UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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Mary Gilly
Telephone: (510) 987-0711
Fax: (510) 763-0309
Email: *mary.gilly@ucop.edu*

Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

February 3, 2015

SUSAN CARLSON, VICE PROVOST
ACADEMIC PERSONNEL

Re: Proposed Presidential Open Access Policy

Dear Susan,

Academic Senate divisions and committees have reviewed the proposed Presidential Open Access Policy that would apply to all new scholarly articles written by non-Senate UC employees. Ten Senate divisions and five systemwide committees (CCGA, UCAP, UCFW, UCOLASC, and UCORP) submitted comments.

At its January 28 meeting, the Academic Council voted to endorse the policy, with the understanding that several concerns and recommendations, summarized below, will be addressed in the final version of the policy. All comments from Senate reviewers are enclosed.

Resolve Differences with Senate Policy

The proposed Presidential Policy is similar to the Open Access Policy adopted by the Senate in July 2013 that applies to Senate faculty and gives UC a limited, non-exclusive right to make published UC faculty scholarship freely available in an existing open-access online repository (eScholarship) maintained by the California Digital Library (CDL). Like the Senate policy, the Presidential policy allows non-Senate UC authors to opt-out of the open access license or request a temporary embargo for any publication and for any reason through an online mechanism. Unlike the Senate policy, however, the Presidential policy would still require non-Senate UC authors to deposit their articles in eScholarship, during the embargo period and even if they obtain a waiver. There is no clear justification for this difference, and we request that the deposit requirement in the Presidential policy be changed to mirror the Senate policy.

Clarify Scope of Policy

Multiple Senate reviewers requested clarification about the intended scope of the policy and how it would apply to different student and faculty groups working at UC under different circumstances. One major point of confusion relates to when students are considered "employees" for purposes of the policy and the extent to which the policy applies to graduate students and postdoctoral scholars' dissertation work and publications that result from research projects. Reviewers noted that many University student authors do not own the copyright of their work and thus cannot grant a license or waive a license to the university. There are also questions about the extent to which the policy

applies to joint authorship involving Senate and non-Senate faculty or University and non-University authors, extracurricular articles produced by non-academic staff, part-time faculty, part time employees, and non-compensated members of the University. Questions were also raised about a circumstance in which an author's status falls both inside and outside the policy—for example, if an author begins work on a paper while funded by the University but finishes the work funded by an alternate source. These concerns suggest that a "one-size-fits-all" approach to open access in the proposed policy may not be appropriate. At the very least, the policy should clarify how it will apply to different employee groups to a greater extent.

Clarify and Simplify Implementation Procedures for All Open Access Policies

Council agreed that the policy should include more specificity about the definition of the embargo period for deposits and the extent of a reasonable embargo period. We note also that the policy is unclear regarding the extent to which authors are required to upload a copy of the article to eScholarship specifically to satisfy the requirement, or if it is sufficient to upload to any open access repository.

Several reviewers expressed concern about the additional administrative resources that will be required to administer the policy and the burden that compliance might present to non-Senate members. These concerns echo those raised by some Senate reviewers in 2013 during the review of the Senate's open access policy. In its letter of December 15, UCFW reports that the opt-out feature of the existing Senate policy has not been easy for all faculty to use, and in some cases has added to their administrative burden. It is clear that these and other concerns about the implementation of the Senate policy have added to the faculty's uncertainty about the Presidential Policy. We recommend that the CDL maintain a comprehensive FAQ database to help students, faculty, and others understand procedures for making a deposit as well as their rights and responsibilities under the policy. In addition, the Senate will continue to assess the effectiveness of the pilot Senate policy and specifically its opt-out mechanism, and the extent to which the concerns expressed by Senate reviewers about that policy have or have not come to pass.

In sum, the Senate supports the goals of the Presidential policy and is strongly committed to the principles of open access. We endorse the proposed policy with the understanding that the above concerns will be addressed in the final version. Thank you for the opportunity to review and comment. Please do not hesitate to contact me if you have further questions.

Sincerely,

Mary C. Gilly

Mary Gilly, Chair
Academic Council

Encl.

Cc: Academic Council
Executive Director Baxter
Policy Manager Lockwood
Senate Executive Directors

ACADEMIC SENATE
BERKELEY

320 STEPHENS HALL
UNIVERSITY OF CALIFORNIA

January 9, 2015

MARY GILLY
Chair, Academic Council

Subject: Draft Presidential Policy on Open Access for non-Senate authors

Dear Mary,

On December 8, 2014, the Divisional Council (DIVCO) of the Berkeley Division discussed the draft Presidential Policy on Open Access for University of California authors who are not members of the Academic Senate, informed by commentary of our divisional committees on Faculty Welfare (FWEL), the Library (LIBR), and Graduate Council (GC).

The full text of LIBR's commentary is appended. It raises a concern about a key difference between the current policy for Senate members and the proposed policy for non-Senate members. No justification or rationale is offered in the draft policy for the difference. In order to provide an informed opinion, DIVCO would appreciate receiving a clarification on this point. Accordingly, we decline to endorse the proposal at this time.

Sincerely,

P Papadopoulos

Panos Papadopoulos
Chair, Berkeley Division of the Academic Senate
Chancellor's Professor of Mechanical Engineering

Encl.

Cc: Mark Gergen and Calvin Moore, Co-chairs, Committee on Faculty Welfare
Margaretta Lovell, Chair, Committee on the Library
Lisa Alvarez-Cohen, Chair, Graduate Council
Linda Song, Associate Director staffing Graduate Council
Anita Ross, Senate Analyst, Committee on Faculty Welfare
Diane Sprouse, Senate Analyst, Committee on the Library

November 20, 2014

TO: PANOS PAPADOPOULOS, CHAIR
BERKELEY DIVISION OF THE ACADEMIC SENATE

RE: LIBRARY COMMENTS: SYSTEMWIDE REVIEW OF PROPOSED NEW UC POLICY ON OPEN ACCESS

The Senate Library Committee met and discussed the proposed "Systemwide Review of Proposed New UC Policy on Open Access" on November 4, 2014, and submits these comments:

1. The Committee encourages the Provost's Office to ensure that all non-Senate members of the UC community who are affected by the draft Presidential Policy on Open Access are informed about it and have an opportunity to fully discuss it and provide feedback. The same thorough vetting of the Open Access policy that occurred with Academic Senate faculty should be afforded to others who will now be affected by this policy, including faculty, other academic personnel, students, administrators, and staff. This is especially true of students and part-time employees such as "University Extension appointees" and lecturers (to whom the policy apparently applies), whose non-permanent status may not make them as aware of policies like this as full-time faculty are.

2. We also are concerned that the proposed policy "differs from the current Academic Senate Policy…in the requirement to deposit a copy of each article both when there is a waiver and when there is not," according to the "September 2014 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."

There is no further explanation for why this difference exists and why non-Senate members are required to deposit a copy of an article even when there is a waiver. Absent some compelling reason for this difference, we feel the same policy adopted by the Academic Senate should be applied to non-Senate members of the UC community. We note that the October 15, 2014, letter from the Provost and Executive Vice President for Academic Affairs distributing the proposed policy stated that a guiding principle for the Provost's Task Force on Open Access was "to implement the enclosed proposed policy as uniformly and fairly as possible for all members of the UC community who author scholarly articles. The Task Force has taken special care to consider how the proposed policy can work in concert with the Academic Senate's policy and not supersede it."

We recommend that the proposed UC Policy on Open Access include the same language and intent that has been incorporated into the Senate Open Access Policy with regard to those who wish to, or who must, opt out.

Thank you for the opportunity to comment on this proposal.

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OFFICE OF THE ACADEMIC SENATE
ONE SHIELDS AVENUE
DAVIS, CALIFORNIA 95616-8502
TELEPHONE: (530) 752-2231

January 22, 2015

MARY GILLY, CHAIR
UC Academic Council
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

RE: UC-Wide Review – New UC Open Access Policy Proposal

The UC Open Access Policy Proposal was forwarded to all Davis Division of the Academic Senate standing committees and school/college Faculty Executive Committees. Detailed responses were received from Graduate Council, Committee on Research, Library Committee, and Committee on Academic Freedom and Responsibility.

The Library Committee noted two issues:

1) The draft Presidential Policy applies to a divergent a group of University authors ranging from students, to post-docs, to principle investigators, to visiting faculty and researchers. Therefore it might seem reasonable to revise the policy to include separate sections addressing situations that apply to differently located authors. For example, can a policy be established to address the situation of authors who are National Institutes of Health (NIH) grantees? These will mainly be faculty, researchers and trainees at the UC medical centers, but other faculty will be affected as well. NIH requires grantees to post accepted manuscripts to the NIH's public access repository PubMed Central (PMC). NIH permits up to a 12 month embargo. Many publishers require an embargo and because NIH permits publishers to submit papers directly to PMC, authors often don't have a way to circumvent the embargo. The UC Policy can be satisfied by archiving in PMC instead of eScholarship. UC policy permits an embargo, but a waiver must be obtained. Therefore, NIH grantees can either submit both to PMC (with embargo) and eScholarship (without embargo) or only submit to PMC but obtain a waiver of the embargo. We recommend the provision of guidelines regarding publications by NIH grantees.

2) Clarification of how articles with multiple authors will be handled is necessary. Each article can have only one status, open access or not. What happens if authors disagree on whether and when to provide open access to their article, or even what constitutes the “final version”? Can all authors, including authors at other institutions independently access the CDL site for article submission? Should one author be designated to make the decisions? If so, what process will determine the selection of that author?

The Committee on Research points out that it is clear that open access sets UC and other proponents at odds with for profit publishers and that the only way we can succeed is by having enough clout, i.e. money, power and numbers, to succeed. There is some disagreement as to whether UC has enough clout. Even within the provided documents, it is suggested that publishers could coerce individual faculty into opting out and that no doubt happens. If the policy broadly also included CSU, community colleges, and regional consortia of universities, perhaps our ability to negotiate and compel publishers to respect this policy would be greater. Every individual who opts out dilutes its impact although the committee respects that UC faculty must be provided that option. However, most COR members would prefer that the process of opting out be a little bit more rigorous, for example by requiring an explanation in writing. If for example someone wanted to say, “I am opting out because of pressure from a publisher”, it might be helpful to have that on record.

Graduate Council noted that how open access works for/impacts scholars, in some non-STEM fields, remains unclear how under the policy. Both Committee on Research and Graduate Council noted the negative consequences of open access for humanities faculty, particularly those in the arts/ performing arts. Whereas authors in the STEM fields typically publish their recent and current work as journal articles, authors in the humanities (for example) may publish in the form of books, which often take a longer time to ready for publication. Under the proposed opt-out policy, the material of some campus authors may become publicly available prior to the publication of such longer-term works, potentially compromising the abilities of authors to reap the benefits of their efforts. The class of non-members of the Academic Senate includes students and post-docs, who may be more vulnerable to any negative consequences of their work being prematurely available in the public domain.

Graduate Council found that for graduate students it was unclear if a doctoral dissertation or a master's thesis constitutes formal publication under the proposed open access policy. If such works qualify, in some non-STEM fields the dissertations and theses form the basis for later publication as monographs and books, so unless the author is vigilant at opting out, the resultant public access prior to such later publication could have adverse effects on an author's career.

Under the definition of embargo in section II, it is said that the embargo period can be of any length. When describing procedures (section V.C.), however, it is said that embargo periods are usually six to twelve months. It is suggested to include language in section V.C. that states the embargo period can be of any length.

The Committee on Research is concerned about the cost of implementation. Could that money be better spent doing the research in the first place? Does paying someone at CDL to harvest and curate our papers mean fewer journal subscriptions? Conversely if faculty have to submit themselves, many never will. Given that UC is now on record as having an official open access policy, maybe we as an institution need to fully support this and curation will only succeed by either investing in staff time to do it or by investing in technology resources that make it more automatic. The whole idea that taxpayer money is spent on minimally available research with each article available for $35 to any interested party AFTER the scientist has paid publication fees sometimes in the thousands of dollars is already relatively concerning. The committee is aware that some especially junior faculty are concerned that they will not be promoted if they don't publish in premier journals, so guidelines for assessment of merit and promotion may need to incorporate assessment of commitment to open access where warranted.

Both the Library Committee and Committee on Research stated there is need for clarification. Perhaps the CDL should include an FAQ addressing the following:

- As written, the definition of "University Authors" could be interpreted as including only students who are employed by UC.
- It's not clear whether (and why) authors are required vs. encouraged to deposit waived articles.
- A flowchart or step-by-step process would be helpful, including exactly where in the publication process submission should begin.
- Are authors expected to understand what other open access repositories are available or qualify?
- Does CDL send reminders when the embargo period expires?
- Many authors do not understand the difference between commercial and noncommercial reuse of their article. Is more info available to them? Is there a default choice for licensing if the author does not specify?
- Can individual faculty self-publish on CDL?
- Will the open access policy be advertised to faculty and students, given that few people seem aware of it at present?
- Exactly what steps are needed to opt in or opt out?
- How can I ensure that participating doesn't hurt my prospects for merit and promotion?

- Where can I get help if I feel like I am being bullied by a publisher?
- Is it the case that copyright is now being transferred to UC?
- The language is formal but not very clear. Do faculty retain the rights to use their own material in the future? Do we no longer sign those forms when we submit papers assigning copyright to the journal publishers?

Finally, the Committee on Academic Freedom and Responsibility does not see any need to modify the proposal on account of academic freedom issues.

Sincerely,

André Knoesen, Chair
Davis Division of the Academic Senate
Professor: Electrical and Computer Engineering

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Office of the Academic Senate
307 Aldrich Hall
Irvine, CA 92697-1325
(949) 824-2215 FAX

January 16, 2015

Mary Gilly, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Systemwide Review of Proposed Presidential Policy on Open Access for Non-Academic Senate Authors

Dear Mary:

At its meeting of December 16, 2014, the Irvine Divisional Academic Senate reviewed the proposed Presidential Policy on Open Access for non-Senate University of California authors.

The Council on Faculty Welfare, Diversity and Academic Freedom (CFW) reviewed the Policy and did not identify any concerns or objections. However, the Council recommends that graduate students should be consulted. The Council on Research, Computing and Libraries (CORCL) also reviewed the Policy. It recommends that the Policy materials include a table or flowchart that would assist non-Academic Senate authors in knowing when they are subjects to the Policy. The Graduate Council had previously sent comments to CCGA with some concerns that affect graduate students, particularly in the humanities and social sciences.

The discussion in Cabinet raised concerns about a number of issues. The term "non-senate members" may include too many disparate communities, some of whom comprise part-time employees. An example is graduate students working as lecturers. Other concerns focused on the "opt-out" procedure being too complex. Some are concerned about the apparent lack of consultation with the unions that represent some employees. The consensus in the Cabinet was that the policy should be to opt-in rather than opt-out.

The Irvine Division appreciates the opportunity to comment.

Sincerely,

William Molzon, Senate Chair

Attachments: CFW Memo
CORCL Memo

c: Hilary Baxter, Executive Director, Academic Senate
Natalie Schonfeld, Executive Director, Academic Senate, Irvine Division

December 11, 2014

WILLIAM MOLZON, CHAIR
ACADEMIC SENATE – IRVINE DIVISION

RE: Review of Proposed New UC Policy on Open Access for Non-Senate Members

The Council on Faculty Welfare, Diversity and Academic Freedom (CFW) reviewed the proposed new Presidential Policy for Open Access for UC authors who are not member of the Academic Senate at its meeting on December 9, 2014. It was noted that an Open Access Policy for all Senate members was approved on July 24, 2013.

The Council discussed how this policy would affect teaching assistants, research assistants, graduate students and other non-Senate members who are authors. CFW members were unable to identify any concerns or objections to extending the open access policy to non-Senate UC employees. However, CFW recommends that the graduate students should be consulted (perhaps via the Associated Graduate Students) and their concerns, if any, should be considered.

CFW appreciates the opportunity to comment.

Sincerely,

William Parker, Chair
Council on Faculty Welfare, Diversity, and Academic Freedom

c: Alan Terricciano, Senate Chair-Elect
Joan Tenma, Interim Executive Director
Wendy Chamorro, Senate Analyst
Rachel Mangold, Administrative Analyst

UNIVERSITY OF CALIFORNIA

ACADEMIC SENATE • IRVINE DIVISION
COUNCIL ON RESEARCH, COMPUTING & LIBRARIES

November 24, 2014

WILLIAM MOLZON, CHAIR
ACADEMIC SENATE, IRVINE DIVISION

RE: Presidential Policy on Open Access for Non-Academic Senate Members

At its meeting on November 20, 2014, the Council on Research, Computing, and Libraries (CORCL) reviewed the proposed University of California Policy on Open Access for University of California authors who are not members of the Academic Senate. All Academic Senate members are already covered by a parallel Open Access Policy adopted in July 2013.

CORCL found the Policy to be straightforward with a waiver/opt-out option available. Some members of the Council expressed concern that it would be difficult to distinguish graduate students who are university employees or who are using university resources from those who are not, so that it would be unclear who would be subject to the Policy. The Policy appears to be based on the concept of work made for hire, which is often a complex determination. CORCL recommends that the Policy materials include a table or flowchart that would assist non-Academic Senate authors in knowing when they are subject to the Policy.

The Council appreciates the opportunity to comment.

Sincerely,

Rufus Edwards, Chair

c: Luisa Crespo, Executive Director
Wendy Chamorro, Senate Analyst

January 15, 2015

Mary Gilly
Chair, UC Academic Council

Re: Request for Systemwide Review: Proposed New UC Policy on Open Access

Dear Mary,

The Executive Board of the UCLA Academic Senate discussed the proposed UC Policy on open access for non-Senate authors at its meeting on January 8, 2015. The individual committee responses are available online.

Overall, the Executive Board members were supportive of an open access policy but raised several concerns in regard to implementation of the new policy. Clearer definitions, guidelines, and clarification on items are needed.

Clarification is needed in regard to graduate students and postdoctoral scholars. Does the policy apply to dissertation work and publications resulting from research projects? There are situations when graduate students are considered an employee; clarification as to how they will be treated is requested. The definition of the embargo period needs to be more specific.

The Graduate Council raised concerns about the potential impact on graduate students and postdoctoral scholars in the UC. Graduate Council members "consider this draft policy to be problematic and premature given inconsistencies in the policy itself…" The Board agreed and recommended coordination of this policy with the universal policy on copyright.

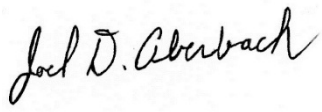
Additionally, many faculty felt that the University should fund the submission rather than putting it on the investigators, especially given that junior faculty may not have the resources to pay for publication. This may lead to 'money-driven' publications rather than 'merit-driven' publications.

Finally, the faculty felt strongly that the policy should be an "Opt-In" rather than an "Opt-Out" policy.

Please note that the Executive Board did not have the Committee on Library and Scholarly Communication' response at the time of its meeting. It is, however, posted with the other responses.

Please feel free to contact me if you should have any questions.

Sincerely,



Joel D. Aberbach
Chair, Academic Senate

cc: Dan Hare, Vice Chair, Academic Council
Hilary Baxter, Executive Director, Systemwide Academic Senate
Todd Giedt, Associate Director, Systemwide Academic Senate
Michael LaBriola, Principal Policy Analyst, Systemwide Academic Senate
Linda Mohr, Chief Administrative Officer, UCLA Academic Senate

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OFFICE OF THE ACADEMIC SENATE
JIAN-QIAO SUN, CHAIR
senatechair@ucmerced.edu

UNIVERSITY OF CALIFORNIA, MERCED
5200 NORTH LAKE ROAD
MERCED, CA 95343
(209) 228-7954; fax (209) 228-7955

January 15, 2015

To: Mary Gilly, Chair, Academic Council

From: Jian-Qiao Sun, Chair, Merced Division Council

RE: Proposed New UC Policy on Open Access for Non-Senate Members

Dear Mary,

The Division Council (DivCo) considered the proposed new Open Access Policy for Non-Senate Members informed by the Committee on Research (COR), Committee on Faculty Welfare, Diversity, and Academic Freedom (FWDAF), and the Graduate Council (GC). DivCo offers no objections to the proposed new policy.

The proposed new policy was endorsed by both the Committee on Research and the Committee on Faculty Welfare, Diversity and Academic Freedom. The Graduate Council in principle offered no objections to the proposed policy but felt that the policy as written was unclear regarding graduate students and where they fall within the policy. GC members were also concerned with the level of advisement/mentorship that graduate students may be receiving regarding their discipline's prerogative concerning dissertations being available for public access. GC recommends clarifying how the proposed policy would apply to graduate students in particular.

We appreciate the opportunity to comment.

Sincerely,

Jian-Qiao Sun, Chair
Division Council

CC: Division Council
Senate Office
Committee on Research
Committee on Faculty Welfare, Diversity and Academic Freedom
Graduate Council

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CHAIR, ACADEMIC SENATE
RIVERSIDE DIVISION
UNIVERSITY OFFICE BUILDING, RM 225

JOSE WUDKA
PROFESSOR OF PHYSICS AND ASTRONOMY
RIVERSIDE, CA 92521-0217
TEL: (951) 827-5538
E-MAIL: JOSE.WUDKA@UCR.EDU

January 20, 2015

Mary Gilly, Chair, Academic Council
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

RE: Proposed New UC Policy on Open Access

Dear Mary,

The Executive Council reviewed the President's policy on Open Access during its January 12 meeting. The Council discussed the reviews from various committees and was generally supportive. There were, however, a few suggestions we hope will be useful in improving the policy.

The Graduate Council suggests changing the default archival setting to a moratorium, instead immediate open access. The advantages of this are that it allows authors a last point of review in case they are uncertain of the constraints imposed by the journal. It would also provide a safeguard for documents that are not obviously included or excluded from the policy, such as student theses, and which might also be constrained by mandatory moratoria by the publishers.

There were also questions about the rationale for including in the policy members of the University who are not compensated by the UC. On a similar vein there were questions for including non-permanent employees for whom, should they change employment, the policy would not be enforceable.

There were several questions raised about the possibility of errors and their potential consequences (e.g. what if an article is submitted for open access in contradiction with the policy of the publishing journal?). It was recognized that the corresponding answers do not belong in the policy text, yet we consider it important for the University to provide support for any authors that might have queries about the policy, and to use these to create and maintain a searchable FAQ database.

The Executive Council is grateful for the opportunity to comment on this important policy.

Sincerely yours,

J Wudka

Jose Wudka, Riverside Division Chair
Professor of Physics & Astronomy

CC: Hilary Baxter, Executive Director of the Academic Senate
Cynthia Palmer, Executive Director of the UCR Academic Senate

UNIVERSITY OF CALIFORNIA UC RIVERSIDE | Academic Senate

COMMITTEE ON ACADEMIC FREEDOM

December 19, 2014

To: Jose Wudka, Chair
Riverside Division of the Academic Senate

From: Ward Beyermann, Chair
Committee on Academic Freedom

Re: Proposed New UC Policy on Open Access

At its meeting on December 11, 2014, the Committee on Academic Freedom discussed the proposed policy on Open Access for non-Senate UC authors. The committee supports the idea of extending open access rights and responsibilities to all non-Senate members of the UC community who are authors of scholarly articles and voted (+4-0-0) in favor of the proposed new policy without further recommendations.

UC RIVERSIDE | Academic Senate

COMMITTEE ON FACULTY WELFARE

January 5, 2015

To: Jose Wudka
Riverside Division Academic Senate

From: Jennifer Hughes, Chair
Committee on Faculty Welfare

Re: Proposed New UC Policy on Open Access

At its meeting on December 16, 2014, the Committee on Faculty Welfare discussed the proposed new policy on Open Access for UC authors who are not members of the Academic Senate. The committee is supportive of extending open access rights and responsibilities to non-Senate members of the UC community who are authors of scholarly articles. However, some members expressed concern with non-Senate members who are not contracted nor compensated by UC to produce research being considered in the UC production and contribution of knowledge.

UC RIVERSIDE | UNIVERSITY OF CALIFORNIA | Academic Senate

December 17, 2014

To: Jose Wudka, Chair
Riverside Division

From: David Lo, Chair
Graduate Council

RE: Proposed new UC policy on Open Access

The Graduate Council discussed the implications of extending the open access policy to non-Academic Senate members. In our discussion it was noted that while work performed at the university is a work product that is appropriate for depositing in a digital repository, it might be considered important that all such work be entered under a default category for embargo for a period specifically requested from each scholar upon depositing material. In this way, while all work performed at the university is expected to be deposited in a repository; an implicit assumption is that it would require a conscious decision to release the work for open access. This strategy would help serve two purposes: it recognizes both the scholar's requirements to deposit work in a digital repository, as in the case of work performed as a degree requirement, and recognizes the scholar's control over the release of information prior to publication in an appropriate setting, whether it be as a scientific journal article or as an original independent publication or book. Moreover, this approach would help prevent inadvertent public access of material; the conscious choice to provide open access has to be made at the time of deposit. This may also remind the author that they also have the option to fully opt out of the policy at that time.

UC RIVERSIDE | UNIVERSITY OF CALIFORNIA | Academic Senate

January 4, 2015

To: Jose Wudka, Chair
Riverside Division

From: Chikako Takeshita, Vice Chair
Committee on Library, Information Technology and Scholarly Communication

Re: Proposed new UC policy on Open Access

The Committee on Library, Information Technology and Scholarly Communication reviewed the proposed new UC policy on Open Access. Most of the committee's concerns about the proposal pertained to students and post-docs.

The committee was concerned with the responsibility of an embargo being placed on the author – will UC take full legal responsibility if a non-senate member (who may have moved elsewhere) mistakenly uploads a version that the publisher does not allow?

It is not clear from the proposal what needs to be posted. First, work published while employed at UC but based on research done elsewhere (e.g. a post-doc writing up PhD material). Second, work published after leaving UC but with some (perhaps very small) component of the research initiated while at UC – is there a cut off (1%, 5%, 10%, 50%,…)?

The committee would like clarification on the link between the requirement to post articles and the ownership of copyright. This becomes an issue in FAQ #3 which discusses ownership but does not address depositing work.

UC RIVERSIDE | College of Natural and Agricultural Sciences
Executive Committee

December 15, 2014

To: Jose Wudka, Chair
Riverside Division

From: Sarjeet Gill, Chair, Executive Committee
College of Natural and Agricultural Science

Re: Proposed Policy on Open Access for UC Authors who are not members of the Academic Senate

The CNAS Executive Committee at their December 10th meeting reviewed the Proposed Policy on Open Access for UC Authors who are not members of the Academic Senate. The Committee believes that since such a policy has been approved for members of the Academic Senate, the extension of this policy to non-Senate UC authors is appropriate, since it appears to be similar.

UNIVERSITY OF CALIFORNIA UC RIVERSIDE | Graduate School of Education

December 5, 2014

To: Jose Wudka, Chair, Riverside Division

From: John S. Levin, Chair, Executive Committee, Graduate School of Education

Subject: Open Access for UC authors, not members of Senate (October 15, 2014)

The Executive Committee, Graduate School of Education reviewed and discussed this document, and noted several concerns. One was similar to the original policy for UC Senate members, and concerned the requirements for faculty to be responsible for depositing work. This same concern was reiterated for non-Senate UC authors. Our view was that the requirement is impractical for non-permanent employees and that the policy is unenforceable for the same group. This same concern applies to students, with the added issue that students are not employees and thus it is questionable whether or not they can be asked to comply with what is a workplace-employment policy. In short, the GSOE Executive viewed this policy as unrealistic.

John S. Levin

UC RIVERSIDE
UNIVERSITY OF CALIFORNIA
Bourns College of Engineering

Office of the Dean
Riverside, CA 92521
Tel 951.827.5190
Fax 951.827.3188
www.engr.ucr.edu

January 6, 2015

TO: Jose Wudka, Chair
Riverside Division

FR: Akula Venkatram, Chair
Executive Committee, Bourns College of Engineering

RE: Response to the Proposed Open Access Policy

The BCOE Executive Committee has reviewed the Proposed Open Access Policy and are in favor of the proposed revisions, which have the two goals of extending open access to University Authors and of formally describing procedures for implementation of the policy.

UNIVERSITY OF CALIFORNIA, RIVERSIDE

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EXECUTIVE COMMITTEE:
COLLEGE OF HUMANITIES, ARTS, AND SOCIAL SCIENCES RIVERSIDE, CALIFORNIA 92521-0132

January 6, 2015

TO: José Wudka, Chair
Academic Senate

FROM: Jennifer Doyle, Chair
CHASS Executive Committee

RE: The CHASS Executive committee supports the proposed Open-Access Policy as distributed on September 20, 2012

CHASS faculty and students are particularly affected by the current system insofar as rising costs for access to journals puts pressure on library budgets. This threatens not only ongoing subscriptions but also has impacted the library's ability to purchase books and scholarly monographs—a primary publication format for many of our Humanities faculty. Moreover, as the report indicates, the current publishing model drains financial resources from public institutions and channels these into for-profit companies.

We are committed to the concept of open-access as it reflects the University of California's values as a public institution. We believe that open-access will facilitate dissemination of our ideas and research and will increase the visibility of our faculty members' research on a national and global stage. It will ease our ability to share research findings with colleagues world-wide and creates broader readership. Open-access has the potential to improve the relationship between the UC and the taxpayers of the state of California.

We believe that the opt-out clause included in this proposal, placing the burden on publishers to seek exclusive rights, will protect the ability of individual scholars to publish in any and all journal venues. Our concern is that the unlimited nature of the opt-out clause as currently formulated weakens the potential benefit of the proposal. We are also concerned about the increasingly baroque nature of the process—it is particularly important for faculty preparing themselves for promotion that they have a clear, easy-to-understand set of guidelines regarding the navigation of a system-wide open access policy and, for example, waivers addressing the restrictions of specific academic journals.

A series of questions arise for faculty in CHASS. Ideally, fully resolved, this policy will be more clear and helpful with questions like the following: Where do dissertations fit within this policy (can that be made more explicit)? How does this policy account for scholars who are working with reproductions of

images, poetic texts, lines of music—in many cases, the acquisition of the rights to reproduce works within scholarship is very restrictive. This, likely, will be a cause for a waiver requesting exemption — or some system-wide guidance regarding this situation which is particularly important to scholars working in (for example) art history, music, theater and poetics.

As currently drafted the proposed policy may not be strong enough to bring about the desired result. We acknowledge, however, that it is an important step in the right direction.

Jennifer Doyle, Chair

UCR CHASS Executive Committee

School of Public Policy
UNIVERSITY OF CALIFORNIA, RIVERSIDE
INTS 4133 | 900 University Ave
Riverside CA, 92521

TO: Jose Wudka, Chair
Riverside Division

FR: Kurt Schwabe, Chair
Executive Committee, School of Public Policy

RE: Support for Proposed Revision 682 / draft Presidential Policy on Open Access

Date: January 6, 2015

Dear Chair Wudka:

The Executive Committee of the School of Public Policy would like to express its unanimous support for the proposed revisions to Academic Senate Regulations 682 as outlined by the Coordinating Committee on Graduate Affairs, as well as the new draft Presidential Policy on Open Access that extends similar open access rights currently afforded to UC Academic Senate members to all members of the UC community who are authors of scholarly articles.

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OFFICE OF THE ACADEMIC SENATE
9500 GILMAN DRIVE
LA JOLLA, CALIFORNIA 92093-0002
TELEPHONE: (858) 534-3640
FAX: (858) 534-4528

January 12, 2015

Professor Mary Gilly
Chair, Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

Subject: Open Access Policy

Dear Mary,

The San Diego Divisional Senate has reviewed the proposed revisions to the Open Access Policy. Specifically, they were reviewed by the Committees on Faculty Welfare, Library, Research, and Graduate Council. The committees had several concerns, which focused on some not-well-defined terms and consequences the policy could have on non-Senate authors.

The Committee on Faculty Welfare observed that non-Senate members generally have less access to resources than Senate members and expressed concern regarding the burden compliance might place on non-Senate members. The proposed policy does not clearly indicate what resources could be available and how non-Senate authors would access such resources.

The Committee on Library had several concerns. First, it found the term "University Authors" to be insufficiently defined, and that it does not provide for circumstances where an author's status falls both inside and outside the proposed policy. For example, if an author begins work on a paper while funded by the University but finishes the work funded by an alternate source, is the paper subject to the policy? Second, concerning "embargo/delay of access," it seemed to the committee that an author who would not ordinarily be granted a waiver could still effectively secure a waiver by requesting an unreasonably long embargo. Third, the committee was concerned about potential effects of "encouraging" the deposit of articles not subject to the policy ("dark deposit"), and whether this could potentially be used as future leverage to change

existing Academic Senate policy which does not contain similar language. And finally, the committee noted that the policy does not provide guidance on the scope of the policy as it pertains to non-academic staff, i.e., the policy does not clearly outline how extracurricular articles that address a staff member's area of employment would be handled.

The Committee on Research raised the issue of enforcement, noting that the policy provides no mechanism for compliance and does not specify consequences for non-compliance. Overall the committee supported the revised policy, as long as it does not add more regulatory burdens on authors.

Graduate Council noted that the policy does not present details on the rationale for the proposed policy. Additionally, the council noted the proposed policy only affects authors of scholarly articles and would create different open access rights and responsibilities for authors who publish articles rather than books. Finally, the council recommended the policy be clarified to address multi-authored papers, particularly when one author is a Senate member and another author is not.

Thank you for the opportunity to comment on this important topic.

Sincerely,

Gerry Boss, Chair
Academic Senate, San Diego Division

cc: Divisional Vice Chair Continetti
Divisional Director Rodriguez
Executive Director Baxter

University of California
San Francisco

UCSF

Academic Senate
senate.ucsf.edu

January 9, 2015

Mary Gilly, PhD, Chair
Academic Council
Systemwide Academic Senate
University of California Office of the President
1111 Franklin Street, 12th Floor
Oakland, CA 94607-52000

Re: *University of California Presidential Policy on Open Access*

Dear Chair Gilly:

The San Francisco Division of the University of California Academic Senate received and reviewed the Proposed New UC Policy on Open Access.

UCSF has a Divisional Senate-approved Open Access Policy and while our Academic Senate supports the proposed Systemwide policy, it has no further amendments or comments. We appreciate the opportunity to review.

Please feel free to contact Interim Executive Senate Director Alison Cleaver (415.476.3808; Alison.cleaver@ucsf.edu) or myself with any additional inquiries.

Sincerely,

Farid Chehab, PhD
UCSF Academic Senate Chair
Professor, Department of Laboratory Medicine

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ACADEMIC SENATE
Santa Barbara Division
1233 Girvetz Hall
Santa Barbara, CA 93106-3050

(805) 893-2885
http://www.senate.ucsb.edu

Kum-Kum Bhavnani, Chair
Deborah Karoff, Executive Director

January 21, 2015

Mary Gilly, Chair
Academic Senate

RE: Policy on Open Access for Non-Senate Authors

Dear Mary,

On the UCSB campus, the following groups reviewed the proposed policy on Open Access for Non-Senate Authors: Council on Faculty Issues and Awards, Council on Planning and Budget, Council on Research and Instructional Resources, Graduate Council, Undergraduate Council, and the Faculty Executive Committees for the College of Letters and Science, the College of Engineering, the Bren School, and the College of Creative Studies. All groups endorse the policy as proposed and believe it is appropriate to have a consistent policy for Senate authors and non-Senate authors.

However, some groups suggest that the policy could be further clarified. Council on Faculty Issues and Awards finds the language of the policy to be unnecessarily technical and difficult to follow and CRIR suggests that language defining to whom the policy applies could be further clarified. Graduate Council asks that the policy include language to cover articles written by multiple-authors, particularly when authors are not in the UC system.

CRIR also questioned whether the policy was strong enough and able to be enforced.

Thank you for the opportunity to comment.

Sincerely,

Kum-Kum Bhavnani, Chair
Santa Barbara Division

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1156 HIGH STREET
SANTA CRUZ, CALIFORNIA 95064

Office of the Academic Senate
SANTA CRUZ DIVISION
125 CLARK KERR HALL
(831) 459 - 2086

January 2, 2015

Aimée Dorr, Provost
Executive Vice President for Academic Affairs

Re: Proposed Draft Presidential Policy on Open Access

Dear Aimée,

The Santa Cruz Division has reviewed the draft of the proposed Presidential Policy on Open Access. Our Committee on Educational Policy (CEP), Graduate Council (GC), Committee on Academic Personnel (CAP), Committee on Computing and Telecommunications (CCT), and Committee on Library and Scholarly Communication (COLASC) have all responded with comments as part of our campus review.

Each committee voiced support of the principles of open access and the welcomed the extension of the Senate's Open Access Policy to the entire campus community. The University of California has a mandate to do everything in its power to make the scholarship produced by its faculty, students, and employees freely accessible to the public.

Many committees, however, raised concerns about vagueness in the proposed policy as written. For example, some committees were unclear about how this policy would address joint authorship between University and non-University authors: for a waiver to be granted, is it necessary that *at least one* or *all* copyright holders request a waiver? If both the University and a faculty member own the copyright, can the faculty member request a waiver from uploading to eScholarship, given that the University already owns the copyright?

Furthermore, according to section V.A., authors "*may* make a final version of their articles public" using eScholarship or any other open access repository, but also that "[a]ll University Authors are expected to deposit their final version" by the date of publication. In contrast, section III.B.3. states that authors "*will* provide" these copies to eScholarship. Is the use of the word "*may*" in section V.A. an error? To satisfy the requirement that the authors will provide these copies, is it sufficient to upload to any open access repository, or is it necessary to use eScholarship specifically?

It is still not clear from the policy as written whether graduate students are "employed" by the University at a particular time and if they authored their work while employed by the University. For example, a graduate student may be supported by an NSF fellowship during one year and by a teaching assistantship the next year. If the student has started his or her research while supported by a fellowship and decides to publish the paper while supported by TAship, is he or she subject to this policy? Also, TA duties are part time and do not include research. It seems unclear whether research undertaken when appointed as a TA is considered research done while employed by the University. Unfortunately, University student authors do not have the luxury of opting out of the policy when in doubt, since they do not own the copyright to their work. In fact, even though III.C states that "Upon a showing of compelling circumstances, the University may grant a waiver, as described in Section V.B below.", Section V.B only says that

"University Authors who own their copyright to a given article may waive the grant of license to the University described in section III.B.1 above." This seems inconsistent: University student authors do not own the copyright of their work and thus cannot grant (or waive to grant) a license to the University.

Finally, some committees were concerned, as they were with the Open Access Policy for Senate Members, that the policy will negatively impact authors whose research requires that they embed material copyrighted by third parties in their publications. It is important that this policy not influence the choice of publication venue, and that compliance with this policy should not be an element of the personnel review process.

The committees expressed hope that these issues could be resolved by clarifying some of the language used in the proposal, especially with regard to joint authorship, the force of the obligation, the range of acceptable open access archives that can be used, the definition of terms such as "employee," and the process of obtaining a waiver. We hope that these concerns can be addressed prior to the promulgation of this policy.

Sincerely,

Don Brenneis, Chair
Academic Senate
Santa Cruz Division

cc: John Tamkun, Chair, Committee on Educational Policy
Ken Kletzer, Chair, Graduate Council
Carolyn Dean, Chair, Committee on Academic Personnel
Debra Lewis, Chair, Committee on Computing and Telecommunications
Luca DeAlfaro, Chair, Committee on Library and Scholarly Communication

COORDINATING COMMITTEE ON GRADUATE AFFAIRS (CCGA)
Jutta Heckhausen, Chair
heckhaus@uci.edu

ACADEMIC SENATE
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

December 19, 2014

ACADEMIC COUNCIL CHAIR MARY GILLY

Dear Mary:

At its December 3 meeting, CCGA discussed the extension of the Open Access policy to non-faculty staff and graduate students on the basis of written comments by lead reviewer Carol Burke. The policy for both faculty and non-faculty groups appears to have been designed for fields in which productivity is measured primarily in articles rather than in books. However, in many disciplines in the humanities, as well as some social sciences, an argument first sketched out in an article will often be refined, expanded, and become the center of a book-length work. Similarly, chapter-length manuscripts which are accepted as dissertations will be revised and expanded upon to form full-length book manuscripts often years later. At the same time, book publishers have become reluctant to publish manuscripts with sections that have already appeared in print. All UC academic authors, but particularly graduate students need to be protected from the potential constraints, an open access policy puts on their use and later publication of their own work.

Expressions in the proposal like "open access, "extending opportunity" and "allows non-Senate authors of scholarly articles to maintain legal control over their research articles," sound reassuring, but the proposal fails to allow for nonparticipation if everyone is required to deposit her/his work: "This policy commits University Authors to depositing a version of each scholarly article in a digital repository, but reserves for authors the right to choose whether to make that work freely and openly available to the public." The policy that promises openness and freedom, nevertheless, imposes restrictions: "Each University Author grants to the Regents of the University of California a[n] irrevocable, worldwide license to exercise any and all rights under copyright relating to each of his or her scholarly articles, in any medium, and to authorize others to do the same, for the purpose of making their articles widely and freely available in an open access repository." In the interest of freedom, this raises an important question: If a scholar doesn't wish to grant rights to the University of California, why does he or she have to provide a copy of each scholarly publication and fill out a form? Any policy that requires an "opt-out" rather than an "opt-in" is restrictive. Why collect these writings if the author wishes to deny access?

The proposal mentions the option of an "embargo period": "An author simply has to specify the embargo period (usually six or twelve months) at the time of deposit at the "eScholarship" website". What if an author wishes an embargo period of 5-10 years (not an unreasonable time for writing a book)? Who determines that an embargo period is unreasonable?

The document says that open access pertains to "scholarly" publications, but in some fields the distinction between what is scholarly and what is not scholarly is not always clear. In long-form journalism, for example, an author may consult archives, calculate statistics, document authorities, and interview subjects in order to produce either a narrative or an essay about a particular event, person, problem, or period. Do the methods of inquiry determine whether a publication is scholarly or not? Does the final form that research takes? Is the historical work written by a journalist considered scholarly work (e.g. the work of journalist Adam Hochshield at Berkeley or Barry Siegel at UCI)? And what about a scholar who publishes in a popular magazine or with a trade press? Is that publication "scholarly" because the author is a scholar or "non-scholarly" because the publication engages a larger audience?

Faculty in the humanities, who typically hold nine-month salaries, have scant access to grant money and little chance of earning a 12-month salary. Only the generous MacArthur fellowships (of which my university currently hosts only one) fully compensate for one's time off. Faculty must ask their dean to augment with other research funds. Competitive research money in the humanities may only pay for travel to collections. Most humanities faculty cannot augment their nine-month salaries through their research. Some receive modest royalties (over $3000 each year is above average). If a faculty member opts for a "commercial license" for reuse, will the university collect the royalties to the book that they have uploaded and pass those along to the author?

And finally, what about the scholar who agrees to release scholarly work for public access but whose writing is inflammatory or who quotes sources whose vernacular is littered with obscenity, racism, or misogyny? Will a university official or a censorship committee assess whether a particular text is suitable for a general audience? As with any policy as sweeping as this one, there are lots of devils lurking in the details that need to be eliminated before it can be fully implemented.

CCGA strongly proposes that the open access policy be rewritten to reflect the ability to "Opt In" rather than "Opt Out." CCGA sees graduate students and postdocs as particularly vulnerable to the disadvantages of an Opt-Out open access policy, but also proposes that it be re-considered for faculty in order to protect the legitimate interests of scholars in the humanities and social sciences.

CCGA appreciates the opportunity to comment on this proposal and looks forward to its implementation in the near future.

Best regards,

Jutta Heckhausen, Ph.D.
Chair, CCGA

cc: Mary Gilly, Academic Council Chair
Daniel Hare, Academic Council Vice Chair
Hilary Baxter, Academic Senate Executive Director
CCGA Members
Todd Giedt, Academic Senate Associate Director
Michael LaBriola, Senate Analyst

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UNIVERSITY COMMITTEE ON ACADEMIC PERSONNEL (UCAP)
Jeffrey Knapp, Chair
jknapp@berkeley.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

December 15, 2014

MARY GILLY, CHAIR
ACADEMIC COUNCIL

RE: OPEN ACCESS POLICY FOR NON-SENATE UC AUTHORS

Dear Mary,

The committee's response to the proposed Open Access Policy for non-Senate UC authors was mixed. On the one hand, most respondents agreed with the UCSC CAP "that the policy has numerous benefits, not the least of which is the ready and wide dissemination of research" conducted by UC authors. But committee members also raised three sets of concerns about the policy in its current form: the first, about the faculty covered by the policy; the second, about the bureaucracy for administering the policy; and the third, about the pressures that the policy might exert on publication choices and on the faculty review process.

The most widely shared concern had to do with the policy's perceived lack of clarity about the faculty it would cover. "Many Lecturers and Adjunct faculty," noted the UCB CAP, "are employed on a part-time and/or sporadic basis. Would the policy apply to any works they produced, regardless of whether it was within the scope of their employment, or drew on university resources to produce? Would the policy apply even in semesters where such authors were not employed by the university?" "Which non-senate series," the UCI CAP similarly asked, "would be covered, or would all? For what timeframe would compliance be required? Would open access compliance be required only if the work were completed using university resources?" We strongly recommend that the scope of the policy be more clearly defined.

The committee was also concerned about the administrative resources that would be required to improve awareness of, and compliance with, the policy. Would staff and funding assistance for these purposes be available to non-senate faculty? Who would bear that cost? None of us wants to see the administrative burdens on faculty increased, and some of us, therefore, are hesitant to endorse this non-Senate addition to the recently approved Senate policy until we learn more about how the administration of the policy will be managed. One CAP also feels that it is "premature" to implement this policy while the Senate version is still being tested and the possible unintended consequences of that policy have yet to be gauged.

Finally, the committee believes that the policy should address more explicitly and concretely two further challenges that Open Access might impose on UC authors. Compliance with the policy should never

influence a faculty member's choice of publication venue, and a faculty member's decision to opt in or out should never play a role in the personnel review process.

In sum, while we support the basic aims of the policy, we feel that several important features of it require further clarification.

Sincerely,

Jeffrey Knapp, Chair
UCAP

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UNIVERSITY COMMITTEE ON FACULTY WELFARE (UCFW)
Joel Dimsdale, Chair
jdimsdale@ucsd.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

December 15, 2014

MARY GILLY, CHAIR
ACADEMIC COUNCIL

RE: Proposed Presidential Policy on Open Access

Dear Mary,

The University Committee on Faculty Welfare (UCFW) has discussed the proposed Presidential Policy on Open Access. Given last year's action on this matter for Senate members, we see no specific concern regarding broadening its scope to include others. However, UCFW remains concerned about the "opt out" features of this policy. Reports are accumulating that this opt out feature is not easy to activate. Indeed, the committee further noted that in many cases, preparing documents for deposit adds to the administrative burden of faculty.

Many on the committee found the policy too steeped in technical language and suggest a more accessible version be prepared.

The Committee also noted with approval the University's effort at pre-negotiating with a number of the large publishers but noticed that Kluwer, which publishes a significant number of biomedical journals, is not yet included.

Sincerely,

Joel E. Dimsdale, UCFW Chair

Copy: UCFW
Hilary Baxter, Executive Director, Academic Senate

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UNIVERSITY COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATION
Roberto Manduchi, Chair
manduchi@soe.ucsc.edu

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

December 16, 2014

MARY GILLY, CHAIR
ACADEMIC COUNCIL

RE: PROPOSED OPEN ACCESS POLICY FOR NON-SENATE UC AUTHORS

Dear Mary,

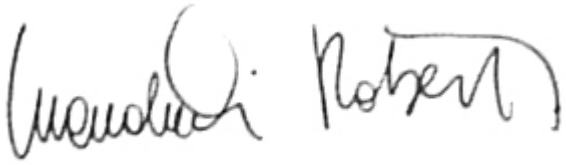
UCOLASC discussed the proposed new Open Access Policy for Non-Senate UC Authors during its meeting on October 31st. The committee did not take a formal position on the policy but members have identified two issues that should be clarified.

The policy says that University Authors are "Non-Senate employees and students of the University of California who author scholarly articles while employed by the University of California." The committee recommends that the policy clearly state when the verb “author" applies: does it apply only at the time one publishes a paper, or while one performs the research that leads to this paper? In general, once a student leaves the University, UCOLASC expects this student to be automatically out of the policy. A more complex situation arises if the student worked on a GSR, RA or TA then got an individual fellowship (so that he or she is no longer employed by the University). If the student publishes an article while supported by the fellowship, is he or she still subject to the policy?

The grammar of Section III C. is quite confusing. In reference to University Authors who do not own copyright in their scholarly work, it says: “Upon a showing of compelling circumstances, the University may grant a waiver, as described in Section V.B below.” Section V.B, however, says that “all Academic Senate authors and University Authors who own their copyright to a given article may waive the grant of license to the University described in section III.B.1 above.” How can a University Author grant or waive to grant a license to the University if he or she does not own the copyright of his or her scholarly work in the first place? Our understanding is that what is really waived is a right of distribution that ordinarily is associated with authors but not with authors who don't own their work. Since the copyright ownership for these authors resides with the University, the University is waiving its own right of distribution on behalf of the authors who don't have this right. UCOLASC strongly suggests clarifying this passage.

Please let me know if you have any questions about this matter.

Sincerely,



Roberto Manduchi, Chair
UCOLASC

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UNIVERSITY COMMITTEE ON RESEARCH POLICY (UCORP)
Liane Brouillette, Chair
liane.brouillette@gmail.com

Assembly of the Academic Senate
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200
Phone: (510) 987-9466
Fax: (510) 763-0309

December XX, 2014

MARY GILLY, CHAIR
ACADEMIC COUNCIL

RE: Proposed Presidential Policy on Open Access

Dear Mary,

The University Committee on Research Policy (UCORP) has discussed the proposed Presidential Policy on Open Access. UCORP finds that it would be wise to have a single policy for research participants, and appreciates that a Presidential Policy will have more visibility than a Senate-only policy supporting open access to research findings. However, the committee feels that greater specificity is needed regarding when students are considered employees. UCORP understands that a separate process is underway to clarify ownership and copyright policies, and we hope that these regulations are clearly cross-referenced. UCORP would further suggest development of a decision-tree to help guide researchers and prevent accidental error.

Thank you for the opportunity to comment on this important draft policy.

Sincerely,

Liane Brouillette

Liane Brouillette, Chair
UCORP

cc: UCORP
Hilary Baxter, Executive Director, Systemwide Academic Senate