



# **Davis Division Academic Senate**

## **Request for Consultation Responses**

### **New UC Open Access Policy Proposal**

**January 8, 2015**

A proposed new UC Open Access Policy is provided for Academic Senate review and comment.

# **Academic Freedom & Responsibility**

**November 5, 2014 10:16 AM**

Our committee has discussed the matter and does not see any need to modify the proposal on account of academic freedom issues.

# **Council of School & College Faculty Chairs (ENGINEERING)**

**January 14, 2015 4:54 PM**

*No response at this time.*

# **Courses of Instruction**

**December 2, 2014 1:20 PM**

*No response at this time.*

# **Faculty Welfare**

**December 19, 2014 10:09 PM**

*No response at this time.*

# **Graduate Council**

**January 13, 2015 6:36 PM**

*Response continued on next page.*

January 13, 2015

**RFC: NEW UC OPEN ACCESS POLICY PROPOSAL**

The Graduate Council met on January 9, 2015 and considered the proposed New UC Open Access Policy, with input from the Academic Planning and Development (APD) Committee & the Graduate Students & Postdoctoral Scholars Welfare Committee.

A few members strongly supported the policy, citing that if a UC community member has already published something, that work is already available to a wide audience hence the open access policy would not be detrimental to the individual. However there was concern among many other members, especially those not in the STEM disciplines, as noted below. For graduate students, it was unclear if a doctoral dissertation or a master's thesis constitutes formal publication under the open access policy proposal. If they do so 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 resulting public access prior to such later publication could have adverse effects on the author's career. Also unclear is whether and how other works that are considered equivalent to dissertations or theses in non-STEM fields, such as those that can occur in the performing arts, are covered under this policy.

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 going prematurely into the public domain.

University authors can specify an embargo period to delay public access to their work. 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.

Therefore, some committee members do not support a universal opt-out policy, but rather an opt-in policy that encourages open access when the authors of a work so approve. This would be appropriate to reflect the wide variety of academic works in the UC system and the differing potential effects of open access across the diverse UC scholarly community.

Sincerely,



Kyaw Tha Paw U, Chair  
Graduate Council

/vm

c: Gina Anderson, Academic Senate Executive Director

# Information Technology

**December 18, 2014 12:16 PM**

It is a very interesting policy, particularly if one looks at definitions, where it says that:

University of California: The “University of California” refers to The Regents of the University of California. (page 7)

We again see that UC "owns" copyright to all the work that was done by Faculty if that work was done for a sponsored project. I am not in favor of this clause, since UC does not provide for funds, I (Faculty) write a proposal, get funding, do all the work (despite problems with administering my (!) project, etc, and then UC (read regents) will own copyright!

This is to be discussed!!

Thanks, Boris

# Library

**January 8, 2015 2:58 PM**

The Library Committee was asked to review the proposed Presidential Policy on Open Access for University of California authors who are not members of the Academic Senate. Committee members reviewed the policy, discussed it at its December 18, 2014 meeting, and continued dialog via its ASIS whiteboard. Overall, the Library Committee supports the proposal. Review of the policy opened questions which pertain to both the proposed Presidential and existing Senate policies on Open Access. Please consider these two areas of concern:

- We believe that 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 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.

Committee members submitted additional comments that indicate that the details of the existing Senate proposed Senate policies are not sufficiently clear. Faculty would benefit from clarification of the following areas:

- 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?



# Research

January 6, 2015 1:56 PM

The majority of COR members strongly support the original Open Access (OA) policy and broadening implementation to all UC affiliates. The committee is in agreement with basic principles in the document that California taxpayers and in fact any stakeholders in institutions that provide grants deserve for their money to be translated not only into research but also into wide and fully transparent dissemination of those findings. Most members don't agree that this is an academic point because no one in California is likely to read some highly technical papers- it is an important principle and you never know, maybe our work can assist or inspire someone down the road. Moreover, the majority of COR members believe UC has an obligation and an opportunity to use our work for good in the third world and poor areas that cannot afford to access our work at present.

It is clear that OA 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. The fact that so many other institutions, notably NIH among others, have adopted OA policies means that it is possible if there is enough clout, as for example NIH. 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. Right now the policy applies to UC Academic Senate members- if it broadly included CSU, Academic Federation, community colleges, 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.

Other concerns about the policy relate to things like cost of implementation, that money is better spent doing the research in the first place, that paying someone at CDL to harvest and curate our papers could mean fewer journal subscriptions etc., or that if faculty have to submit themselves, they never will, are all real concerns. Given that UC is now on record as having an official policy whereby faculty provide full open access to their research, I believe 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.

In addition, the operationalization can be tricky, time consuming and sometimes expensive. One thing that is often overlooked is the very difficult problem of permissions to reproduce works of art or other illustrations that often are used in books and some articles/chapters in

the social sciences and humanities. We pay for very specific "rights" to reproduce an image to, for instance, a museum, and then the image can only be used and reproduced according to very narrow, legally binding rules. This makes it nearly impossible to just throw up an article on an open access site with a painting owned by the Louvre, for example. One COR member felt that this has not been given ample consideration, and may lead to a lot of people having to opt out or perhaps find themselves in legal trouble.

Finally, COR had quite a few questions about details, and CDL or some other central facility could do us all a service by posting FAQs and having a place where people can post additional questions (and expect answers). Here are some questions: can individual faculty self-publish on CDL? Will the OA policy be advertised to faculty and students, given that few people seem aware of it at present? Can we see all of the details of the cost analysis? 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?