

# The Right To Deposit (R2D)

Uniform Guidance to Ensure Author  
Compliance and Public Access

*Co-organized by:*

University of California  
Authors Alliance

*Co-sponsored by:*

Association of Southeastern Research Libraries (ASERL)  
Big Ten Academic Alliance (BTAA)  
HBCU Library Alliance  
Ivy Plus Libraries Confederation  
Statewide California Electronic Library Consortium (SCELC)  
Texas Digital Library (TDL)



# Setting the scene

Günter Waibel, California Digital Library

Dave Hansen, Authors Alliance

# Navigating the legal landscape: The Author's journey

Rich Schneider, UC San Francisco



Authors encounter an overwhelming amount of jargon, directives, rules, terminology, choices, options, and ever-changing conditions when trying to publish....





This is all secondary to the author's primary concern which is producing the best manuscript, surviving peer review, and getting accepted into the right journal.





Often, the publication process is so onerous and time-consuming that authors cannot think about anything else beyond getting a work accepted.



# Authors must make many choices and have to answer lots of questions on their journey...

- ❖ Should I post a pre-print of my work before peer-review?
- ❖ What factors should I weigh when deciding where to publish?
- ❖ Should I make my article subscription or open access?
- ❖ What happens when I transfer copyright to the publisher or assign a Creative Commons license to my work (and which license??!!)?

# Authors must make many choices and have to answer lots of questions on their journey...

- ❖ Do I have “Institutional Policies” with which I must comply?
- ❖ Do I have “Funder Mandates” with which I must comply?
- ❖ What happens if multiple funders supported my work and/or my co-authors?
- ❖ What does my publisher require me to do?
- ❖ What if the publisher’s agreement contains language that contradicts what I think I am supposed to do at my institution and/or for my funder?

*(Hint: most authors don’t even read their publication agreements!)*



# Authors must make many choices and have to answer lots of questions on their journey...

- ❖ Do I have to deposit my work in an institutional repository, a federal repository, or both, and how do I do this?
- ❖ What am I supposed to do, or can I do, with my Author's Accepted Manuscript (AAM) versus the Version of Record (VOR)?
- ❖ Does any of this change when I choose an open access or subscription journal?
- ❖ What happens if I fail to comply with the rules and terms set by my institution, funder, and/or publisher?



## Open Access Policy for the Academic Senate of the University of California Adopted 7/24/2013

### Preamble

The Faculty of the University of California is committed to disseminating its research and scholarship as widely as possible. In particular, as part of a public university system, the Faculty is dedicated to making its scholarship available to the people of California and the world. Furthermore, the Faculty recognizes 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. Faculty further recognize 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. In keeping with these considerations, and for the primary purpose of making our scholarly articles widely and freely accessible, the Faculty adopts the following policy:

### Grant of License and Limitations

Each Faculty member grants to the University of California 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. Any other systematic uses of the licensed articles by the University of California must be approved by the Academic Senate. This policy does not transfer copyright ownership, which remains with Faculty authors under existing University of California policy.

### 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 published 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. Upon express direction by a Faculty member, the University of California will waive the license for a particular article or delay access to the article for a specified period of time.

### Deposit of Articles

To assist the University in disseminating and archiving the articles, Faculty commit to helping the University obtain copies of the articles. Specifically, each Faculty member who does not permanently waive the license above will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication, for inclusion in an open access repository. When appropriate, a Faculty member may instead notify the University of California if

the article will be freely available in another repository or as an open-access publication. Faculty members who have permanently waived the license may nonetheless deposit a copy with the University of California or elsewhere for archival purposes.

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.

### Oversight of Policy

The Academic Senate and the University of California will be jointly responsible for implementing this policy, resolving disputes concerning its interpretation and application, and recommending any changes to the Faculty. Any changes to the text of this policy will require approval by both the Academic Senate and the University of California. The Academic Senate and the University of California will review the policy within three years, and present a report to the Faculty and the University of California.

The Faculty calls upon the Academic Senate and the University of California to develop and monitor mechanisms that would render implementation and compliance with the policy as convenient for the Faculty as possible.



## Open Access Policy for the Academic Senate of the University of California Adopted 7/24/2013

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When the Faculty member exercises his or her systematic decision to deposit his or her scholarly articles, the adoption of this policy. Upon express direction by a Faculty member, the University of California will waive the license for a particular article or delay access to the article for a specified period of time.

### Deposit of Articles

To assist the University in disseminating and archiving the articles, Faculty commit to helping the University obtain copies of the articles. Specifically, each Faculty member who does not permanently waive the license above will provide an electronic copy of his or her final version of the article to the University of California by the date of its publication, for inclusion in an open access repository. When appropriate, a Faculty member may instead notify the University of California if

Guidance from my Institution: grant a non-exclusive license and deposit my article.

# For Authors

PubMed Central (PMC) is a full-text open archive of journal articles as well as a repository for papers supported by designated funding organizations. This page aims to help authors determine whether their paper is eligible for submission to PMC, how it may be deposited, and by whom.



## Determining Eligibility

Your paper may be included in PubMed Central (PMC) if

- You published in a journal that is fully archived in PMC;
- You made open access arrangements with a PMC selective deposit journal or publisher program; or
- Your article was
  - supported by the National Institutes of Health (NIH), another PMC designated funder, or a member of the Europe PMC funder group;
  - peer reviewed; and
  - accepted for publication in a journal.

### NIH Preprint Pilot

As of June 2020, PMC also includes preprints that report NIH-funded research results. To learn more, see [NIH Preprint Pilot](#).

Screenshot

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### RELATED LINKS

[Funders and PMC](#)

[Journal List](#)

[Author Manuscripts in PMC](#)

[NIHMS](#)

[NIH Preprint Pilot](#)

[NIH Public Access Compliance](#)

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## Determining Submission Method

Content is archived in PMC in a standardized XML format. Publisher versions of journal articles are deposited directly by the journal or publisher data provider to PMC. These submissions are already in XML format and standardized when loaded to the PMC database. No author action is required.

Accepted author manuscripts (AAMs) are generally deposited through the NIH Manuscript Submission (NIHM) system. (AAMs supported by members of the Europe PMC Funders Group are submitted through Europe PMC Plus.) AAM submissions undergo conversion to XML format for inclusion in PMC. Author review and approval is required for all AAM submissions.

To figure out which way your paper will be added, follow these steps. You only need to continue to the next step if your paper does not meet the criteria outlined in the previous step.

### Step 1: Check the Journal List

To find out if a journal submits the publisher version directly to PMC, see the [Journal List](#). Journals that submit their complete contents to PMC will have a status of **Full**. Journals that deposit only NIH-supported articles to PMC are listed with an **NIH Portfolio** status.



#### Tips for Funded Authors

- If a journal is listed as NIH Portfolio and your paper was not supported by NIH, proceed to Step 2.
- If a journal is listed as Full but has a default embargo period that does not comply with your funder's policy, you may want to send a request to the journal to modify the embargo for your particular article.
- Always keep in mind your funder's requirements when reviewing a publisher agreement so you can retain the necessary rights and make arrangements for a compliant deposit in PMC.

Guidance from my Funder: deposit my article but negotiate with publisher for rights.

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Guidance from my Publisher: grant them all rights exclusively!



# AUTHORS NEED HELP!!



Authors want to do the right thing but often face mixed, confusing, and contradictory messages....

Thus, authors need:

1. Uniform and mutually aligned guidance from institutions, funders, and publishers.
2. Simple, convenient, and integrated systems for supporting author compliance with policies.
3. Minimal changes in workflow and fewer burdens. *Let authors focus on research.*
4. Auto-deposit of manuscripts by publishers into a common “clearing-house” that funders and institutions can harvest for repositories.
5. The unfettered ability to share their work widely as well and read and re-use the work of others for accelerating research and advancing the public good. *Publications are data.*
6. Clear language that protects authors from legal exposure. *Federally-funded authors shall only grant non-exclusive rights to publishers.*



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Solutions should be easy and occur within existing author workflows....

# Navigating the legal landscape: Why institutional interventions and open access policies aren't enough

Katie Fortney, California Digital Library

Katie Zimmerman, MIT Libraries



# Author rights: no institutional OA policy



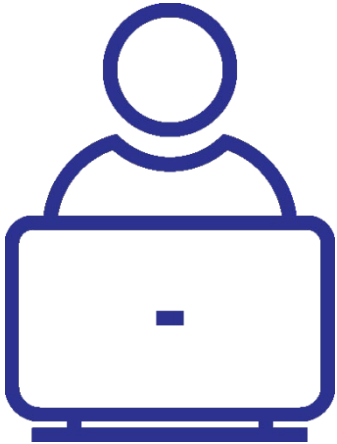


# Author rights: no institutional OA policy





UNIVERSITY  
OF  
CALIFORNIA



Author rights:  
with OA policy



# Author rights: with OA policy





# Potential negotiated protections in publisher contracts

- Agreements that authors will not be asked to waive an institutional OA policy (if present)
- Clauses that specifically reserve the rights of authors at the institution to deposit their work in repositories
- Automatic deposit of articles from publisher workflows to institutional repositories



# A timely opportunity: Introducing the Federal Purpose License

Dave Hansen, Authors Alliance





# 2 C.F.R. § 200.315(b) (April 3, 2024)

To the extent permitted by law, the recipient or subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so.

This includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories.



# The Federal Purpose License: An Effective Opportunity

To the extent permitted by law, the recipient or subrecipient may copyright ***any work that is subject to copyright and was developed, or for which ownership was acquired***, under a Federal award. ***The Federal agency reserves*** a royalty-free, nonexclusive, and irrevocable right ***to reproduce, publish, or otherwise use*** the work for Federal purposes and ***to authorize others to do so***.

This ***includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories***.

- Applies broadly to *any* work developed or for which ownership was acquired under a federal award
- Reserves these rights to the agency, establishing first-priority license that supersedes all other subsequent grants or licenses
- Creates an extremely broad license for reuse;
- Allows for sublicensing for (“authorize others to do so”) indicating that broad open license under CC licenses is possible
- **New!** Clarifies that this license allows for public access in agency-designated repositories

# The Federal Purpose License: An Non-Disruptive Opportunity

(c) Source of the property, including grant or other agreement number.

(d) Whether title vests in the recipient or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(1) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss,

Pub. 19889.

b. *Copyrights*.—Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal sponsoring agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

## ATTACHMENT O.—CIRCULAR NO. A-110

### PROCUREMENT STANDARDS

1. This attachment provides standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by the Federal sponsoring agencies upon recipients unless specifically required by Federal statute or executive orders.

2. The standards contained in this attachment do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to the Federal sponsoring agency regarding the settlement and satisfaction of all contractual and adminis-

all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

c. All recipients shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase, alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Federal funds.















































(4) The type of procuring instruments used, e.g., fixed price contracts, cost reim-

# That's not to say every university does things the same way

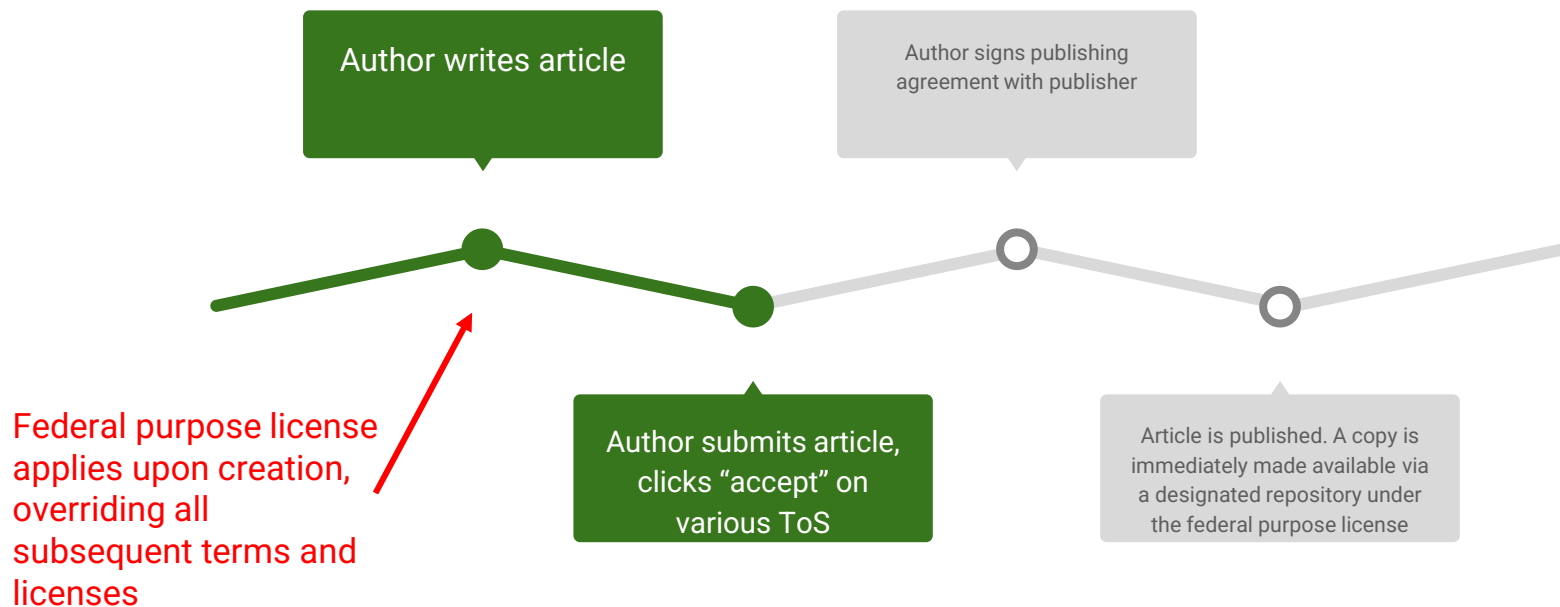
<b>Grant terms control</b>	Ownership of intellectual property rights is governed by the grant or contract terms agreed upon between the sponsor and [the university].
<b>University owns rights</b>	Intellectual property conceived or developed in the course of or resulting from research supported by a grant, cooperative agreement, or contract with a governmental entity or a nonprofit entity, or a for-profit commercial entity will be and is owned by [the university].
<b>Grant terms control but only if explicit about licensing and ownership</b>	The University does not transfer the copyrights in Scholarly & Aesthetic Works that: (a) are . . . Sponsored Works, Commissioned Works (as that term is used Section III.A.5 below), or Contracted Facilities Works; (b) would put the University in violation of, or conflict with, an applicable contract, policy, or law; or (c) were created with Significant University Resources. <b>Sponsored Works</b> means works created by or through the University in the direct performance of a written agreement between the University and a Sponsor. Sponsored works generally do not include journal articles, lectures, books, or other works created through Independent Academic Effort and based on the findings or deliverables of the sponsored project, <b>unless the relevant agreement with the Sponsor states otherwise.</b>

# The Federal Purpose License: an Elegant Opportunity

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# The Federal Purpose License: an Elegant Opportunity



# A timely opportunity: Roundtable

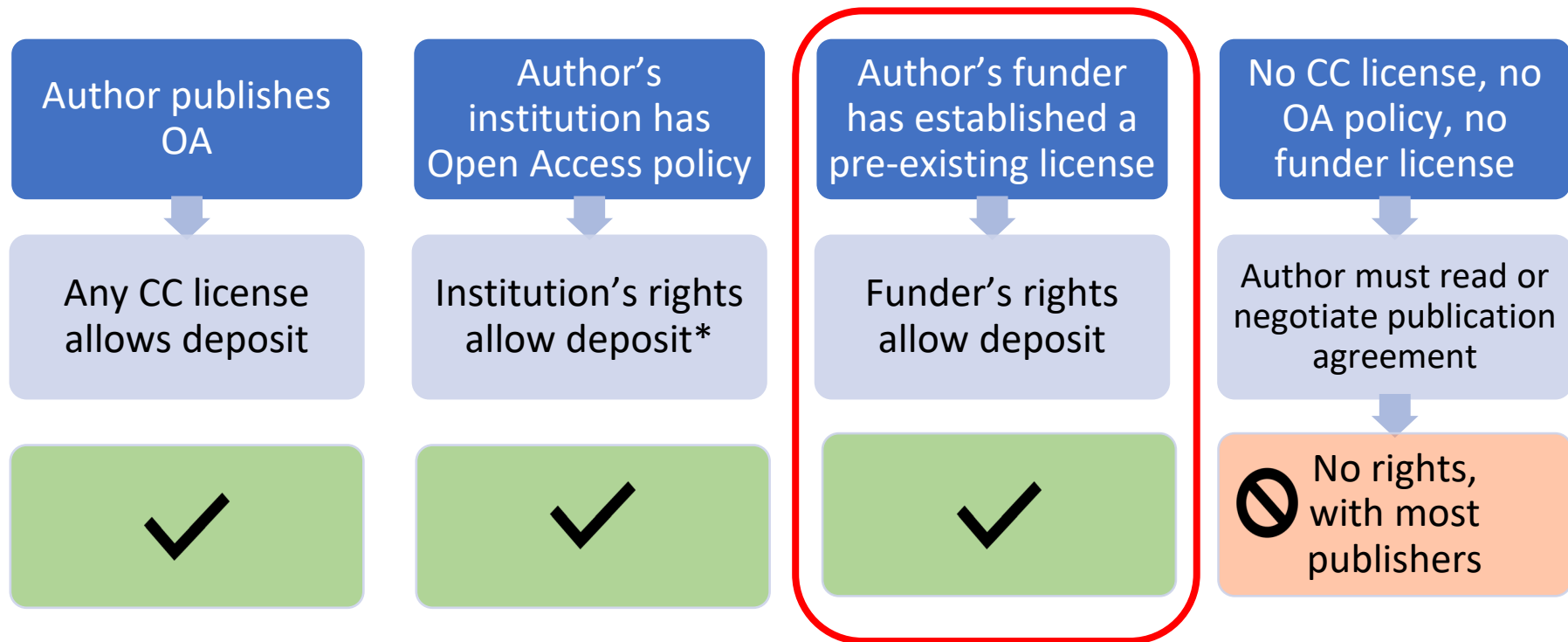
Dave Hansen, Authors Alliance (moderator)

Günter Waibel, California Digital Library

Sandra Enimil, Yale University

Maurice York, Big Ten Academic Alliance

# The Federal Purpose License: A Familiar Opportunity







# Günter Waibel

## University of California

Are authors publishing OA already?

Yes. 50% of UC authored articles eligible for OA through library support publisher agreements. Plus 90 library published OA journals.

Does your Institution have an OA policy?

Yes, for academics (2013) and staff (2015).

How concerned are you about your authors' ability to confidently comply with a zero embargo deposit requirement for federally funded research?

Concerned because of the level of complexity authors have to navigate.



# Sandra Aya Enimil

Yale University

Ivy Plus Libraries  
Confederation

Are authors publishing OA already?

Yes.

Does your Institution have an OA policy?

No.

How concerned are you about your authors' ability to confidently comply with a zero embargo deposit requirement for federally funded research?

On a scale of 1-5, probably a 3. I think there may be some panic, some apathy, and some excitement among faculty who will be impacted, but overall it will mostly work out.

# Maurice York

Big Ten Academic Alliance

Are authors publishing OA already?

Does your Institution have an OA policy?

How concerned are you about your authors' ability to confidently comply with a zero embargo deposit requirement for federally funded research?

# BTAA CONTEXT

**14**  
research  
universities  
in the US

**53,000+**  
Faculty and Researchers



**\$13.9B**  
in funded research

**630,000**  
students enrolled

Join our strengths

Create something  
**more powerful than the sum**  
of our parts

Coordinate holistic action to  
**elevate the collective interest**  
and the **greater good**





~2M

publications  
since 2000

100k+

publications  
annually



open  
articles  
cited

3x

more often than  
"closed" pubs

over  
50%

are made  
open  
every year

yet  
only

18%

are open at  
the time of publication

OPEN  
PUBLISHING  
IN THE BIG TEN

—  
An arc of over 20  
years  
—

The numbers,  
at a high level:  
2000 - 2023



# North Star

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In order to advance a **just, trustworthy, scalable & sustainable open knowledge ecosystem**,  
make **open, more equitable scholarship** our lead purpose

---

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Rutgers University  
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University of Chicago



# Q&A





# Concluding remarks

Günter Waibel, California Digital Library

Dave Hansen, Authors Alliance





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- Anna Striker, CDL
- Heather Briston, UC San Diego Library
- Ana Enriquez, Penn State University Libraries
- Nancy Sims, University of Minnesota Libraries