How Open Access Policies Affect Access to Grey Literature in University Digital Repositories

A Case Study of iSchools

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Institutional Repositories and Open Access

- **Barriers** associated with traditional compilations of journal articles from commercial publishers are absent
  - **Embargo** period may apply → → → → → → **dark archive**
- OA applies to publications **traditional** (scholarly articles, proceedings, etc.) and **non-traditional** (grey literature)
- Access to content in university digital repository often managed with **OA policy**
- Other policies may be extent: **Copyright Policy**, **Institutional Repository** (IR) **Policy** and guidelines on rights retention (repository, subsequent teaching and personal website)

Research Question and Methodology

- **RQ:** What are **best practices:** Institutional OA policies (copyright ownership and access) regarding literatures, including grey works, in university digital repositories?
- **Case study** of OA policies at iSchools
- **Sample** of 5 policies:
  - Tomas A. Lipinski and Katie Chamberlain Kritikos, Legal and Ethical Implications of Licenses Between LIS Open Access Journal Publishers and Authors, 9th Qualitative and Quantitative Methods in Libraries International Conference (QQML2017), May 23-26 May, 2017, Limerick, Ireland
  - Cross-reference 2017 edition of *U.S. News and World Reports* top 25 LIS programs with list of iSchools in North America and OA Institutional Policies
    - http://ischools.org/regions/north-american-ischools/north-american-directory/

Case Study & Sample

iSchool	Location	U.S. News 2017 Rank	OA Policy	Institutional Repository
University of Illinois at Urbana-Champaign	Champaign-Urbana, IL	1	Yes, 5/14/2016	Illinois Digital Environment for Access to Learning and Scholarship (IDEALS)
University of Washington	Seattle, WA	2	Proposed draft, 6/1/2016	ResearchWorks Archive
University of North Carolina-Chapel Hill	Chapel Hill, NC	3	Yes, 5/13/2016	Carolina Digital Repository
Syracuse University	Syracuse, NY	4	No, info about OA only	Syracuse University Research Facility and Collaborative Environment (SURFACE)
University of Michigan-Ann Arbor	Ann Arbor, MI	5	No, info about OA only	Deep Blue
University of Texas-Austin	Austin, TX	6	Yes, 10/31/2016	Texas ScholarWorks
Rutgers, The State University of New Jersey-New Brunswick	New Brunswick, NJ	7	Yes, 10/29/2014	Scholarly Open Access at Rutgers (SOAR); RUCore
University of Maryland-College Park	College Park, MD	8	No, info about OA only	DRUM
Indiana University-Bloomington	Bloomington, IN	9	Yes, n.d.	IUScholarWorks Repository
University of Pittsburgh	Pittsburgh, PA	10	Proposed draft, 9/13/2013	D-Scholarship@Pitt

Data Collection & Analysis

- **Green**, **Gold**, **Bronze** and **Black**…and shades in between.
- **Variables** (clusters) derived from Harvard Open Access Project's "Good Practices for University Open-Access Policies" (Shieber and Suber, 2017)
  - **Administrative**: goal/mission, responsibility, application (must or may, opt-out, embargo)
  - **Rights**: copyright "ownership"/holdership, rights granted, assignable, open licenses (Creative Commons)
  - **Works**: deposit version, timing (when to deposit), included and excluded
  - Variables **added**: student works and exclusions (conflicting license)

Findings: Policy Elements

- **Goal/Mission**: disseminate scholarship / perpetual access
- **Responsibility**: Provost/VPAA (2) and library (2), IU: library? (library retains powers to remove content)
- **Policy Application**: mandatory, opt-out allowed except IU; embargo allowed (“specified time” or “reasonable time” or up to 5 years at IU)
- Non-exclusive **rights** to the institution
- **Assignable** by institution: (UI, UT and IU?)
- **Open license**: UI (OA or link to publisher site) and IU (“may consider” Creative Commons)

Findings: Policy Elements

- **Works included** (operates as an exclusion by narrowly defining included works): Limited to “scholarly: or “peer-reviewed” articles (except IU); conference proceedings included: UT and Rutgers
- **Student works** included: Rutgers and IU, UI via General Rules
- **Version**: final, post peer-review except (IU)
  - IU: “submitted versions (as sent to journals for peer-review”) “Accepted versions (Author’s final peer-reviewed drafts)” and “Published versions (publisher-created files)”
- **Timing of deposit**: not indicated (UI and UNC), no later than publication date (UT and Rutgers), all versions (IU)

Findings: Policy Elements

- Works **Excluded** (not excluded by OA Policy but by IR Policy
  - Incompatible **license agreement entered** pre OA Policy adoption
  - **Classroom** or **pedagogical** materials (UNC, Rutgers)
  - **Books** (UNC, UT, Rutgers) and Book **Chapters** (UT)
  - Conference **Posters** (UT)
  - **General scholarly repository** (UT)
  - **Dynamic** resources (IU)
  - **Unlawful** content (IU)
  - Illinois per General Rules: articles “that fall **outside the scope**” where the copyright holder is not the faculty or student author

Who Holds the Copyright?

- **Statutory**: Work Made for Hire, 17 U.S.C. § 101
  - 17 U.S.C. § 204(a): signed, written transfer requires identification of the work
  - General policy insufficient: *Manning v. Board of Trustees of Community College District No. 505 (Parkland College)*, 109 F.Supp.2d 976 (C.D. Ill. 2000)
- **Case law**: *Hays v. Sony Corporation of America*, 847 F.2d 412 (7th Cir. 1988)
- Separate **Copyright/IP Policy**: copyright to scholar
  - UI is the only institution that references its Copyright Policy in its OA Policy!!!
- Authors alerted to **copyright issues** with publication: scholarly communications site (CIC/BTAA or SPARC Author Addendum)

Conclusion

- Except IU there is ***bifurcation*** of **OA** and institutional **repository** policies
- Except for UI the OA policies reviewed place **copyright** with the author-scholar, but the derivation of that right is not indicated, nor is information regarding **retention** of copyright during the publication process included
- General inclusion consistent/exclusion less consistent
  - Inclusion of **student authors** inconsistent
  - Inclusion of peer-reviewed **proceedings** inconsistent
- **Embargo** allowed and **waiver** granted

Recommendations: Best Practices

- Connect OA Policy with broader **institutional repository policies**
- OA Policy and **copyright**
  - Include **author rights awareness** (CIC/BTAA or SPARC Author Addendum)
  - Reference **Copyright/IP Policy**
- Consider making **scholarly repository policy** mandatory for certain literatures, especially grey works: working/white papers, reports, proceedings if not in OA repository, and of course ETDs
- Consider **Gold OA** as discipline and campus culture allow
- Next Step: analysis of university OA repository EULAs or use of CC….TBD

Thank You!

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