

**UNIVERSITY COMMITTEE
ON
LIBRARY AND SCHOLARLY COMMUNICATION
2008-2009 ANNUAL REPORT**

TO THE ASSEMBLY OF THE ACADEMIC SENATE:

The University Committee on Library and Scholarly Communication (UCOLASC) met twice and held two additional conference calls in the 2008-2009 academic year to conduct business in accordance with its charge, outlined in [Senate Bylaw 185](#), to advise the president about the administration of University libraries. Highlights of the committee's major activities are outlined briefly below.

Advocating for Open Access

Based on several years of discussion, UCOLASC dedicated significant time to identifying a viable approach for the adoption of an open access policy at UC. A policy proposed in 2007 failed to gain Academic Council approval because of the burden it placed on faculty, reservations about the proposed implementation and its focus on copyright. To garner faculty support, UCOLASC decided that the statement on open access principles should be more generic than the 2007 proposal and the committee recognized the need to educate faculty about open access. As a result of the discussions, UCOLASC composed a letter to Council that recommended the following strategies to actively encourage open access to publications at UC: 1) promoting national legislation and policies by federal funding agencies that support open access; 2) informing University faculty about the ways the open access issue affects them and the actions they can take; 3) promoting open access initiatives at the University; and 4) bargaining hard in contract negotiations with the journal publishers. At its meeting on May 27, Academic Council unanimously endorsed UCOLASC's recommendations and they were forwarded to President Yudof on June 16, 2009 for consideration.

UCOLASC also focused on the Fair Copyright in Research Works Act, H.R. 801. The bill introduced by John Conyers (MI) on February 3, 2009 and referred to the House Subcommittee on Courts and Competition Policy on March 16, 2009 would eliminate the National Institutes of Health's (NIH) PubMed Central repository and prevent other federal research funding agencies from adopting similar open access policies. During the October and February meetings University Librarian Karen Butter provided background information about how the NIH policy was established and updates about faculty compliance with the mandate to deposit articles resulting from NIH funded research into PubMed Central. NIH is currently the only government organization in the U.S. with an open access requirement, and other agencies will likely move in this direction only if it is legislated. Due to the threat posed by H.R. 801, UCOLASC members agreed that the University should advocate against the bill. UCOLASC submitted a letter Council requesting UC's advocacy against the passage of H.R. 801 and that it engage in efforts to expand public access to taxpayer-funded research. Council unanimously endorsed the recommendations on May 27 and the letter was forwarded to President Yudof on June 17, 2009.

Report on Journal Negotiations

In October and February, Laine Farley, Executive Director, California Digital Library, reported on recent negotiations with journal publishers for systemwide subscriptions to shared electronic journals. As in the past, UCOLASC expressed strong support for including open access provisions as part of the agreements and offered its support in negotiations. UCOLASC learned

that UC's three most expensive contracts are with Elsevier, Wiley-Blackwell and Springer. A major achievement in the negotiations with Springer calls for all UC articles to be published in open access journals effective beginning the 2009 publishing year. Elsevier has a limited number of open access journals, but the terms of the new contract are good and have reduced costs, and in the negotiations the publisher agreed to participate in open access forums. The committee observed that faculty are generally unaware of the real cost of journal subscriptions, which is approximately \$7,000 per faculty FTE, and that faculty should be encouraged to publish in open access journals. UCOLASC believes that a key to improving the libraries' position in negotiations is for faculty to agree to make open access the policy. The committee discussed the negative consequences that ending contracts that do not provide for open access publishing would have on the ability of faculty in certain fields to publish, noting that the restricted ability to publish would be a problem for tenure. It was noted that, as publishers are faced with changing their business models in response to the demand for open access, the credentialing process and the system of peer review will need to change.

Concern about Library and Scholarly Communication Budgets

UCOLASC learned that as of last year the total library expenditure is \$300 million annually systemwide, and that the distribution across the campuses is uneven. UCOLASC members shared and discussed the data with their local committees and found that how libraries distribute funding is not transparent and it is difficult to know distribution by discipline. Local library committees can play a limited role in providing advice on budget decisions. Some campuses are considering sharing library resources with other universities. The committee was informed that libraries are facing cuts to their operations budgets and are attempting to protect collections.

Textbook Affordability

The issue of textbook affordability was brought to UCOLASC for consideration by the Academic Senate Vice Chair and the Student Regent. In recent years, textbook prices have risen faster than the average rate of inflation. One reason for the price increases is the large number of extras included with modern textbooks such as CD-ROMs and instructional supplements that are usually web-based. Customization makes it very difficult for students to buy and sell in the used-book market. Recent state legislation attempts to address this issue through a number of strategies, including encouraging faculty to give consideration to the least costly practices in assigning textbooks and by requiring publishers to make information about the cost of the textbooks more available. UCOLASC members suggested approaches to increase affordability including finding ways to eliminate the need for students to purchase textbooks and the use of electronic textbooks in the future.

UC Seminar Network

UCOLASC was asked by the University Committee on Research Policy (UCORP) to review and comment on its concept paper, "Towards Greater UC Synergy." The objective of the proposal is to record and broadcast lectures to share across the campuses. Members noted that a limitation is that some campuses have only one videoconferencing facility. One concern identified by the committee is that materials used or statements made during lectures may be taken out of context or used for political purposes. It was also noted that faculty might change the content of a lecture, by limiting comments about new research for example. Members felt it would be important to have a process to ensure that faculty provide informed consent to have their seminar recorded. Members recommended that legal issues related to copyright, liability, ownership and

intellectual freedom will need to be resolved before the project moves forward. These concerns were shared with UCORP in March.

Google Booksearch Settlement Agreement

In May, UCOLASC held two conference calls to discuss the Google book search settlement agreement. In 2004, Google began a partnership with UC and other university libraries to digitize both copyrighted and books for which the copyright has lapsed. Google offered to digitize the books, agreed to cover all costs and indemnify UC from all the risk, and give UC all the digital copies of everything scanned. Two million books have been scanned by Google to date. A lawsuit was filed by the Authors Guild and the American Publishers Association in 2005 asserting that Google does not have the right to digitize books for the purposes of creating indexes that are still protected under copyright (those created after 1923) without getting permission to do so. UC was brought into discussions with Google and other university libraries but UCOP is not a party to the settlement agreement. Under the terms of class action, however, faculty are part of the lawsuit.

Pamela Samuelson, Richard M. Sherman Distinguished Professor of Law; Director, Berkeley Center for Law & Technology, Boalt Hall joined UCOLASC's second conference call to give the committee a better understanding of the settlement and the issues involved. Members discussed ways that the settlement could be tweaked to lead to a better outcome. UCOLASC members identified a variety of concerns with the settlement agreement. These included the potential for Google to have a monopoly and raise prices in the future, that the settlement cannot extend copyright to anyone but Google, that the book rights registry does not represent scholarly concerns, that scholars should be on the oversight body, that there is no provision related to user privacy, and that there should be court oversight. The committee decided to submit a letter to the judge overseeing the settlement agreement suggesting strategic improvements to the settlement agreement that would not be at odds with UCOP's position. Professor Samuelson drafted a letter on behalf of UCOLASC which was submitted to Council and approved on May 27, 2009. Subsequent discussions with the Office of General Counsel (OGC) clarified that members of Academic Council could submit the letter in a personal rather than official capacity. The revised letter, reflecting OGC's position, was approved by Council on July 29, 2009 and submitted to the District Court judge overseeing the Booksearch Settlement Agreement in August.

Joint Meeting with University Librarians

UCOLASC met with the University Librarians in February to discuss common topics of interest, including open access, regional library facilities, and the development of library search technologies ([WorldCat](#)).

Campus Reports

UCOLASC devoted part of each regular meeting to member reports about issues facing divisional Senate library committees. In these discussions, faculty members touched on library budget and space issues; iTunes University and the YouTube websites; library IT infrastructure; the future form of libraries; open access activities; and eScholarship.

Committee Consultations and Acknowledgements

UCOLASC acknowledges the contributions of its administrative consultants and guests. The committee benefited from consultation and reports from University Librarians Convener Brian Schottlaender (UCSD), University Librarian and Assistant Chancellor Karen Butter (UCSF), California Digital Library Executive Director Laine Farley, Vice Provost, Academic Information

and Strategic Affairs Dan Greenstein, and Librarians Association of the University of California President Sam Dunlap (UCSD). UCOLASC also occasionally consulted the Academic Senate chair and vice chair about issues facing the Academic Senate.

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