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**MARY GILLY, CHAIR**

UC Academic Council  
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**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 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,



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