DISCUSSION OF DRAFT POLICY ON
EQUITABLE ACCESS TO SCHOLARLY ARTICLES

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WHAT IS UMD PACT?

(PUBLISHING, ACCESS, AND CONTRACT TERMS)

UMD PACT is a cross-campus group working on ways to make Maryland's research more visible, accessible, affordable, and transparent, through:

• Sustainable, more equitable scholarly publishing
• Affordable, fair licensing of scholarly content
• Facilitating open research and data sharing
• Advancing open education and open educational resources

PACT is sponsored by the Office of the Provost, Division of Research, and the Senate-based University Library Council.

For more details about UMD PACT, visit: https://pact.umd.edu/
WHY IS THIS NEW POLICY IMPORTANT?

• **Social and economic justice** – The new policy will remove price and permission barriers as they relate to UMD’s scholarly articles. Equitable access to knowledge is aligned with our land-grant mission and our social justice values.

• **Increased use and preservation of scholarly articles** – Work will be discoverable by the general public and other researchers through major search engines; and will be accessed and preserved in UMD’s digital repository, DRUM.

• **Sustainable scholarly communication** – This model achieves open access to more research, while at the same time, helps us avoid overreliance on expensive Article Processing Charges (APCs).
WHY IS THIS NEW POLICY IMPORTANT?

• **Compliance with public-access mandates** – Increasingly, funding agencies are issuing/enforcing new mandates that call for sponsored research publications and data to be publicly accessible. This policy helps us prepare for and comply with these mandates.

• **Faculty author benefits** – Authors will retain extremely broad use and reuse rights with a minimum of effort, without the need to negotiate with publishers, and while preserving academic freedom and author choice.
• We request your support for adoption of a new rights-retention, equitable-access licensing policy based on a model created by Harvard University. Review the draft policy and FAQ at: “Equitable Access to Scholarly Articles Authored by University Faculty.”

• In this model, faculty members grant an automatic, irrevocable, non-exclusive, worldwide license to the university to distribute their scholarly articles for non-commercial purposes.

• The license applies to all scholarly articles written while the person is a member of the faculty (except for any articles completed before the adoption of this policy).
• This model preserves faculty members’ right to publish in any journal of their choice.

• By design, the non-exclusive license takes precedence over any new publisher agreements.

• The new policy can also be used to confer a bundle of rights back to UMD authors without regard to the terms of any subsequent publishing contract, unless the faculty member chooses to opt out of the license for that article.
• The policy asks faculty to submit an electronic version of their final, peer-reviewed Author-Accepted Manuscripts (AAMs) for inclusion in DRUM, the university’s digital repository.

• In the future, the Libraries will try to automate as much of the process as possible, perhaps through connections to the campus’s Faculty Success / Digital Measures platform.

• This proven model has been in use for years by Harvard University and many other public and private institutions with no legal challenges to date.
• The policy builds upon the existing UMD Intellectual Property Policy (IV-3.20[a]), enacted in 2018, that affirms UMD personnel hold copyright in their scholarly works. (The new proposed policy does not affect the author's copyright ownership, but the IP policy will need to list the new open-access license as a factor affecting the IP policy.)

• The proposed model allows for waivers and embargoes as needed by faculty members, which again, preserves the author's choice.
Many other public and private universities across the world have adopted policies based on the Harvard model, including the following Big Ten Academic Alliance (BTAA) and regional institutions:

- Rutgers University (enacted 2015): https://www.libraries.rutgers.edu/services-for-researchers/open-access
- Indiana University Bloomington (enacted 2017): https://vpfaa.indiana.edu/policies/bl-aca-i24-open-access/index.html
- Penn State University (enacted 2019): https://openaccess.psu.edu/
- Virginia Tech University (enacted 2021): https://tinyurl.com/ysn6kw2q
• The UMD PACT (Publishing, Access, and Contract Terms) group, has been working with the Senate-based University Library Council, and various groups/departments on campus to refine the draft and build support for the new policy during 2021.

• We hope the policy can be adopted during the Spring 2022 semester. We believe that this policy will, almost immediately, increase awareness of the issues and will improve UMD faculty members’ retention of their copyrights and their subsequent open sharing of scholarly work.
• Our extensive FAQ at: https://pact.umd.edu/key-issues/equitable-access-policy-faq addresses many questions, but we’re also holding two open forums via Zoom to continue the discussion.

• **Wednesday, Nov. 17, 2021, 1:00-2:00 pm** -
  Register at: https://umd.zoom.us/meeting/register/tJMrf-utqzsrGtXldew_vPBAEjeIs2oG92xa

• **Friday, Dec. 3, 2021, 10:00-11:00 am** –
  Register at: https://umd.zoom.us/meeting/register/tJItduutrz4qH9GREo3HdK9SSKXONjlaeMGf
QUESTIONS?

FOR MORE INFORMATION: SEE THE UMD PACT SITE AT HTTPS://PACT.UMD.EDU/

SEND COMMENTS TO UMD PACT C/O CO-CHAIRS:
ADRIENE LIM - AILIM@UMD.EDU OR
 HOLLY BREWER - HBREWER@UMD.EDU

THANK YOU!

Revised: 11/2/21
University of Maryland, College Park

Equitable Access to Scholarly Articles Authored by University Faculty

DRAFT ONLY – REVISED VERSION: 9/16/21 – STILL UNDER REVIEW

I. Purpose

The University of Maryland 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 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

For this policy, University Faculty shall include individuals 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 tenure-stream, permanent-status-stream, and PTK faculty.

B. Scholarly Article

A Scholarly Article is a work that describes the fruits of University Faculty members’ scholarship and research; is deemed a form of “Traditional Works of Scholarship” in IV-3.20(A) UNIVERSITY OF MARYLAND INTELLECTUAL PROPERTY POLICY; 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

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

D. University

The University of Maryland, College Park.

E. University Libraries

The University of Maryland Libraries, College Park, is identified as the “University Libraries,” and is 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.

F. Equitable Access

For the purposes of this policy, equitable access refers to 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

Equitable access to Scholarly Articles will be achieved by an Equitable Access License. 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. This policy does not transfer copyright ownership of Scholarly Articles to the
University. Copyright ownership remains with University Faculty as described in IV-3.20(A)
UNIVERSITY OF MARYLAND INTELLECTUAL PROPERTY POLICY, subject to this 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

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). Questions about
deposit should be referred to the University Libraries. The University will make the Scholarly
Article available to the public in an open access repository.

D. Opt-Out / Waiver / Embargo

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

END OF PROPOSED POLICY. PLEASE SEE NOTES THAT FOLLOW.

ADDITIONAL NOTES TO FACILITATE REVIEW OF POLICY

Further Information:

For questions, additional detail, or help with compliance with this Policy, please contact the
University Libraries at libadmin@umd.edu.

Related Policies and Documents

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

UMD’s Intellectual Property Policy
https://policies.umd.edu/assets/section-iv/IV-320A.pdf

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

EXPLANATORY NOTES NOT PROPOSED AS PART OF THE POLICY BUT
PROVIDED HERE ONLY TO FACILITATE REVIEW OF THE DRAFT (content
adapted from Harvard University’s Office of Scholarly Communication)

Section I, Lines 5-10, regarding disseminating knowledge and research as widely as possible:
The intention of the policy is to promote the broadest possible access to the university’s research.
The preamble emphasizes that the issue is access, not finances.

Section III, A, Line 46, use of the word “grants”: The wording here is crucial. The policy
causes the grant of the license directly. An alternative wording, such as “each faculty member
shall grant,” places a requirement on faculty members, but does not actually cause the grant
itself.
Section III, A and B, Scholarly Articles: The scope of the policy is scholarly articles. Clearly falling within the scope of the term are (using terms from the Budapest Open Access Initiative) articles that describe the fruits of scholars’ research and that they give to the world for the sake of inquiry and knowledge without expectation of payment. Such articles are typically presented in peer-reviewed scholarly journals and conference proceedings. Clearly falling outside of the scope are a wide variety of other scholarly writings such as books and commissioned articles, as well as popular writings, fiction and poetry, and pedagogical materials (lecture notes, lecture videos, case studies). Often, faculty express concern that the term is not (and cannot be) precisely defined. The concern is typically about whether one or another particular case falls within the scope of the term or not. However, the exact delineation of every case is neither possible nor necessary. In particular, if the concern is that a particular article inappropriately falls within the purview of the policy, a waiver can always be obtained. One tempting clarification is to refer to scholarly articles more specifically as “articles published in peer-reviewed journals or conference proceedings” or some such specification. Doing so may have an especially pernicious unintended consequence: With such a definition, a “scholarly article” doesn’t become covered by the policy until it is published, by which time a publication agreement covering its disposition is likely to already have been signed. Thus, the entire benefit of the policy’s nonexclusive license preceding a later transfer of rights may be vitiates.

Section III, A, Line 47-48, exercise any and all rights under copyright: The license is quite broad, for two reasons. First, the breadth allows flexibility in using the articles. Since new uses of scholarly articles are always being invented — text mining/uses being a prime example — retaining a broad set of rights maximizes the flexibility in using the materials. Second, a broad set of rights allows the university to grant back to an author these rights providing an alternative method for acquiring them rather than requesting them from a publisher. Even though the university is being allowed to exercise a broad set of rights, it is not required to exercise them. Universities are free to set up policies about which rights it will use and how, for instance, in making blanket agreements with publishers. For example, a university may agree to certain restrictions on its behavior in return for a publisher’s acknowledgement of the prior license and agreement not to require addenda or waivers. Harvard has provided a model agreement of this type as well: http://osc.hul.harvard.edu/docs/model-pub-agreement-090430.pdf.

Section III, A, Line 50-51, not sold for a profit: This term may be preferable to the vaguer term “noncommercial”. The intention is to allow uses that involve recouping of direct costs, such as use in course packs for which photocopying costs are recovered. Given that open access availability allows seamless distribution using a medium with essentially zero marginal cost, even this level of commercial activity may not be needed. Indeed, Harvard has stipulated in agreements with publishers that it will refrain even from cost-recouping sales: “When Harvard displays or distributes the Article, Harvard will not charge for it and will not sell advertising on the same page without permission of Publisher. Even charges that merely recoup reproduction or other costs, and involve no profit, will be forbidden.” Allowing cost recovery does provide an additional set of rights that can be negotiated in this way. Alternatively, the policy can eschew all sales if deemed preferable, in which case, the phrase “for a profit” can be dropped.

Section III, A, Line 49, authorize others: The transferability provision allows the university to authorize others to make use of the articles. For instance, researchers can be authorized to use the
articles for data mining. The terms of use of the institution’s repository can take advantage of
transferability to make available an appropriately scoped set of rights automatically for articles
covered by the policy. The Harvard DASH terms of use
(http://osc.hul.harvard.edu/dash/termsofuse) provides an example. Most importantly, the
transferability provision allows the university to transfer the broad rights in the policy back to the
author, so that authors can legally distribute their articles from their own web sites (as they often
do illicitly now), to use them for their classes, to develop derivative works, and the like. In that
sense, the policy leads to authors retaining rights, not just universities obtaining rights.

Section III, A, Line 49, authorize others to do the same: This ordering of phraseology,
introduced in the MIT policy, makes clear that the transferability provision applies both to the
retained rights and the noncommercial limitation.

Section III, B, articles completed before the adoption: Application of the license retroactively is
problematic, and in any case, suspect. This clause makes clear that the license applies only
prospectively.

Section III, D, Line 71, will be waived: Not “may be waived.” The waiver is at the sole
discretion of the author. This broad waiver policy is important for the palatability of the policy. It
is perhaps the most important aspect of this approach to open-access policies. The ability to
waive the license means that the policy is not a mandate for rights retention, but merely a change
in the default rights retention from opt-in to opt-out. Many of the concerns that faculty have
about such policies are assuaged by this broad waiver. These include concerns about academic
freedom, unintended effects on junior faculty, principled libertarian objections, freedom to
accommodate publisher policies, and the like. Some may think that the policy would be
“stronger” without the broad waiver provision, for instance, if waivers were vetted on some basis
or other. In fact, regardless of what restrictions are made on waivers (including eliminating them
entirely) there is always a de facto possibility of a waiver by virtue of individual faculty member
action demanding an exception to the policy. It is far better to build a safety valve into the policy,
and offer the solution in advance, than to offer the same solution only under the pressure of a
morale-draining confrontation in which one or more piqued faculty members demand an
exception to a putatively exceptionless policy. In any case, with several years of experience with
these policies, it has become clear that waiver rates are exceptionally low even with this
completely open waiver provision.

Section III, D, General note about the waiver of license: The waiver applies to the license, not
the policy as a whole. The distinction is not crucial in a pragmatic sense, as it is generally the
license that leads to waiver requests, not the deposit aspect of the policy, and in any case, an
author has a de facto waiver possibility for the deposit aspect by merely refraining from making
a manuscript available. Nonetheless, if it is possible to use this more limited formulation, it is
preferable in reinforcing the idea that all articles should be deposited, whether or not a waiver is
granted and whether or not they can be distributed.

Section III, D, Lines 73-74, will be delayed: Duke University pioneered the incorporation of an
author-directed embargo period for particular articles as a way of adhering to publisher wishes
without requiring a full waiver. This allows the full range of rights to be taken advantage of after
the embargo period ends, rather than having to fall back on what the publisher may happen to allow. Since this is still an opt-out option, it does not materially weaken the policy. An explicit mention of embargoes in this way may appeal to faculty members as an acknowledgement of the prevalence of embargoes in journals they are familiar with.

Section III, C, Line 65, University Faculty member’s Author Accepted Manuscript (AAM):
The author-accepted version—the version after the article has gone through peer review and the revisions responsive thereto and any further copyediting in which the author has participated—is the appropriate version to request for distribution. Authors may legitimately not want to provide versions earlier than the AAM, and insofar as there are additional rights in the publisher’s definitive version beyond the AAM, that version would not fall within the license that the author grants.

Section III, C, Line 64, no later than the date of publication: The distribution of articles pursuant to this policy is not intended to preempt journal publication but to supplement it. This also makes the policy consistent with the small set of journals that still follow the Ingelfinger rule. An alternative is to require submission at the time of acceptance for publication, with a statement that distribution can be postponed until the date of publication.

Section III, E, Policy Interpretation/Changes: Specifying a review makes clear that there will be a clear opportunity for adjusting the policy in light of any problems that may arise.

See the FAQ for this policy at: https://pact.umd.edu/key-issues/equitable-access-policy-faq.
UMD PACT
FAQ on the “Equitable Access to Scholarly Articles” Policy
DRAFT as of 8/5/21

FAQ Topics

I. What is the “Equitable Access” Policy and Why Does It Matter?
II. Policy and License Basics
III. Scholarly Articles and Author Accepted Manuscripts (AAMs)
IV. Submission of work into DRUM and Other Repositories
V. Waivers, Embargoes, and Opting into the Policy

Section I – What is the “Equitable Access” Policy and Why Does It Matter?

Q: What is the “Equitable Access” policy trying to achieve?

The overarching goals of the Equitable Access Policy are to: 1.) remove price and permission barriers to a large subset of UMD’s knowledge for those who cannot afford the often-exorbitant subscription fees of for-profit publishers; 2.) help UMD faculty members comply with open access mandates from research funders; and 3.) enhance faculty authors’ ability to retain their rights.

We believe equitable access to knowledge is a moral imperative and is in alignment with our land-grant mission as a public university. This policy relies on the unified action of the campus, as a body, to enable individual faculty to distribute their scholarly writings freely. Many other grant-funding organizations, including private foundations and government agencies, have a vested interest in making research outputs openly available and are independently supporting these types of efforts as well.

This new policy will promote social and economic justice, will increase discoverability and use of UMD’s research, and will help make scholarly communication more sustainable, because UMD will have other means with which to share scholarly work with other researchers and the general public. We can use this policy and movement to create more pressure on what has become primarily a monopolistic, for-profit scholarly publishing market.

Q: What does the new “Equitable Access” policy provide?

The “Equitable Access” policy has two basic provisions. First, faculty members commit to deposit a certain version of their future scholarly articles into DRUM (https://drum.lib.umd.edu/), the University of Maryland’s institutional repository. Second, faculty members grant certain nonexclusive rights over their future scholarly articles to the University of Maryland, authorizing it to make their deposited articles open access. This grant of nonexclusive rights is not equivalent to a grant of ownership. It includes waiver and
embargo options to enhance author freedom and control over their work. We call this grant of nonexclusive rights the UMD Equitable Access License.

The policy does not require authors to submit new scholarly articles to any particular type of journals, such as open-access journals. Instead, the policy deliberately allows authors to submit new work to the journals of their choice.

Q: Why does the Equitable Access Policy include an automatic or default license? Why not just suggest authors individually retain a license for open-access distribution?

First, experience has shown that mere encouragement has little effect. For instance, before Congress made it a requirement, participation in the NIH Public Access Policy was optional. During that period, there was only a 4% level of compliance. During the same period, studies showed that the low level of compliance was not due to opposition so much as preoccupation, busyness, and forgetfulness.

Second, experience in many areas has shown that opt-out systems achieve much higher degrees of participation than opt-in systems, even while remaining noncoercive.

Third, by making campus-wide policies, individual faculty benefit from their membership in the policy-making group. The university can work with publishers on behalf of the faculty to simplify procedures and broaden access. Without a policy covering many authors, we could not take full advantage of the benefit of unified action.

This policy only covers benefits-eligible faculty members. However, other faculty members and non-faculty scholars and researchers may create a similar license for their own work through the UMD’s voluntary Individual Equitable Access License.

Q: What are the advantages for faculty authors?

UMD’s Equitable Access License under the policy:

- Gives authors the ability to make their work openly accessible without the difficulty or uncertainty of negotiating with publishers;
- Enables the university to help authors make their works open access;
- Preserves authors’ freedom to publish in the journals of their choice;
- Preserves authors’ freedom to decide for or against open access for each publication;
- Enhances authors’ rights to reuse their work for research and teaching;
- Gives authors more rights over their own work than standard, or even progressive, publishing contracts.
- Increases readership and citation of research;
- Makes it easier for instructors to assign your work to their students;
- Keeps publicly funded research in public hands; and
- Helps to control costs for libraries and readers.

The chief benefit of the Equitable Access License is the way it fosters open access itself. Research has repeatedly shown that articles that are free online are cited more often than articles that are not free online, and this trend is increasing over time. This phenomenon is often called the open-access citation or impact advantage.

Q: What will the University of Maryland do with the articles covered by its license?
Here are some examples:

- **Availability in DRUM.** The UMD Libraries manages an open-access repository called DRUM (https://drum.lib.umd.edu/) to distribute the scholarly articles deposited by UMD researchers.

- **Reuse by the author.** When UMD receives the grant of nonexclusive rights from faculty, it grants the same rights back to the faculty. The result is that faculty receive more rights from the policy, to use and reuse their own work, than they would likely receive under their publishing contracts.

- **Non-commercial distribution.** Through the transferability provision, UMD may further allow others to distribute content in DRUM, provided that the articles are not sold for profit. For instance, faculty at other institutions could be given permission to make copies for free distribution directly to their students.

- **Instructional purposes.** The UMD equitable-access license grants UMD the right to license articles for free use in a course pack, so long as the course pack is not sold for profit. Alternatively, those seeking to include articles in a course pack could continue to get permissions from the publisher, typically by paying royalties to the publisher. To take another example, UMD could also authorize others to make articles available online (for example, on a course website or another repository), provided that these were not sold for a profit.

- **Harvesting, indexing, and other services.** Consistent with the goals of open access and ensuring wide visibility and availability of scholarly articles, the license allows UMD to enable both commercial and nonprofit entities to use the articles to provide search or other services, so long as the articles are not being sold for a profit. For instance, the license allows UMD to enable the articles to be harvested and indexed by search services, such as Google Scholar, and to be used to provide other value-added services that don't involve selling the articles themselves for a profit.

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**Section II. Policy and License Basics**

**Q: What kinds of writings does the Equitable Access Policy cover?**

The Equitable Access Policy only covers peer-reviewed scholarly articles. We focus on scholarly articles because, in the language of the Budapest Open Access Initiative, these are the primary works that scholars publish "for the sake of inquiry and knowledge" and "give to the world without expectation of payment." Scholarly articles are typically presented in peer-reviewed scholarly journals and conference proceedings.

While DRUM, the UMD’s repository, welcomes scholarly works other than articles, this policy only covers articles. Among the works outside the category of scholarly articles are books, popular articles, commissioned articles, fiction and poetry, encyclopedia entries, ephemeral writings, lecture notes, and lecture videos.

The voluntary Individual Equitable Access License is also limited to scholarly articles.

**Q: Does the license to UMD apply to articles written before the policy was adopted?**

No. The policy will not apply to any articles that were completed before the policy was enacted, nor to any articles for which you entered into an incompatible publishing agreement before the policy was adopted. If you are a non-faculty author, you are not subject to this policy. However, if you sign the voluntary Individual Equitable Access License, then it too will not apply to articles written before you signed the license.
Q: Does the policy apply to articles written after a faculty member leaves the University of Maryland, College Park?

No. Once you are no longer affiliated with the University of Maryland, College Park, any articles you write will not be subject to this policy and will not be licensed to UMD. Likewise, the voluntary Individual Equitable Access License only applies as long as the author is affiliated with UMD.

Q: Does the license apply to co-authored papers?

Yes. If you are a co-author of an article, you should inform your co-authors about the nonexclusive license that you have granted UMD under this policy (or the voluntary Individual Equitable Access License), and if your co-authors cannot be convinced this is beneficial, then you can obtain a waiver for the article.

Each joint author of an article holds copyright in the article and, individually, has the authority to grant UMD a nonexclusive license. However, one waiver from one author is sufficient to waive the license to UMD.

Please contact the Libraries’ Open Scholarship Team (lib-open-scholarship@umd.edu) with any questions you may have about seeking a waiver for a co-authored paper.

Q: What if a journal publisher refuses to publish my article because of this prior license to UMD?

You have a number of options. You may:

- Obtain a waiver of the license and let the publisher know that you have done so; or
- Obtain an embargo to delay deposit of the work in DRUM and let the publisher know you have done so; or
- Work to persuade the publisher that it should accept UMD’s nonexclusive license in order to be able to publish your article; or finally,
- Try to seek a different publisher. The Libraries’ Open Scholarship Team would be happy to help in the process of working with publishers or picking an option that works best for you.

Many institutions using this type of policy have not heard of a single case in which a journal has refused to publish an article merely because of the prior license to UMD. This is because the waiver and embargo options offer complete protection to publishers who wish to take advantage of them.

Q: How does the Equitable Access Policy affect the existing UMD Intellectual Property Policy, if at all?

This new policy builds upon the UMD Intellectual Property policy, because it relies on faculty authors continuing to retain the copyright for their own works. One minor change will have to be incorporated into the IP policy, to add the Equitable Access License into the section on “Traditional Scholarly Works.” Again, though, this policy enacts a non-exclusive license, not a transfer of rights, which means that faculty members still retain the copyright for their works.
Q: To comply with this policy, must I pay the publisher an Article Processing Charge (APC)?

No. This policy is based on sharing your Author Accepted Manuscript (AAM or post-print) in an open repository such as UMD’s DRUM. Most journals do not require payment of a fee to share your accepted manuscript. Paying an APC is generally associated with making the published version of the article open access.

You can use the Sherpa Romeo database to check a particular journal’s default rules on sharing articles via repositories. If the default rules do not permit you to share your paper, you can modify your contract before signing it by using an author’s addendum or you can get a waiver.

If you have questions about the open access policy or the author’s addendum, please contact the Libraries' Open Scholarship Team.

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Section III. Scholarly Articles and Author Accepted Manuscripts (AAMs)

Q: What format of my scholarly article should I deposit in the repository?

The policy asks faculty members to submit an electronic version, usually a PDF, of their final, peer-reviewed Author Accepted Manuscript (AAM) for inclusion in DRUM. This is the version that we can make accessible and preserve without any concerns about copyright and licensing. When we enact this policy at UMD, faculty members will have persistent links to their preserved, open-access articles, and their work will become more accessible because their articles will be crawled by and findable through major search engines.

Q: What version of my scholarly article should I deposit in the repository?

The policy asks authors to deposit the Author Accepted Manuscript (AAM), which includes any changes made after peer-review and has been accepted for publication by the journal. It does not include unilateral edits made by the journal after peer review, or changes that relate to the journal's look and feel. Documents that have been typeset or copyedited by the publisher (such as proofs or the final published version) are not AAMs, but if you wrote your article in a publisher-supplied template then that is acceptable. In a few cases we will deposit the published version, also called the Version of Record (VOR). For example, we will deposit this version when UMD or the author has paid an Article Processing Charge for that article, or when the publisher gives permission to deposit that version. If you're not certain about whether we could deposit the VOR in a given case, please contact the Libraries’ Open Scholarship Team.

Q: What if the published version (Version of Record) contains substantive differences from the peer-reviewed AAM?

When a paper is revised by the publisher after the peer review stage, the author does not have the rights to those publisher-made changes. But the VOR is almost always the same in regard to the meaningful content as the AAM, because that content has been peer-reviewed. In most cases, the AAM suffices for scholarly purposes, because it’s the peer-reviewed version of the text. Even for those who would prefer
access to the VOR, if they are barred from access due to permission and price barriers, access to the AAM is far better than nothing. Presumably, the peer-review process is supposed to catch all substantive issues and edits, in any case. One 2018 study by Kelin et al, “Comparing published scientific journal articles to their pre-print versions” (International Journal on Digital Libraries, 2018), found that “the text contents of the scientific papers generally changed very little from their pre-print to final published versions.”

**Q: Will having the AAM available in DRUM satisfy funding agencies’ open-access requirements even if the journal article itself is not in an open-access journal?**

Yes, for many major funding agencies this type of access in a repository explicitly meets their open-access requirements, but the answer to this question ultimately depends upon whether the funding agency itself specifies otherwise or specifies a particular repository, such as PubMed Central for the NIH Public Access Policy.

**Section IV. Submission of work into DRUM and Other Repositories**

**Q: I have concerns about the time burden of sending or submitting my AAMs for deposit. Is there any way that this deposit can be automated?**

This is an unavoidable concern because the AAMs will have to be sent to the UMD Libraries by the faculty members themselves. It is now common for publishers to use online platforms for submitting manuscripts for the peer review process and final editing, and at times, these platforms do not make it easy for the authors to obtain their own AAMs. In these cases, faculty members may request the AAMs from publishers. However, if this is perceived as too much of a burden, it may be helpful to note that the policy does not provide for any penalties for non-deposit; it relies on faculty members making a commitment to deposit their articles.

**Q: To what extent can Digital Measures be used to cull uploaded articles or faculty publications?**

In the future, we hope to be able to harvest the papers that authors may upload to Digital Measures and deposit them in DRUM programmatically, eliminating the need for faculty to upload their articles more than once. But short of that for now, we will work on other techniques, such as CV-scraping services, library-assisted uploading of AAMs, etc., to minimize faculty burden related to this policy going forward.

**Q: When depositing AAMs into DRUM, it’d be most useful if faculty could also later post a link to the article’s published Version of Record (VOR). Is this possible, and if so, will it always have to be the faculty member who must include this link going forward?**

Links to the VOR can easily be included in the DRUM record. This is a common practice and often a requirement of the journal. Once an article has been deposited in DRUM, faculty members are not able to modify a record, but the Libraries will commit resources to add or change these links and provide CV-scraping services, if the policy is approved.

**Q: Can DRUM support embargoes for deposited materials?**
Yes, it is possible to embargo or restrict access to documents in DRUM for a finite period of time but faculty members must contact the Libraries to set the end date. Restrictions are automatically removed at the end of the embargo period.

**Q: Some faculty members are already contributing their work to other repositories. How would the new policy affect faculty members’ use of other preprint/postprint repositories, such as ArXiv, SocArXiv, etc.?**

We think the first priority is to make sure the research is accessible in an open, equitable manner, and so we applaud the use of other trusted repositories in this way. We may, however, work in collaboration to try to automatically harvest these items in the future; we want to be sure that the items are preserved and discoverable through our systems as well.

**Q: How will UMD ensure that the AAMs are in accessible formats?**

The UMD Libraries will take steps to ensure that AAMs are accessible. We will perform post-deposit quality checks and will also provide advice and training to faculty members who wish to learn about accessibility related to their articles.

**Q: Should I include my article in DRUM even if the work is not covered by the Equitable Access License?**

Much of your work — for example, anything authored before the date this policy is approved, or before you signed the voluntary Individual Equitable Access License -- is not covered by this policy. In these cases, your right to reuse your own work is limited to the terms of the agreements you signed with your publishers. In most cases, those publishing agreements give you more extensive reuse rights for the Author Accepted Manuscript than for the published version or Version of Record.

Therefore, even when you are not allowed to distribute the published version, you may be able to make your AAM available for download in DRUM without violating the agreement with your publisher. Consult with the Libraries’ Open Scholarship Team and let us explore this with you.

**Q: Can I just share the link to my PubMed or other repository record rather than submit my AAM to DRUM?**

Yes, sharing of PubMed links and other reliable links can be added to a DRUM record.

**Section V. Waivers, Embargoes, and Opting into the Policy**

**Q: Some journals (Cell Press journals, for example) state that they won’t take papers that have been posted on bioRxiv. What happens in these cases?**
The waiver option is always available in these types of cases and does not rely on any evaluative process or approval process. Faculty members would be asked to complete a simple online form and the waiver would be automatically granted. Fortunately, over time, many publishers have moved to allow posting of peer-reviewed AAMs into repositories before publication. PACT’s proposed policy does not require preprints. It asks for deposit of the Author Accepted Manuscript (AAM), the final, peer-reviewed version before the publishers adds typesetting, layout, and pagination. This issue has not been a problem at Harvard, MIT, Penn State, and other institutions employing a similar model.

Q: What if I'm a non-faculty author (e.g., graduate student, fellows, staff members, etc.) and I would like my scholarly articles to be covered by an equitable- or open-access license?

Current graduate students, fellows, non-faculty researchers, and faculty members not covered by this policy may create a similar license for themselves through the voluntary Individual Equitable Access License.

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Section V. Impact of the Policy on Metrics, Publishing, etc.

Q: In terms of getting one’s work broadly disseminated, a high-profile journal provides evidence of vetting and reaches a targeted audience. It seems that just having articles in a mass storage site decreases their visibility and accessibility, isn’t that true?

The policy actually increases visibility and accessibility. High-profile journals hide research publications behind paywalls that hinder access by researchers, students, institutions, and the general public who cannot afford to subscribe or license their content. Repositories like DRUM are enhanced with metadata, crawled by Google and other major search engines, and designed to increase the visibility, reputation, and prestige of the institution. Depositing an article in DRUM, per the policy, is in addition to, not instead of, publication in a journal.

Q: It seems as if the public dissemination goal here relies pretty heavily on Google Scholar indexing various different university repositories like DRUM. That is better than *not* having things searchable and findable, but is there more thought about making this kind of model work with other kinds of indexing systems and/or supporting more "traditional" OA models? For example, what happens if Google decides that scholarly indexing isn't what they want to do?

Discovery of this scholarly content is available through Google and Google Scholar, but this content is also discoverable in virtually all other commercial search engines like Yahoo and Bing as well as more niche search engines like DuckDuckGo and Qwant. DRUM content is also discoverable through academic open-access indexing services such as CORE (core.ac.uk) and BASE (base-search.net). DRUM content is added to WorldCat.org through metadata harvesting protocols and this creates the possibility for further development and indexing opportunities in the future.
Q: Some of the high impact NEURO journals have open access fees upwards of $3,000 for one article, for example. What mechanisms exist to limit the cost to researchers who want to support the equitable or open access movement?

A faculty member in this situation might want to choose a hybrid alternative, meaning to publish their article in the traditional, toll access way and then deposit their AAM into DRUM without paying the extra fee. The Libraries also offer an Open Access Publishing Fund that covers 50% of the article processing charges for UMD authors publishing in most open access journals.

Q: Can you comment on the differences between DRUM and something like PubMed? I've been depositing all of my papers (grant funded or not) on PubMed for open access (so I can upload the papers onto my lab website). Is the suggestion here to also deposit papers to DRUM? Or should DRUM be thought of as an alternative to existing repositories?

If a faculty member is using this type of practice now, the policy is supportive and facilitates this. We plan to one day harvest UMD’s articles that are available in BioMed Central and PubMed, but in the meantime, we don’t see a need to prioritize uploading the freely-available articles again into DRUM.

Q: Because this is likely to be a cat-and-mouse game with publishers, won't journal publishers move toward not accepting the AAM for publication from authors who will not grant exclusive rights to that journal to be the sole publisher?

Major publishers, including ACM, Elsevier, IEEE, SAGE, SpringerNature, and Wiley, have worked for several years with institutions like Harvard and MIT who employ a similar model, as well as European institutions following Plan S. To this point, it’s clear that publishers realize taking a stance like this would be a nonstarter for most publicly funded institutions.

Q: Publishers such as ACM are switching to open access models where library subscription fees will be based on the volume of published papers by each institution. In the case of ACM, this will mean a large increase in the subscription fee for the UMD libraries. Does this policy have any impact on the situation?

ACM (Association for Computing Machinery) is proposing a new “ACM OPEN” pricing model that many institutions have already said is unsustainable. UMD’s price under this model would increase by a factor of 5 or more in order to make ACM’s content open. We are in discussion with ACM. This policy offers a path for UMD authors to make their content open without relying on exorbitant Article Processing Charges (APCs).

Q: What other things do you recommend doing to avoid inadvertently waiving our author rights?

As the author of a work, you are the copyright holder unless and until you transfer the copyright to someone else in a signed agreement. Options available to authors when presented with a publisher’s agreement include 1) transfer all your rights to the publisher, 2) transfer the copyright to the publisher but retain certain rights, or 3) retain all your rights and license the rights to the publisher.

No matter which option you choose, it is important to read the agreement carefully. Authors can make changes to any agreement in order to retain certain rights. The Creative Commons Scholars Copyright
Addendum Engine allows authors to retain the necessary rights to reuse their research. Remember that transferring copyright does not have to be all or nothing and publisher agreements are negotiable.

Q. I have a paper in the process of being published in an open access journal. After I pay the publishing fee required by the journal, what are the next steps I should do, according to this policy?

Most of the steps in the traditional process would occur as usual, but when you are at a stage in the process after peer-review but not after significant editorial or publisher-related changes are made, then you would save or request the version that we are calling “AAM.” If it’s open access, then you as the author could put the actual PDF into the repository. If it’s a post-print AAM, you could then safely deposit this into DRUM, per our policy.

Q. If an author deposits an AAM into a repository that grants DOIs, such as in DRUM, won’t this cause unintended consequences, such as with discoverability, citations, impact factors, etc., when people fail to cite the DOI of the published Version of Record? How are people going to cite publications if the publisher version is not available in DRUM?

We encourage faculty members to include the publisher-based DOIs associated with Versions of Record when they submit their AAMs. The publisher-based DOIs may be added to the DRUM record and can be inserted into the AAM itself. Most researchers would prefer to cite the VOR, rather than cite other versions, so we think this concern about impact factors can and will be avoided if these steps are taken. In regard to discoverability, Google Scholar, for example, finds articles across PubMed, ResearchGate, and Harvard's post-print server, and groups duplicate versions together, finding the same article with different DOIs.

Q: Could an unintended consequence of this policy be the inability of recruiting benefits-eligible contract faculty members because they would object to this policy as part of their contractual relationships with UMD?

This policy is a rights-retention policy for faculty authors, not something that takes away rights and gives them to the university. This policy gives authors more rights over their own work than they get from conventional or even progressive publishing contracts, and if they still don’t agree, they can obtain waivers with no questions asked. For these reasons, we don’t anticipate that this policy will be a concern for most contractual faculty.

Q: Will there be any long-term impact on journals if a lot of major universities move to this type of policy? Would publishers look negatively at incoming articles associated with these types of agreements?

If many major universities move to this type of policy, the long-term impact will be to lower the cost of academic publishing across the board to more reasonable levels. The largest publishers of scientific and scholarly research realize profits greater than Apple, MicroSoft, Google, JPMorgan Chase, and other international technology companies and financial institutions. Reducing the cost of journals would make funds available for monographs, media, digitized primary sources, and other content for the University of Maryland’s programs and research. An institution's
policy regarding authors' rights should have no impact on the decisions of publishers who claim to produce peer-reviewed literature.

**Q: Won’t this policy have adverse effects on scholarly societies? Many of them rely on publishing revenues.**

Some scholarly societies have turned over production and distribution of their publications to large commercial publishers. In turn, these publishers have profited considerably from their takeover of scholarly society publishing. Publishers pass on subscription fees, APCs, and other costs to the researchers and institutions that make up societies' memberships. The current funding model for many of these publications, therefore, does little more than shuffle costs and fees among researchers, their societies, and their institutions. This is neither efficient nor sustainable. Academic institutions, publishers, and societies must work together to create new funding models that are fair and sustainable for all stakeholders.


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