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Research Literacy: Understanding the Academic Publishing Environment

Jacob Nash, MSLIS & Karen McElfresh, MSLS

April 15, 2015

Session Agenda

- Background: The publishing industry
- Copyright: compliance versus your rights
- Examining licenses: reading between the lines
- NIH Public Access Policy
- Public Access Policy scenarios

Publishing Environment

- Why publish?
- To communicate with peers
- To add our research to the scholarly record
- To effect change in practice
- For promotion and tenure
- To advance our careers, gain notoriety in our field

How Academic Publishing Works

- Researchers conduct research and write papers about their work
- Article is submitted to a journal
- Journal editor assigns article to peer-reviewers
- After peer-review and editor approval, article is published in the journal
- Journal publisher sells the article to libraries and individuals in the form of journal subscriptions

The Scholarly Communication System

- Scholarly Communication has gone from paper to electronic
- This *should* have revolutionized access to scholarly material, but in many ways it's become harder – why is this?



A screenshot of the The Lancet website. The header features the journal's name 'THE LANCET' in a large, bold, serif font. Below the header is a navigation bar with links for 'Online First', 'Current Issue', 'All Issues', 'Special Issues', 'Multimedia', and 'Information for Authors'. A search bar is located below the navigation bar, with a dropdown menu set to 'All Content' and a 'Search' button. Below the search bar is a navigation bar with '< Previous Article', 'Volume 385, No. 9976, p1397-1405, 11 April 2015', and 'Next Article >'. The main content area is titled 'Articles' and features the article title 'Efficacy and safety of LDL-lowering therapy among men and women: meta-analysis of individual data from 174 000 participants in 27 randomised trials'. Below the title is the author information 'Cholesterol Treatment Trialists' (CTT) Collaboration' and a note '† Collaborators are listed at the end of the report'. The publication date is 'Published Online: 08 January 2015'. There is a 'Metrics' button with the number '128'. The DOI is 'http://dx.doi.org/10.1016/S0140-6736(14)61368-4'. Below the DOI is the 'Article Info' section, which states 'This article can be found in the following collections: ischaemic heart disease'. At the bottom of the page is a navigation bar with tabs for 'Summary', 'Full Text', 'Tables and Figures', 'References', and 'Supplementary Material'.

Copyright Definition

- “A form of protection provided by the laws of the United States for ‘original works of authorship’, including literary, dramatic, musical,...graphic, sculptural, and audiovisual creations.”
- Extends to both published and unpublished works

“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Copyright Basics

- Ownership of copyright vests with the author immediately upon creation
 - Work is “created” when it is fixed in a tangible medium
- Copyright is secured automatically
 - No registration or notice required
- If notice is given, it should include ©, date, and owner
 - Example: © 2014 Karen McElfresh

Source: “Copyright Basics”,
<http://www.copyright.gov/circs/circ01.pdf>

Examples of Copyrighted Material

- Can be copyrighted:
 - Articles, books, book chapters
 - Photographs
 - Websites
 - Recorded lectures
 - Instructional handouts or PowerPoint slides
- Cannot be copyrighted:
 - Facts, processes, procedures, ideas, common objects like calendar or height/weight chart

Fair Use

- Exception to the copyright law
- Four factors used in determining Fair Use:
 1. Purpose and character of the use
 2. Nature of the work
 3. Amount and substantiality
 4. Effect on the market

What does this mean???

- Purpose and character of the use
 - Parody/criticism, educational use are favored
- Nature of the work
 - Factual works are (generally) favored over creative works
- Amount and Substantiality
 - How much of the work, and the “heart” of the work
- Effect on the Market
 - Does your use impede the rights owner from making a profit?

Author's Rights

Copyright gives the copyright owner the exclusive rights to:

- Reproduce the work
 - Distribute the work
 - Make derivative works
 - Perform the work publicly
 - Display the work publicly
- Owner retains these rights exclusively, unless transferred

Publishing

- Which of these exclusive rights do you think publishers need in order to publish your work?
 - Reproduce the work
 - Distribute the work
 - Make derivative works
 - Perform the work publicly
 - Display the work publicly

ALL Rights Reserved?

- Why do publishers often require all the rights to a work, when they only need a few?
- Money! Plain and simple.
- Publishing your work represents an investment that they hope to profit from
- Fair enough, right? But, what about what YOU hope to achieve?

Copyright Transfer Agreements

- Most journals will ask you to transfer all rights to the publisher
 - Must be transferred in writing
- Exclusive rights
 - Once transferred, only the publisher may exercise that right
- Non-exclusive rights
 - More than one party has ability to exercise right
- Agreements can be negotiated
- Make sure to read and save your agreement!

Licenses

- Authors can license rights to others
 - Author retains ownership, licensee can exercise licensed right
 - Licenses can be exclusive or non-exclusive
 - Multiple parties can have non-exclusive licenses for same right
 - Licenses can be limited in time

Retaining Your Rights

- Step 1: READ the copyright transfer agreement to understand what rights will transfer and which you will retain
- Step 2: Decide if the initial offering is sufficient or not
- Step 3: Indicate in writing (as an attachment) what specific rights you wish to retain
 - For example, if you want to retain the right to make multiple copies for students in a course, note that.

SPARC Author Addendum

- One page addendum to be attached to publishing agreement
- Allows you to retain rights under copyright
- You can authorize others to use the work non-commercially
- You can post article on personal or institutional website, or in open-access repository
- Publisher will provide you with a typeset version of the manuscript

Rejection of Proposed Terms

- While license terms are negotiable, that doesn't mean you get what you want
- If your terms are rejected, you can
 1. Try reaching out *again*, or compromise on what you want to keep
 2. Look for another journal in which to publish your work
 3. Publish anyway without retaining the rights you wanted, it's up to you
- Negotiating won't hurt your chances of being publishing
- It never hurts to ask!

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- Author/creator still maintains copyright
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The Licenses



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Unpack a License

Elsevier License

SPARC Author Addendum

[Public Library of Science Medicine](#)

The NIH Public Access Policy



About Public Access

- Access to publicly funded research
 - General public and researchers
- Benefits:
 - Advance science
 - Improve health and welfare of Americans
 - Stimulate the economy
- White House OSTP memo (Feb. 2013)
 - Directed all federal agencies with over \$100 million in R&D expenditures to develop a plan to make research freely available to the public

NIH Public Access Policy

“The Director of the National Institutes of Health shall require that **all investigators funded by the NIH submit** or have submitted for them to the National Library of Medicine’s **PubMed Central** an electronic version of their **final, peer-reviewed manuscripts upon acceptance for publication**, to be made **publicly available no later than 12 months** after the official date of publication: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.”

<http://publicaccess.nih.gov/policy.htm>

Division G, Title II, Section 218 of PL 110-161
Implemented by NIH Public Access Policy (11 Jan 2008)
Enacted as law by Omnibus Appropriations Act of 2009
<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-09-071.html>

Other Agencies

- Other HHS Agencies
 - CDC, FDA, AHRQ, ASPR released policies in Feb. 2015
 - Public Access Policies will be very similar to what the NIH requires
 - Data sharing requirements will be phased in over the next few years
- National Science Foundation
 - Data management plans have been required since 2011
 - Public Access Policy will start in 2016
 - Similar to NIH, but repository will be DoE PAGES
- NASA, USDA, Dept. of Energy, & Dept. of Defense have also released public access policies in the last few months

NIH Public Access Policy

“The Director of the National Institutes of Health shall require that **all investigators funded by the NIH submit** or have submitted for them to the National Library of Medicine’s **PubMed Central** an electronic version of their **final, peer-reviewed manuscripts upon acceptance for publication**, to be made **publicly available no later than 12 months** after the official date of publication: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.”

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NIH Public Access Policy Basics

- What does the policy cover?
 - Peer-reviewed journal articles
 - Accepted for publication on or after April 7, 2008
 - Direct NIH support
 - NIH Grant or cooperative agreement active in FY 2008 or beyond
 - NIH contract signed after April 7, 2008
 - NIH Intramural program
 - NIH employee
- Articles need to be made available in PubMed Central
 - PubMed Central ≠ PubMed

NIH Public Access Policy Basics (cont.)

- When do articles need to be made available?
 - Publicly available **no later than** twelve months after official date of publication
 - Does **NOT** mean you have 12 months to submit papers!
 - Submit **upon acceptance** for publication
 - All submission tasks complete within 3 months of publication
- Consequences to non-compliance
 - Delayed funding, special conditions placed on award, prevention of future awards

How to Comply

1. Address copyright
2. Submit article
3. Cite article

Step 1: Address Copyright

- Inform journal that paper is NIH funded
- Review publishing agreement
 - Do you have permission to deposit in PMC?
- Sample language:
 - *“Journal acknowledges that Author retains the right to provide a copy of the final peer-reviewed 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.”*

Source: <http://publicaccess.nih.gov/faq.htm#778>

Compliance at UNM

- Requirements of UNM HSC Office of Research:
 - PI and all co-authors must sign a non-exclusive copyright license before grant submission
 - Signed during pre-awards process
 - License allows UNM to comply with policy in the event that PI does not comply
 - Author retains all other rights
 - License expires when NIH obligations are met

Sources: http://hslic.unm.edu/sci/unm_compliance.html
<http://hsc.unm.edu/financialservices/preaward/common/docs/guidance-docs/pubmed-submitting-manuscripts.pdf>

Step 2: Submit Paper

- How to submit
 - 4 Methods (A, B, C, D)
 - Journal may do some or all of the work for you
 - No matter which method is used, it is always the PI's responsibility to ensure compliance
- When to submit
 - Upon acceptance for publication
 - All submission tasks must be complete within 3 months of publication

For more on submission methods: http://publicaccess.nih.gov/submit_process.htm

Step 3: Cite Article

- For all NIH:
 - Applications
 - Progress reports
 - Renewals
- You must **Cite**
 - **Using PMCID**
 - For all papers subject to the NIH Public Access Policy *and*
 - Authored by PI or arose from their NIH award

Managing Compliance

- Who is responsible?
 - PIs and institution

- How to ensure compliance
 - Plan ahead
 - Use My NCBI
 - Confirm compliance before reports due

Does the Policy Apply to Me?

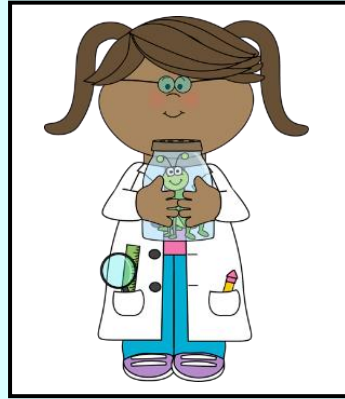
- Peer-reviewed journal article
- Accepted for publication on or after April 7, 2008
- Direct NIH support
 - NIH Grant or cooperative agreement active in FY 2008 or beyond
 - NIH contract signed after April 7, 2008
 - NIH Intramural program
 - NIH employee

Does the Policy Apply to Me? (cont.)

- “Direct NIH support”
 - Means that NIH funding supported:
 - The research reported in the paper
AND/OR
 - The activity of the paper, such as time to write the paper, publication costs, etc.
 - Rule of thumb
 - If you plan to report the paper on your progress report, it must comply with the Public Access Policy

Scenario 1

Author A



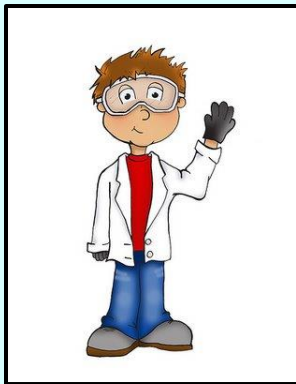
- NIH grant awarded in 2013
- Peer-reviewed article to be published in 2015

Does the Public Access Policy apply?

YES

Scenario 2

Author B



- Does not have an NIH grant
- Publishing peer-reviewed article in 2015

Mentor



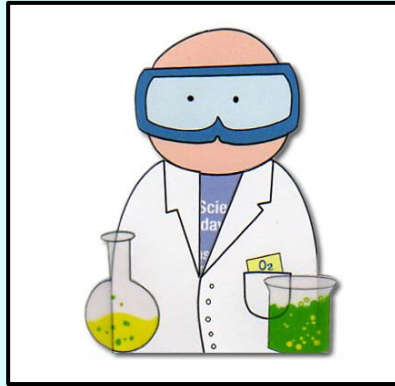
- Author B's salary is supported by his mentor's NIH grant

Does the Public Access Policy apply?

YES

Scenario 3

Author C



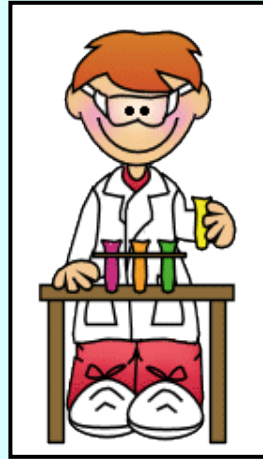
- NIH grant ended in 2006
- Publishing peer-reviewed paper in 2015

Does the Public Access Policy apply?

NO

Scenario 4

Author D



- Has an NIH career development award

Does the Public Access Policy apply?

MAYBE

Scenario 5

Example from "Change Happens" NIH Webinar:
http://grants.nih.gov/grants/webinar_docs/webinar_20130115.htm

Who addresses
copyright?

Who submits?

Who reports?

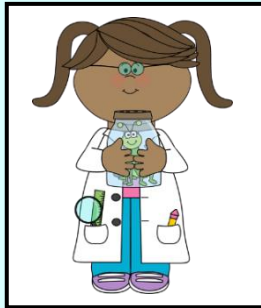
Mentor



Not an
author, but
his NIH grant
supports
Author B

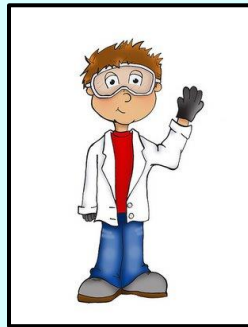


Author A



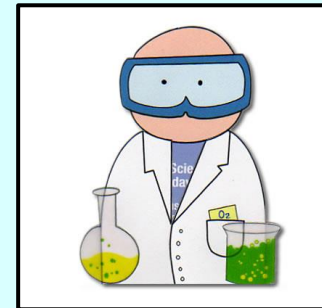
Has an NIH grant that
supported research
in this paper

Author B



Received salary support
from mentor's grant

Author C



Has no NIH support

Additional Resources

- Copyright & Author's Rights
 - HSLIC Copyright Compliance Guide: <http://health-unm.v1.libguides.com/copyright>
 - SPARC Author Addendum: <http://www.sparc.arl.org/resources/authors/addendum>
 - Copyright Crash Course: <http://copyright.lib.utexas.edu/>
- NIH Public Access Policy
 - HSLIC LibGuide: <http://health-unm.v1.libguides.com/NIHPublicAccessPolicy>
 - NIH Public Access webpage: <http://publicaccess.nih.gov/>
 - HSC Pre-Awards Public Access Policy Compliance Guidelines: <http://hsc.unm.edu/financialservices/preaward/common/docs/guidanc-e-docs/pubmed-submitting-manuscripts.pdf>



Questions?

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