

# Open Access Task Force

December 10, 2014, 2:00 pm, Davis Library 214

**TF Members Present:** Bohlman, Bollinger, Brophy, Caren, Curtain, Degener, Gilliland, Heitsch, Kimbrough (co-chair), Linz, Robin, Rubenstein, Simpson-Vos (for Sherer), Thornburg, Vision (co-chair), Watson

**Others present:** Elia, Kiel, Whisnant

## **A. Review charge, work completed so far, and process going forward (Chairs)**

- Kimbrough reviewed the progress of Task Force to date. The writing group has developed a draft policy for discussion and possible adoption today.
- Vision briefed group on discussions with Bruce Cairns and process going forward should the recommendation be adopted.

## **B. Proposed resources needed for implementation (Degener & Gilliland)**

- Gilliland provided an overview of what library resources are already available (e.g. the Carolina Digital Repository) and what additional resources would be needed were the policy to be adopted.
- In total, this would include three new staff (a programmer for self-ingest and customization as well as harvesting; a librarian responsible for the metadata and ingest process and another person to work on outreach and communication) and approximately \$50k/year for physical infrastructure.
- Degener said Library's Scholarly Communications Committee has reviewed the proposed policy. Carolina Digital Repository function of Library has greatly expanded in the last few years and will continue to expand even without this policy. They are working, for instance, on taking in student research in Health Affairs.
- Discussion topics included:
  - The role of the library in communicating with publishers. The question was raised as to whether the author would need to notify the publisher for each work. It was noted that U of California was proactive in broadcast notifying publishers of the institutional policy.
  - How articles in CDR can be searched, and how they would be indexed by commercial web search solutions (like Google) versus library catalogs such as WorldCat. Some concern was expressed over the potential for confusion between repository copy and article of record, and whether repository copies might be cited in place of version of record. Gilliland addresses concern by noting that library would link out to published version.

## **C. Presentation of draft policy (Chairs)**

- Policy was presented (see Appendix) and points of clarification were invited.

- Bollinger: As a grant of rights from faculty to the university, this would be a University Policy that would require approval from vice chancellors, Counsel, and a responsible university officer.
  - [Note: the policy was subsequently edited to reflect this clarification]
- Vision: this deals mostly with rights-retention; faculty grant to the institution, as a condition of employment, a non-exclusive, non-commercial license to distribute. Very limited in what it achieves but very important, since it protects the author's ability to publish where they wish; with no requirement to pay the publisher for the right to disseminate the manuscript through a repository should they wish to exercise that option. Authors can easily opt-out for any individual work. It puts the legal weight of the university behind faculty should they wish to make something available through a repository, but the power is in the faculty's hands to decide how much to invoke it. In that way, it is a very weak mandate.
- Discussion
  - Watson: When does the university acquire ownership of the copyright.
  - Vision: This policy is not required for it to be in force -- as soon as you write it, university has non-exclusive right they grant back to you.
  - Watson was concerned with when copyright begins. Is it when you put the pen to paper?
  - Gilliland said this isn't actually settled in law. This doesn't give university any more or less right to seize the work, regardless.
  - Curtin: Public Records Law in NC lets anything be gotten at any time.
- Further comments from the writing committee:
  - Watson: Was skeptical at first of this, but have withdrawn those concerns. Policy is irresistible--has been adopted lots of other places; trend is clear. Second, it is in effect voluntary. And finally, biggest concern wasn't protecting rights of faculty author, but protecting publication structure of the humanities, which depend on nonprofit society journals. Why would anyone subscribe to journals anymore? There would be no place to publish. I took this to many journals in field, and they were not worried. They were fine with a one-year embargo and confident that the journal's value-added is sufficient that people will want to pay for it. "I've decided to back down; I see writing on wall."
  - Caren: i favored this at beginning and still do; a good modest step.

#### **D. Discussion and consideration of policy (Kiel)**

- Question: why rights can't just transfer when the author deposits in the repository?
  - Vision: that would be an opt-in rather than opt-out and so would not solve current state of affairs in which author addenda are rejected. This hinges on faculty granting a license to the university before the publisher is an interested party.
  - Gilliland: also, if you wanted to deposit later, this could be problematic.

- Thornburg raised point of clarification about the provision to waive the policy, whether this was intended to be a permissive policy.
- Thornburg also asked about why the provision against commercial use or sale. Vision and Watson clarified that this is preventing the university from competing with publishers to sell.

**Vote: Unanimous approval to move ahead with this policy, with caveat that Office of Counsel will tweak language, with special attention to the not-for-profit clause in section 2.1**

#### **E. Discussion of next steps (Chairs)**

- Vision: This will be presented to Chair of the Faculty as a report, with a short executive summary, some background, the policy recommendation itself and FAQs based on the concerns raised by the TF. The writing committee will help with that, and it will circulate to the TF before being presented to Bruce.
- TF will be asked to help present the recommendation in front of various faculty bodies, to raise awareness and air questions and concerns before Faculty Council takes it up. Chairs will send everyone the final version after Office of Counsel's tweaking.

**Meeting adjourned at 3:00pm.**

**Minutes drafted by Whisnant, revised by Vision.**

## **Appendix: Draft Policy**

- 1.1 The Faculty of the University of North Carolina at Chapel Hill is committed to disseminating the fruits of its research and scholarship as widely as possible, and to protecting the intellectual property rights of its faculty.
- 1.2 In keeping with those commitments, the Faculty Council requests the Provost to adopt the following policy, which applies to all scholarly articles authored or coauthored by persons while a member of the Faculty whose copyright is held by the faculty member under University policy.
- 1.3 This policy shall not apply to any articles completed before the adoption of this policy and any articles for which the Faculty member entered into an incompatible licensing or assignment agreement before the adoption of this policy.
- 2.1 Each Faculty member grants to the University of North Carolina at Chapel Hill a nonexclusive, [noncommercial], 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 assign these rights to third parties], provided that [the the exercise is non-commercial in nature or articles are not sold for a profit], and to authorize others to do the same.
- 2.2 The Provost or Provost's designate will waive application of the license for a particular article or delay access for a specified period of time upon express direction by a Faculty member.

- 3.1 Each Faculty member will provide an electronic copy of each article so licensed, ordinarily the author's final edited version, at no charge, as directed by the Provost's Office, to be made available to the public in an open-access repository.
- 3.2 The Scholarly Communications Office of the University Library or other office designated by the Provost will be responsible for interpreting this policy, resolving disputes concerning its interpretation and application, and recommending changes from time to time.
- 3.3. The Chair of the Faculty Council will appoint a committee to review this policy after three years and present a report to the Faculty.