

2014

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Recommended Citation

McKiel, Allen and Dooley, Jim (2017) "Changing Library Operations: Open Access Policies," *Against the Grain*: Vol. 26: Iss. 6, Article 43.

DOI: <https://doi.org/10.7771/2380-176X.6978>

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Changing Library Operations — Open Access Policies

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Academic libraries have been involved with various aspects of the open access (OA) movement for many years. Activities have ranged from educating faculty and graduate students about copyright to encouraging publication in open access venues to paying article processing charges (APCs) from library funds. One additional important activity has been working with faculty to pass institutional open access policies and assisting colleges and universities in the implementation of these policies. While some refer to these as mandates, it seems more accurate to call them policies since enforcement relies on social norms rather than coercion. These faculty-developed policies should also be distinguished from open access deposit requirements of granting agencies which may more accurately be called mandates. This article will examine the general development of such policies and then focus on the adoption of an open access policy by the faculty of the University of California.

Faculty Open Access Policies

Faculty open access policies support “Green” OA — that is, making content, usually articles, available in an open access repository, rather than “Gold” OA that is publication in an open access or hybrid journal. Usually such policies are framed as a way to allow faculty to retain some intellectual property rights, specifically the right to deposit a copy of an article in an open access repository, rather than transferring all rights to a publisher. In this sense, faculty open access policies are an important component of efforts to educate faculty about the importance of retaining copyright in their work. In addition to supporting faculty sponsors of open access policies, libraries often maintain the repositories required to implement the policies.

From an examination of various faculty open access policies on the ROARMAP site, <http://roarmap.eprints.org>, most appear to share many of the same features. There is a general statement that the faculty desire to share the results of their research and scholarship as widely as possible. There is a legal description of exactly what rights in their articles the faculty are giving to the institution. There is a statement that faculty can secure a waiver of the policy (“opt-out”) for a particular article. Finally, the policy states what office of the college or university is to receive the “final version” of the article and establishes the procedures for the administration of the policy.

Not surprisingly, many policies follow that of the Faculty of Arts and Sciences of **Harvard University** that was adopted in February 2008. The adoption of this policy was widely publicized at the time and undoubtedly influenced succeeding policies. Because of the influence of the **Harvard** policy, it is useful to quote from it, particularly in relation to the **University of California (UC)** policy that will be discussed later.

The Faculty of Arts and Sciences of **Harvard University** is committed to disseminating the fruits of its research and schol-

arship as widely as possible. In keeping with that commitment, the Faculty adopts the following policy: Each Faculty member grants to the President and Fellows of **Harvard College** permission to make available his or her scholarly articles and to exercise the copyright in those articles. In legal terms, the permission granted by each Faculty member is a nonexclusive, irrevocable, paid-up, 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, provided that the articles are not sold for a profit. ... The Dean or the Dean’s designate will waive application of the policy for a particular article upon written request by a Faculty member explaining the need.

Significant differences among the various policies lie in two areas: the level of compliance expected of faculty and the operation of the waiver (“opt-out”) provision. Most follow the **Harvard** model: “Each faculty member grants [to the institution] permission ... to exercise the copyright in those articles.” **Oberlin College’s** policy is a bit stronger: “**Oberlin College’s** faculty and professional staff will make their peer-reviewed, scholarly articles openly accessible ...” **Emory University** takes a somewhat less prescriptive approach in that the grant of permission is only for those articles “the author has chosen to distribute Open Access.” It’s impossible to determine from the policies themselves which approach will produce greater compliance since compliance is voluntary in all cases. No faculty member risks termination for failure to adhere to an open access policy.



One area in which most of the policies do not follow the **Harvard** model is in the necessity for an author to explain the reason for asking for a waiver. **Harvard’s** policy requires the author to submit a written request “explaining the need.” Other policies say the author “may opt out” or that an official “will waive” the policy upon request of the author. Again it’s impossible to know from the policies themselves how any particular language affects the actual number of waiver requests made or authorized.

University of California Policy

Although individual **University of California (UC)** faculty began to advocate for the University to adopt an open access policy soon after the **Harvard University** policy was adopted in 2008, it took the adoption of a campus open access policy by the **University of California, San Francisco (UCSF)** in 2012 to start a serious discussion of the adoption of a systemwide policy for all ten **UC** campuses. In order to understand how events unfolded, it is first necessary to understand the role of the Academic Senate in the **University of California**.

The principle of shared governance is alive and well within UC. Tenure-track and tenured

faculty, under the organizational structure of the Academic Senate, are “empowered to determine academic policy, set conditions for admission and the granting of degrees, authorize and supervise courses and curricula, and advise the administration on faculty appointments, promotions and budgets.” <http://senate.universityofcalifornia.edu/about.html> Given this level of autonomy and authority, any proposal for a UC faculty open access policy would have to originate in the Academic Senate. Such an Academic Senate policy would apply only to Academic Senate members. Extending the policy to other authors such as academic lecturers and professional staff would require action by the President of the University.

The passage of the **UCSF** campus policy in May 2012 led to a proposed systemwide open access policy being sent to the Academic Senate for discussion in July 2012. During the discussions that continued for the remainder of 2012, it became apparent that a significant number of faculty had serious concerns with the proposed policy as written even though it largely followed other policies that had been in force for several years at other institutions.

Many faculty feared that the central administration, the **University of California** Office of the President (UCOP), would enter into commercial agreements with publishers to sell articles placed in a UC open access repository. These faculty were not willing to proceed without assurances that UCOP would never do this. Many faculty also incorrectly interpreted the proposed policy as requiring publication in an open access journal, thus possibly obligating them to pay APCs. This misconception was relatively easy to clear up, but the fear of commercial exploitation by UCOP of UC authors’ work took longer to address. In the end, Senate approval required a side letter from the University Provost promising that UC would not sell the contents of the open access repository.

A revised policy was submitted to the Academic Senate in March 2013. Before the Senate would agree to adopt the revised policy, UCOP was asked to affirm the following:

- Joint oversight of the policy by the Academic Senate and UCOP
- That UC would not sell deposited articles without the express permission of the faculty authors
- That UC would fund the development of automatic deposit capability into the repository
- That UC would commit to funding APCs for publication in Gold open access journals

The university administration agreed to the first three points, but was unwilling to make a blanket commitment to cover future APCs. Despite the lack of agreement on this last point, the other assurances were sufficient, and the Academic Senate adopted the revised policy on July 24, 2013. Anyone interested in the detailed history of the adoption of the policy can find all the documentation at <http://osc.universityofcalifornia.edu/open-access-policy>.

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Many of the earlier policies contained a statement encouraging the institution to establish a repository to preserve and make available the deposited articles. The **Princeton University** policy from 2011 observes, "An open-access policy without a ready means for faculty to post their scholarly articles and an equally ready means of retrieval would be of very limited value." <http://roarmap.eprints.org/520>

Fortunately the **University of California** is not in this situation. Despite its name, the **California Digital Library (CDL)** is part of the **University of California** and provides a variety of collections and library technology services to the UC libraries, the university as a whole and the public. One of its services is to host the UC institutional repository, **UC eScholarship** which it has done for years. Therefore, it was natural that **CDL** be given the task of implementing the open access policy.

The policy itself, <http://osc.universityofcalifornia.edu/open-access-policy/policy-text>, obviously owes much of its language to previous faculty open access policies, but there are some important differences. The preamble states after a general statement of the importance of making scholarship as widely available as possible, "Faculty further recognize that by this policy, and with the assistance of the University, they can more easily and collectively reserve rights that might otherwise be signed away, often unnecessarily, in agreements with publishers," thus explicitly stating that a principal purpose of the policy is to assist faculty to retain copyright in their work. The license is granted to the University "for the purpose of making their articles widely and freely available in an open access repository. Any other systematic uses of the licensed articles by the **University of California** must be approved by the Academic Senate." This relates directly to the fear among many faculty that UC intended to sell the articles to commercial vendors. Contrary to the **Harvard Arts and Sciences** policy, the license will be waived for a particular article upon request without the need to explain the basis for the request. Articles may be deposited in any appropriate open access repository, not just in eScholarship. Finally, there is no requirement that faculty publish in any venue that charges a fee.

Once the Academic Senate passed the policy, the **CDL** began to develop an implementation plan. One decision was that deposited articles would be made publicly available under a Creative Commons CC BY-NC license, although faculty would be free to use a different Creative Commons license if they chose. The Senate had made it clear that successful implementation of the policy depended on **CDL** development of an automatic deposit mechanism that was easy and "painless" for faculty to use. If such a technology could not be developed in a timely manner, there was a real risk that implementation of the policy could be postponed or even abandoned. Since the eScholarship repository had existed for many years, manual deposit mechanisms already existed. The problem was to automate these deposit mechanisms to support large-scale ingest of articles, and, if possible, to develop harvesting mechanisms that would remove the necessity for faculty to personally deposit articles. The decision was made to first implement the policy at three campuses, **UCSF, UCLA and UC Irvine (UCI)**, rather than try to implement at all ten campuses at once. The policy would be declared to be in effect at these



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three campuses and the deposit tool tested there first, then be implemented at the remaining seven campuses. The original implementation timeline was:

- Nov. 1, 2013 — policy in effect at **UCSF, UCLA and UCI**
- May 2014 — six-month review by Academic Senate
- June 2014 — harvesting tool completed for **UCSF, UCLA and UCI**
- July/August 2014 — review of deposit tool by Academic Senate
- Nov. 1, 2014 — policy in effect at remaining seven campuses
- June 2015 — harvesting tool implemented for remaining seven campuses

The first two milestones were met, but there have been some delays in the development of the harvesting tool. A contract was awarded to **Symplectic** on March 3, 2014 for implementation of a publication harvesting system using **Symplectic Elements**. The system will monitor publication sources, including public and licensed publication indexes, for new articles published by UC authors. The system will then contact the authors by email for confirmation and article upload to eScholarship. The harvesting system was made available to the three early-implementing campuses in November 2014. The policy became effective at the seven remaining campuses on November 1, although the harvesting system will not be available at those campuses until a future date. Along with developing the harvesting tool, **CDL** has also been working to streamline the manual deposit process. **CDL** has also developed a

Website allowing faculty to request a waiver of the policy or an embargo on public access for a particular article and also to generate an addendum to a publication agreement containing the terms of the policy.

Once the policy was adopted, **CDL** undertook to notify publishers of the provisions of the policy. As of October 2013, over 200 publishers had been contacted. As of May 2014, UC authors have been granted 174 waivers of the policy. It is not known how many of these waivers were requested by the publisher or how many resulted from the preference of the author. At this point no publisher has notified the **CDL** that it will request waivers from UC authors as a matter of course.

In addition to **CDL** activity, librarians on the three early-implementing campuses are engaged in various activities to inform faculty of the policy and facilitate the deposit of articles. Activities include creating Websites, handouts and marketing materials; directly assisting faculty in manual upload of articles; and helping faculty link their work with author identifiers, such as ORCID and ResearcherID.

As a separate but somewhat related activity, the UC libraries conducted a pilot program between January 2013 and April 2014 to pay APCs for UC authors. The pilot built on the **UC Berkeley Research Impact Initiative** begun in 2008 and was jointly funded by the ten campus libraries and the **CDL**. Some campuses chose to fund publication in both fully open access and hybrid journals, while other campuses only funded publication in fully open access journals. Campuses are waiting for the results of an assessment project to decide whether or not to continue the program. 🌸