



OFFICE OF THE PROVOST AND
EXECUTIVE VICE PRESIDENT FOR ACADEMIC AFFAIRS

OFFICE OF THE PRESIDENT
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

October 15, 2014

**CHANCELLORS
ACADEMIC COUNCIL CHAIR GILLY
ANR VICE PRESIDENT ALLEN-DIAZ
LABORATORY DIRECTOR ALIVISATOS**

Dear Colleagues:

Enclosed for systemwide review is a new draft Presidential 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 an Open Access Policy approved on July 24, 2013; the attached draft policy extends similar open access rights and responsibilities to all members of the UC community who are authors of scholarly articles. In addition, the proposed policy outlines procedures for implementing the policy for all UC authors, both Senate and non-Senate. My intention for systemwide review of this policy is to solicit feedback on the proposed policy from all members of the UC community. Therefore, please distribute the draft as widely as possible, using processes appropriate for each of your respective groups, so that all have an opportunity to comment.

During academic year 2013-14, the Provost's Task Force on Open Access, chaired by UCLA Associate Professor Christopher Kelty, studied the complexities of this policy issue and was guided by two principles: 1) to respect the Academic Senate's policy and its concern for academic freedom and autonomy; and 2) 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. The Task Force has also worked within the current UC Copyright Policy, which distinguishes those employees who own their copyright from those who do not; more information on this ownership issue is included on the attached document entitled "Proposed Presidential Policy on Open Access: Additional Information and Frequently Asked Questions for Systemwide Review." More generally, this document explains the purpose and function of open access policies. Much more detailed and extensive information is also provided by the California Digital Library at <http://uc-oa.info/>.

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The Task Force, composed of Academic Planning Council (APC) and non-APC members, consulted throughout the last academic year with the APC; I serve as chair of the APC and former Academic Council Chair William Jacob served as Vice Chair. In addition, the Task Force sought additional input from those administrators and leaders who could help us reach faculty, students, and staff potentially affected by the proposed policy. In this effort, comments and guidance were solicited from UC Vice President Duckett (Human Resources and Labor Relations), UC Vice President Sakaki (Student Affairs), the Vice Provosts of Academic Personnel/Academic Affairs, the Council of Graduate Deans, University Extension Deans, the Council of University Librarians, the Librarians' Association of UC, and the Academic Senate.

Initial feedback from these groups has been incorporated into the enclosed draft. With this systemwide review, my staff and I are ensuring that all of the affected audiences know about the review and have a chance to offer input. Thus, I am circulating the draft more widely than the usual systemwide review distribution, trusting that each of you will make a special effort to solicit comments from those you represent and work with in the UC community.

National Context in Scholarly Publishing

The goal of this policy, as with the nearly two hundred similar policies passed at other universities, is narrow but important: to allow authors of scholarly papers to collectively and preemptively reserve broad rights under copyright law, or to give up those rights if so desired. The policy increases the ambit of control over publications that scholarly authors preserve, and it creates an institutional expectation (but not a requirement) that our scholarship at the University of California will be made widely available to the public.

However, in proposing this policy, the Task Force, APC, and I are cognizant of the fact that such a policy is limited in its ability to affect the state of scholarly publishing today, and that many larger challenges loom. This policy is protective of author rights while being sensitive to academic freedom, but it does not directly address the worrisome economics of scholarly publishing.

As scholars at UC—ladder-rank faculty, faculty in other title series, post-doctoral scholars, students and academic researchers—continue to publish in greater volume, and as publishers expect increased, unremunerated labor from UC scholars in terms of peer review and editing, we will encounter continued difficulties in paying for scholarly publishing. We will also face challenges in ensuring that costs and opportunities are equitable across the disciplines and in balancing our capacity to create new knowledge with the costs of publishing it. This policy alone cannot solve these problems, but it can be a wise step on the way towards doing so.

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Systemwide Review Process

Systemwide Review is a public review distributed to the University leaders requesting that they inform the general University community, affected employees and union membership about policy proposals. Systemwide Review also includes a mandatory full Senate review for at least 90 days.

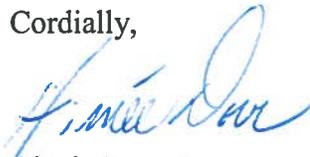
All employees—faculty, academic appointees, student employees, administrators, and staff—should be afforded the opportunity to review and comment on the draft new policy, available online at: <http://www.ucop.edu/academic-personnel-programs/academic-personnel-policy/policies-under-review/index.html>. Attached is a Model Communication which may be used to inform non-exclusively represented employees affected by these proposals. Our colleagues in UCOP Labor Relations will inform the collective bargaining units by way of their usual processes.

Please submit comments and feedback to the enclosed policy by **January 15, 2014** to ADV-VPCARLSON-SA@ucop.edu (email address is not case-sensitive).

Questions may be directed to Janet Lockwood at Janet.Lockwood@ucop.edu or 510.987.9499.

Thank you in advance for your attention to this new draft Presidential Policy.

Cordially,



Aimée Dorr, Provost
Executive Vice President for Academic Affairs

Enclosures: Proposed Draft Presidential Policy on Open Access
Proposed Presidential Policy on Open Access: Additional Information and
Frequently Asked Questions for Systemwide Review
Model Communication

cc: President Napolitano
Executive Vice Chancellors/Provosts
Senior Vice President Vacca
Vice President Brown
Vice President Duckett
Vice President Sakaki
Interim Vice President Tucker
Vice Provost Carlson

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Vice Provosts Academic Personnel/Academic Affairs

LAUC President Conner

Council of Graduate Deans

University Extension Deans

Council of University Librarians

Provost's Task Force on Open Access Members:

Associate Professor Kelty, Chair (UCLA)

Professor Clare (UCR)

Professor Konopelski (UCSC)

Professor Manduchi (UCSC)

Professor Schneider (UCSF)

University Librarian Tanji (UCI)

Academic Personnel Directors

Executive Director Baxter

Executive Director Farley

Executive Director Streit

Executive Director Tanaka

Director Chester

Director Greenspan

Director Mitchell

Senior Counsel Hao

Senior Counsel MacDonald

Chief of Staff Grossman

Chief of Staff/Director of HR Policy Skarakis

Deputy to the Vice President/Executive Director Griffin-Desta

Deputy/Compliance Officer Lane

Manager Lockwood

Policy Coordinator Trifonov

Planning Analyst Landes

Senior Analyst Banaria



Open Access

Responsible Officer:	Provost and Executive Vice President for Academic Affairs
Responsible Office:	APP – Academic Personnel and Programs
Issuance Date:	[Issuance Date]
Effective Date:	[Effective Date]
Scope:	This policy applies to employees and students at the University of California campuses, the Lawrence Berkeley National Laboratory, the Division of Agriculture and Natural Resources, the UC Medical Centers, the Office of the President, and all auxiliary University locations not already covered by the Academic Senate Open Access Policy adopted on July 24, 2013.

Contact:	Janet Lockwood
Email:	Janet.Lockwood@ucop.edu
Phone #:	(510) 987-9499

I. POLICY SUMMARY

The University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as a public university system, the University of California is dedicated to making its scholarship available to the people of California. Furthermore, the University of California recognizes the benefits that accrue to its authors as individual scholars and to the scholarly enterprise from such wide dissemination, including greater recognition, more thorough review, consideration, and critique, and a general increase in scientific, scholarly, and critical knowledge. The University of California further recognizes that by such policies, authors of scholarly articles can more easily and collectively reserve rights that might otherwise be signed away, often unnecessarily, in agreements with publishers. To accomplish this, authors take advantage of US copyright law to grant to the University a non-exclusive license (limited to the purpose of making the work openly available) for each scholarly article authored while employed by UC. The Academic Senate has already taken this step for all of its members by adopting an open access policy on July 24, 2013.

The policy in this document extends the same opportunity to all non-Senate members of the University of California community who author scholarly articles (defined herein as “University Authors”). The policy allows non-Senate authors of scholarly articles to maintain legal control over their research articles while making their work freely and widely available to the public; specifically, 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 also takes the extra step of defining procedures that implement this policy uniformly for all University of California employees, including all Academic Senate members. Finally, it outlines procedures that should be followed if the Academic Senate changes its policy in ways that affect the congruence of the Senate policy with this Presidential policy.

II. DEFINITIONS

Academic Senate Authors: Authors of scholarly articles who are members of the systemwide Academic Senate. For a list of titles conferring membership in the Academic Senate, see [Regents Standing Order 105.1](#) and the [Academic Personnel Manual, Section 110-4\(4\)](#) (APM - 110-4, Academic Personnel Definitions).

Copyright: Rights as defined by US Copyright Law (Title 17 of the United States Code), and further specified by the 1992 University of California Policy on Copyright Ownership or any amendments to that policy, or its successor, see <http://policy.ucop.edu/doc/2100003/CopyrightOwnership>.

Embargo/Delay of Access: The amount of time before a scholarly article will be made available after it is accepted by a publisher. Under this policy, authors may specify an embargo of any length, or honor a publisher’s request for one.

Employees: All faculty, academic appointees (includes academic administrative officers, Cooperative Extension and University Extension appointees, librarians, residents, interns, and postdoctoral scholars), students who are employed by UC, staff, and administrators who are paid a salary, stipend, or hourly rate, excluding those holding “Without Salary” appointments, volunteers, and recalls.

Executive Officers: The President of the University of California, the Provost and Executive Vice President for Academic Affairs, the Chancellors of the UC campuses, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources.

Final Version: An author’s final revised version of a scholarly article, generally post-peer reviewed, but not necessarily the typeset publisher's copy, unless allowed by the publisher.

License or Copyright License: A grant of rights made in accordance with Copyright Law (USC Title 17), allowing specified uses of a copyrighted work.

Open Access: The free availability of scholarly literature on the public internet, permitting users to read, download, copy, distribute, print, search, or link to the full texts of articles for any lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet.

Open Access Repository: Any digital archive or platform designed to make articles freely available via the internet with clearly defined legal restrictions on their use or circulation. The California Digital Library's eScholarship platform is the default repository for this policy.

Scholarly Articles: Published research articles in the broadest sense of the term. A narrower term could have the effect of excluding works published in a certain format, discipline or practice. For example, the term "scholarly journal articles" might exclude those who publish in edited volumes; the term "peer-reviewed scholarly articles" might exclude law reviews which are reviewed by students or by editorial collectives.

Student: An individual for whom the University maintains student records and who: (a) is enrolled in or registered with an academic program of the University; (b) has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or (c) is on an approved educational leave or other approved leave status, or is on filing-fee status. This definition applies to undergraduate, transfer, graduate academic, and graduate professional students.

Waive/Opt out: To waive or opt out, means to decline to grant the University the license described in section III.B.1 below. A waiver can be obtained from the University of California's Office of Scholarly Communication website, see <http://osc.universityofcalifornia.edu/open-access-policy/waiver-embargo-addendum/>.

University of California: The "University of California" refers to The Regents of the University of California.

University Authors: Non-Senate employees and students of the University of California who author scholarly articles while employed by the University of California. University Authors are covered by this policy whether or not they own the copyright in an article, in accordance with the 1992 University of California Policy on Copyright Ownership or any amendments to that policy, or its successor, see <http://policy.ucop.edu/doc/2100003/CopyrightOwnership>.

III. POLICY TEXT

This policy does not apply to any members of the Academic Senate, who are covered by the Open Access Policy passed by the Academic Senate of the University of California on July 24, 2013, see

http://osc.universityofcalifornia.edu/openaccesspolicy/OpenAccess_adopted_072413.pdf

f. Procedures to be followed if the Academic Senate changes its policy are outlined in Section IV.D below.

A. General

This Open Access Policy allows University Authors (see Section II for definition of University Authors) to maintain legal control over their research articles while making their work freely and widely available to the public. The policy does not require University Authors to publish in open access journals, or to pay fees or charges to publish; it commits the University and University Authors to deposit a version of each article in a digital repository and to choose whether to make it freely and openly available to the public.

This policy covers two classes of University Authors:

Section III.B. covers University Authors who do own the copyright to their works, as specified in the 1992 UC Copyright Policy or its successor. University Authors who own the copyright to their works may waive the license in B.1 below, or request an embargo as specified in sections V.B and V.C below.

Section III.C. covers University Authors who do not own the copyright to their works, as specified in the 1992 UC Copyright Policy or its successor. University Authors who do not own the copyright to their works may not waive the license in B.1 below, but may request an embargo as specified in V.C below.

B. University Authors Who Own the Copyright to their Scholarly Works

1. Grant of License and Limitations

Each University Author grants to the Regents of 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, for the purpose of making their articles widely and freely available in an open access repository. This policy does not transfer copyright ownership, which remains with University Authors under existing University of California policy.

2. Scope and Waiver (Opt-Out)

This policy applies to all scholarly articles authored or co-authored while the person is an employee of the University of California except for any articles published before the adoption of this policy and any articles for which a University Author entered into an incompatible licensing or assignment agreement before the adoption of this policy. Upon express direction by a University Author, application of the license will be waived for a particular article or access to the article will be delayed for a specified period of time.

3. Deposit of Articles

To assist the University in disseminating and archiving the articles, University Authors are expected to help the University obtain copies of the articles. Specifically, each author 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 for inclusion in an open access repository. When appropriate, a University Author may instead notify the University of California if the article will be freely available in another repository or as an open-access publication.

Notwithstanding the above, this policy does not in any way prescribe or limit the venue of publication. This policy neither requires nor prohibits the payment of fees or publication costs by University Authors.

C. University Authors Who Do Not Own Copyright in their Scholarly Works

The University recognizes that members of the University community who do not own their copyrights under the 1992 University of California Policy on Copyright Ownership may also be authors of scholarly articles. In these cases, the University will promote open access in accordance with Section B above. Specifically, the University will retain the right to make such articles available in an open access repository. Upon request by the author, the University will grant an embargo period, as described in Section V.C below. Upon a showing of compelling circumstances, the University may grant a waiver, as described in Section V.B below. These authors must also deposit a copy of the final version of each article for inclusion in an open access repository, as described in Section B.3 above and Section V.A below.

IV. COMPLIANCE / RESPONSIBILITIES

A. Authority

The Provost and Executive Vice President for Academic Affairs is the Responsible Officer for this policy and has the authority to implement the policy and to develop procedures or other supplementary information to support implementation. S/he will work with the California Digital Library (CDL), which has responsibility for 1) coordinating, with the locations, systemwide processes for deposit; and 2) managing software for harvesting, waivers, embargos, and deposits. As the Provost's designee, the Vice Provost for Academic Personnel and Programs has responsibility to manage issues of policy interpretation, in consultation with stakeholders.

The Executive Officer at each location is authorized to establish and is responsible for local communication about the policy using existing committees, councils, and mechanisms.

B. Revisions to the Policy

The President has the authority to approve revisions to this policy upon recommendation by the Provost and Executive Vice President for Academic Affairs.

The Provost and Executive Vice President for Academic Affairs has the authority to initiate a review of the efficacy of this policy and to initiate revisions to this policy.

C. Compliance with the Policy

As the Provost and Executive Vice President for Academic Affairs' designee, the Vice Provost for Academic Personnel and Programs is responsible for the administration of this policy. S/he will work with the California Digital Library to obtain data or other information to inform assessment of the policy.

The Executive Officer at each location will designate an office or individual to assess policy use and compliance. The Executive Officer is accountable for ensuring that local communication and interpretation are consistent with this policy.

D. Coordination with the Academic Senate Open Access Policy

The Provost and Executive Vice President for Academic Affairs has the authority to determine the process to be followed in the event that the Academic Senate updates or changes its open access policy (adopted July 24, 2013) in ways that affect the congruence of the Senate policy with the Presidential policy.

V. PROCEDURES

In support of this policy and of the Open Access Policy adopted by the Academic Senate on July 24, 2013, the following procedures will be implemented to allow all authors (Senate, Non-Senate or otherwise) of scholarly articles at the University of California to make their works openly available.

A. Deposit a Scholarly Article in the UC Open Access Repository

All Academic Senate authors and all University Authors may make a final version of their articles publicly and freely available by using the University of California's "eScholarship" digital repository via <http://www.escholarship.org/> or any other open access repository. All University Authors are expected to deposit their final version to an open-access repository by the date of publication, to the extent practicable. If any author specifies an embargo (section V.C below), the author may deposit the article either by the date of publication or by the date the embargo period expires. Academic Senate authors may and University Authors will be encouraged to deposit an article even if they choose to waive the license grant to the University.

B. Generate a Waiver

By their own choosing or upon request from a publisher, 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. To do so, an author simply has to generate a waiver at the University of California’s Office of Scholarly Communication website, see <http://osc.universityofcalifornia.edu/open-access-policy/waiver-embargo-addendum/>.

C. Specify an Embargo Period

By their own choosing or upon request from a publisher, all Academic Senate authors and University Authors may delay the date of appearance of their articles (“embargo” the article). To do so, an author simply has to specify the embargo period (usually six or twelve months) at the time of deposit at the “eScholarship” website (<http://www.escholarship.org/>).

D. Choose a License

At the time of deposit at the “eScholarship” website (<http://www.escholarship.org/>), all Academic Senate authors and University Authors may choose the terms of use that will be applied to each article; for example, whether it can be subject to commercial or non-commercial reuse.

E. Obtain an Addendum

Although not necessary, all Academic Senate authors and University Authors may request an Addendum for each article to be provided to publishers at the time of signing their author agreement. The Addendum notifies the publisher that the article is subject to either the Presidential Open Access Policy or the Academic Senate Open Access Policy. Addenda can be requested at UC’s Office of Scholarly Communication website, see <http://osc.universityofcalifornia.edu/open-access-policy/waiver-embargo-addendum/>.

VI. RELATED INFORMATION

1. [UC Academic Senate Policy on Open Access](#), July 24, 2013
2. [UCSF Open Access Policy](#)
3. [2013 University of California Open Access Policy website](#)
4. [What you need to know about the UC Academic Senate Policy on Open Access](#)
5. [UC Policy on Information Technology Accessibility](#)
6. [Open Access Policy Implementation \(OAPI\) Project](#)
7. [UC Policy on Copyright Ownership \(1992\)](#)

VII. FREQUENTLY ASKED QUESTIONS

[UC’s Office of Scholarly Communication Open Access Policy FAQ](#)

VIII. REVISION HISTORY

N/A

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

The Provost's Task Force on Open Access was created in response to a request by the Academic Senate, which passed an Open Access Policy governing all Senate members on July 24, 2013, after two years of thorough review. In passing its own Open Access Policy, the Academic Senate requested that the President and the Provost and Executive Vice President for Academic Affairs extend the same rights and responsibilities to all those at the University of California who author scholarly articles but are not members of the Academic Senate. *This proposed Presidential Policy on Open Access covers all employees of the UC system who author scholarly articles but who are not members of the Academic Senate.* This policy would facilitate access to scholarly articles published by members of the UC community by reserving strong but non-exclusive rights to make such scholarly articles available via open access repositories. Both the Academic Senate Open Access Policy and this proposed Presidential Policy on Open Access are similar to those adopted at over 200 academic institutions and are aligned with the policies of federal funding agencies. This policy would not commit authors to publish in open access journals, nor would it require (or prevent) payment to publish.

All open access policies, including the one under review, make use of existing US copyright law in order to do the following four things. *First*, the policy collectively reserves a non-exclusive copyright license that pre-empts any transfer of copyright to a publisher and allows an author to make his or her work available as he or she sees fit, independently of the published version in a scholarly journal. *Second*, the policy commits authors to depositing their work in a digital repository and gives them the option to make it openly and freely available. (The default repository for UC is the eScholarship repository of the California Digital Library, but the use of other open access repositories will satisfy the policy.) *Third*, the policy allows individuals to opt out of making their work available in any given case, or to delay access to a work (embargo). And *fourth*, the policy outlines procedures by which authors may deposit work in eScholarship, and request a waiver or embargo (to delay access).

The draft policy covers two cases for members of the UC community: 1) those non-Senate authors who own their copyright; and 2) those non-Senate authors whose copyright is owned by the University. (See FAQs for a brief description of UC copyright policy, which outlines these differences in copyright ownership at UC.) This Presidential Policy on Open Access does not change UC copyright policy; it merely relies on it to determine who owns a copyright in a scholarly work and who does not. This policy is designed to facilitate open access regardless of whether the employees own the copyright in their work. Where employees do not own their copyright, this policy retains sufficient rights to allow open access and allows such authors to set an embargo where necessary.

In cases where UC owns the copyright in a work, the UC Office of General Counsel will determine whether a waiver will be granted to a publisher who requests it or to an author who wishes to transfer a copyright completely. In all other cases, authors may obtain a waiver or set an embargo by visiting the California Digital Library Open Access site (<http://uc-oa.info>).

Section V of the proposed policy outlines open access procedures for all authors of scholarly articles, both Senate and non-Senate members. The proposed policy defines implementation procedures that all employees may use to make their work available, or to obtain a waiver or an embargo.

The proposed policy, and specifically section III, differs from the current Academic Senate Policy (as of July 24, 2013) only in the requirement to deposit a copy of each article both when there is a waiver and when there is not. In this respect it most closely resembles the policy passed by UCSF on May 12, 2012. In all other respects, the language, scope, and responsibilities set forth are those that the Academic Senate approved in its own policy.

Although the issues related to scholarly publishing are complex and fraught, open access policies are designed to be simple. They have the admirable goal of making work as widely available to the public as possible with respect for academic freedom and for the exigencies of publishing scholarship rapidly and efficiently. The main goal of the Presidential Policy on Open Access is for authors to deposit their articles in a repository so that their work is available to the public (including other academic institutions) and for archival purposes. The proposed policy does not define any penalties or consequences for failing to do so or for declining to make a work open access.

Updated September 2014

Briefing FAQs

The questions below pertain to the proposed Presidential Policy on Open Access. Extensive FAQs covering many of the general issues surrounding open access are available at <http://osc.universityofcalifornia.edu/open-access-policy/policy-faq/>

Why is this Presidential Policy on Open Access necessary?

There are two main reasons for this policy. First, not all authors of scholarly articles at UC are Senate members. In passing its own open access policy covering all Senate members, the Academic Senate made a recommendation to the President to extend similar rights and responsibilities to all authors within the UC community; for example, those authors who are represented by bargaining units will review this policy in the context of current contracts governing their employment. Second, this policy defines the procedures for implementing open access at the University of California for both Senate and non-Senate authors.

How do I know if I am an Academic Senate Member?

For a list of all titles conferring membership in the Academic Senate, see [Regents Standing Order 105.1](#) and the [Academic Personnel Manual, Section 110- 4\(4\) \(APM - 110-4, Academic Personnel Definitions\)](#).

How do I know if I own my copyright?

Copyright ownership of scholarly articles written by UC personnel is governed by the 1992 UC Policy on Copyright Ownership. Under this policy, ownership of a scholarly article depends on several factors. In general, certain faculty members who have a general obligation to produce scholarly articles *own* the copyrights to their scholarly works. Also, if the work was done outside the scope of UC employment and without the use of UC resources – which will apply to many registered students – then copyright ownership generally will reside with the author(s). On the other hand, if the scholarly work is considered “sponsored work,” “commissioned work,” “contracted facilities work,” or “institutional work” – as those terms are defined by the 1992 UC Policy on Copyright Ownership – then ownership resides with UC. (In general, those four categories cover situations where works are produced through the use of UC resources or in performance of sponsor agreements.) For more information about copyright ownership at UC, please review the policy: <http://policy.ucop.edu/doc/2100003/CopyrightOwnership>

Please note that this proposed Presidential Policy on Open Access does not change copyright policy but instead uses it to determine copyright ownership and process in the proposed policy.

Additional information and FAQs can be found on the California Digital Library’s Open Access website: <http://uc-oa.info>