

Compliance with the NIH Public Access Policy

Paul Levett
Reference Librarian

Himmelfarb Health Sciences Library ♦ The George Washington University

2300 Eye Street, NW, Washington, DC 20037 ♦ (202) 994-3528 ♦ www.gwumc.edu/library ♦ himmelfarb@gwu.edu

Disclaimer

- I am not a copyright lawyer, this presentation does not constitute legal advice.
- I do not work for the NIH.



The NIH open access mandate

- From July 1, 2013 NIH will refuse renewal of current non-competing grants unless the text of all journal articles resulting from that grant are deposited into Pub Med Central (PMC).
- Principal Investigators are responsible for ensuring articles are in compliance with the NIH Public Access Policy regardless of whether or not you are an author or co-author.
- On Feb 22, 2013 the White House directed the open access mandate be extended to all federal funding agencies with >\$100 million in annual R&D expenditures by 2015.

How does this affect me?

- When you submit NIH grant renewal paperwork you are required to print on the RPPR a publications list from PACR that is linked to your My NCBI bibliography – this will show whether or not your articles are compliant e.g.

Program Director/Principal Investigator (Last, First, Middle):

Publications Reported for this Reporting Period

NIH Public Access Compliance	Citation
Non-compliant	Association between Cardiovascular Autonomic Neuropathy and Left Ventricular Dysfunction in the Diabetes Control and Complications Trial/Epidemiology of Diabetes Interventions and Complications (DCCT/EDIC) Study. Journal of the American College of Cardiology.
Complete	Pop-Busui R, Cleary PA, Braffett BH, Martin CL, Herman WH, Low PA, Lima JA, Bluemke DA, DCCT/EDIC Research Group. Association between cardiovascular autonomic neuropathy and left ventricular dysfunction: DCCT/EDIC study (Diabetes Control and Complications Trial/Epidemiology of Diabetes Interventions and Complications). J Am Coll Cardiol. 2013 Jan 29;61(4):447-54. PubMed PMID: 23265339; PubMed Central PMCID: PMC3616477.

Wait, doesn't the publisher do this for me?

- Method A publishers deposit for you.
- Method B publishers deposit for a (large) fee.
- Method C publishers don't do anything so you handle the deposit (we can help you with this at Himmelfarb Library).
- Method D publishers submit to the NIHMS but then you need to associate your award #.

So what? My publisher does this

- Not so fast...for all papers to be deposited into PMC an author is required to review and approve the text. Typically only one author is assigned as the “reviewing author”. The NIHMS will send the reviewing author ≥ 2 emails to do so. Only after action is taken by the reviewing author can the deposit proceed. The trouble starts when that person is no longer with your organization, cannot be contacted, or does not care to act on the emails.

What should I do? (1 of 2)

- Link your My NCBI bibliography and eRA accounts.
- Check your My NCBI bibliography. Search PubMed & add any missing papers to your bibliography for your RPPR report. Do not add to your bibliography any papers published before April 1, 2008.
- Consider delegating your bibliography to a Himmelfarb Librarian or your admin people with a PACR account.
- Expect to see articles you have not seen before on your My NCBI bibliography/RPPR. They are added automatically when anyone cited an NIH grant number on their paper for which you are the PI.

What should I do? (2 of 2)

- An author needs to review and approve the text, but the PI is responsible for making sure the text of each paper on the RPPR is in PMC. If you cannot reach a co-author you can petition the NIHMS helpdesk to have signing authority assigned to you, or if you are not an author you should remove the paper from your My NCBI bibliography and not include it on your RPPR.
- Always read and act on the emails you receive from the NIHMS to approve the deposit of your own papers into PMC.

How can I take back copyright from my publisher? Copyright basics for authors

<input type="checkbox"/> Copyright Transfer/Publishing Agreement. In consideration of the action of the American Medical Association (AMA) in reviewing and editing this submission (manuscript, tables, figures, video, audio, and other supplemental files for publication), I hereby transfer, assign, or otherwise convey all copyright ownership, including any and all rights incidental thereto, exclusively to the AMA, in the event that such work is published by the AMA.	
Your Signature	Date Signed
<input type="checkbox"/> Federal Employment. I was an employee of the US federal government when this work was conducted and prepared for publication; therefore, it is not protected by the Copyright Act, and copyright ownership cannot be transferred.	
Your Signature	Date Signed

Text from AMA publishing agreement

You can defend your copyright!

by adding a SPARC addendum to your next publisher agreement.

<http://www.sparc.arl.org/author/>

“In my mind, the key time for an investigator to assert control is when a publisher has invited the publication but before the investigator signs the agreement”

(Patti Lieblich, OVPR)

ADDENDUM TO PUBLICATION AGREEMENT

1. THIS ADDENDUM hereby modifies and supplements the attached Publication Agreement concerning the following Article:

(manuscript title)

(journal name)

2. The parties to the Publication Agreement as modified and supplemented by this Addendum are:

_____ (corresponding author)

(Individually or, if more than one author, collectively, Author)

_____ (Publisher)

3. This Addendum and the Publication Agreement, taken together, allocate all rights under copyright with respect to all versions of the Article. The parties agree that wherever there is any conflict between this Addendum and the Publication Agreement, the provisions of this Addendum are paramount and the Publication Agreement shall be construed accordingly.

4. **Author's Retention of Rights.** Notwithstanding any terms in the Publication Agreement to the contrary, AUTHOR and PUBLISHER agree that in addition to any rights under copyright retained by Author in the Publication Agreement, Author retains: (i) the rights to reproduce, to distribute, to publicly perform, and to publicly display the Article in any medium for non-commercial purposes; (ii) the right to prepare derivative works from the Article; and (iii) the right to authorize others to make any non-commercial use of the Article so long as Author receives credit as author and the journal in which the Article has been published is cited as the source of first publication of the Article. For example, Author may make and distribute copies in the course of teaching and research and may post the Article on personal or institutional Web sites and in other open-access digital repositories.

Most publishers permit archiving in PMC, but with conditions...

Depositing Research Manuscripts With an Approved Public Repository

All *JAMA* articles reporting original research are made freely available 6 months after publication, from 1998 forward, subject to certain conditions. *JAMA*'s editors and publishers believe that the public is best served by accessing the freely available research articles on the journal site to ensure access to the final published version, any corrections, and related web features. However, some funding organizations require that authors of manuscripts reporting research deposit those manuscripts with an approved public repository, such as PubMed Central. Authors have *JAMA*'s permission to deposit manuscripts with an approved repository on the following conditions:

1. Permission is granted only for manuscripts reporting research funded by not-for-profit organizations to be deposited in not-for-profit, publicly available repositories.
2. Permission is granted to post only the manuscript reporting research that was submitted and accepted for publication but not the final edited, formatted, and published article.
3. Authors must ensure that the posted manuscript links back to the published article on the *JAMA* website to provide readers with access to the final reviewed and edited version plus any corrections and letters, as well as the article-related features only available on *JAMA*'s website.
4. Authors who submit their manuscripts to an approved public repository, such as PubMed Central, must indicate that the manuscript may not be made available to the public sooner than 6 months after publication in *JAMA*. If authors adhere to these requirements, they may submit the final accepted version of the manuscript to the repository, if and only if the repository ensures that the deposited manuscript will not be made available to the public during the 6-month embargo following publication in *JAMA*.

e.g. *JAMA* permits you to deposit your paper 6 months after publication but does not do this for you (*JAMA* is a Method C journal, so we can help with that)...

...and the conditions vary between journal publishers...

NIH Public Access Mandate

Wiley-Blackwell will support our authors by posting the accepted version of articles by NIH grant-holders to PubMed Central upon acceptance by the journal. The accepted version is the version that incorporates all amendments made during peer review, but prior to the publisher's copy-editing and typesetting. This accepted version will be made publicly available 12 months after publication. The NIH mandate applies to all articles based on research that has been wholly or partially funded by the NIH and that are accepted for publication on or after April 7, 2008.

NIH authors should be aware that they will receive an e-mail request once Wiley-Blackwell has posted the files of their accepted manuscript to the NIH Manuscript Submission system to approve the upload for display on the PubMed Central system. This is a requirement of their grant/affiliation.

For *NIH employees only*, we will accept the NIH Publishing Agreement.

The societies for whom we publish may decide on a different policy. We will continue to brief them on any discussions that we have with the NIH regarding the processing of the articles, appropriate acknowledgements with citation and linking to the final published version on the publisher's site, and clear licensing terms and conditions for the use of copyrighted material.

In addition, Wiley-Blackwell will continue to consult directly with authors, editors and society partners to determine how we as their publisher may best support them going forward.

Wiley-Blackwell also offers its [OnlineOpen](#) service. Upon payment of the OnlineOpen fee, we will deposit the published version of the article into PubMed Central, with public availability in PubMed Central and on the journal's website immediately upon publication.

...vs Wiley-Blackwell who will deposit the preprint for you 12 months after publication
(Wiley is a Method A publisher, when they begin the submission this generates a NIHMS ID #
That you can cite on the RPPR until the deposit is completed and the PMCID # is available)...

...who are touchy about authors exercising their statutory obligations

National Institutes of Health

<< Funding body agreements

As a service to our authors, Elsevier will deposit to PubMed Central (PMC) author manuscripts on behalf of Elsevier authors reporting NIH funded research. This service is a continuation of Elsevier's 2005 agreement with the NIH when the NIH introduced their voluntary 'Public Access Policy.'

The service will help authors comply with the National Institutes of Health (NIH) revised "Public Access Policy," effective April 7, 2008. The NIH's revised policy requires that NIH-funded authors submit to PubMed Central (PMC), or have submitted on their behalf, their peer-reviewed author manuscripts, to appear on PMC no later than 12 months after final publication.

Elsevier will send to PMC the final peer-reviewed manuscript, which was accepted for publication and sent to Elsevier's production department, and that reflects any author-agreed changes made in response to peer-review comments. Elsevier will authorize the author manuscript's public access posting 12 months after final publication. Following the deposit by Elsevier, authors will receive further communications from the NIH with respect to the submission.

Authors are also welcome to post their accepted author manuscript on their personal or institutional web site. Please note that consistent with Elsevier's author agreement, authors should not post manuscripts directly to PMC or other third party sites. Individual modifications to this general policy may apply to some Elsevier journals and society publishing partners.

...but Elsevier simply refuse to permit you to deposit your paper into PMC yourself – they have to do it, so you are hostage to their backlog. (Elsevier is a Method B publisher – they really want you to pay their \$3,000 fee to submit your articles into PMC)

Who can help me?

- Himmelfarb Library guide for PI's/researchers
<http://libguides.gwumc.edu/NIHcompliance>
- NIH Public Access Office
<http://publicaccess.nih.gov>
- Get help from a Himmelfarb librarian
Email nihaccess@gwu.edu