current Academic Senate Policy (as of July 24, 2013) only in the requirement to deposit a copy of each article both when there is a waiver and when there is not. In this respect it most closely resembles the policy passed by UCSF on May 12, 2012. In all other respects, the language, scope, and responsibilities set forth are those that the Academic Senate approved in its own policy.

Although the issues related to scholarly publishing are complex and fraught, open access policies are designed to be simple. They have the admirable goal of making work as widely available to the public as possible with respect for academic freedom and for the exigencies of publishing scholarship rapidly and efficiently. The main goal of the Presidential Policy on Open Access is for authors to deposit their articles in a repository so that their work is available to the public (including other academic institutions) and for archival purposes. The proposed policy does not define any penalties or consequences for failing to do so or for declining to make a work open access.

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Briefing FAQs

The questions below pertain to the proposed Presidential Policy on Open Access. Extensive FAQs covering many of the general issues surrounding open access are available at <http://osc.universityofcalifornia.edu/open-access-policy/policy-faq/>

Why is this Presidential Policy on Open Access necessary?

There are two main reasons for this policy. First, not all authors of scholarly articles at UC are Senate members. In passing its own open access policy covering all Senate members, the Academic Senate made a recommendation to the President to extend similar rights and responsibilities to all authors within the UC community; for example, those authors who are represented by bargaining units will review this policy in the context of current contracts governing their employment. Second, this policy defines the procedures for implementing open access at the University of California for both Senate and non-Senate authors.

How do I know if I am an Academic Senate Member?

For a list of all titles conferring membership in the Academic Senate, see [Regents Standing Order 105.1](#) and the [Academic Personnel Manual, Section 110- 4\(4\) \(APM - 110-4, Academic Personnel Definitions\)](#).

How do I know if I own my copyright?

Copyright ownership of scholarly articles written by UC personnel is governed by the 1992 UC Policy on Copyright Ownership. Under this policy, ownership of a scholarly article depends on several factors. In general, certain faculty members who have a general obligation to produce scholarly articles *own* the copyrights to their scholarly works. Also, if the work was done outside the scope of UC employment and without the use of UC resources – which will apply to many registered students – then copyright ownership generally will reside with the author(s). On the other hand, if the scholarly work is considered “sponsored work,” “commissioned work,” “contracted facilities work,” or “institutional work” – as those terms are defined by the 1992 UC Policy on Copyright Ownership – then ownership resides with UC. (In general, those four categories cover situations where works are produced through the use of UC resources or in performance of sponsor agreements.) For more information about copyright ownership at UC, please review the policy: <http://policy.ucop.edu/doc/2100003/CopyrightOwnership>

Please note that this proposed Presidential Policy on Open Access does not change copyright policy but instead uses it to determine copyright ownership and process in the proposed policy.

Additional information and FAQs can be found on the California Digital Library’s Open Access website: <http://uc-oa.info>