



OFFICE OF THE PROVOST AND  
EXECUTIVE VICE PRESIDENT FOR ACADEMIC AFFAIRS

OFFICE OF THE PRESIDENT  
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October 19, 2015

**CHANCELLORS  
LABORATORY DIRECTOR ALIVISATOS  
ACADEMIC COUNCIL CHAIR HARE  
ANR VICE PRESIDENT HUMISTON**

**RE: Presidential Policy on Open Access for University of California Authors who are not  
Members of the Academic Senate**

Dear Colleagues:

I write to provide additional information on the new Policy on Open Access for University of California Authors who are not members of the Academic Senate, which is issued by President Napolitano. All Academic Senate members are already covered by an Open Access Policy approved on July 24, 2013; the new Presidential policy extends similar open access rights and responsibilities to all members of the UC community who author scholarly articles while employed by UC. In addition, the policy outlines procedures for implementing the policy for all UC authors, both Senate and non-Senate members. The policy can be found online at [uc-oa.info/policy-text/presidential/](http://uc-oa.info/policy-text/presidential/).

### **Rationale and Consultation Process**

The Presidential Policy on Open Access is similar to open access policies adopted at over 200 academic institutions and is aligned with the policies of federal funding agencies. The policy allows non-Senate employees who are authors of scholarly articles (“University Authors”) to maintain legal control over their articles while making their work freely and widely available to the public. The policy does not require University Authors to publish in open access journals, or to pay fees or charges to publish; it commits the University and University Authors to deposit a version of each article in a digital repository. The deposited work will be made freely and openly available to the public, unless the author obtains a waiver.

The systemwide process engaged in to develop the Presidential Policy on Open Access consisted of two major reviews conducted over the past year: Management Consultation and Systemwide Review. Reviewers generally conveyed support during the comment periods; several offered recommendations during both reviews, most of which have been incorporated in final language. Special efforts were made to distribute the draft as widely as possible so that all members of the UC community who would be subject to the policy – including faculty, other academic personnel, students, administrators, and staff – would have an opportunity to comment.

## **Scholarly Articles Subject to the Policy**

The policy applies to all published “scholarly articles” for which a publication agreement was signed after October 19, 2015. Authors are best situated to understand which writings fit the category of “scholarly articles” within their discipline, and are welcome to rely on the policy for all articles they believe fall into this category and to deposit them in the University of California’s eScholarship digital repository. Books, artworks, and textbooks are clearly outside the current scope. The policy also does not apply to student theses and dissertations.

## **Embargo Periods and Waivers**

Although the policy assumes all authors will make their scholarly articles available to the public, there is a procedure, which authors must undertake proactively, to opt out of making their work available in any given case (waiver), or to delay access to a work (embargo). Section V of the policy defines implementation procedures that all employees may use to make their work available, or to obtain a waiver or an embargo.

## **Treatment of Copyright Ownership**

The Presidential Policy on Open Access is designed to facilitate open access regardless of whether the employees own the copyright in their work. This policy does not change copyright policy but instead uses it to determine copyright ownership and process in the policy. Policy development in this area was guided by the advice of the UC Office of General Counsel.

Copyright ownership of scholarly articles written by UC employees 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 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>.

Even 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 campus delegated authority on copyright issues or the Office of General Counsel will determine whether a waiver will be granted to an author whose publisher requests one or for other reasons, as described by the author. A list of campus delegated authorities on copyright can be found at <http://osc.universityofcalifornia.edu/open-access-policy/>. Section III.C. of the policy provides information for employees who do not own their copyright.

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### **Treatment of Co-Authors Not Subject to the Policy**

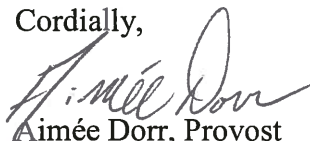
Under U.S. copyright law, any joint author can give nonexclusive permission to copy and distribute the work. Best practices would include treating open access policy participation like other co-authorship issues – determining author order, reporting contributions, etc. – and, hence, discussing the issue among co-authors as part of the writing and publication process.

### **Implementation**

While the policy will apply to all scholarly articles published by University Authors as of October 19, 2015, the implementation of the policy will be phased. The California Digital Library will immediately provide a mechanism for University Authors to manually deposit their articles into the eScholarship digital repository and to request waiver and embargo letters as needed. A process to implement a publication management system that streamlines deposit, similar to that used to support the Academic Senate Open Access policy, will begin in Spring 2016. To learn more about the policy implementation and mechanisms for participation, visit UC's Office of Scholarly Communication site: <http://osc.universityofcalifornia.edu/open-access-policy/>.

I wish to thank all members of the University community from both the faculty and administration for their efforts to develop the Presidential Policy on Open Access. Your contributions are deeply appreciated.

Cordially,



Aimée Dorr, Provost

Executive Vice President for Academic Affairs

Enclosure: Presidential Policy on Open Access

cc: President Napolitano  
President's Advisory Group  
Executive Vice Chancellors/Provosts  
Senior Vice President Vacca  
Vice President Duckett  
Vice President Sakaki  
Vice Provost Carlson  
Vice Provosts/Vice Chancellors for Academic Affairs/Academic Personnel  
Provost's Task Force on Open Access  
Council of Graduate Deans  
University Extension Deans  
Council of University Librarians  
LAUC President Mizrachi  
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