

## Student Embargoes within Institutional Repositories: Faculty Early Transparency Concerns

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# Student Embargoes within Institutional Repositories: Faculty Early Transparency Concerns

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## Abstract

Libraries encourage students to utilize Institutional Repositories (IRs) to house e-portfolios that demonstrate their skills and experiences. This is especially important for students when applying for jobs and admission into graduate schools. However, within the academic sphere there are legitimate reasons why some faculty-student collaboration efforts should not be documented and openly shared in institutional repositories. The need for the protection of ideas and processes prior to faculty publication can be in direct conflict with the intention for institutional repositories to promote the excellent efforts of students. This is certainly true in laboratory situations where details of experiments and research areas are guarded for the lifetime of the exploration process. Librarians must work with others to develop guidelines and educational programs that prepare all stakeholders for these new information release considerations. One outcome of such deliberations could be the development of mutually beneficial publication guidelines which protect sensitive details of research yet allow students to submit selective research documentation into an IR. The other extreme, with no agreed upon partial embargo scenarios, could result in the removal of students from sensitive collaborations. Given the need for scientific laboratories to utilize student workers, and the benefit of real research experiences for students, the academy must find a balanced solution to this inherent conflict situation.

## Implications for Practice:

- Librarians play a critical role in helping develop guidelines for the release of certain student collaboration details into an institutional repository.
- There is an opportunity to address issues related to faculty-student collaborations, including the development and delivery of orientation and training materials that address possible information release and embargo concerns.
- Developing a matrix of best practices will serve to benefit students and faculty, particularly when confronted with complex situations such as the partial release and embargo of potentially delicate details of faculty-student collaborations.

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## INTRODUCTION: A STUDENT SCENARIO

Imagine that you are an undergraduate student who recently completed some fascinating laboratory work that will have significant impact on the field, as well as on your own reputation. You asked your faculty laboratory leader for permission to mention this at an upcoming conference, to present a poster on this work at the next Research Fair, and to submit preliminary results into your online portfolio on the campus Institutional Repository (IR). Your faculty advisor has plans to release the results in a journal article within another year, once results from other portions of the research project have reached maturity, so you are told that you are not to share your portion of the findings with anyone. You find out that a lab mate is still waiting for public recognition of the work she performed over a year ago, and is also disappointed the work cannot be shared more openly to supplement her grad school applications. You are both frustrated by the situation, and wish that there was a systematic way to document your recent scholarly discoveries while still respecting and protecting the ideas and future publication concerns of others. You decide to explore the conditions that might generate legitimate embargoes.

Your subject librarian made a presentation to your class about Scholarly Communications recently, so you decide to contact her for more information. You would like to be prepared to discuss alternatives with your research leader based upon informed opinions on the topic of student embargoes.

“What are the underlying concerns?” you wonder.

Your librarian informs you that embargoes are most often mentioned within the industry in terms of protecting subscription revenue. These twelve month embargoes mean that most research libraries still need to purchase journal subscriptions in order to obtain the most current information. You also learn that the “green embargo”, in which a final reviewed version of the submitted manuscript can be posted in an IR, does not threaten the publishers. This is because the lack of complete article coverage and the incomplete search capability across the web means that research libraries cannot rely on these free articles as substitutes for commercial journals. However, some publishers have begun to restrict green embargoes, now only allowing the pre-prints to appear

on individual scholar web pages. Perhaps improved IR searching and access has now become dangerous to commercial interests.

While guaranteed revenue is a major driving factor, peer review is the key issue for scholars. The current scholarly peer review system is controlled by those who seek to make a profit through this quality control and distribution process. This outside pressure will remain in place unless the scholars themselves are prepared to disrupt the existing scholarly communication network. At this time, most scholars are more interested in publishing their material in a financially viable peer-reviewed journal.

Of your more immediate concern, you learn that there can be other reasons for delaying or denying the release of research information. In the academic world, a primary consideration is the credentialing of authority and priority of processes and discoveries. Peer reviewed publications not only guarantee quality, they also are the most common way of claiming and protecting ideas and rights. In some cases, public recognition is obtained through presentations at professional conferences, but in these cases the proceedings are published as a means of both communication and claiming rights before formal peer reviewed recognition has occurred. Most people would not want to freely release their ideas before such recognition is in place.

In addition, copyright and patent application processes contain a lag time between when an application is submitted and a decision is made. During these review periods, publicly introduced ideas risk a loss of protection. Given the many new methods of immediate information distribution, intentional internal embargoes may serve an important role in protecting the long-term interests of these types of sensitive faculty activities.

You now recognize that these legitimate faculty interests in protecting proprietary information may create tensions in faculty-student collaborations like yours. You wonder why this was not mentioned when you first joined the research group—especially since you now understand that this situation has proven to be problematic in the past. You hope that a compromise may be found that will allow you to document your experiences without endangering the intellectual property of your faculty advisors.

## Competing Interests

Unfortunately, the previous scenario is not uncommon for college and university students. In most university environments, graduate students require real-world experience, and are encouraged to author or collaborate on articles. Students would like to submit their work to an IR or find other public ways to demonstrate their acquired skills and experiences. However, it is obvious that in some instances placing recent research into an IR to document such experiences would release privileged information into the public arena before the group effort is ready for publication and credentialing.

The real question is: can one demonstrate creativity and experience without releasing too much information? One solution might be to allow for the release of reports that provide indications of significant work without releasing sensitive information. But, this approach would require maintaining multiple versions of laboratory documentation and may require revisions to previous materials when final documents are published. Managing the living record of research requires ownership, stewardship, and maintenance—areas that are not yet part of the current research culture. Version-management is one area with which libraries are well-positioned to assist.

All students engaged in research are facing this dilemma. While undergraduates may not publish their contributions in journals as often as graduate students, they are encouraged to produce posters for local research fairs. It is reasonable to assume that many undergraduate students would also like to make their contributions and experiences public long before research programs have reached maturity and the results are ready for publication and credentialing. Like students, universities find advancement and recruitment value in demonstrating the laboratory experiences of undergraduate students. Sharing reduced-detail “progress report” materials may satisfy both student and university needs and interests.

Without such compromises, there may be long-term unintended consequences. Competition among students is becoming fiercer all the time, and it is imperative that students are able demonstrate their skills if they hope to obtain positions or new opportunities. Processes must be implemented that allow students to demonstrate their development. If protecting faculty

interests trumps the student need, such a restriction in student documentation might eventually result in situations in which undergraduate students are no longer directly involved in actual research. In smaller organizations this would be a serious impediment to maintaining research operations.

While responding to reasonable student interests is important, it is also clear that some recently proposed mandates for immediate and transparent Open Access (OA) submission of all publically funded scholarly work, including student work, into an IR could prove just as problematic.

Students and faculty are not alone in the desire to share or restrict research results. There are other driving agents for and against the immediate release of information. Information release or restriction conditions may be implemented by granting agencies, sponsors, Institutional Review Board confidentiality clauses, government regulations, or commercial interests that support funded research. Some government or organizational “publication” mandates might actually conflict with other intellectual property concerns.

Granting agencies can impose conditions that either require the publication of results in Open Access (OA) journals or specifically forbid the release of research results for a period of time, or possibly in perpetuity. Some universities are now creating policies that require OA access of publications for all faculty, staff and student works—although they frequently provide a waiver option. In addition, confidentiality concerns imposed by federal regulations can result in the embargo of the raw versions of underlying data sets. There is also a growing concern about export control; that is, the release of sensitive information to other countries.

Training for compliance in these complex situations is required, and libraries are positioned to be key players. Not all authors receive detailed training in these areas—and often such training is only provided to faculty. Student contributions to faculty works are bound by these same conditions. It is clear that education targeted to students will be necessary to address these types of publication concerns before student portfolios are made available in IRs. It is imperative that training is provided to all students to ensure that they understand and comply with these expectations.

## LITERATURE REVIEW

In reviewing previous considerations of promoting and releasing student work, it is obvious that past embargo discussions have focused upon dissertations and theses, as these were the most obvious student research works to be of interest to other scholars. Even before the advent of open access institutional repositories, there have been calls for protecting both the intellectual property and commercial viability of dissertation materials. Interlibrary loan had been seen as a “prior publication” danger long before electronic distribution of ETDs made access immediate and much easier for most readers.

Many embargo concerns centered on the potential commercial release of dissertation materials at a later date. There were also reasons for embargoes based upon legitimate confidentiality and copyright issues. There have been calls for standards and guidelines for both universities and publishers, but few models for best practices have developed. What follows is a brief summary of some of the key articles discussing the embargo of student work.

As some of the earliest evidence of embargoes, the 2001 announcement of OhioLink, Ohio’s database supporting a variety of digital materials, explicitly mentions an embargo period for new types of non-journal materials and addresses future publication concerns. (Albanese, 2001).

Much of the literature focuses on the concerns related to open access to student-generated work, and provides support for embargoes of student work. For example, Baron (1996) mentioned that there were important copyright concerns involved for certain museum materials used within dissertations, and that this compliance becomes a more serious concern as electronic theses and dissertations (ETDs) enable discovery. Increased concerns about appropriate compliance should be expected in all fields as embedded copyright-protected surveys and test materials would now be searchable within online dissertations.

Nolan & Costanza (2006) discussed the implications of mounting student works on an IR. The survey found great excitement by students about the possibilities of electronically distributing their materials. One key finding was that student- (and selected alumni-)

generated materials placed in an IR could create stronger ties to their alma mater. There was mention of embargo concerns by the faculty in relation to possible future publications (with no stated evidence to support this concern) but there was no explicit mention of student concerns about embargoes. The article mentioned a call for some type of peer review process, and concerns about understanding and compliance with the nuances of copyright laws. There was recognition that the library has a very limited role in determining campus policy on thesis requirements.

From the creative writers’ point of view, open access to student work may sabotage the literary careers of students (Foster, 2008). For example, open access policies could hurt students because publishers will not accept poems, short stories, or novels that are already freely available for everyone to read online. Foster advocates that student authors should be the ones to control how their work is distributed. His position received support from the Association of Writers and Writing Programs, an advocacy group, which adopted guidelines in October 2006 advising colleges not to force students to broadly disseminate their theses. The writing group’s statement served as impetus for Bowling Green State and Louisiana State University to exclude creative-writing theses from open-access policies. In addition, University of Iowa received an exemption from electronic publication for creative-writing theses and Florida State University graduate students were given the option to permanently limit online access to their theses to the FSU community. Many faculty supported these policies for creative writing students to limit access to their unpublished work because of the economics of the publishing world.

Nonetheless, there has been research demonstrating the benefits of open access to student work, and there are those in academe that support wide access and discovery of student research. In a position paper, Michaels (2009) argues that the University of California should modify their eScholarship repository policy to accept certain types of student materials in order to enhance the IR content. Showcasing undergraduate student work in institutional repositories offers significant benefits for universities, as well as ensures that student works could become universally accessible and indefinitely preserved. The paper asks a key question: Do institutional repositories want to create a comprehensive record of



undergraduate student work or a showcase of exemplary undergraduate work? The paper cites studies showing that significant student materials are already found in existing IRs. While acknowledging that not all undergraduate work might be suitable for inclusion, undergraduate student work in the eScholarship repository should be limited to four types of intellectual output which showcase undergraduate work: (1) theses, (2) papers which have won an UC-sponsored award, (3) independent research projects, and (4) peer-reviewed, faculty supported journals. Processes for authorizing and maintaining these types of materials are also discussed.

A more recent call for the wider distribution of student work was made without any mention of embargo concerns (Marshall, 2012). Surprisingly, this was in the health field, which is often very conservative about releasing non-peer-reviewed materials.

Earlier, a 2007 survey of IR managers (Pickton & McKnight) shows that IR managers were in favor of the inclusion of certain student works under specified conditions. Quality was the key concern—there was a need for some type of peer review or at least a separate non-peer review area for grey literature materials. There was interest in including student material that was co-authored with faculty, with the understanding that any IR policy *should accommodate the needs of all stakeholders*.

Lowry (2006) provides a very thoughtful and balanced view on the issue of student work and embargoes and describes a tension between two dearly held traditions—the protection of copyright and the mission of broad access to the scholarly research output of the university. Within this discussion, Lowry describes the reasons behind the fears of those who do not support open access to student work. Specifically, the article mentions potential legal impacts to the university, the potential impact of open access on patent disclosures, and the potential impact on later publications. There are many different disciplinary practices and expectations also creating this tension. For example, some disciplines advocate for open access and wide sharing of student work, while other disciplines cite concerns about copyright infringement, plagiarism and “scooping” ideas, and future publication limitations. But, online access and discovery to student work has actually resulted in greater sales of related materials.

While digital posting of dissertations may compromise future prospects for a few authors, Lowry believes that a blanket policy should not jeopardize access to the many to protect the few. The article identifies a need to educate students and faculty on these issues, and it points to faculty advisers as sources of counsel for students.

The student perspective is particularly important in this discussion. Based on a small survey of students, Pickton & McKnight (2006) reported that the value of mounting online materials for students was in obtaining feedback, not in obtaining recognition. Confidentiality of their research data materials was a key student concern, as were some issues of copyright compliance and quality control. There was a need for some type of peer review or at least a separate non-peer review area for other types of materials (supplementary material, research reports and grant applications, subject glossaries). Students did not want to include data sets due to confidentiality issues, nor did they want to include pre-prints. Students felt they could contribute abstracts, keywords, and enabling web links. They felt the library should provide intellectual property confirmation and metadata.

No conversation about embargoes could be complete without hearing from the publishers and editors about their views on student materials. Based on a survey of journal publishers, (McMillan, 2001), only 18% of respondents said that ETDs constitute prior publication. The majority (82%) of the respondents were willing to accept articles from ETDs, which seems to indicate that there is more a perception of a problem with ETDs and publishers, than actual evidence of a problem. In a recent follow up (Ramirez, Dalton, McMillan, Read & Seamans, 2013), the new data show that the general opinion is that manuscripts that are revisions of openly accessible ETDs are not significantly jeopardized.

Peter Suber, an active advocate of open access publication, also speaks to the question of dissertation embargoes in a 2008 article (Suber, 2008). He briefly addresses future publishing restriction concerns, patent protection, copyright protection for quoted portions, and potential dollars for creative writing. Interestingly, he proposes that administrators, rather than traditional faculty committee members, play a role in the embargo debate, as administrators may provide a fresh, less conservative perspective on granting embargoes.

Based on the literature, it is clear that there are real and differing opinions about the best ways to consider and grant embargoes on student work. There is agreement that decisions should be based upon actual facts and codified rules and processes. In addition, education and deeper conversations among all stakeholders should occur in order to determine which factors are essential to provide the best balance of access and protection for general and specific populations. New types of student work such as portfolios, reports, grant submissions, and data sets will require particularly careful consideration when balancing student and faculty interests. Because feedback is more highly valued by students than recognition, perhaps providing less initial detail outputs from student-faculty collaborations is not as problematic. Archiving of student work can still occur for most materials, with versioning required in certain situations, and OA access with limitations based upon cause seems a reasonable goal in most cases.

## RECENT NEWS

It is not often that a library-related topic receives attention in both *The Chronicle of Higher Education* and *The New York Times*.

*The Chronicle of Higher Education* ran two articles: the first (Koh, 2013) describes the personal experiences of an author who is well aware of the book expectation for tenure, and the impressions about the potential negative impact of releasing open access ETDs. The second article (Patton, 2013) discusses the business of academic publishing from the point of view of authors spurned by publishers after publishers learned that the submitted work was available as open access ETDs. A *New York Times* article (Cohen, 2013) also addressed similar concerns when publishing student work.

Scholarly societies were also involved in this debate. The American Historical Association (2013) called for a six year embargo on electronic dissertations in order to protect the interests of students. The proposal mentioned anecdotal comments about acceptance and rejection of materials by university presses if the electronic dissertation was already released as an ETD. In effect, this policy would completely remove access to student work for the research community—as libraries will not be able to track students to obtain their permission for up to six years.

From these recent popular articles, it is clear that students and faculty need guidance about appropriate methods to guard their materials if the subsequent distribution of their materials as a commercial product is under consideration.

In this spirited conversation there does not appear to be an agreement on the best approaches to provide access to student work, and the conversation is currently still a mix of anecdotal and factual data. But, informed librarians are perfectly positioned to be significantly integrated into campus conversations, particularly because librarians, as long-term stewards of the academic record, bring a valuable cross- and inter-disciplinary perspective to the discussion.

## POSSIBLE GUIDELINES

Library and graduate schools have recently formed a loose consortium to begin a more systematic analysis of the complexities involved in handling ETDs. In response to pressures from the various stakeholders, and in hopes of providing best practices for the required support features of such new online repositories, this group has developed a proposed set of standards and talking points for addressing the many aspects of ETD lifecycle management. Some of these same considerations and solutions will be relevant for all student works entered into an IR.

Relatedly, Educopia Publishing (2013) has released their *Guidance Documents for Lifecycle Management of ETDs* which provides an excellent overview of many implementation issues which an organization should consider when developing an ETD program. Philosophical and logistical elements are addressed, and an excellent bibliography is provided for each section. This report also includes pointers to IRs that are developing embargo and restriction policies.

With the past and current landscape in mind, there appear to be a few scenarios that accommodate stakeholder interests and various infrastructure capabilities. The following scenarios assume there are already some basic guidelines and policies in place. Unfortunately, consensus on absolute policy statements can be difficult as specific populations have varying interests. Case-by-case flexibility and sensitivity to particular stakeholder concerns will always be required.

### **Unique student-authored work with no restrictions on distribution**

Copyright training is necessary as part of classroom instruction when classwork is loaded into an IR as a publication or as a poster. Some schools require either prior approval for using copyrighted work in posters or require students to only use their own created materials in posters. Libraries may consider developing processes or guidance to assist with copyright permissions.

### **Student-faculty co-authored work with no restrictions on distribution**

Permissions decisions are agreed upon by all authors and conform to stated policies. There are no conflicts between student and faculty interests, so wide OA sharing is acceptable to both authors. Libraries may consider developing processes or guidance to assist with copyright permissions.

### **Student-faculty co-authored work with some restrictions on distribution—with cause presented by faculty**

This is a scenario where the work may be subject to partial embargo (sensitive portions may be excised permanently or for a period of time) or the IR version may simply provide less-detailed information. Such “versioning” of materials might eventually include authority links associating the pre-publication materials with final published materials. This scenario assumes that the sharing and release of the work is agreed upon by all authors and conforms to stated policies. Embargoes or alternative versions are put in place to satisfy confidentiality or disclosure issues.

### **Student-authored work under faculty guidance, with different versions of student-authored work created for public display and dark archive copies**

This scenario is different from the previous one, in that some of the data will never be released to the public. In this scenario, the complete work may be subject to partial excision, some data elements may be embargoed well beyond the publication date of an eventual article, or only alternative versions will be

made public in the IR. Embargoes or reduced-detail versions will be placed in the IR to satisfy legitimate confidentiality, future commercial purposes, or other intellectual property issues. Dark archive handling, in which only institutional and perhaps sponsoring agents have access to the complete materials, must address confidentiality of information in ways that requires more sophisticated records management processes.

### **Student-authored work with an embargo or complete restriction on distribution—with cause presented by the student**

Because the student is the sole author, this appears to be a clear-cut scenario, involving only a review of the request based on a previously determined set of criteria. Some schools state that student work is always posted at the discretion of the student, while other schools require sharing of capstone projects, theses or dissertations. Such policies need to be clear and public to avoid later disputes. Some organizations require or suggest that faculty advice be solicited before such self-imposed restrictions are placed by a student. Outreach and education may be required if student-created material is treated as a publication by inclusion in an IR.

### **Student-faculty co-authored work with complete restrictions on distribution as a matter of personal choice, with no cause presented**

This may be quite simple or a difficult scenario, depending on the specifics of the situation. There may be instances where a case-by-case analysis is necessary if such restrictions are requested on less-detailed reports.

This may become a more complicated scenario if faculty are required by their institutions to openly share their work in an IR, while student work is included by choice. In this case, student interests may be at odds with faculty requirements. Organizational policies must allow for these more complex scenarios to be handled in a fair and open process based upon well understood underlying principles.

### **Student-faculty co-authored work with some restrictions on distribution—with a mix of legitimate and clearly identified confidentiality,**



## commercial, or intellectual property issues AND contested personal concerns by the faculty and/or student

This becomes a complicated scenario that must balance the interests of all stakeholders.

The co-authored work may be subject to review for legitimate and clearly identified confidentiality, disclosure and other intellectual property issues. Ideally, a case-by-case review by an impartial body would determine the proper balance of interests, based upon a previously determined set of criteria and guidelines.

Faculty can wield considerable influence over students, so policies about shared research and publication expectations should be clear and agreed upon at the outset of research to avoid later disputes. This agreement should be part of proactive scholarly communications outreach if student work will be involved. This is especially important if the results of such work will be loaded into an IR or treated as a publication.

## CONCLUSION

You, as the diligent undergraduate student, will be armed with information as you anticipate a meeting with your faculty laboratory leader. The hope is to arrive at a compromise that will allow you to provide a level of detail within your e-portfolio—demonstrating your expertise and experience while not releasing privileged information that will jeopardize the future publication of results from your faculty lab leader.

You are also considering coauthoring an article about this topic for a library journal. Such an article would call for a deeper analysis and a systematic set of guidelines and best practices to help other students collaborating with faculty before they find themselves in this situation! It might also raise library-specific logistical concerns about the long-term tracking of embargo scenarios, alternative versions of documents over time, dark archive reliability and risk analysis, and compliance with copyright requirements.

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Universities should have embargo guidelines for many types of collaborations between faculty and students. Such public guidelines should strive for clarity and consistency yet provide enough flexibility for special circumstances.

Due to tenure or confidentiality concerns, some tenure-track faculty will require that research project ideas and procedures be kept quiet until the work is ready for publication. Such intentional delays are critical when protecting the release of novel ideas. But, it may be a multi-year process that can negatively impact student interests in having their work made open access.

As long as students contemplate collaborating with faculty, there will be an opportunity for librarians to collaborate with other campus stakeholders to develop the guidelines and instruction on these issues.

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