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# Public Act 098-0295 or the "Open Access to Research Articles Act" Findings and Recommendations

Open Access Task Force

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# ***Governors State***

## **U N I V E R S I T Y**

**Public Act 098-0295 or the "Open Access to Research Articles Act"  
Findings and Recommendations**

**Governors State University  
Open Access Task Force  
1 University Parkway  
University Park, IL**

December 5, 2014

## **Task Force Roster**

### Chairs

Deborah Bordelon, Provost and Vice President for Academic Affairs

Lydia Morrow Ruetten, Dean of the Library

### Members

Elizabeth Cada, College of Health and Human Services Dean, and Dean of Graduate Studies

Carlos Ferran, Associate Professor of Management Information Systems

David Golland, Assistant Professor of History

Walter Henne, Assistant Professor of Chemistry

Michael D. Springer, Senior Vice President of Business and Publishing, American Dental Association

## **Background**

Public Act 098-0295 or the "Open Access to Research Articles Act" requires that the Governors State University (along with all public universities in Illinois) establish a Task Force to design a proposed policy regarding open access for the scholarly articles produced at the University. The Act specifies a number of issues that the Task Force must consider when recommending such a policy. The Task Force must be put in place by January 2014, and the final report must be issued by January 2015.

On December 6, 2013, the Governors State University (GSU) Board of Trustees approved Resolution 14-13: Appointment of a University Task Force for Open Access Legislation, Public Act 098-0295, appointing the members listed above to the Task Force.

The Task Force met five times during 2014 and held two open forums. All meetings were open to the public in accordance with the Open Meetings Act. The first public forum on September 22<sup>nd</sup> was a presentation by a Northern Illinois University faculty member on "Open Access: What & How in a Nutshell." The second public forum was held October 2<sup>nd</sup>.

The Task Force established a presence on the [GSU Office of the Provost's website](#) which included a schedule of meetings, agendas and minutes, open forum announcements as well as open access resources. In addition, a portal team site (internal to GSU) was established to provide a place for faculty to post their concerns and/or questions, and also review the latest draft of the Open Access Policy for GSU. This site also contained the Open Access presentation and slides from the September 22<sup>nd</sup> forum.

A draft Open Access policy was presented to the GSU Faculty Senate, GSU Educational Policies committee, GSU Graduate Council, GSU Deans and Provost's Council. The draft was also posted in the GSU Portal for all faculty to review and provide feedback.

The GSU Educational Policies committee reviewed and made minor changes to the policy. The policy passed at their October 23<sup>rd</sup> meeting. This policy was later adopted by the GSU Faculty Senate at their November 20<sup>th</sup> meeting.

### **Summary of Task Force Open Access Recommendations**

The GSU Open Access Task force addressed each of the ten required areas in their deliberations:

#### **(1) The question of how to preserve the academic freedom of scholars to publish as they wish while still providing public access to research.**

According to the GSU/UPI 2013-2016 Agreement, Academic Freedom is defined in the following manner:

#### **ACADEMIC FREEDOM**

As members of the community, the faculty have rights and obligations. When they speak or write as citizens, they are free from institutional censorship or discipline, but their special positions in the community impose obligations which should be evaluated in the light of responsibilities to their disciplines, to their students, to their profession and to the University. Engaged in a profession that depends upon freedom for its health and integrity, faculty have an obligation to promote conditions of free inquiry. The protections of academic freedom together with academic responsibility apply to all persons associated with the University who exercise teaching and/or other professional responsibilities.

Governors State University shall operate under the following principles of academic freedom and responsibility. The primary purpose of this statement is to promote public understanding and support of academic freedom and tenure, and to outline agreed-upon procedures to assure them at Governors State University.

Academic freedom is essential to the mission of the University and applies to teaching, research, and service. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the faculty member in teaching and of the student in learning. It carries with it duties correlative with rights and responsibilities.

1. The faculty member is entitled to full freedom in research and the publication of results.
2. The faculty member is entitled to freedom in the classroom in discussing his/her discipline.
3. The College or University faculty member is a member of a learned profession, and an officer of an educational institution. When she/he speaks or writes as a citizen, she/he shall be free from institutional censorship or discipline as related to the scope of his/her teaching, research, and service.
4. University faculty shall not be retaliated against on the basis of political activity, political party membership, Union activity, religious affiliation, gender, age, race, disability, sexual orientation or gender identity.

The faculty members are dedicated to making their scholarship available to the people of Illinois and the world. In order to preserve the academic freedom of the faculty, the GSU Open Access Policy provides that a faculty member, without interference by any other party, may notify the Office of the Provost that they want to opt-out of having an article placed in the institutional repository, BePress Digital Commons. GSU will waive the license for a particular article or delay/embargo access to the article. Faculty members wishing to opt-out must provide a citation for each work, which will be placed in the BePress Digital Commons. The opt-out option is not available when external funding sources mandate publication in an open access venue.

**(2) The design of a copyright policy that meets the needs of the public as well as of authors and publishers.**

Under the GSU Open Access Policy, each faculty member grants to Governors State 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, and to authorize others to do the same, for the purpose of making their articles widely and freely available in an open access repository, unless the faculty author chooses to opt out. The GSU Open Access Policy does not transfer copyright ownership, which remains with faculty authors under existing Governors State University policy.

This section of the policy was developed based on the Budapest Open Access Initiative. If faculty authors post their preprint articles in the university's BePress Digital Commons, there is no violation of copyright. If the preprint is accepted for publication at a later date in a journal that requires authors to transfer copyright to the publisher, then the journal may or may not give permission for the refereed postprint to be posted to an open access archive. There are no copyright issues if permission is granted by the publishing journal. If the publishing journal denies permission for the postprint, then the author's preprint may remain in the BePress Digital Commons. Preprint copyright would remain with the author because the preprint is different from the final print or postprint.

Open access journals will either let authors retain copyright or ask authors to transfer copyright to the publisher. In either case, the copyright holder will consent to open access for the published work. When the publisher holds the copyright, it will consent to open access directly. When authors hold the copyright, they will insure open access by signing a license to the publisher authorizing open access. Publishers of open-access journals will have such licenses already prepared for authors.

(Based on the [Budapest Open Access Initiative: Frequently Asked Question](#))

### **(3) The design of reporting, oversight, and enforcement mechanisms.**

The Provost and the Open Access Committee will be jointly responsible for implementing this Policy, resolving disputes concerning its interpretation and application and recommending any modifications. An Open Access Policies Committee appointed jointly by the Provost and Faculty Senate will be established to develop mechanisms that would render implementation and compliance with the Policy consistent with the public purposes and as convenient as possible for GSU faculty members. The Open Access Policies Committee will consist of five members: one representative from each academic college and one representative from the University Library. The Provost, in direct consultation with the Educational Policies Committee of the Faculty Senate and the Open Access Policies Committee, will review the Open Access Policy every three years.

### **(4) The cost of maintaining and, where applicable, creating institutional repositories.**

The cost of startup for GSU this past year to implement a new institutional repository was over \$26,000 for the platform and training. The renewal of the annual license is expected to be just under \$20,000. These costs do not include portions of salaries for a full professor and two civil service staff members who are responsible for its implementation. Over time, the amount of staff support needed should diminish as policies and procedures are in place.

The Task Force recommends that funds be allocated through state appropriations to support the annual cost (\$75,000) of maintaining our institutional repository.

### **(5) The potential for collaboration between public universities regarding the use and maintenance of repositories.**

Many of the public universities maintain individual institutional repositories. A considerable part of the cost of maintaining these repositories is redundant. Furthermore, the individual flow of work might be below optimal levels and economies of scale could be gained if several public universities were to consolidate their efforts and work together. The Council of Directors of State University Libraries of Illinois (CODSULI) is an existing mechanism that exists in which the public universities would be able to collaborate.

The Task Force recommends that in the mid-term the repository is moved to CODSULI or other university consortium in order to reduce as much as possible the comprehensive cost that this initiative will have for the State of Illinois.

**(6) The potential use of existing scholarly repositories.**

The prior repository available to GSU was not appropriate for this purpose; thus, BePress Digital Commons was needed to handle this requirement. However, BePress Digital Commons could also be leveraged to keep more than just the work done by our faculty and thus become one more useful tool for the preservation and dissemination of all scholarly work at GSU.

**(7) The fiscal feasibility and benefits and drawbacks to researchers of institutional support for Gold Open Access fees.**

GSU recognizes the importance of the publishers' role in the publication process. Gold Open Access fees could be a way to allow publishers to still profit from their role while allowing public free access to the knowledge developed inside public institutions. However, at this stage those fees are very high and vary widely from publisher to publisher without a clear reason for such variations. A model of cost plus a percentage for profit might solve such a problem but the industry is not there yet. The total cost for the State to fund these fees would be very high and most probably not all articles would be covered raising the inevitable question of why one should be covered and not the other. At this point we believe those funds could be better used for other educational needs and maybe this issue could be raised again when the Gold Open Access fees are more homogeneous across publishers.

**(8) The differences between academic and publishing practices in different fields and the manner in which these differences should be reflected in an open access policy.**

The Policy applies to all scholarly articles authored as the primary author (corresponding author of record) while the person is a GSU faculty member except for any articles published before the effective date of this Policy and any articles for which the member entered into an incompatible licensing or assignment agreement before the effective date of this Policy.

Researchers covered under typical open access policies are defined as those faculty authoring articles that describe works that are presented to the world in peer-reviewed scholarly journals and conference proceedings for the sake of inquiry subject to peer review and validation. Research results are often time sensitive and important to human health. For instance, the National Institutes of Health (NIH) mandate open access for authors receiving research funding.

Under the Budapest Guidelines adopted at all institutions evaluated, faculty producing articles of fiction and poetry, encyclopedia entries, ephemeral writings, lecture note and lecture videos are not encompassed under this notion of scholarly article for the sake of an open access policy. This classification is not meant to denigrate or diminish the impact of such writings. Rather, these scholarly products are generated as part of separate publishing or distribution

mechanisms that function in different ways and whose shortcomings, if any, the present Policy does not and is not meant to address.

**(9) The determination of which version of a research article should be made publicly accessible.**

Careful consideration was given to the appropriate version of article provided for inclusion in an open access repository based on prevailing open access policies, common language and consultation with the publisher representative on the committee. The norm at other institutions is to include the author's final version of the article (i.e., the author's manuscript with changes identified as a result of the peer-review process) prior to publisher's copy-editing or formatting (e.g., page proof). For instance, Harvard delineates this document as, "almost identical to the published version of the paper manuscript but typically treated differently than the published version for purposes of licensing and copyright."

**(10) The determination of which researchers and which research ought to be covered by an open access policy.**

The Task Force's decision was based on careful consideration of guidelines and best practices adopted nationwide (e.g., University of California system, Massachusetts Institute of Technology and Harvard University) and outlined in the globally recognized Budapest Open Access Initiative. An integral part of the construction of our Open Access Policy involved the adoption of common language from these three sources for use in our GSU community. Researchers covered under typical open access policies are defined as those faculty authoring articles that describe works that are presented to the world in peer-reviewed scholarly journals and conference proceedings for the sake of inquiry subject to peer review and validation. Research results are often time sensitive and important to human health. For instance, the National Institutes of Health (NIH) mandate open access for authors receiving research funding. Under the Budapest Guidelines adopted at all institutions evaluated, faculty producing articles of fiction and poetry, encyclopedia entries, ephemeral writings, lecture notes and lecture videos are not encompassed under this notion of scholarly article for the sake of an open access policy. This classification is not meant to denigrate or diminish the impact of such writings. Rather, these scholarly products are generated as part of separate publishing or distribution mechanisms that function in different ways and whose shortcomings, if any, the present Policy does not and is not meant to address.



**Governors State University**  
**University Park, IL**  
**Open Access Policy ["Policy"]**  
**Effective January 1, 2015**

I. Purpose (IL Public Act 098-0295)

Governors State University (GSU or the "University") is committed to disseminating its research and scholarship as widely as possible. As part of a public university system, GSU faculty members are dedicated to making their scholarship available to the people of Illinois and the world. Furthermore, GSU faculty members recognize the benefits that accrue to themselves as individual scholars and to the scholarly enterprise from such wide dissemination, including greater recognition, more thorough review, consideration and critique and a general increase in scientific, scholarly and critical knowledge. GSU faculty further recognizes that by this Policy, and with the assistance of the University, they can more easily and collectively reserve rights that might otherwise be signed away, often unnecessarily, in agreements with publishers.

II. Grant of License and Limitations

Each Faculty member grants to Governors State 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, and to authorize others to do the same, for the purpose of making their articles widely and freely available in an open access repository, except as stated in Section III. This Policy does not transfer copyright ownership, which remains with faculty authors under existing Governors State University policy.

III. Scope and Waiver (Opt-Out)

- A. Based upon the Budapest Open Access Initiative guidelines (2002) and for the purpose of this Policy, faculty scholarly articles are defined as 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. Many of the written products of faculty effort, including by not limited to books, popular articles, commissioned articles, fiction and poetry, encyclopedia entries, ephemeral writings, lecture notes, lecture videos or other copyrighted works are not encompassed under this notion of scholarly article as used in this Policy. This classification is not meant to denigrate or diminish the impact of such writings. Rather, these scholarly products are generated as part of separate publishing or distribution mechanisms that function in different ways

and whose shortcomings, if any, the present Policy does not and is not meant to address.

- B. The Policy applies to all scholarly articles authored as the primary author (corresponding author of record) while the person is a GSU faculty member except for any articles published before the effective date of this Policy and any articles for which the member entered into an incompatible licensing or assignment agreement before the effective date of this Policy. Upon express direction by the faculty member without interference by any other party, GSU will waive the license for a particular article or delay/embargo access to the article. This request should be made to the Office of the Provost. The opt-out option is not available when external funding sources mandate publication in an open access venue. This opt-out policy is meant to provide the utmost flexibility for faculty scholarly pursuits.
- C. Faculty members wishing to opt-out must provide a citation for each work.
- D. After acceptance of an article, the faculty member will contact the Office of the Provost to determine appropriate processes for meeting the requirements of this policy.

#### IV. Deposit of Articles

- A. To assist GSU in disseminating and archiving the articles, faculty commit to helping obtain copies of their articles. Specifically, each faculty member who does not choose to opt-out will provide an electronic copy of his or her final version of the article to GSU for inclusion in an open access repository. When appropriate, a faculty member may instead notify GSU through the Office of the Provost if the article will be freely available in another repository or as an open-access publication. Faculty members who have chosen to opt-out may nonetheless deposit a copy with GSU or elsewhere for archival purposes.
- B. Notwithstanding the above, this Policy does not in any way prescribe or limit the venue of publication. This Policy neither requires nor prohibits the payment of fees or publication costs by authors. Whenever possible and contingent upon funding, GSU will provide support for publishing costs for open access journals or journals with an open access publishing option. Providing or not providing such funding cannot be interpreted as a form of value judgment in regards to the article, author or publication outlet. This Policy section is consistent with the recommendations set forth by COPE (Compact for Open Access Publishing Equity).

#### V. Oversight of Policy

This is a policy of the Governors State University Board of Trustees. Any

alterations or amendments of the Policy will require approval by the GSU Board of Trustees. The Provost and the Open Access Committee will be jointly responsible for implementing this Policy, resolving disputes concerning its interpretation and application and recommending any modifications. An Open Access Policies Committee appointed jointly by the Provost and Faculty Senate will be established to develop mechanisms that would render implementation and compliance with the Policy consistent with the public purposes stated above and as convenient as possible for GSU faculty members. The Open Access Policies Committee will consist of five members: one representative from each academic college and one representative from the University Library. The Provost, in direct consultation with the Educational Policies Committee of the Faculty Senate and the Open Access Policies Committee, will review the Policy every three years.

This Policy is indebted in part to authorship policies from the: University of California, Harvard University, Budapest Open Access Initiative and COPE, the Compact for Open-Access Publishing Equity.

Minority Report

Submitted in response to the

Report of the Governors State University Open Access Task Force

November 13, 2014

Submitted by non-voting member of the Task Force

Michael D. Springer, Senior Vice President, Business and Publishing, American Dental Association, Chicago, Illinois

As a member of the Governors State University Open Access Task Force (GSUOATF), I appreciate having been part of the GSUOATF Report (Report) development process and being able to provide additional perspective and feedback during the task force deliberations. Throughout, proceedings were conducted with the highest level of professionalism and collegiality. While many of the issues or concerns that were raised were addressed in the final Report, there are still a number that were not adequately and/or consistently addressed, and I wish to raise those issues and concerns formally for consideration by the recipients of the full report. I believe that this is consistent with the intentions of the Open Access to Research Articles Act and the goals of the legislature to have full consideration of the issues involved in policies that impact scholarly communication.

The publishing industry strongly supports the report's attention to protecting the principles of academic freedom and faculty members' ability to publish in the venues of their choosing without interference. In my opinion, such a position suggests an opt-in policy. However, the recommendation laid out in the report (Section II: "Each Faculty member grants to Governors State University a nonexclusive, irrevocable license for the purpose of making their articles widely and freely available in an open access repository, except as stated in Section III") focuses on the GSU faculty granting the University a license by default, thus establishing an opt-out policy. Opt-out policies that mandate assignment of a non-exclusive license to exercise any and all rights of copyright to an author's institution, especially when that license authorizes others to do the same, are not consistent the principles of academic freedom and the faculty member's right to choose a publication venue. Further, the license mandate necessitates inclusion of a license waiver option for faculty members in order for them to publish with the full range of potential publishers and journal options. Needing to obtain a waiver adds an administrative burden to faculty authors and is a hurdle to faculty members wishing to publish with their journal of choice if a waiver is necessary. Beyond serving as a barrier, the waiver requirement is even likely to serve as a deterrent against publishing in certain journals. Academic freedom and faculty member choice about publication venue are best preserved through an opt-in policy that minimizes administrative burden to the faculty and that does not introduce *any* constraints around their right to publish in the journal(s) of their choice. An opt-in OA policy can effectively meet the needs of the faculty of GSU and its commitment to disseminating its research and scholarship as widely as possible, without infringing on academic freedom or author choice.

I also strongly support the concept of flexibility in methods of obtaining open access, including, in particular, Gold OA, where funding for access is specifically provided to ensure long-term free access and the viability of high-quality publishing. However, the report is somewhat vague on this point. Section IV.B. reads, "Whenever possible *and contingent upon funding* (italics mine), GSU will provide support for publishing costs for open access journals or journals with an open access publishing option." The lack of clear intention by GSU to support faculty's use of Gold OA publications suggests a strong bias in favor of Green OA—and only one type of Green OA at that, author self-archiving through an institutional repository (IR)—without giving equal consideration to other viable open access options for University faculty. In terms of promoting access, Gold OA has the distinct advantage of rendering an article fully open access

immediately upon its publication, worldwide and permanently, with access directly to the article version of record. It also has the advantage of ensuring the sustainability of high-quality publishing by having the costs of publishing, dissemination, and preservation built-in up front. While the University may not wish to establish a source of institutional financial support for payment for author processing charges (APCs), it could state its support of Gold OA as a viable OA option for faculty without bias. The institutional preference to post in the IR over other OA options also has the potential to infringe on academic freedom. With the goal of disseminating GSU research and scholarship as widely as possible, it seems essential to promote the full range of open access options available to faculty authors for their articles, e.g., Gold OA through APCs, access through CHORUS, delayed open archive, as well as Green OA access through agency or disciplinary repositories or an institutional repository.

One of the roles we played as publisher representative members on the GSUOATF was to help ensure recognition of the valuable role that publishers play in the scholarly communication ecosystem. This includes identifying opportunities to work with publishers to develop and implement open access publication options that leverage a range of OA publishing options and existing infrastructure, tools, and services to reduce duplication of effort and costs. I had shared information about CHORUS, an initiative launched this year to deliver public access to research articles reporting on US funded research, which is likely to represent a proportion of articles published by the faculty across the University. Since CHORUS leverages publishers' existing infrastructure and supports federal agency search portals, the report could reflect the collaboration opportunity with CHORUS, which would not result in any new costs to the campuses, unlike an expansion of the institutional repository.

I also saw my role on the Task Force to include ensuring that a new policy doesn't undermine the important partnership between GSU faculty member authors and their publishers. I was therefore disappointed to see the Purpose (Section I) introduce a distinct anti-publisher bias by suggesting that GSU faculty "can more easily and collectively reserve rights that might otherwise be signed away, often unnecessarily, in agreements with publishers." While the Task Force did not originate this particular phrase, borrowing it from another institution with an overt anti-publisher bias, the inclusion of this perspective did not at all reflect the otherwise open and collegial interactions I had with the Task Force members.

Again, I want to express my appreciation for the opportunity to serve on the GSUOATF and for consideration of the publishing industry's perspective. I am committed to continuing to help GSU in its development of an institutional OA policy and remain available for discussion and participation on University OA committees in the future.