

New Requirement for Public Access to NIH-Funded Research Articles

Introduction

On January 11, 2008, in response to federal legislation, the National Institutes of Health (NIH) announced a revision of its Public Access Policy. Beginning **April 7, 2008**, principal investigators must ensure that electronic versions of any peer-reviewed manuscripts arising from NIH funding and accepted for publication after that date be deposited in PubMed Central (PMC), the National Library of Medicine's freely accessible digital archive of biomedical and life sciences journal literature (<http://www.pubmedcentral.nih.gov/>). These articles will be made freely available to the public no later than 12 months after publication. This policy applies to all peer-reviewed journal articles, including research reports and reviews, resulting from research supported in whole, or in part, by direct funds from NIH. In addition, beginning May 25, 2008, each application, proposal, or progress report submitted to NIH must include the PMC or NIH Manuscript Submission Reference Number when citing applicable articles that arise from the submitting party's NIH-funded research.

Who is affected by the new policy?

The new Public Access Policy applies to you if your peer-reviewed article is based on work that is:

1. Directly funded by NIH grant or cooperative agreement active (i.e., funded) in the Federal Fiscal Year 2008 (October 1, 2007-September 30, 2008) or later;
2. Directly funded by a contract signed on or after April 7, 2008;
3. Directly funded by the NIH Intramural Program;
4. If NIH pays your salary.

What KEY RIGHTS do authors need to retain?

The new Public Access Policy requires authors to take an active role in ensuring that public access to NIH-funded research is consistent with copyright law. When selecting a journal for publication of an article, the author(s) must ensure that the publisher's agreement will allow compliance with the new policy. The NIH emphasizes that it is the author's responsibility to ensure that they retain the right to deposit their manuscript with PubMed Central. Before signing away any rights, authors should be aware of common provisions in publication agreements that could cause the author to run afoul of the new policy. For instance, some publishers require authors to transfer copyright to the publisher prior to acceptance of an article for publication. NIH warns that authors should avoid such journals if their publication agreement does not allow the author to deposit articles in PubMed Central. Other publishers use agreements that require the author to warrant that there are no prior agreements concerning the publication and that the publisher will own all rights. If an author submits a manuscript to PMC and later signs this kind of agreement, the author will be in breach of the publisher agreement and in violation of NIH policy.

NIH maintains an online list of journals that automatically submit articles to PubMed Central. This list is found at http://publicaccess.nih.gov/submit_process_journals.htm. If a journal publisher does not participate in PMC, there are three approaches that an author can take to comply with the policy's deposit requirement:

1. Read the publisher's proposed publication agreement carefully. Make sure that you have the right to deposit your article with PMC. The SHERPA/RoMEO site at <http://www.sherpa.ac.uk/romeo.php> has information on the policy of many journals regarding PMC deposit.
2. If there is any question about your rights, add the following language to the publication agreement: "*Journal acknowledges that Author retains the right to provide a copy of the final manuscript to the NIH upon acceptance for Journal publication, for public archiving in PubMed Central as soon as possible but no later than 12 months after publication by Journal.*" This language, which is an example provided by the NIH, only reserves your right to deposit your article in PMC. It does not retain your right to copy your article for use in teaching or research, to use it as a basis for derivative works, or to make your article available on a personal web site or other digital archive.
3. Alternatively, attach the Scholar's Copyright Access-reuse Addendum to the publisher's form contract. An online engine that generates the Addendum is found at <http://scholars.sciencecommons.org/>. The Addendum is simple to use. Click on the get started link, fill out the requested journal information, click **access-reuse** from the pull down menu under agreement type, and click generate addendum. The Addendum is a legal instrument that acknowledges any prior grant of legal rights (including those required by funding agencies such as NIH). The **access-reuse** portion provides you with other important rights, including the right to use your article in your own teaching and research, the right to build on the article in future publications, and the right to deposit the PDF version from the publisher with PubMed Central and other repositories. The online engine currently creates an agreement with a six month delay; this can be changed manually if the journal insists on PMC delaying access for the full 12 months allowed by the new Public Access Policy.

Note: In addition to the foregoing, NIH-funded authors should include a cover letter to the publisher giving notice that the article arises under an NIH-funded project when submitting an article for publication. The cover letter should state that the article, if accepted, must be published in a manner consistent with the Public Access Policy. ASU Libraries provide such a cover letter for authors to download and use, derived from a [white paper](#) authored by Michael W. Carroll and co-sponsored by SPARC, Science Commons and the Association of Research Libraries.

- [Submission Cover Letter \(.doc\)](#)

Complying with the new requirement to deposit articles with PubMed Central

- The easiest way to deposit an article is to publish in a journal that automatically transfers a copy of published articles to PubMed Central. Journals that participate in PMC are identified at http://publicaccess.nih.gov/submit_process_journals.htm.
- Publish with a journal that will deposit manuscripts for its authors upon the author's request. Among publishers that currently will deposit author's manuscripts are [Elsevier](#), Blackwell Publishing's [Online Open](#), Oxford Journals' [Oxford Open](#), and Springer's [Open Choice](#). ASU Libraries staff can help you determine if a particular journal will deposit articles in PMC on your behalf. Note that if a publisher deposits only an author's manuscript as opposed to the final published version of the article, the author will still have to sign on to the NIH Manuscript Submission System (<http://www.nihms.nih.gov/>) to review and approve release of the article to PMC.
- If the publisher of the journal does not deposit articles on its author's behalf, the author must use the NIH Manuscript Submission System. Depositing a manuscript through this system takes only a few minutes and can be done by the principal investigator or a third party. Here are some things to keep in mind:
 - **What to submit:** An electronic version of the final, peer-reviewed manuscript, including all graphics and supplemental material associated with the article. Note that you will need permission from the publisher to submit a PDF provided by it.
 - **When to submit:** Upon acceptance for publication.
 - **How to submit:** go to <http://www.nihms.nih.gov/>, label the manuscript with the correct author names, grant #, etc., and then submit. NIH has created tutorials to assist with the process (<http://nihms.nih.gov/web-help/index.html>).

Authors may wish to start depositing articles now in order to be familiar with the submission process prior to the effective date (April 7, 2008) of the new mandatory public access policy. ASU Libraries staff can walk you or your designated agent through the steps.

Citations to articles as of May 25, 2008

As of May 25, 2008, when citing an article in NIH applications, proposals and progress reports that fall under the new Public Access Policy, the submitting party must include the PubMed Central or NIH Manuscript Submission Reference Number when citing applicable articles that arise from the submitting party's NIH-funded research.

Benefits of the new reporting requirement

The new NIH mandatory public access requirement should work to the benefit of ASU authors. Deposit in PMC ensures that the research results will be preserved in a state-of-the-art digital repository. Free access no later than 12 months after the original publication date will maximize the visibility of your research and ensure that researchers and students around the world will be able to read and build on your work, regardless of their (or their library's) ability to subscribe to the journal in which the research is published. Preliminary research suggests that articles that are freely available are cited more often and have a greater impact rating than articles that are locked

away behind subscription walls. As David Shulenburger, Vice President for Academic Affairs at the National Association of State Universities and Land-Grant Colleges (NASULGC), has noted, "public access to publicly funded research contributes directly to the mission of higher education. Improved access will enable universities to maximize their own investment in research and widen the potential for discovery as the results are more readily available for others to build upon."

More information

The NIH has provided a comprehensive set of resources to explain the details of the new Public Access Policy:

- The text of the law and how to comply: <http://publicaccess.nih.gov/>
- The full NIH policy: <http://publicaccess.nih.gov/policy.htm>
- How to deposit in PubMed Central: <http://www.nihms.nih.gov/>
- Frequently asked questions from NIH: <http://publicaccess.nih.gov/FAQ.htm>
- Article from NIH's Office Extramural Research Newsletter outlining what the new policy means to NIH-funded investigators: <http://grants.nih.gov/grants/partners/0108Nexus.htm#investigator>

A number of additional resources and helpful materials are available:

- Complying with the National Institutes of Health Public Access Policy: Copyright Considerations and Options (a white paper authored by Villanova University School of Law Professor Michael Carroll and cosponsored by SPARC, Science Commons and the Association of Research Libraries (ARL) available at http://www.arl.org/sparc/bm~doc/NIH_Copyright_v1.pdf
- Association of Research Libraries Guide for Research Universities <http://www.arl.org/sc/implement/nih/guide/index.shtml>
- Washington University School of Medicine [chart showing which articles fall under the deposit requirements](#) (pdf).
- [SPARC](#) Scholarly Publishing & Academic Resources Coalition

Need Help?

Submit any NIH-related question to nihmandate@asu.edu. Experts in the ASU Libraries will promptly answer all queries. Additional information, such as a short guide to retaining publication ownership (www.asu.edu/lib/scholcomm/negotiation.htm), is also available on the ASU Libraries web site at www.asu.edu/lib/scholcomm/.

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Adapted from information sheet created by [Cornell University Library](#)