



IUPUI OFFICE OF THE FACULTY COUNCIL

INDIANA UNIVERSITY-PURDUE UNIVERSITY
INDIANAPOLIS

Open Access

Circular 2014-10

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Effective: *October 7, 2014, by the IUPUI Faculty Council*
Last Updated:

Faculty Council Committee:
Library Affairs

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Scope

PREAMBLE

The faculty of Indiana University-Purdue University Indianapolis is committed to disseminating the fruits of its research and scholarship as widely as possible. In keeping with that commitment, the faculty adopts the following policy.

Policy Statement

GRANT OF LICENSE AND LIMITATIONS

Each Faculty member grants to The Trustees of Indiana University permission to make available his or her scholarly articles which are deemed Traditional Works of Scholarship under the Intellectual Property Policy <http://policies.iu.edu/policies/categories/administration-operations/intellectual-property/intellectual-property.shtml> and to exercise the copyright in those articles. More specifically, each Faculty member retains copyright and grants to the Trustees of Indiana University a nonexclusive, irrevocable, worldwide license to exercise any and all rights under copyright relating to each of his or her scholarly articles, in any medium, for the purpose of making their articles widely and freely available in an open access repository, provided that the articles are not sold, and appropriate attribution is given to authors, and to authorize others to do the same.

SCOPE AND WAIVER (OPT-OUT)

The policy applies to all scholarly articles authored or co-authored while the person is a member of the Faculty, except for 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. Faculty members retain responsibility for complying with any incompatible licensing or assignment agreements they have executed before the adoption of this policy. Upon express direction by the Faculty member, the Executive Vice Chancellor, Chief Academic Officer, or his or her designate will waive application of the license for a particular article or delay access for a specified period of time. Likewise, upon express direction by the Faculty member, a particular article's archival status (open access, no access, or delayed access) may be changed at any time.

DEPOSIT OF ARTICLES

Each Faculty member will provide an electronic copy of the author's final version of each article no later than the date of its publication at no charge to the appropriate representative of the Academic Affairs Office in an appropriate format (such as PDF) specified by the Academic Affairs Office. The Academic Affairs Office may make the article available to the public in an open access repository. The Academic Affairs Office, in consultation with Faculty governance, is responsible for interpreting this policy, resolving disputes concerning its interpretation and application, and recommending changes to the faculty from time to time. The policy will be reviewed after three years and as needed thereafter.

EXPLANATORY NOTES

This policy is based on a model open access policy developed by Stuart Shieber of the Harvard Office for Scholarly Communication. It includes a freely waivable rights-retaining license and a deposit requirement. This language is based on and informed by the policies voted by faculties at Harvard, MIT, Stanford University School of Education, Duke University, the University of California, and others. Information explaining the motivation for and implementation of open access policies, including an annotated model policy, is available at the web site of Harvard's Office for Scholarly Communication (<http://osc.hul.harvard.edu/>). Extensive information about good practices for university open access policies is provided in a widely endorsed guide from the Harvard Open Access Project (<http://bit.ly/goodoa>).

Reason for Policy

Among the many changes that are taking place in academic research is the growing expectation by funders that the findings of this research be made widely and freely available. Responding to these expectations, an increasing number of universities are creating open access repositories for scholarly articles produced by their faculties, to be made available to anyone with Internet access.

In response to these changes, IUPUI Faculty members are asked to consider implementing an open access policy to help disseminate the fruits of their research and scholarship. The "IUPUI Open Access Policy" was created with the goal of disseminating the research and scholarship

successes of IUPUI Faculty members. The “IUPUI Open Access Policy” is in alignment with the current IUPUI Intellectual Property Policy. Additional information regarding the benefits and potential concerns of the proposed policy are provided in “Frequently Asked Questions” and “Notes Concerning Specific Language.”

The IUPUI Open Access Policy is based on a model open access policy developed by Stuart Shieber of the Harvard Office for Scholarly Communication. Its language is based on and informed by the policies voted by faculties at Harvard, MIT, Stanford University School of Education, Duke University, the University of California, and others.

FAQs

BASICS

- 1. What would faculty submit?** Faculty authors would submit accepted, post peer-reviewed articles and proceedings to IUPUIScholarWorks. This policy would include co-authored articles and proceedings. Other items (book chapters, monographs, working papers, posters, presentations) would be welcomed, but not required.
- 2. How might faculty submit articles to IUPUIScholarWorks?** Upon acceptance, faculty will complete a simple web form (name, email address, department, and citation) and attach the author’s accepted manuscript. *Note:* In most cases, the “accepted manuscript” (sometimes called a “post-print”) is a final Microsoft Word document, with tables and images.
- 3. How might faculty opt-out of this policy?** The second screen of the submission process will give faculty three options: 1) submit; 2) embargo until a selected date; 3) opt out. Following the selection, the submitter (and other parties) will receive an automated email and transaction number.

BENEFITS

- 4. How would this policy benefit IUPUI faculty members?** This is an author’s rights policy. By adopting this policy, faculty retain rights to their scholarly articles and proceedings. This policy helps faculty disseminate scholarship to any reader with Internet access. Articles openly archived in IUPUIScholarWorks are indexed by search engines, receive a stable hyperlink and are more likely to be read and cited.
- 5. How would this policy benefit IUPUI students, alumni and other communities?** By joining with other leading research universities (Harvard, Duke, MIT, Kansas, California, Stanford and more), IUPUI would show its commitment to disseminating the fruits of its research and scholarship as widely as possible. By providing free access to scholarship, the policy would facilitate IUPUI’s efforts to be “a leader in fostering collaborative relationships” and would demonstrate that “IUPUI values collegiality, cooperation, creativity, innovation, and entrepreneurship as well as honesty, integrity, and support for

open inquiry and dissemination of findings” (IUPUI Vision, Mission & Values: <http://www.iupui.edu/about/vision.html>).

- 6. How would this policy benefit the university?** By providing access to articles by IUPUI faculty, this policy would increase the impact of IUPUI research and creativity both on a local and global scale. Furthermore, the archive would ensure that scholarship is preserved and accessible long after journals and publishers move, consolidate or cease publication.

CONCERNS

- 7. Would this policy restrict my publishing options?** No. Faculty would be free to submit and to publish in any journal they choose.
- 8. Would journals refuse to publish my article if IUPUI adopts this open access policy?** No. Journals gladly accept articles from faculty at MIT, Harvard, California and other institutions with open access policies. If a journal refuses to publish an article under the policy, faculty always have the ability to opt out of the policy for that article.
- 9. Do I have to pay an “open access fee” in order to submit my article to IUPUIScholarWorks?** No. Most journal publishers (including Elsevier, Sage, Springer, Taylor & Francis, and Wiley) permit authors to archive manuscripts in institutional repositories at no cost to the author. Over 80% of the world’s 1.1 million articles published in 2010 could be archived under current copyright law within one year of publication (Laakso, M. 2014, *Scientometrics*, In Press. <http://www.openaccesspublishing.org/?p=146>). Ask a librarian before you pay or, if necessary, opt out of the policy.
- 10. Would the policy mean that faculty authors would give copyrights to IUPUI?** No. As the author, you own the copyright to your work until you transfer it to someone else. This policy does not result in a transfer of copyright. Rather, authors would give IUPUI a non-exclusive permission to distribute a version of the work at IUPUIScholarWorks. In fact, this policy would help faculty preserve their rights as authors to reproduce and distribute their scholarly articles.
- 11. What does the policy mean by "exercise any and all rights under copyright"?** Copyright is not one right, but rather is best thought of as a bundle of rights granted to authors by the Copyright Act. Generally, these rights are reproduction, distribution, making derivative works, public performance, and public display. For IUPUI to most effectively make scholarly articles freely and widely available, it may need to use many of these rights. For instance, simply taking a word processing file of an article, converting it to PDF and making it available for public reading or download could involve the distribution, derivative works, reproduction, and display rights. The most important points are that the policy does not prevent you from exercising any of these rights and IUPUI's exercise of these rights is only for the purpose of making the articles freely and widely available.
- 12. What if my article is archived in IUPUIScholarWorks with my permission, but afterwards I decide that I no longer want it to be available to readers on the site?** Under this policy, authors retain rights to their scholarly articles. An author may change a

particular article's archival status (open access, no access, or delayed access) at any time. Although requests are rare, authors currently have the ability to contact IUPUIScholarWorks to ask for temporary and indefinite embargos on the full text access to an item.

- 13. Would this policy result in a burdensome administrative overhead and a difficult compliance process?** The libraries have the expertise and the software to manage this process. Faculty would need to keep their final manuscript, complete the short web form (mentioned above, FAQ #3), and select “submit,” “embargo,” or “opt out.”
- 14. Would this policy hurt my reputation as a scholar?** No. By increasing your readership, this policy would be to your benefit. This policy does not reduce your opportunity to publish in any journal—including a subscription journal with a leading citation impact factor.
- 15. Would this policy have a negative impact on the quality of science and the record of scholarship?** No. By increasing access and the speed of dissemination, policies such as this one reduce barriers to research and learning. Articles archived under this policy would not replace or supplant the version of record.
- 16. Would this policy hurt my scholarly society or journal?** Authors may opt out as needed. We do not, however, have any peer reviewed evidence to demonstrate that open access policies result in cancelled journal subscriptions. Libraries consider multiple factors when subscribing to journals, including: quality, price and anticipated use. Libraries, scholarly societies and journals face a publishing marketplace in transition; this transition will happen with or without open access policies.
- 17. Would large publishers bring legal action to stop the implementation of this policy?** Commercial publishers spend a lot of money lobbying against federal public access policies, but none of the over 127 U.S. institutions with open access policies have been the subject of legal action as a result of a policy.
- 18. Would co-authors from other institutions need to grant permission to IUPUI?** No. Each co-author owns the copyright to their co-authored work and may grant nonexclusive permissions without consulting the others. However, if a co-author expressed that they did not want an article to be shared in IUPUIScholarWorks, the IUPUI author could decide to opt out of the policy for that article.
- 19. What if my co-authors' institutions have different policies regarding author's rights and self-archiving?** It is very unlikely that this policy will create a true conflict with policies at other institutions. In fact, IUPUI co-authors may find their work already included in the repositories of universities that have adopted a policy such as this one. See, for example, the following:

Hoggatt, J., Mohammad, K. S., Singh, P., Hoggatt, A. F., Chitteti, B. R., Speth, J. M., ... Pelus, L. M. (2013). Differential stem- and progenitor-cell

trafficking by prostaglandin E2. *Nature*, 495(7441), 365–369. Available from Harvard: <http://nrs.harvard.edu/urn-3:HUL.InstRepos:11876987>.

Siddiki, S., Basurto, X., & Weible, C. M. (2012). Using the institutional grammar tool to understand regulatory compliance: The case of Colorado aquaculture. *Regulation & Governance*, 6(2), 167–188. Available from Duke: <http://hdl.handle.net/10161/6738>.

Citi, L., Djilas, M., Azevedo-Coste, C., **Yoshida, K.**, Brown, E. N., & Barbieri, R. (2011). Point-process analysis of neural spiking activity of muscle spindles recorded from thin-film longitudinal intrafascicular electrodes. *Conference Proceedings: Annual International Conference of the IEEE Engineering in Medicine and Biology Society*, 2311–2314. Available from MIT: <http://hdl.handle.net/1721.1/70063>.

If, for some reason, a co-author objects to providing access to the item in IUPUIScholarWorks, the IUPUI author may decide to “opt out” of the policy for that article.

20. **But I already comply with the NIH Public Access policy, why does IUPUI need its own policy?** This policy would supplement existing public access policies—many articles are published without federal funding. By building a repository of IUPUI scholarship, we ensure that the university can maintain and preserve a record of the work completed by our faculty. By acquiring and preserving the author’s accepted manuscript, the IUPUI Open Access Policy would make it easier to comply with the NIH Manuscript Submission process. One proposal for compliance with the coming U.S. agency (NSF, DOE, DOD, NEH, etc.) public access policies would leverage records in repositories like IUPUIScholarWorks for compliance.
21. **Why do we need a policy if faculty can submit works to PubMed Central, SSRN, arXiv, and other sites? Don’t these services meet the need for open access archiving?** Other repositories have limitations that exclude many of the scholarly articles and proceedings authored by IUPUI faculty. PubMed Central, for example, is not open to submissions from any author, but is limited to journal articles reporting research funded by the NIH and to biomedical journals with pre-existing agreements with PubMed Central. As your home institution, IUPUI has a vested interest in providing services that cannot be promised elsewhere—for example, long term preservation. Furthermore, this policy aims to increase access to scholarship authored by IUPUI faculty members—as such, it maximizes author’s rights. By helping faculty to retain their rights, this policy facilitates sharing in any repository. If authors choose to share in another repository, IUPUIScholarWorks will archive a version of the shared item for safe keeping.
22. **I already self-archive my work in an open access repository; will this policy detract from download counts from my preferred repository (e.g. SSRN, ResearchGate, Academia.edu)?** IUPUIScholarWorks is a noncommercial repository supported by an

academic library. Items are indexed for discoverability and included in long-term, digital preservation plans. If you prefer to protect your download counts at another repository, IUPUIScholarWorks will archive a version of the shared item for safe keeping, but link out to a stable URL for downloads.

Definitions

Preamble, “disseminating the fruits of its research and scholarship 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.

Grant of License and Limitations, “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.

Grant of License and Limitations, “scholarly articles”: The scope of the policy is scholarly articles. What constitutes a scholarly article is purposefully left vague. 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 vitiated. If clarifying language along these lines is required, simultaneously weaker and more accurate language can be used, for instance, this language from Harvard’s explanatory material (also used above): “Using terms from the Budapest Open Access Initiative, faculty’s scholarly articles are articles that describe the fruits of their 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.”

Grant of License and Limitations, “Intellectual Property Policy”

<http://policies.iu.edu/policies/categories/administration-operations/intellectual-property/intellectual-property.shtml>. The following is an excerpt from the Indiana University Intellectual Property Policy UA-05;

B. Traditional Works of Scholarship

- i. The University shall assert no claims to copyright ownership in or to distribution of revenue from Traditional Works of Scholarship.
- ii. The University may use Traditional Works of Scholarship, including Online Instructional Materials, created for ordinary classroom and program use, such as syllabi, assignments, and tests, for administrative purposes, which may include course equivalency assessments for transfer purposes, accreditation agency reviews, and other functions that allow the University to fulfill its responsibilities for accountability.
- iii. If a Creator of Online Instructional Materials leaves the University, he or she hereby grants the University a non-exclusive, royalty-free, worldwide, unlimited license to use the Online Instructional Materials for Online Instruction, including the right to revise such Online Instructional Materials.

Grant of License and Limitations, “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>.

Grant of License and Limitations, “irrevocable”: This term indicates that subsequent “transfers” of copyright do not invalidate this policy.

Grant of License and Limitations, “not sold”: This term may be preferable to the vaguer term “noncommercial”. Given that open access availability allows seamless distribution using a medium with essentially zero marginal cost, 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.”

Grant of License and Limitations, “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/termsfuse>) 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, 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.

Grant of License and Limitations, “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.

Scope and Waiver (Opt-Out), “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.

Scope and Waiver (Opt-Out), “will waive”: Not “may waive”. 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 exception-less 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.

Scope and Waiver (Opt-Out), “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.

Scope and Waiver (Opt-Out), “delay access”: 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.

Scope and Waiver (Opt-Out), “express”: An author must direct that a waiver be granted in a concrete way, but the term “express” is preferred to “written” in allowing, e.g., use of a web form for directing a waiver.

Scope and Waiver (Opt-Out), “direction”: This term replaced an earlier term “request” so as to make clear that the request cannot be denied.

Deposit of Articles, “author’s final version”: The author’s final 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 final version, and insofar as there are additional rights in the publisher’s definitive version beyond the author’s final version, that version would not fall within the license that the author grants.

Deposit of Articles, “no later than the date of its 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.

Deposit of Articles, “may make the article available”: The word “may” is used in a permissive sense. In some circumstances (e.g., retractions), an article may not be made available or may be archived without open accessibility. Authors may also opt to delay access to an article.

Deposit of Articles, “open access repository”: For IUPUI this will be IUPUIScholarWorks (<https://scholarworks.iupui.edu>).

Deposit of Articles, “reviewed”: Specifying a review makes clear that there will be a clear opportunity for adjusting the policy in light of any problems that may arise.