

Briefing on the Proposed Presidential Open Access Policy

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 senate faculty on July 24, 2013, after two years of thorough review. In passing its own policy, the Academic Senate requested that the President and the Provost and Executive Vice President for Academic Affairs design procedures to support such a policy and extend the same rights and responsibilities to all those who are not members of the Academic Senate, but who may author scholarly articles. *This draft policy would cover all employees of the UC system who author scholarly articles but who are not members of the Academic Senate.* This open access policy would facilitate the wide accessibility of scholarly articles published by members of the UC community by reserving strong but non-exclusive rights to make works available via open access repositories. Both the Academic Senate policy and this proposed Presidential Policy to cover others at UC are similar to those at over 200 institutions and are aligned with policies at federal funding agencies. This policy would not commit authors to publish in open access journals, nor would it require payment to publish; the proposed policy would have authors reserve a right to make a work openly available, if authors choose to do so.

All open access policies, including the one under review, make use of existing copyright law and 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 their work available. *Second*, the policy commits authors to making work available by depositing versions of scholarly articles in an open access repository (the default for UC is the eScholarship repository of the California Digital Library). *Third*, the policy allows individuals to opt out of making 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, request a waiver or embargo (to delay access) or an addendum notifying a publisher.

The draft policy covers two cases of employees: those UC authors who own their copyright and those UC authors whose copyright remains with the University. (See FAQ for a brief description of UC copyright policy, which outlines these differences in copyright ownership at UC.) Please note that this draft Open Access policy does not change UC copyright policy but uses it to determine ownership.

Section II of the draft policy would extend open access rights and responsibilities to members of the UC community who are active authors of scholarly articles, but are not members of the Academic Senate. Some employees in this group of non-Senate members own their copyright (Section III.B) and some do not (Section III.C). The draft policy is designed to facilitate open access regardless of whether employees own the copyright in their work or not. Even in the case where employees do not own their copyright, this policy retains sufficient rights to allow open access, and allows such authors to request an embargo (though not a waiver, since they do not own the copyright in the first place). Sections V of the draft policy outlines open access procedures for all authors of scholarly articles, both Senate members and non-Senate members. The draft policy defines procedures for implementing open access that all employees may use to make their work available, or to obtain a waiver or an embargo.

Although the issues related to scholarly publishing are complex and fraught, open access policies are designed to be simple and to balance academic freedom with the public interest. The main expectation of this policy is that authors will deposit articles in a repository, especially for archival purposes; it does not, however, define any penalties or consequences for failing to do so, or for declining to make a work open access.

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Briefing FAQ

The questions below pertain to this draft Presidential Policy. An extensive FAQ covering many of the general issues surrounding open access is already available at <http://www.osc.universityofcalifornia.edu/open-access-policy/policy-faq/>.

Why is this Presidential Policy 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 Senate members, the Academic Senate also made a recommendation to the President to extend similar rights and responsibilities to all authors within the UC community; those authors who are collectively represented 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.

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

For a list of faculty 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 a “sponsored work,” “commissioned work,” “contracted facilities work,” or “institutional work” – as those terms are defined by the policy – 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 policy does not change copyright policy but uses it to determine copyright ownership for the draft policy.