

Office/Contact: Office of Academic Affairs

Source: SDBOR Policy 4:34

Link: <https://www.sdbor.edu/policy/documents/4-34.pdf>

Associated Forms: [Addendum to Publication Agreement](#)

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Public Access Policy

NUMBER: 2:23

1. Purpose

This policy and its procedures provide for public access to Scholarly or Creative Works authored by University individuals pursuant to federally funded research or scholarship in accordance with applicable legal requirements and encourage deposit for public access for other Scholarly or Creative Works of University individuals.

2. Definitions

- a. Scholarly or Creative Works: Peer-reviewed or final published works and Associated Data, including works arising from federally funded research or scholarship.
- b. Associated Data: The final research data and metadata results associated with a Scholarly or Creative Work, including those arising from federally funded research or scholarship.
- c. Open Access: Online research outputs that are free of all restrictions on access and free of many restrictions on use (e.g. certain copyright and license restrictions).
- d. Public Access: Digital access to Scholarly or Creative Works that is made readily available without hardship to the reader.
- e. Publish: To make available publicly. Copyright protects “original works of authorship fixed in any tangible medium of expression.” Unpublished works are subject to U.S. Copyright protection and appropriate use; however, “Publish,” and variations of this word, such as “Publication” may alter the duration of U.S. Copyright protection for purposes of use.
- f. Institutional Repository: An online archive coordinated by the University for the management and dissemination of digital materials, including Scholarly or Creative Works, created by the University and its faculty members or other individuals.
- g. University Individuals: For the purpose of this policy, the term University Individuals refers to University employees and students.

3. Policy

- a. This policy applies to all Scholarly or Creative Works authored or co-authored by University individuals, including works pursuant to federally funded research or scholarship. For the purpose of this policy, Scholarly or Creative Works includes articles which describe the outcomes of an individual's federally funded research or scholarship given for the sake of inquiry and knowledge without expectation of payment.
- b. Scholarly or Creative works that have federal mandates will be handled differently than works which are not federally funded, as set forth in this policy.
- c. In accordance with SDBOR Policy 4:34, the SDBOR and University retain the intellectual property rights to make Public Access available for University individuals' Scholarly or Creative Works arising from research or scholarship funded by a duly approved agreement that requires Public Access. More specifically, the University is granted a nonexclusive, irrevocable, worldwide license to exercise any and all rights under copyright relating to each of their Scholarly or Creative Works, in any medium, and to authorize others to do the same, for compliance with such Public Access requirements.
- d. University individuals are responsible for, and shall cooperate with, the University in making their Scholarly or Creative Works arising from federally funded research or scholarship publicly accessible in accordance with University and SDBOR policies and procedures, as well as the applicable requirements of federal and state laws and regulations.
- e. The University encourages University individuals, as well as alumni or previous employees, to submit Scholarly or Creative Works arising from non-federally funded research for inclusion in the Institutional Repository for Public Access.
- f. University individuals should assert to retain rights to reproduce, distribute copies, and to create derivative works for each Scholarly or Creative Work, sufficient to satisfy the goals of this policy and as applicable to SDBOR Policy 4:34. University individuals should budget for expenses as necessary.
- g. The University individual authoring the Scholarly or Creative Work subject to Public Access requirements is responsible for contacting the Institutional Repository Coordinator, successor, or designee, the development of a data management plan, and provision of the Scholarly or Creative Work for Public Access in accordance with applicable Public Access requirements and this policy and its procedures.
- h. The Institutional Repository Coordinator, successor, or designee of the University Library is responsible for the establishment and management of a Public Access Institutional Repository, its guidelines and protocols, and assisting University individuals with gathering and uploading the Creative or Scholarly Work in accordance with applicable legal requirements.
- i. To assist with Public Access, University individuals must provide publication information and an electronic copy of all Scholarly or Creative Works within thirty (30) days of publication to the Institutional Repository Coordinator, successor, or designee.

- i. If the project is federally funded and has earlier Public Access requirements, the responsible awardee shall provide publication information to the Institutional Repository Coordinator, successor, or designee in accordance with such requirements.
- j. This policy does not mandate that University individuals only publish works in Open Access journals. The Institutional Repository Coordinator will assist scholars with publishing questions related to both Open Access and non-Open Access for works that are placed in the Institutional Repository.
- k. University individuals are responsible for contacting the A.V.P. for Technology Transfer and Commercialization, successor, or designee regarding technology transfer activities and their compliance with SDBOR Policy 4:34, as related to materials to be submitted in the Institutional Repository.
- l. The Institutional Repository Coordinator, successor, or designee is responsible for monitoring deposits into the Institutional Repository for their compliance with this policy and applicable legal requirements.
- m. The Division of Research and Economic Development is responsible for informing participants in federally funded research of public access requirements.
- n. The V.P. for Technology and Security, successor, or designee is responsible for providing technical assistance to the University individual author or Institutional Repository Coordinator with data management plans, as needed.

4. Procedures

- a. Deposits of Scholarly or Creative Works
 - i. The University Grants & Contracts Administration Office will notify the Institutional Repository Coordinator of awarded federally funded research and scholarship projects and the associated Public Access requirements.
 - ii. The University Grants & Contracts Administration Office will provide the Principal Investigator/Project Director of federally funded research and scholarship projects a copy of the terms & conditions which include any requirements for Public Access when a project account is established. It is the responsibility of the Principal Investigator/Project Director to read, understand, and fulfill the requirements.
 - iii. The V.P. for Technology and Security, successor, or designee will provide technical assistance to the University individual author or the Institutional Repository Coordinator with data management plans, as needed.
 - iv. The University Grants and Contracts Administration Office will notify the Principal Investigator/Project Director and Institutional Repository Coordinator of Public Access requirements as part of project close-out procedures.
 - v. Responsible awardees will submit the Scholarly or Creative Works arising from federally funded projects to the Institutional Repository Coordinator for Public

Access in the Institutional Repository not later than in accordance with the timeliness requirement of the applicable federal funding agency and this policy. The Institutional Repository Coordinator may work with the responsible awardee so that they may upload the Scholarly or Creative Works for Public Access in accordance with approved data management plans and copyright licenses.

- vi. Responsible awardees will ensure that any publication agreements license the publication to the University for Public Access and provide the Institutional Repository Coordinator a copy of the license allowing the University to provide Public Access. The Institutional Repository Coordinator, University Counsel, or designees will assist the awardee in obtaining this license as needed.
- vii. To avoid a conflicting transfer of copyright to the publisher and to enable protection from breach of contract, University individuals may attach an *Addendum to Publication Agreement* to the publication agreement. The addendum is specifically designed to deal with the prior license granted to the University. Even without the attachment of the addendum, the license to the University will still have force unless it is waived for a particular article.

b. Deposits of Non-Federally Funded Scholarly or Creative Works

- i. University individuals who wish to make their University related Scholarly or Creative Works available in the Institutional Repository may contact the Institutional Repository Coordinator, successor, or designee for inclusion in the Repository.
- ii. The University individual will provide the Institutional Repository Coordinator with a copy of the license allowing the University to provide Public Access at the time the Scholarly or Creative Works are submitted for Public Access. The Institutional Repository Coordinator, University Counsel, or designees will assist the awardee in obtaining this license as needed.
- iii. The V.P. for Technology and Security, successor, or designee will provide technical assistance to the University individual or the Institutional Repository Coordinator with data management plans, as needed.

c. University owned publications

- i. The Institutional Repository Coordinator will make University owned publications available in the Institutional Repository in accordance with appropriate archival, data management, and other University policies and procedures.

5. Responsible Administrator

The Provost and Executive V.P. for Academic Affairs, successor, or designee is responsible for biennial and ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy and its procedures.

SOURCE: Approved by President on 04/05/2016.