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July 10, 2023

**MICHAEL DRAKE, PRESIDENT**  
**KATHERINE NEWMAN, PROVOST AND EXECUTIVE VICE PRESIDENT**

**Re: Statement on Retention of Author Rights in License to Publish Agreements**

Dear President Drake and Provost Newman:

At its June 28 meeting, the Academic Council unanimously endorsed the attached statement from the University Committee on Library and Scholarly Communication (UCOLASC). The statement draws attention to the fact that some publishers are either requiring authors to relinquish all rights held in copyright as a condition for publishing an open access article, or presenting to authors confusing options that imply they need to do so.

In 2013, the Senate passed an open access (OA) policy<sup>1</sup> that grants the University a non-exclusive license to make faculty-published scholarship freely available in the California Digital Library's open access online repository. The policy is designed to support UC's public mission and allow UC authors to retain control over the copyrights in their work. Since then, UC has been implementing open access agreements through negotiations with publishers. Recently, however, we have learned that many publishers are requiring UC authors to sign misleading License to Publish agreements, which undermine the spirit and intent of the Senate's OA policy and the UC Presidential Policy on Open Access (2015),<sup>2</sup> by transferring all rights to publishers and restricting the ability of authors to re-use their own works. These agreements essentially turn faculty authors into readers, as opposed to creators and owners of their own work.

Council joins UCOLASC in urging the UC Project Transform Negotiating Team to push back by negotiating OA agreements that stipulate UC authors grant only "limited" or "non-exclusive" licenses to publishers. This position has been endorsed by institutions and delegations from 38 nations across six continents.<sup>3</sup> In the meantime, we strongly encourage UC faculty authors to use the liberal Creative Commons attribution license known as "CC BY" which is most aligned with the public mission of UC and the goals of open access.

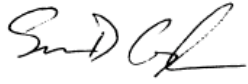
Thank you for your support. Please do not hesitate to contact me if you have additional questions.

<sup>1</sup> [https://senate.universityofcalifornia.edu/files/reports/RLP2Dorr\\_OpenAccess.pdf](https://senate.universityofcalifornia.edu/files/reports/RLP2Dorr_OpenAccess.pdf)

<sup>2</sup> [https://osc.universityofcalifornia.edu/wp-content/uploads/2015/11/UC-AP-15-0275\\_Open-Access.pdf](https://osc.universityofcalifornia.edu/wp-content/uploads/2015/11/UC-AP-15-0275_Open-Access.pdf)

<sup>3</sup> <https://oa2020.org/b16-conference/b16-final-statement/>

Sincerely,

A handwritten signature in black ink, appearing to read 'Susan Cochran', written in a cursive style.

Susan Cochran, Chair  
Academic Council

Cc: Academic Council  
UCOLASC  
Associate Vice Provost & CDL Executive Director Günter Waibel  
CDL Director of Publishing, Archives, and Digitization Catherine Mitchell  
UCSF Professor Richard Schneider  
Senate Division Executive Directors  
Executive Director Lin



UNIVERSITY COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATION  
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Jeff Mackie-Mason and Mathew Willmott, Co-Chairs  
Project Transform Negotiating Team, UC Council of University Librarians (CoUL)

1 May 2023

**Re: UCOLASC Statement on Retention of Author Rights in License to Publish Agreements**

Dear Jeff and Mat,

As discussed at our joint UCOLASC and Council of University Librarians (CoUL) meeting held on February 15, 2023, the Project Transform Negotiating Team (PTNT) and Project Transform Working Group (PTWG) have learned that many publishers are requiring University of California (UC) authors to sign “License to Publish” (LTP) agreements, which purport to grant exclusive rights to publishers and contravene the spirit of the open access (OA) policies and declarations strongly endorsed by UC faculty. We find this now-common practice to be unacceptable and therefore ask you to prioritize the issue of author rights and act on our behalf when you negotiate with publishers.

UC faculty passed a *Systemwide Open Access Policy* in 2013<sup>1</sup> to accomplish two equally important goals. First, in direct opposition to a subscription system that was engineered by publishers to keep scholarly works locked behind a paywall, UC faculty strove to make their scholarly works freely available to all. Second, faculty wanted to regain control over their rights as authors of scholarly works—rights they were routinely required to give away so that publishers could maintain exclusive and monopolistic control over the re-use, distribution, translation, and monetization of those works. Moreover, when eight Academic Senate committees, as well as Academic Council, CoUL, and the Systemwide Library and Scholarly Information Advisory Committee (SLASIAC) all unanimously endorsed UCOLASC’s *Declaration of Rights and Principles to Transform Scholarly Communication* in 2019,<sup>2</sup> they understood that the very first principle (and the 5<sup>th</sup> and 7<sup>th</sup>) explicitly expressed the faculty’s desire to control their own rights as authors.

Our policies and declarations have promoted a system of OA licenses called Creative Commons (CC) licenses, so that authors can retain copyrights and control how their work gets used.<sup>3</sup> As intended, CC licenses only restrict what an end-user may do under the license and not what the licensor (rights holder) can do. Licensors who make their works available under any CC license are always free to do whatever they want with their works. One of the most liberal licenses is CC BY, which allows anyone to distribute, remix, adapt, and build upon the material in any medium or format, so long as proper attribution (i.e., “BY”) is given to the author. But for discipline-specific reasons, some authors choose to add “non-commercial” (NC) and/or “no derivatives” (ND) restrictions on what end-users can do with the work.

<sup>1</sup> <https://osc.universityofcalifornia.edu/scholarly-publishing/uc-open-access-policies-background/systemwide-senate/>

<sup>2</sup> <https://senate.universityofcalifornia.edu/files/reports/rm-jn-transform-scholarly-communication-declaration-2019.pdf>

<sup>3</sup> <https://creativecommons.org/about/cclicenses/>

However, we have recently learned that publishers are subverting the will of the faculty and the intent of the CC licensing system by requiring authors to sign LTP agreements that attempt to grant all rights associated with copyright exclusively to the publisher. Some of these LTP agreements also state explicitly that such license grants apply to any earlier version of the work held in public repositories and/or pre-print servers, which would have direct implications on the ability of downstream entities to re-use the work or mine text and data. At the same time, many of these publishers continue to claim that they support OA and the rights of authors.

One of the main reasons that UCOLASC previously and unanimously endorsed the vital efforts of PTNT to negotiate transformative OA agreements with publishers was so that UC authors could retain their rights and control how their work gets used (alongside making the work of UC authors freely available to the world). Nonetheless, through the LTP strategy we see our authors being exploited by publishers just like they have been under the subscription system.

Thus, UCOLASC has unanimously endorsed the following statement to help rectify this situation and assist the PTNT in negotiating transformative agreements on behalf of all UC authors:

*“The University Committee on Library and Scholarly Communication (UCOLASC) strongly supports retention of copyright and all rights therein by authors. Licenses to publish should only restrict what end-users may do under the license and not what the licensor (rights holder) can do.*

*UCOLASC urges the Project Transform Negotiating Team (PTNT) to negotiate transformative open access agreements with publishers stipulating that authors only grant “limited” or “non-exclusive” licenses to publishers. Liberal Creative Commons (CC) licenses (e.g., CC BY) should be applied as the default choice, and licenses that restrict commercial and derivative uses of the work (e.g., CC BY-NC, CC BY-ND, and CC BY-NC-ND) should function as originally intended with authors always free to do whatever they want with their own works.*

*To this end, UCOLASC vigorously encourages the Project Transform Working Group (PTWG) and the Project Transform Negotiating Team (PTNT) to exert the full leverage of the UC System, further demonstrate global leadership on a key priority for authors, and if necessary to stand on principles.”*

We thank you, the other members of the PTNT, PTWG, and CoUL for your efforts on our behalf, and we remain by your side with firm resolve.

Sincerely,



John Hildebrand, **Chair**

Maria DePrano, **Vice Chair**

Richard A. Schneider, **Past Chair**

Christine Rosen, **UC Berkeley**  
Cecilia Giulivi, **UC Davis**  
Robert Steele, **UC Irvine**  
Robert Zeithammer, **UC Los Angeles**  
Maria DePrano **UC Merced**  
Susan Laxton, **UC Riverside**  
Mark Hanna, **UC San Diego**  
Soo-Jeong Lee, **UC San Francisco**  
Sven Spieker, **UC Santa Barbara**  
Abraham Stone, **UC Santa Cruz**