Proposal to Create Policy for Equitable Access to Scholarly Articles Authored by University Faculty (Senate Document #21-22-31)

TO	**Darryll J. Pines	President**
FROM	**Ellen D. Williams	Chair, University Senate**

I am pleased to forward the accompanying legislation for your consideration and approval. Adriene Lim, a member of the University Library Council (ULC), presented the Proposal to Create Policy for Equitable Access to Scholarly Articles Authored by University Faculty (Senate Document #21-22-31), which the University Senate approved at its meeting on April 6, 2022. Please inform the Senate of your decision and any administrative action related to your conclusion.

Approved: _(signature)_   **Date:**   **04-08-2022**

Darryll J. Pines
President

Copies of this approval and the accompanying legislation will be forwarded to:

Jennifer King Rice, Senior Vice President and Provost
Rochelle Newman, Chair-Elect, University Senate
Reka Montfort, Executive Secretary and Director, University Senate
Michael Poterala, Vice President and General Counsel
Gregory Ball, Vice President for Research
Dylan Baker, Assistant Vice President for Finance
John Bertot, Associate Provost for Faculty Affairs
Elizabeth Beise, Associate Provost for Academic Planning & Programs
Rhonda Smith, Director, Division of Academic Affairs
Brian Butler, Chair, University Library Council
Adriene Lim, Dean of the Libraries & Co-Chair, UMD PACT
Holly Brewer, Co-Chair, UMD PACT

Proposal to Create Policy for Equitable Access to Scholarly Articles Authored by University Faculty

PRESENTED BY	Brian Butler, Chair; Adriene Lim, Dean of Libraries
REVIEW DATES	SEC – March 14, 2022	SENATE – April 6, 2022
VOTING METHOD	In a single vote
RELEVANT POLICY/DOCUMENT	N/A
NECESSARY APPROVALS	Senate, President

ISSUE

Researchers and scholars at the University of Maryland (UMD) share their knowledge with the world, in part, through the publication of articles and books. Yet, the ecosystem that supports scholarly publishing is in crisis due to unsustainable funding models and access barriers which exacerbate social justice concerns. By enacting the proposed campus policy, "Equitable Access to Scholarly Articles Authored by University Faculty," the University of Maryland will demonstrate its commitment to sharing its research broadly in alignment with the University's land-grant, public service mission, and codify its willingness to act collectively to address the unsustainability and inequities in scholarly publishing.

The proposed policy aims to remove price and permission barriers related to discoverability, access, and cost for anyone seeking access to UMD's peer-reviewed scholarly articles. In doing so, the policy helps to advance social and economic justice, because the University will have other means with which to share scholarly work with the world. In addition, UMD researchers are increasingly faced with public-access mandates from funding agencies that require openly available publications as part of their sponsored projects. This policy will help the University prepare for those mandates in a systematic way. It will also help faculty authors retain broad use and re-use rights to their own work, without having to negotiate these rights with publishers. At the same time, the policy preserves faculty members' academic freedom and their ability to choose the journals in which they want to publish.

RECOMMENDATION(S)

The University Library Council recommends that the proposed University of Maryland Policy, Equitable Access to Scholarly Articles Authored by University Faculty, as shown immediately following this report, be approved.

COMMITTEE WORK

In April 2020, ULC formed the Publishing, Access, and Contract Terms (UMD PACT) working group with the charge of review existing practices and policies, consult widely with university stakeholders, consider alternative models and approaches, and recommend a new framework for licensing of

scholarly content and the means by which more equitable access to the University of Maryland's scholarly publishing and data can be achieved. This working was co-sponsored by the Provost and Vice President for Research; co-chaired by Dr. Adriene Lim, Dean of University Libraries, and Dr. Holly Brewer, Professor, History, ARHU; and included members from ULC, the University Libraries, and departments and colleges across campus (See appendix below for PACT charge and description).

In Spring and Summer 2020, PACT reviewed university practices and policies related to acquisition of journals and publishing of research conducted by UMD faculty, staff, and students. This review included presentations by and discussions with representatives from other universities and a variety of scholarly publishers, both commercial and scholarly societies. Among other conclusions, PACT identified the need for education, support, and legal advice for faculty about open access publishing practices, copyright, and authorial rights to distribute their work. To address this foundational need for information, PACT created and has continued to develop the materials found at https://pact.umd.edu/.

PACT also identified the need to clarify and protect faculty and university rights to distribute pre-publication copies through institutional repositories such as DRUM (https://drum.lib.umd.edu/), a foundational aspect of supporting open scholarship at UMD. Building on a rights-retention policy initially developed at Harvard and subsequently adopted at multiple institutions, including peers within the BTAA, in Fall 2020 PACT began developing a policy change proposal entitled "Achieving Equitable, Sustainable Access to the University of Maryland's Scholarship and Research". Initial draft of the policy was informed by the guide to good practices for university Open Access policies and consultation with peers at institutions that had successfully implemented similar policies. At this time the policy proposal was submitted to Office of General Council for preliminary review. In late Fall 2020, PACT also identified the need to clarify which members of the UMD community the policy applied to, resulting in a refinement of the proposal to "Equitable Access to Scholarly Articles Authored by University Faculty".

In 2021, a variety of efforts were undertaken by PACT to identify and address issues, gather feedback, and to educate the campus about the needs for and implications of the proposed policy. These included:

• Presentation and discussion of the proposed policy in departmental, college, and cross-campus forums (December 2020 – December 2021)

• Co-sponsoring public discussions during Open Access Week (October 2021)

• Distribution of draft policy proposal document for comment with opportunity to submit online comments and questions.

• Creation and continual development of a Frequently Asked Questions list for the proposal policy.

• Second review of the proposed policy by Office of General Council (July – Sept 2021)

• Presentation of the policy proposal for Senate as a Special Order Presentation (November 2021)

At its meeting on February 23, 2022, ULC reviewed the final policy proposal and voted unanimously to submit it to Senate for a vote with the recommendation that it be adopted for the campus.

Throughout drafting and feedback cycles, several subjects were given deep consideration by the PACT including the paramount need for flexibility to allow faculty to continue to publish their work where and how they deem most appropriate; minimizing author workload; implications for part-time and affiliated faculty, student authors, and staff; relationship between the proposed policy and existing University intellectual property and authorial rights policies; exceptions to the policy and the need for

a lightweight exception request process; and interaction between the proposal policy and publisher agreements.

ALTERNATIVES

The Senate could choose not to approve the proposed new policy. However, doing so would significantly reduce the university's ability to support open access distribution of faculty research and limit faculty recourse in cases where publisher restrict their rights regarding their own work.

RISKS

There are no identified risks to the University in adopting the proposed policy.

FINANCIAL IMPLICATIONS

Implementation of the proposed policy is based on encouraging use of existing processes and systems. Additional staffing and resource needs are dependent on voluntary uptake of the use of this infrastructure, and are comparable to is already expected to support faculty researcher adoption of open access/open scholarship practices.

Proposal to Create Policy for Equitable Access to Scholarly Articles Authored by University Faculty

2021-2022 Committee Members

Brian Butler (Chair)
Progyan Basu (Faculty)
John Bertot (Ex-Officio - Provost's Rep)
Lindsay Carpenter (Library Faculty)
Linda Coleman (Faculty)
Mark Demorra (Faculty)
James Farquhar (Faculty)
Sushanth Gupta (Undergraduate Student)
Michele Lamprakos (Faculty)
John Laub (Faculty)
Daniel Mack (Ex-Officio - Libraries Rep)

Rochelle Newman (Ex-Officio - Senate Chair-Elect)
Marcio Oliveira (Ex-Officio - Division of IT Rep)
Patricia Ortega-Miranda (Graduate Student)
David Tomblin (Faculty)
Shannon Zellars Strohl (Faculty)
Jianhua Zhu (Faculty)

Date of Submission
March 2022

BACKGROUND

Researchers and scholars at the University of Maryland (UMD) share their knowledge with the world, in part, through the publication of articles and books. Yet, the ecosystem that supports scholarly publishing is in crisis due to unsustainable funding models and access barriers which exacerbate social justice concerns. By enacting the proposed campus policy, "Equitable Access to Scholarly Articles Authored by University Faculty," the University of Maryland will demonstrate its commitment to sharing its research broadly in alignment with the University's land-grant, public service mission, and codify its willingness to act collectively to address the unsustainability and inequities in scholarly publishing.

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COMMITTEE WORK

In April 2020, ULC formed the Publishing, Access, and Contract Terms (UMD PACT) working group with the charge of review existing practices and policies, consult widely with university stakeholders, consider alternative models and approaches, and recommend a new framework for licensing of scholarly content and the means by which more equitable access to the University of Maryland's scholarly publishing and data can be achieved. This working was co-sponsored by the Provost and Vice President for Research; co-chaired by Dr. Adriene Lim, Dean of University Libraries, and Dr.

Holly Brewer, Professor, History, ARHU; and included members from ULC, the University Libraries, and departments and colleges across campus (See appendix below for PACT charge and description).

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a lightweight exception request process; and interaction between the proposal policy and publisher agreements.

RECOMMENDATIONS

The University Library Council recommends that the proposed Policy for Equitable Access to Scholarly Articles Authored by University Faculty, as shown immediately following this report, be approved.

APPENDICES

Appendix 1 — Publishing, Access, and Contract Terms (UMD PACT) Working Group – Charge, Structure, and Membership

**IV-6.00(A)   UNIVERSITY OF MARYLAND POLICY FOR EQUITABLE ACCESS TO
SCHOLARLY ARTICLES AUTHORED BY UNIVERSITY FACULTY**
(Approved by the President April 8, 2022)

I. PURPOSE

The University of Maryland ("the University") is committed to disseminating its knowledge
and research as widely as possible. In furtherance of its land-grant mission of teaching,
research, and public service, the University adopts this policy of *Equitable Access to
Scholarly Articles Authored by University Faculty* ("this Policy") to increase the visibility,
readership, and impact of the University of Maryland's Scholarly Articles, and to ensure that
the Scholarly Articles are permanently available in the University's digital repository to
readers and researchers worldwide.

II. DEFINITIONS

A. "University Faculty Member" means individual(s) who receive a salary or other
consideration from the University for performance of services on a benefits-eligible basis
and who also hold faculty rank, including tenured/tenure-track, permanent-
status/permanent-status-track, and professional track (PTK) faculty.

B. "Scholarly Article" means a work that describes the fruits of University Faculty
Members' scholarship and research; is deemed a form of "Traditional Works of
Scholarship" in the University of Maryland Intellectual Property Policy (IV-3.20[A]);
and is given to the world for the sake of inquiry and knowledge by the University Faculty
Member without expectation of payment. Such articles are typically presented in peer-
reviewed scholarly journals and conference proceedings.

C. "Author Accepted Manuscript (AAM)" means the version of a Scholarly Article that has
undergone peer review and has been accepted for publication by the publisher.

D. "University Libraries" means the unit charged with ensuring that the Scholarly Articles
addressed in this Policy are collected, organized, provided, and preserved. The University
Libraries administers and manages the University's digital repository, which enables
discoverability of and equitable access to the Scholarly Articles.

E. "Equitable Access" means the removal of permission and cost barriers related to the open
discoverability, retrieval, and use of UMD's Scholarly Articles.

III. POLICY

A. Equitable Access License

1. Equitable Access to Scholarly Articles will be achieved by an Equitable Access License.

2. Each University Faculty Member grants permission to the University of Maryland to make available their Scholarly Articles to the public. Specifically, each University Faculty Member grants an irrevocable, worldwide, royalty-free, nonexclusive license to exercise any and all rights under copyright relating to each of their Scholarly Articles, in any medium now known or later developed, and to authorize others to do the same for the purpose of making Scholarly Articles widely available to the public ("Equitable Access License"), provided that the articles are not sold for a profit.

3. This Policy does not transfer copyright ownership of Scholarly Articles to the University. Copyright ownership remains with University Faculty Member as described in the University of Maryland Intellectual Property Policy (IV-3.20[A]), subject to the Equitable Access License.

B. Scope

This Policy applies to all Scholarly Articles authored or co-authored by a University Faculty Member, except for any articles completed before the adoption of this Policy and any articles for which the University Faculty Member entered into an incompatible licensing or assignment agreement before the adoption of this Policy. See Section III.D below for information about opting-out, waivers, and embargoes related to this Policy.

C. Deposit

1. No later than the date of publication for a Scholarly Article, the University Faculty Member will provide an electronic copy of the University Faculty Member's Author Accepted Manuscript to the University Libraries, at no charge, in an appropriate format, such as PDF.

2. Questions about deposit should be referred to the University Libraries.

3. The University will make the Scholarly Article available to the public in an open access repository.

D. Opt-Out/Waiver/Embargo

1. Upon written direction by a University Faculty Member, submitted to the University Libraries, the Equitable Access License will be waived by the University for a specific Scholarly Article.

2. Upon written direction by a University Faculty Member submitted to the University Libraries, access to a Scholarly Article covered under this Policy will be removed, delayed, or embargoed for a specified period of time.

E. Policy Interpretation/Changes

The Office of the Senior Vice President and Provost will be responsible for interpreting this Policy, resolving disputes concerning its interpretation and application, and recommending policy changes as needed.

UNIVERSITY OF MARYLAND, COLLEGE PARK

PUBLISHING, ACCESS, AND CONTRACT TERMS (UMD PACT) WORKING GROUP

----A SUBGROUP OF THE UNIVERSITY LIBRARY COUNCIL (ULC)----

Charge, Structure, and Membership

Revised date: 4/1/20

Charge – Our current scholarly publishing and communication ecosystem is in crisis. University of Maryland researchers are on the front lines of developing innovative solutions to urgent problems that threaten the well-being and health of the planet and people across the globe. Yet, trends in international publishing make it increasingly difficult to provide equitable access to the publicly funded research that can help our communities thrive and make our lives better. In this context, the **Publishing, Access, and Contract Terms (UMD PACT)** working group, a subgroup of the University Library Council (ULC), will convene to carry out the following charge. The working group is sponsored jointly by the ULC, the Office of the Provost, Faculty Affairs, and the Division of Research.

- **Review** current and changing University of Maryland's scholarly publishing practices, licensing terms, and contracts.
- **Consult** with faculty and administrators via focus group interviews, surveys, and other means to gather input and feedback about scholarly communication issues, ideas, and challenges.
- **Consider** how the Senate, Academic Affairs, Faculty Affairs, and the Libraries can lead and collaborate with others, including the University System of Maryland (USM), the Big Ten Academic Alliance (BTAA), and other consortia, to improve equitable access to the University of Maryland's research and scholarship.
- **Recommend** a new framework for licensing of scholarly content and the means by which more equitable access to the University of Maryland's scholarly publishing and data can be achieved.

Sponsors – Senate-based University Library Council (ULC), Provost Mary Ann Rankin, Vice President Laurie Locascio

Co-Leaders –Adriene Lim, Dean of Libraries, and Holly Brewer, Professor, History, ARHU

Timeline – April 2020 through February 2022. The initiative will have three phases:

- Phase 1 – April 2020 through Fall 2020 – Review and consultation
- Phase 2 – Winter 2021 – Library members of the group will compile the data and information gathered during Phase 1, and will prepare for Phase 3
- Phase 3 – Spring 2021 through December 2021 – Discuss issues and devise recommendations; draft report and distribute it for comments
- Deliver final report to ULC and other sponsors by February 2022

Meetings – UMD PACT is expected to meet once a month with a typical meeting held for 90 minutes. Work may be performed via virtual means asynchronously, given the predicted challenges with scheduling additional face-to-face meetings.

Recommendations and Reports -The Libraries will rely on in-person and virtual UMD PACT discussions and research to submit formal recommendations in writing to the sponsors, who will then share the recommendations with the UMD Administration, Senate, and Library Assembly for consideration.

Minutes - Minutes of each UMD PACT meeting are maintained by the Libraries with copies shared as public records.

Membership – Faculty members and graduate students on the UMD PACT working group are invited to serve and are appointed jointly by the Senate, Provost and VP of Research. Members should have experience in publishing of research and scholarship, with some members also having experience with faculty tenure and promotion processes and standards, and should be interested in enhancing scholarly communication models to improve support of, sustainability, of, and access to the University's teaching, learning, and research.

- ULC members will be members of the working group and invited to participate in all UMD-PACT meetings – Brian Butler, Chair of ULC, Associate Dean, iSchool; Laura Dugan, ULC member and Senate Chair-elect
- Academic and Faculty Affairs: John Bertot, Associate Provost, Faculty Affairs
- Faculty members not on ULC, but from UMD Colleges and Schools who have special interest in or knowledge about scholarly communication in various disciplines:
  Hugh Bruck, Professor, Mechanical Engineering and Associate Dean, Clark School of Engineering; Philip Cohen, Professor, Sociology, BSOS; Michael Dougherty, Professor/Chair, Psychology; Wayne McIntosh, Associate Dean, Graduate Students and Faculty Affairs, BSOS; Holly Brewer, Professor, History, ARHU, co-chair of UMD PACT
- Library members will include: Dan Mack, Associate Dean, Collections Strategies and Services; Leigh Ann DePope, Head, Acquisitions and Data Services; Maggie Saponaro, Director, Collection Development Strategies; Terry Owen, Digital Scholarship Librarian; Yelena Luckert, Director of Research, Teaching, and Learning; and Joseph Koivisto, Systems Librarian, Consortial Library Applications Support
- One graduate student member: Name Pending

Resources People or Teams - Individuals, teams, or workgroups able to assist the Task Force on specific issues, yet these individuals, teams or workgroups would not be expected to attend all meetings or participate in all tasks. Known resource persons or teams are: ADs for Faculty Affairs in Colleges and Schools? Others?

BACKGROUND INFORMATION:

USM's *Statement Supporting Open Access Dissemination of Scholarship*, 2017
https://www.usmd.edu/newsroom/docs/USMOpenAccessStatement.pdf

UMD *Open Access Task Force* charged, 2013:
https://www.senate.umd.edu/system/files/resources/billDocuments/12-13-36/stage1/OpenAccessTF_Charge.pdf

UMD Open Access Task Force report, 2013:
https://www.senate.umd.edu/system/files/resources/billDocuments/12-13-36/stage4/Presidential_Approval_12-13-36.pdf

Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities, 2003
https://openaccess.mpg.de/Berlin-Declaration
Signatories including UMD:
https://openaccess.mpg.de/319790/Signatories

UMD Libraries' Open Access Publishing Fund
https://www.lib.umd.edu/oa/openaccessfund

UMD Libraries' Open Access Journal Discounts
https://www.lib.umd.edu/oa/journal-discounts