

VII. REPORTS OF STANDING COMMITTEES (Continued)

A. Academic Council (Continued)

2. Report from the Academic Council Special Committee on Scholarly Communication (SCSC) including a Proposed UC Policy on Scholarly Work Copyrights (**action**)
 - **Lawrence “Larry” Pitts, SCSC Chair**

SCSC White Papers and Proposal Responding to the Challenges Facing Scholarly Communications

The Special Committee on Scholarly Communication’s set of white papers and copyright policy proposal were sent out Divisions and Committees for systemwide review in December 2005. The five white papers offer principles and best practices related to copyright issues, book and journal publishing, evolving publication technology/practices and the academic personnel process, and the role of scholarly societies. The accompanying recommended policy change proposes a copyright agreement that, as a default position, would retain faculty copyright and grant permission to the Regents to put the work into an open access forum. At its meeting on April 19, 2006, the Academic Council endorsed the white papers in principle and approved a revised version of the proposed copyright policy with amended policy language and recommendations for further development and review. At its meeting on April 19, 2006, the Academic Council endorsed the white papers in principle and approved a revised version of the proposed copyright policy with amended policy language and recommendations for further development and review. Council is submitting the white papers to Assembly for information; the copyright policy proposal is submitted for Assembly endorsement.

The SCSC White Papers on Responding to the Challenges Facing Scholarly Communication

1. [The Case of Scholars’ Management of Their Copyright](#)
2. [The Case of Journal Publishing](#)
3. [The Case of Scholarly Book Publishing](#)
4. [Evaluation of Publications in Academic Personnel Processes](#)
5. [Scholarly Societies and Scholarly Communication](#)

BACKGROUND

During University of California negotiations with publishers of scholarly works in 2004, it became clear to UC faculty that the current models of scholarly communication had become unsustainable. UC Librarians and budget officers had seen this crisis approaching for some years. But, as long as library budgets could be managed and access to the most critical work could be maintained, faculty members were largely insulated from the growing crisis. When it became clear, in the face of falling university budgets and rising costs of publications, that the UC community’s access to new knowledge would progressively be limited, and that the access by others to UC-produced scholarship would similarly be limited, the Academic Council (effectively the Executive Committee of the UC Academic Senate) established a Special Committee on Scholarly Communication (SCSC) to consider what role the faculty should take in addressing these important issues. The accompanying five short papers and appendices are the

result of SCSC's work. The papers define and explain the faculty's view of changes that could improve dissemination of scholarly work to enhance the discovery and communication of new knowledge, and best serve the public interest.

The current model for many publications is that faculty members write articles and books, referee them, edit them and then give them to a publisher with the assignment of copyright. The publisher then sells them back to the faculty and their universities, particularly to university research libraries. While there clearly are costs of publication, a number of publishers (particularly, but not always, for-profit corporations) earn munificent profits for their shareholders and owners. However, maximizing profits for these latter groups may work to the detriment of faculty, educational institutions and the public. Meanwhile, opportunities to reduce production and distribution costs and to create innovative forms of publication and dissemination are increasingly manifest, and enabled by networked digital technologies, new business models, and new partnerships. The papers explore this simultaneous challenge and opportunity from five starting points: copyright issues, recommended best practices, from a faculty viewpoint, for journal and book publishers respectively; the role of scholarly societies in publishing, new methods of publishing and presenting new knowledge.

A Proposal for UC Faculty – Scholarly Work Copyright Rights Policy

BACKGROUND

The proposed change in copyright policy is a default position, with an 'opt-out' clause, that grants license to the Regents to place in an open on line repository, work published in a scholarly journal or conference proceedings. It encourages faculty authors to grant to publishers non-exclusive copyright of their research results, while retaining copyright for other educational purposes. The proposal includes the recommendation that a joint Senate/Administrative effort further refine the policy, after which a full review by both Senate and Administration will be conducted.

These changes must be carefully reviewed to ensure that the quality of presentation of scholarly research remains as high as or higher than in the past, principally by continued application of the well-established and tested process of peer-review. In addition, faculty, University administration, publishers and societies can work collaboratively not only to improve and sustain dissemination of scholarship, but can materially improve it using new technology.

Proposal for UC Faculty – Scholarly Work Copyright Rights Policy

(Approved for Systemwide Academic Senate Review by the Academic Council on December 14, 2005.)

Revised April 14, 2006 – Re-revised by member of OGC 4/15/06

Revised and adopted by Academic Council on April 19, 2006

WHEREAS, in order to facilitate scholarly communication and maximize the impact of the scholarship of UC faculty,¹ the Academic Council’s Special Committee on Scholarly Communication (SCSC) has proposed that the Academic Council consider the following recommended UC copyright policy change, and support and control mechanisms:

“A faculty member’s ownership of copyright is controlled by the University of California Policy on Ownership of Copyright [<http://www.universityofcalifornia.edu/copyright/>]. University of California faculty shall routinely grant to The Regents of the University of California a limited, irrevocable, perpetual, worldwide, non-exclusive² license to place in a non-commercial open-access online repository the faculty member’s scholarly work published in a scholarly journal or conference proceedings. In the event a faculty member assigns all or a part of his or her copyright rights to a publisher as part of a publication agreement, the faculty member must retain the right to grant this license to the Regents. Faculty may opt out of this requirement for any specific work or invoke a specified delay before such work appears in an open-access repository. Such a license would preserve copyright ownership in the faculty-author, thereby enabling him or her to control subsequent uses of the work.”

The Regents will direct the Academic Senate, in collaboration with UC Administration, to establish support and control mechanisms for the use of scholarly work covered by this policy. The University, including assistance, as appropriate, from the Office of the General Counsel, will support faculty in their efforts to retain copyright with attention to maintaining a broad spectrum of publication venues. No income will accrue to the Regents, the University or the Academic Council by this non-exclusive copyright license.

WHEREAS the intent of this policy proposal is clear, but the most appropriate language to accomplish this may need further development,

THEREFORE BE IT RESOLVED, that the Academic Council [Academic Assembly] recommends that the President appoint a working group of faculty, administrators and counsel to develop promptly such language, and proposes this change in policy for wide review and ultimately for adoption as soon as feasible.

¹ This proposal follows and implements the intent and specific principles contained in *Responding to the Challenges Facing Scholarly Communication: The Case of Scholars’ Management of Their Copyright*, <http://www.universityofcalifornia.edu/senate/committees/scsc/copyright.whitepaper.scsc.12.05.pdf>.

² A “non-exclusive” license means that the copyright holder may license others to use the work as well; an “exclusive” license means that the copyright holder may not license others to use the work.

NOTES [Some comments offered by SCSC that may be helpful to reviewers.]

1. Terminology: If a copyright owner retains ownership, he or she "licenses" another to exercise some/all of the copyright rights granted by statute. If a copyright owner "assigns" a copyright to another, ownership of the copyright is transferred to the other party. It is possible to assign ownership of copyright but to reserve a license to use the work in a way specified by a publishing agreement. From SCSC's perspective, the ideal is for the faculty to retain copyright ownership but grant a *license* to the publisher to publish on an exclusive basis for X period of time but with the copyright owner reserving the right during that period of time to license the right to another body for the kind of publication we envision.

2. License: An earlier draft policy called for faculty to "assign" to the Academic Senate a limited right to place their work in a scholarly repository. A better route would be to grant a "license," not an assignment, since a license allows the author to continue to own the copyright. Additionally, it is preferable to grant the license to a legally recognized body, such as a corporation. Thus, the current policy proposal calls for the faculty to reserve a license to The Regents (i.e., the corporation), with the intention that The Regents will ask the Senate to oversee the placement and use of the scholarly work in an open access repository. As an internal matter, a policy could be adopted clarifying that The Regents is authorized to do only X, Y, and Z with the licensed material.

3. Opt-out statement: SCSC was divided on whether or not to include the opt-out option. Its inclusion would give faculty greater flexibility in handling their scholarly work, but perhaps makes a weaker statement by the UC faculty about the importance of retaining copyright. An intermediate stance might be to have a body (a committee of the Senate?) designated to decide whether the policy can be waived and internal guidelines/standards for such waiver could be adopted. These would be available to anyone who asked for such and might strengthen the faculty's leverage more than simply allowing the faculty to opt out.

ACTION REQUESTED: Endorsement of the *Proposal for UC Faculty – Scholarly Work Copyright Rights Policy*.