Proposal for UC Faculty – Scholarly Work Copyright Rights Policy
(Approved for Systemwide Academic Senate Review by the Academic Council on December 14, 2005.)

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)s proposes that the Academic Council consider the following recommended UC copyright policy change:

> "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-exclusive license to place the faculty member's scholarly work in a non-commercial open-access online repository. In the event a faculty member assigns all or a part of the faculty member's 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 can opt out of this agreement for any specific work, or invoke a specific delay before such work appears in an open-access repository. 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. No income will accrue to the Regents, the University or the Academic by this non-exclusive copyright license.

SCSC understands that such a proposed policy change would require broad discussion and adoption by the Academic Assembly before submission to UC Administration and the Regents for consideration.

(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.

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[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