

# UNIVERSITY OF CALIFORNIA, ACADEMIC SENATE

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SANTA BARBARA • SANTA CRUZ

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*Executive Director*  
*Universitywide Academic Senate*  
*University of California*  
*1111 Franklin Street, 12th Floor*  
*Oakland, California 94607-5200*

August 9, 2012

## CHAIRS OF SENATE DIVISIONS CHAIRS OF SENATE STANDING COMMITTEES

Dear Division and Committee Chairs:

On behalf of Academic Council Chair Bob Anderson I am forwarding for full Senate review a proposed Open Access Policy developed by the University Committee on Library and Scholarly Communication (UCOLASC). The policy would expand open access to research publications by University of California faculty by changing the default relationship between faculty authors and scholarly publishers to one in which authors grant the University a non-exclusive license to the work. The proposed policy would also require that authors deposit a digital copy of the final version of their published works with the California Digital Library. Authors would be allowed to opt out of the license grant at their own discretion. However, publishers that demand exclusive rights would need to ask authors to choose to opt-out. The proposed policy, UCOLASC's transmittal letter, and a paper responding to specific faculty concerns are attached. Additional material will also be made available on the web over the coming months.

Because the proposed policy touches on core faculty concerns, Council encourages every division and committee to engage a broad constituency in discussing it. Representatives of UCOLASC are prepared to offer input into your discussions if this would be helpful, and my office will be ready to assist with the necessary arrangements if needed.

Please provide comments by January 11, 2013. In the meanwhile, please feel free to contact me or 2012-13 Council Chair Bob Powell at any time if you have questions or concerns about how to conduct this review.

Sincerely,

A handwritten signature in black ink, reading "Martha Kendall Winnacker".

Martha Kendall Winnacker, J.D.  
Executive Director, Academic Senate

Encl. (4)

Cc: Division directors  
Committee analysts



UNIVERSITY COMMITTEE ON LIBRARY AND SCHOLARLY COMMUNICATION  
Christopher Kelty, Chair  
ckelty@UCLA.EDU

Assembly of the Academic Senate  
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Oakland, CA 94607-5200  
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Fax: (510) 763-0309

Monday, July 16, 2012

Robert Anderson, Chair  
ACADEMIC COUNCIL

RE: Proposed Policy to Expand Open Access to Research Publications at the University of California

Dear Bob,

I hereby submit for review by the Academic Council a policy to expand open access to research publications by University of California faculty. UCOLASC requests that Academic Council adopt this policy and forward it to the President for implementation as a presidential policy.

The proposed policy is one strategy in an ongoing effort at UC to transform the scholarly publishing industry and improve the accessibility and visibility of our scholarly research. UCOLASC has worked continuously for the last 8 months to understand the issues, address diverse concerns and to prepare a policy we think will both benefit and protect the UC system and the faculty. The proposed policy will provide unprecedented access to research publications by the public and send a strong message to scholarly publishers that any changes to the scholarly publishing system must include full and permanent open access to our research publications.

The key function of this policy is to *change the default relationship that faculty have with scholarly publishers*. Currently, each faculty member must individually negotiate open access rights with each individual publisher for each publication. The proposed policy would invert that relationship. It would make open access the default right of faculty and instead force publishers to request exclusive rights (by asking authors to opt-out). By making this a collective policy, individual faculty benefit from their membership in the policy-making group. Moreover, under this policy faculty members both retain ownership of their copyright and have an unobstructed right to opt out of the license for any reason.

Over 140 universities worldwide have implemented policies such as the one we propose here, including most recently our own UCSF, who voted on May 21<sup>st</sup> to implement a nearly identical strategy. Faculty at peer institutions such as Harvard, Duke, Princeton, MIT, Kansas University and many others have passed policies promising to make their work available to the world via open access digital repositories. Many of these policies were based on lessons learned from UC's own previous attempt to formulate an open access policy in 2007. As a result, there is now much experience on which to assess the effects of this policy.

All current policies are similar in design to the one proposed here. Although they differ in minor details, they each do basically the same two things. First, they collectively grant to the university a non-exclusive license for each research publication so that the university might make a version of that work available via an open access repository. Second, they obligate faculty to assist in this effort by providing a copy of each article (or the URL of an open access version) to that repository—in our case the well-established eScholarship repository run by the California Digital Library. eScholarship is prepared to begin implementation immediately.

The current proposed policy has been crafted in conversation with many constituencies. It has been extensively discussed and has the support of the Library and COLASC committees of all ten campuses, The California Digital Library, the University Council of Librarians, several Graduate Student Associations, the Library Association of the University of California, as well as the University Committee on Academic Personnel (UCAP) and the University Committee on Research Policy (UCORP). The University Committee on Academic Freedom (UCAF) and the University Committee on Faculty Welfare (UCFW) both communicated concerns that were discussed and addressed at UCOLASC's May 25<sup>th</sup> meeting. UCOLASC has replied by letter addressing these concerns in detail.

The issue of open access to scholarly publications is a thorny and complicated one involving many technical issues related to copyright law, the rapid transformation of new information technologies and the changing practices of publishers and libraries. It is clear to UCOLASC that the current system is both economically unsustainable for UC and its libraries and that it does not function in our interests. There are many different ideas circulating for how to make open access both possible and sustainable, and the scholarly publishing ecology changes rapidly. Many publishers have already committed to open access, but others (especially the largest and most profitable) have not: they remain committed to a subscription-based model that puts artificial and insupportable restrictions on scholarly research and excessive strain on library budgets.

The proposed open access policy is a single component in an effort to transform this system; it is not an overnight solution to the challenges of scholarly publishing; but in our considered opinion, neither is it a dangerous one. It is, however, a crucial and necessary first step in transforming our collective relationship to publishers, it sends a powerful message from the largest public university in the world, and it charts a path towards a sustainable, healthy scholarly publication system openly available to everyone.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Christopher M. Kelty', with a long horizontal flourish extending to the right.

Christopher M. Kelty, Chair, UCOLASC

Encl:

The Final Draft Open Access Policy

Presentation “An Open Access Policy for the University of California”

Proposed UC Open Access Policy: Questions and Concerns

## **Final Draft of Proposed Open Access Policy for the University of California**

The Faculty of The University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as part of a public university system, the Faculty is dedicated to making its scholarship available to the people of California. In keeping with this commitment to open dissemination and public access, the Faculty adopts the following policy:

Each Faculty member grants to the University of California a nonexclusive, 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. The policy applies to all scholarly articles authored or co-authored while the person is a member of the Faculty except for any articles published before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy. This policy does not transfer copyright ownership, which remains with Faculty authors under existing University of California policy. Application of the license will be waived for a particular article or access delayed for a specified period of time upon express direction by a Faculty member to the University of California.

To assist the University in disseminating and archiving the articles, each Faculty member will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication. The University of California will make the article available in an open access repository. When appropriate, a Faculty member may instead notify the University of California if the article will be freely available in another repository or as an open-access publication.

The Academic Senate and the University of California will be responsible for implementing this policy, resolving disputes concerning its interpretation and application, and recommending any changes to the Faculty. The Academic Senate and the University of California will review the policy within three years, and present a report to the Faculty.

The Faculty calls upon the Academic Senate and the University of California to develop and monitor mechanisms that would render implementation and compliance with the policy as convenient for the Faculty as possible.

# An Open Access Policy for the University of California

**Christopher M. Kelty**, UCLA

Chair, University Committee on Library and  
Scholarly Communication

# What is Open Access?

In 2002, the Budapest Open Access Initiative defined open access as:

*"the world-wide electronic distribution of the peer-reviewed journal literature, completely free and unrestricted access to it by all scientists, scholars, teachers, students, and other curious minds."*

# Who Benefits from Open Access?

- **Scholars in universities**
  - increase visibility, usage, and impact of research
  - Retain rights to use and reuse research publications, including derivatives
- **Industry, business, arts and scholarship beyond the university**
  - Gain access to cutting edge research and new ideas
  - Fuels innovation, discovery, creativity and progress
  - Stimulates and guides public discourse and debate
- **The people of California (and the world)**
  - Get a return on their investment and taxes when research is freely available
  - Promotes knowledge and free expression as a public good
- **Libraries, K-12, educators generally**
  - Gain access to the latest research
  - Creates a basis for better learning and teaching everywhere
- **Publishers**
  - Reduced transactions costs in managing complex subscriptions
  - Doing the right thing with scholarly research



# Who has access now?

- **Scholars in universities**
  - increase visibility, usage, and impact of research
  - Retain rights to use and reuse research publications, including derivatives
- ~~Industry, business, arts and scholarship beyond the university~~
  - Gain access to cutting edge research and new ideas
  - Fuels innovation, discovery, creativity and progress.
  - Stimulates and guides public discourse and debate
- ~~The people of California (and the world)~~
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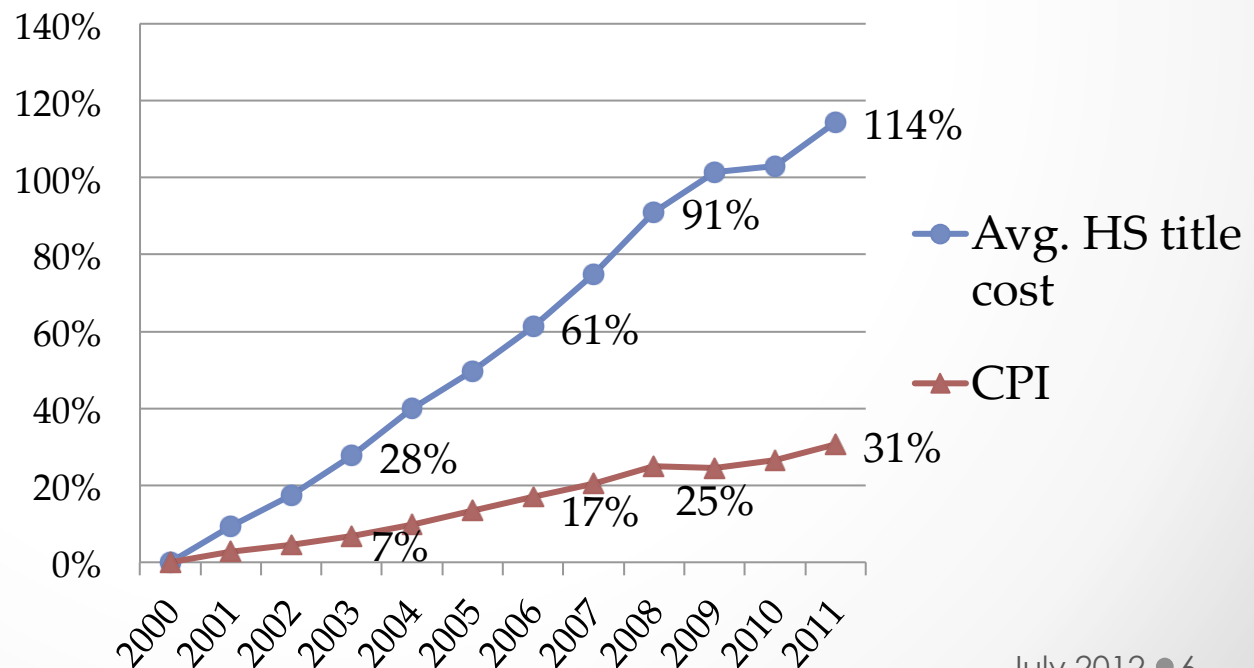
# What's wrong with the current system of publishing?

- The Scholarly publishing industry is concentrating, and subscription costs are out of control. Meanwhile, the largest for-profit publishers have profit margins between **30-40%**.
- Library revenues have been dropping for decades, and faculty are **losing access** to content as subscriptions are canceled.
- *Faculty* provide all of the **content** and most of the **labor**: authorship, peer review, editorship, advisory board service, copyediting, even typesetting in some cases
- *Publishers* seek greater **control** over content and its uses. They exert pressure on university libraries through complex negotiations.
- Digital content remains expensive to produce, but is getting cheaper to distribute.
- **Open Access is not the solution to the crisis of scholarly publication, but is a necessary component of any future system.**

# What's wrong with the current system of publishing?

- The Scholarly publishing industry is concentrating, and subscription costs are out of control. Meanwhile, the largest for-profit publishers have profit margins between **30-40%**.

Percent Increase in Cost for the Average Health Sciences Journal versus the CPI



# What's wrong with the current system of publishing?

- The Scholarly publishing industry is concentrating, and subscription costs are out of control. The largest for-profit publishers have profit margins between **30-40%**.

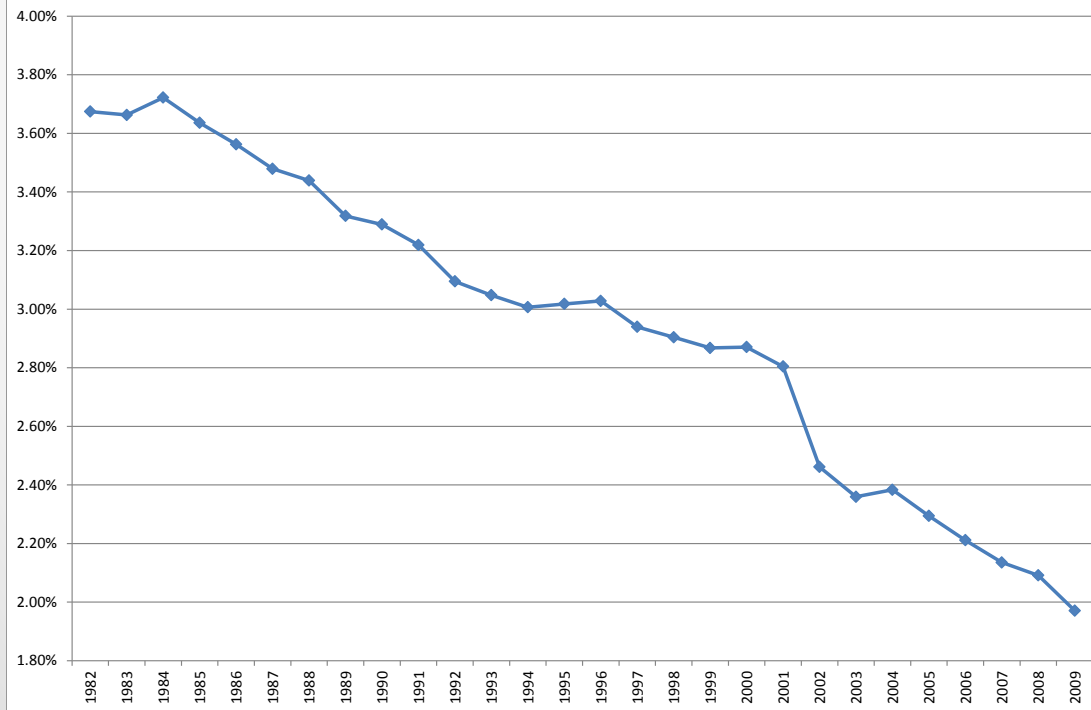
## 2010/2011 PROFITS, FOUR LARGEST COMMERCIAL PUBLISHERS

	<u>Profits</u>	<u>Revenues</u>	<u>Profit Margin</u>
<b>Elsevier</b>	<b>\$1.14B</b>	<b>\$3.12B</b>	<b>36%</b>
<b>Wiley</b>	<b>\$106M</b>	<b>\$253M</b>	<b>42%</b>
<b>Springer</b>	<b>\$467M</b>	<b>\$1.4B</b>	<b>34%</b>
<b>Informa</b>	<b>\$74M</b>	<b>\$230M</b>	<b>32%</b>
Apple			24%
Google			27%

# What's wrong with the current system of publishing?

- Library revenues have been dropping for decades, and faculty are **losing access** to content as subscriptions are canceled.

Library Expenditure as % of Total University Expenditure  
(Average of 40 US Institutions Reporting Since 1982)



## Cancellations

9 database contracts  
cancelled since 2008.

600 journals (7.5%)  
cancelled in 2010-2011,  
including one entire  
contract.

More journal cancellations  
in 2013.

# What's wrong with the current system of publishing?

- *Faculty* provide all of the **content** and most of the **labor**: authorship, peer review, editorship, advisory board service, copyediting, even typesetting in some cases.

## Examples: UC authorship contribution to Elsevier journals

UC authors: 2.2% of all Elsevier articles

UC authors' estimated contribution to Elsevier revenue: \$31M

UC authors' estimated contribution to Elsevier profit: \$9.8M

UC authors: 12% of all published articles in *Nature*

UC authors' estimated contribution to *Nature* revenue: \$5M

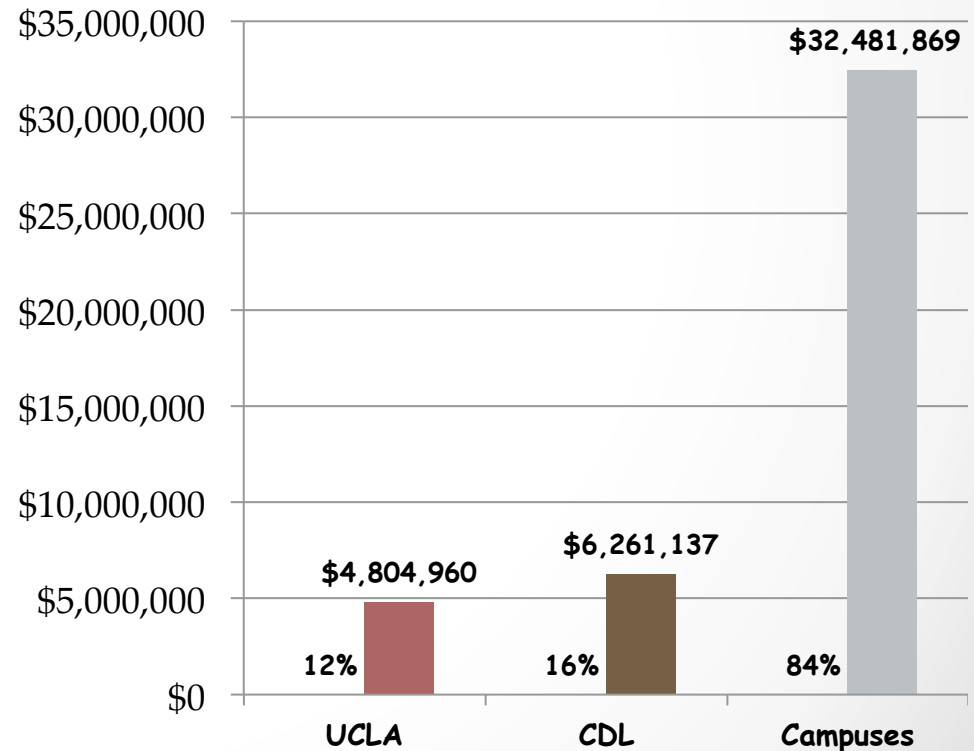
UC authors' estimated contribution to *Nature* profit: \$700K

# What's wrong with the current system of publishing?

- *Publishers* seek greater **control** over content and its uses. They exert pressure on university libraries through complex negotiations.

## Systemwide Subscription Expenditures Negotiated in 2011

Total	\$38,743,006
CDL	\$6,261,137 16%
10 Campuses	\$32,481,869 84%
UCLA (e.g.)	4,804,959 12% of total



# What's wrong with the current system of publishing?

- Digital content remains **expensive** to **produce** (the cost that scholars and universities bear) but is getting **cheaper** to **distribute** (the cost publishers have traditionally borne).
- *There is no free lunch*: publishing has costs, and someone has to bear them— but it shouldn't be the public that has already paid for research.
- **Open Access is not the solution to the crisis of scholarly publication, but is a necessary component of any future system.**



# How can we achieve Open Access?

- Federal Legislation

- The NIH Public Access Act, passed in 2006, in effect since 2008. Most medical and health sciences campuses are as predominantly OA already.
- In Congress now: The Federal Research Public Access Act (FRPAA) would expand OA requirements to all Federal Agencies.

- Open Access Journals

- Designed from the start to be open access: *PLoS*, *eLife*, *Open Humanities Press*, *HAU: A Journal of Ethnographic Theory*, *Michigan Law Review*, *Duke Law Review*, *Texas Law Review*, *Molecular Systems Biology* (from Nature Publishing Group), *Frontiers in Cellular Neuroscience*, *Nucleic Acids Research*, *Bryn Mawr Classical Review*, *Postmodern Culture*
  - Many different funding models, and a range of quality—just as in traditional publication.

- Open Access options from existing publishers

- [Springer Open Pilot](#) with UC and Max Planck— a success, but cancelled by Springer.
- [SCOAP3-consortium](#) to pay for open access to high energy physics research.
- *Sage Open*, *Nature Communications*, *Cell Reports*.

- Institutional Policies like the one we are proposing

- ○ 141 Institutions have already passed such policies.

# Major US Institutions with OA Mandates

*As of June 2012 there are ~~141~~ 142 institutional mandates worldwide:*

- **Harvard** – February 2008
- **Stanford University** – June 2008
- **MIT** – March 2009
- **Kansas University** – November 2009
- **Duke** – March 2010
- **Emory** – June 2011
- **Princeton** – September 2011
- **USCF** – May 21<sup>st</sup>, 2012

*UC made its first attempt at a System-wide OA Policy in 2006 (upon which many of the above were subsequently based)*

# What can UC do to achieve open access?

- Negotiate with publishers to demand more open access and better business models to support the mission of maximum access for everyone.
  - UCOLASC regularly reviews, advises and joins in such negotiations with CDL's negotiators.
- Encourage more publication in OA venues, where appropriate—Lead by Example
  - Senior scholars especially should take the risk of publishing outside of the non-OA journals.
  - Those with the most funding should be encouraged to publish in OA journals.
- Adopt an Open Access policy to **change the default relationship to publishers**
  - **Before the policy:** Individual scholars must plead with publishers to make a work OA in every case
  - **After the policy:** Publishers must plead with faculty to make the work closed access.

# What do Open Access Policies do?

*”An Open Access Publication is one that meets the following **two conditions**:*

- 1. The author(s) and copyright holder(s) grant(s) to all users a free, irrevocable, worldwide, perpetual right of access to, and a **license** to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship, as well as the right to make small numbers of printed copies for their personal use.*
- 2. A complete version of the work and all supplemental materials, including a copy of the permission as stated above, in a suitable standard electronic format is **deposited immediately** upon initial publication in at least one online repository that is supported by an academic institution, scholarly society, government agency, or other well-established organization that seeks to enable open access, unrestricted distribution, interoperability, and long-term archiving (PubMed Central is such a repository).”*

From the 2003 Bethesda Statement on Open Access Publishing

# The Proposed UC Open Access Policy

1. Preamble
2. License Grant
3. Scope
4. Waiver/Opt-out clause
5. Deposit Obligation
6. Review and Oversight

# The Proposed UC Open Access Policy

## I. Preamble

“The Faculty of The University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as part of a public university system, the Faculty is dedicated to making its scholarship available to the people of California. In keeping with this commitment to open dissemination and public access, the Faculty adopts the following policy:

The preamble articulates the justification of the policy and in particular our commitment to the people of California.

## 2. License Grant

Each Faculty member grants to the University of California a nonexclusive, 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.”

The License grant is the core of the policy—the faculty will grant a limited and legally specific copyright license to UC. Note that this grant language will also determine what end-users can do with the articles. This policy’s intention is to restrict UC to making the work available in an open access repository, but to make no restrictions on what the end users may do with the work (i.e. to use the Creative Commons attribution license, CC-by, as a default).

# The Proposed UC Open Access Policy

## 3. Scope

The policy applies to all scholarly articles authored or co-authored while the person is a member of the Faculty except for any articles published before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy. This policy does not transfer copyright ownership, which remains with Faculty authors under existing University of California policy.

The policy will apply only to articles published after the policy is adopted. **“Scholarly articles”** is left somewhat flexible so faculty members may determine whether a given work is covered. Books, artworks, and textbooks are clearly outside the current scope.

## 4. Waiver/Opt-out clause

Application of the license will be waived for a particular article or access delayed for a specified period of time upon express direction by a Faculty member to the University of California.

The policy contains a strong opt-out waiver in order **to balance open access with academic freedom**. Faculty may opt-out of the license for any reason, without asking permission. The down-side is that publishers can use this clause to force faculty to opt-out.

# The Proposed UC Open Access Policy

## 5. Deposit Obligation

To assist the University in disseminating and archiving the articles, each Faculty member will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication. The University of California will make the articles available in an open access repository. When appropriate, a Faculty member may instead notify the University of California if the article will be freely available in another repository or as an open-access publication.

The policy allows faculty to meet this obligation in many different ways. Some of the work of deposit can be automated by CDL, especially when faculty already use existing open access repositories.

“Final version” generally means the version after peer review and copyediting. Some publishers allow deposit of the final typeset version, others do not.

The deposit obligation will make the policy into one that facilitates **actual** as opposed to **potential** open access. Without this obligation, only a small portion of the published research would be made available. Although faculty can opt out of the license grant, the expectation is that faculty will nonetheless be obligated to deposit their work in the repository. There are many reasons for depositing work in this repository, whether or not it is made openly available.

- UC (via CDL) often negotiates OA rights independently, and can sometimes make a work OA after an embargo period.
- it provides an easily accessible, permanently archived copy for use and re-use in teaching, in providing copies to scholars, and in republishing or reusing elements of an article
- it facilitates the creation of a dossier of publications in the promotion and tenure review process
- it creates a meta-data record that facilitates findability and citation of work



# The Proposed UC Open Access Policy

## 6. Review and Oversight

The Academic Senate and the University of California will be responsible for implementing this policy, resolving disputes concerning its interpretation and application, and recommending any changes to the Faculty. The Academic Senate and the University of California will review the policy within three years, and present a report to the Faculty.

The Faculty calls upon the Academic Senate and the University of California to develop and monitor mechanisms that would render implementation and compliance with the policy as convenient for the Faculty as possible.

The review and oversight of the policy is intended to be carried out **jointly** by the faculty and the university. In practice, this means the University Committee on Library and Scholarly Communication (UCOLASC) and the California Digital Library (CDL). CDL and UCOLASC have a long-standing and collegial relationship, and will represent the primary point of contact for this policy.

The Faculty of The University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as part of a public university system, the Faculty is dedicated to making its scholarship available to the people of California. In keeping with this commitment to open dissemination and public access, the Faculty adopts the following policy:

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To assist the University in disseminating and archiving the articles, each Faculty member will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication. The University of California will make the articles available in an open access repository. When appropriate, a Faculty member may instead notify the University of California if the article will be freely available in another repository or as an open-access publication.

The Academic Senate and the University of California will be responsible for implementing this policy, resolving disputes concerning its interpretation and application, and recommending any changes to the Faculty. The Academic Senate and the University of California will review the policy within three years, and present a report to the Faculty.

The Faculty calls upon the Academic Senate and the University of California to develop and monitor mechanisms that would render implementation and compliance with the policy as convenient for the Faculty as possible.

# Implementing the Policy

- Depositing in the eScholarship Repository
  - A simple two step process of uploading an article and confirming metadata
  - Some aspects of deposit can be automated by CDL.
- Using the Waiver generator and addendum
  - One-click access to standard forms.
- Improving campus education and support for faculty
- Assessing the Costs and Success of the Policy



# Depositing an article

Depositing an article can be achieved in two ways:

1. eScholarship can “harvest” some publications from existing online sources and deposit them on behalf of faculty, or request a copy from faculty.
2. Faculty can deposit a copy of the publication themselves, or provide a URL of the existing OA version.

Faculty can choose to provide additional data about a publication, which can improve its discoverability.

# Waiver and Addendum Generators

- **Waiver**

- Generate a written and signed waiver of open access license
  - For use in any case where a faculty member does not want to make a work OA permanently or for a specified time (embargo)
  - Or where publishers demand confirmation of opt-out
  - Includes option to deposit a version of the article at the time of opt-out/embargo

- **Addendum**

- Generate an addendum that alerts a publisher to the OA policy and pre-existing non-exclusive license.
  - Easily generated and attached to a publication agreement.

# Example Addendum and Waiver

## ADDENDUM TO PUBLICATION AGREEMENT

1. This Addendum modifies and supplements the attached or accompanying agreement (the "Publication Agreement") concerning the article titled,

**Test Article Title**

(Including any figures and supplementary materials, the "Work")

and published in,

**Test Journal Title** (Journal).

2. The parties to the Publication Agreement as modified and supplemented by this Addendum are:

- a. **Sam Test Author**

(Individually or, if more than one author, collectively, "Author"); and

- b. **Test Press** (Publisher).

3. The parties agree that wherever there is any conflict between this Addendum and the Publication Agreement, the provisions of this Addendum will control and the Publication Agreement will be construed accordingly.

4. Notwithstanding any terms in the Publication Agreement to the contrary, Author and Publisher agree as follows:

- a. All of the terms and conditions of the Publication Agreement (including but not limited to all grants, agreements, representations and warranties) are subject to and qualified by a non-exclusive license previously granted by Author to the University of California ("UC"). Under that license, UC may make the Work available and may exercise all rights under copyright relating to the Work, and may authorize others, including the Author, to do the same, provided that the Work is not sold. In the exercise of that license, UC may use a facsimile of the final published version of the Work if Publisher permits use of that version; otherwise, UC may use the Author's final manuscript version of the Work (including all figures and modifications from the peer review process). If UC makes the Work available in an online repository under that license, UC will use all reasonable efforts both to cite to Publisher's definitive version of the Work if it has been published, and to link to Publisher's version if it is available online.

- b. Where applicable, all of the terms and conditions of the Publication Agreement (including but not limited to all grants, agreements, representations and warranties) are subject to and qualified by any non-exclusive license previously granted, or previously required to be granted, by Author to a funding entity that financially supported the research reflected in the Work as part of an agreement between Author or Author's employing institution and such funding entity, such as an agency of the United States government, and/or to Author's employing institution.

5. Either publication of the Work or Publisher's signature below will constitute Publisher's acceptance of and agreement to this Addendum.

PUBLISHER: \_\_\_\_\_ Date: \_\_\_\_\_

University of California  
San Francisco



Academic Senate  
senate.ucsf.edu

26 June 2012

Dear Sam Test Author,

Pursuant to the Open Access Policy adopted by UCSF Faculty on 21 May 2012, this communication serves to notify you that your request for a waiver of the Open Access license for "Example Article Title" to be published in *Example Journal Title* has been granted.

However, please be aware that even though you are being granted a waiver of the application of the OA license to your article as specified above, if that article is subject to the NIH Public Access Policy because it is a peer-reviewed manuscript that arose, in whole or in part, from NIH-funded research and was accepted for publication on or after April 7, 2008, your obligations under the NIH policy cannot be waived. You must be sure to reserve rights sufficient to comply with the NIH policy when you enter into a publication agreement for the article.

Independent of the waiver, our OA Policy still requires that your article be deposited in a UC repository. This can be done regardless of the waiver status of the article or any agreement that you may have signed with a publisher.

Although you have received a waiver of the OA license, the publisher's agreement may provide sufficient rights to allow copies of your article to be made publicly available in the UC repository. The publisher may ask that certain conditions be met, some of which the repository can easily accommodate (for example, an embargo period during which the article will not be made publicly available). Even if you conclude that your article cannot be made publicly available, depositing a copy of your article in the repository is useful for archival and indexing purposes. The bibliographic information will be made available for harvesting and indexing by search engines, such as Google Scholar, creating increased awareness of your article.

If you have any questions about the UCSF Policy for Open Access, the waiver of the OA license, or depositing your article in the UC repository, please feel free to contact either of us.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Schneider".

Richard A. Schneider  
Associate Professor  
Chair, UCSF Committee on Library and  
Scholarly Communication (COLASC)

A handwritten signature in black ink, appearing to read "Karen Butcher".

Karen Butcher  
University Librarian  
Assistant Vice Chancellor

# Improving Campus Education and Support

- Extensive support already exists, courtesy of the Library
  - Scholarly communications officers on each campus
  - Annual “Open Access Week” talks, conferences and festivities
  - Existing (small) funds for OA publication on some campuses
  - Extensive general knowledge about copyright, fair use, publisher practices and digital archiving
  - Campus-specific knowledge about different fields and disciplines
- But...
  - Need for more services does not come free.
  - More support for the library is imperative—it is the center of the entire scholarly communication edifice at UC.

# Costs of the Policy

- The start-up costs of the policy are zero, because they have already been paid for. But several things will put pressure on ongoing costs at CDL and the campuses:
  - Dealing with constant publisher and faculty requests will put strain on existing resources.
  - Any improvements to the current repository in order to enhance its functions may be costly.
  - Assessing the success of the policy will require staff time and money, in proportion to the quality of the assessment desired.
- In the absence of additional funding, costs will likely be covered by cancelling existing subscriptions and shrinking collections. *The more open access the better for balancing accessibility with costs.*



# The Future of Open Access

- The proposed policy is one part of achieving sustainable open access in scholarly publishing. Other aspects of this transformation will continue:
  - UCOLASC and CDL will continue to negotiate with publishers to change the funding model and experiment with forms of payment that include open access but do not adversely affect faculty.
  - Researchers and funders will need to continue to explore the use of research money to pay for open access publication
  - Universities and libraries must continue to set aside funds for open access publishing for scholars in funding-poor disciplines
- The overall goal of a sustainable scholarly publishing model is to move more towards paying for **services** we value, rather than paying for **access to content**.
  - Preservation, findability, promotion, design, and other services that improve quality and accessibility are well worth paying for. Skyrocketing subscription costs that limit access to only the richest institutions are not.

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## Proposed UC Open Access Policy: Questions and Concerns

July 2012

This document lists the most commonly expressed questions and concerns about a proposed open access policy for the University of California. Concerns and questions were submitted by the Library and COLASC committees of all ten campuses, The California Digital Library, the University Council of Librarians, several Graduate Student Associations, the Library Association of the University of California, as well as the University Committee on Academic Personnel (UCAP) and the University Committee on Research Policy (UCORP), the University Committee on Academic Freedom (UCAF) and the University Committee on Faculty Welfare (UCFW), as well as many faculty members on each campus polled via town-halls, surveys and on-line discussions between Dec 2011 and July 2012.

**Additional questions not addressed here can be found on the Reshaping Communication Website (<http://osc.universityofcalifornia.edu/openaccesspolicy/>)**

### Academic Freedom/Waiver of license

Issues of academic freedom are the most commonly expressed concerns about an open access policy. Many, if not all of these concerns, are answered by the fact that the proposed policy has an *extremely generous opt-out clause*. Scholars may opt out for whatever reason: if they disagree with the policy, or want to support subscription access, or co-author with others who disagree with it, or want to retain full control over their own copyright, or are asked to by a publisher, etc. Thus the policy balances the need for academic freedom with the need for greater access to research. The disadvantage, of course, is that it allows publishers to abuse the opt-out clause by routinely demanding opt-out waivers in order to publish. But from the perspective of achieving more open access, a policy with an opt-out clause is preferable to no policy at all.

### Commercial use and Reuse

The proposed policy limits the use that UC may make of our scholarly articles to depositing them in an open access repository. Other uses (such as republication or resale by UC) are not authorized by the policy. However, the policy does not restrict the uses that *end-users* may make of these articles. In effect, it requires that articles by default be released under a Creative Commons Attribution license (CC-by), a form of license that requires attribution but does not restrict the use, commercial or otherwise, that may be made of these articles. Many faculty have insisted that open access versions of articles must be restricted to non-commercial uses only. The expressed intention in most cases is to protect our work from unscrupulous commercial re-use. In practice, the only legal way to attempt this (a so-called “non-commercial” restriction on the license used to redistribute the work) may also drastically restrict *legitimate* commercial reuses, such as republication of the work in another scholarly volume, re-use in a course reader, print republication in a foreign country, text mining, etc. It is also not clear that unscrupulous uses can be so prevented—fraud and plagiarism are not forestalled by copyright license restrictions. Furthermore, a more “open” license also introduces more, rather than less, competition into the scholarly publishing marketplace, something that is desperately needed in an industry that currently operates largely in secrecy and with little overt competition.

### Deposit Requirement

Another concern occasionally raised about the policy is the requirement to provide a copy of each article for deposit in eScholarship. This concern takes two forms. The first concerns the extra amount of work it will require of faculty; the second concerns the lack of ability to opt out of this requirement (the opt-out waiver applies only to the license requirement). While it is undeniable that this requirement makes work for faculty in an absolute sense, it is not clear whether that work is onerous. In fact, it may well have extensive benefits for faculty. In practical terms, the amount of work required is extremely small—far less work, for instance, than submitting an article to a manuscript management system for a journal. Some of the deposit of articles may be automated; eScholarship can find and deposit some articles on behalf of faculty, requiring only a simple email response agreeing to the action, some articles (those that are already open access) may require no action at all. For those that do require deposit, the process can be streamlined to the point where it requires only a simple upload and verification of basic data.

Deposit benefits faculty in the discoverability of their research—the more accessible, and the better the metadata about an article, the more likely it will be found in a search or linked to by other sources, improving the impact of the research. In addition, because eScholarship is designed to function as an archive, it also provides faculty with a permanent place to store and retrieve all articles, for any purpose—from promotion and tenure, to requests for articles, to use as a backup personal archive.

The obligation to make our work available is paramount, and the proposed policy has no simple opt-out clause as in the case of the license. Allowing opt-out from deposit would have the unfortunate effect of giving publishers the power to demand even more rights (including the right to archive the work) which many faculty members do not want to give up. In the case where there are concerns about the use of previously copyrighted materials (images, graphs, passages requiring permission, etc), those concerns can be dealt with in the implementation of the deposit process itself.

### Definitions: “scholarly article” and “final version”

Some have expressed concern about the definition of the terms “scholarly article” and “final version.” In both cases, the language has been chosen for two reasons. First, because it is strategically “vague” meaning that the definition of “scholarly articles” and “final version” is not specified in the text of the policy itself, but in the implementation and oversight of the policy. It will be easier to create a FAQ and an interface in the deposit process that explains what kinds of materials are covered by the policy and where the limitations might be, than it is to do the same in the policy language itself. The more tightly worded a policy is, the more exceptions it creates, and so the option has been to use this wording. The second reason is that this is the same language that nearly all of the other existing scholarly policies use, and so in preference for compatibility with other universities and publishers, the proposed policy retains these terms as well.

### Faculty Oversight and Review

A final concern often expressed is that this policy will require clear *faculty* oversight and review. The policy thus requires oversight by both the Academic Senate and the UC Office of the President. In practice, oversight has been and will continue to be the primary responsibility of UCOLASC and the California Digital Library, who historically have worked very closely with each other and are in frequent consultation on issues regarding scholarly communication. The policy sets a limit of three years within which these two entities must report on the policy to the Faculty.

## Other Issues

Many other concerns have been raised which are valid, but which would not in fact be at issue if this policy were passed. These include:

### Copyright transfer to the University

- The policy does not transfer copyright to the university, only a very limited non-exclusive license.

### Peer review concerns

- The proposed policy assumes no change in the current system of peer review.
- Further, open Access has no effect on how peer review is conducted. The quality of a journal and its peer review is independent of whether it is distributed freely or not, and under this policy, faculty are not required to publish in OA journals—they may and must continue to publish in the most appropriate venue.

### Faculty (or students) should not be limited in where to publish

- Although we might want to encourage publication in OA venues, this policy makes no requirements on where to publish; there is no expectation or requirement to publish articles in open access venues, only that UC will have the right to make a version available in eScholarship.

**Additional questions not addressed here can be found on the Reshaping Communication Website (<http://osc.universityofcalifornia.edu/openaccesspolicy/>)**