



Scholarly Communication Toolkit:
Everything you need to know
from copyright to advocacy

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Update on Copyright for Translational Investigators & NIH Policy Intro

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Session Outline

- 3 Areas of Copyright
 - What is copyright?
 - Choosing a journal
 - Managing copyright
- NIH Public Access Policy Lead-In

What is copyright?

cop·y·right (kŏp'ē-rīt')

n. The legal right granted to an author, composer, playwright, publisher, or distributor to exclusive publication, production, sale, or distribution of a literary, musical, dramatic, or artistic work.

American Heritage Dictionary

What is protected?

- Original expression
 - Standard of originality is low
 - Does not protect ideas *per se*
 - Raw data not protected, but an original selection and arrangement may be.
 - No database protection in US, apart from originality (E.g., Chronological record of experimental results likely not protected, but informal notes are.)

Who is an author?

- Not defined in the Copyright Act
- Initial ownership of © vest with author immediately upon creation
 - Automatic; no registration or notice required; “follows the pen”
 - Copyright exists in any original work fixed in tangible form
 - “Original” is a minimal standard
 - “Fixed” includes computer memory

Who is an author?

- If “work made for hire,” employer is the author from creation.
 - Know your employers policies. Negotiate.
 - Note: Patent policies can be very different.
- Joint authorship issues:
 - Joint authors are co-owners of undivided interest in entire work
 - Each joint author can use work without permission of other
 - Must account to other authors for any profits

Author's Rights

- Author can *transfer* ownership
 - Copyright transfer called “assignment”
 - Assignment must be in writing to be valid
 - Entire copyright or one or more of the exclusive rights can be transferred:
 - Reproduction
 - Distribution
 - Public performance
 - Public display
 - Right to make Derivative Works

Author's Rights

- Author's can license others to exercise rights:
 - Author retains ownership, but licensee allowed to exercise some part of the exclusive rights
 - Licenses can be exclusive (in writing) or non-exclusive
 - Multiple parties can have non-exclusive licenses for same right
 - Exclusive licenses can be limited in time and sequential

Owner's Rights

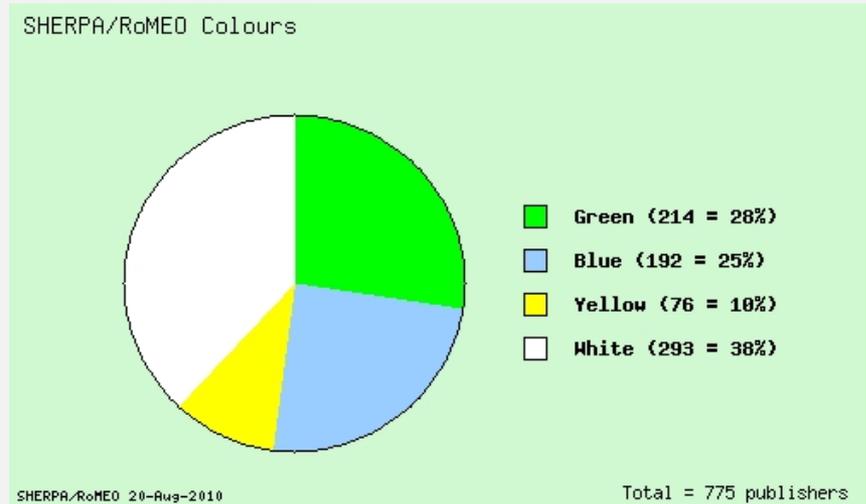
- Wide range of possibilities, but,
 - If you transfer copyright, the transferee will set terms for users:
 - Print copies, database, etc.
 - If you retain some rights, you can probably authorize some uses:
 - Copies for students / colleagues
 - Deposit in institutional repository
- Remember: Treat copyright as an asset!

Copyright and Journals

- 2 things to consider when choosing a journal
 - Is it Open Access (OA)?
 - OA = free, immediate, permanent online access to the full text of research articles for anyone, worldwide
 - If not, what are your rights?
 - Copyright information resides on journal websites
 - Journals provide OA to their articles (PLoS, BioMed Central)
 - Author self-archives or pays for open access
 - Reader pays publisher for access

Copyright and Journals

- Interpretation offered by Sherpa/Romeo*
 - Green: Can archive pre-print and post-print
 - Blue: Can archive post-print (i.e., final draft post-refereeing)
 - Yellow: Can archive pre-print (i.e., pre-refereeing)
 - White: Archiving not formally supported



*<http://www.sherpa.ac.uk/romeo.php>

Journal and Copyright Examples

	Journal	Copyright Notes
■	PLoS, BioMed Central (<i>PLoS Medicine</i> , <i>BMC Bioinformatics</i>)	<ul style="list-style-type: none">• Articles deposit directly into PMC• No time embargo

Journal and Copyright Examples

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■	PLoS, BioMed Central <i>(PLoS Medicine, BMC Bioinformatics)</i>	<ul style="list-style-type: none"> Articles deposit directly into PMC No time embargo
■	Massachusetts Medical Society <i>(New England Journal of Medicine)</i>	<ul style="list-style-type: none"> Publisher PDF must be used Publisher copyright and source must be acknowledged On author's web site or institutional server only
■	Elsevier <i>(J American Medical Informatics Association)</i> Nature Publishing Group <i>(Nature, Nature Medicine)</i>	<ul style="list-style-type: none"> 6 – 12 month embargo for PMC Published source must be acknowledged Must link to publisher Publisher's version/PDF cannot be used On author or institutional server only

Journal and Copyright Examples

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■	Massachusetts Medical Society <i>(New England Journal of Medicine)</i>	<ul style="list-style-type: none"> Publisher PDF must be used Publisher copyright and source must be acknowledged On author's web site or institutional server only
■	Elsevier <i>(J American Medical Informatics Association)</i> Nature Publishing Group <i>(Nature, Nature Medicine)</i>	<ul style="list-style-type: none"> 6 – 12 month embargo Published source must be acknowledged Must link to publisher Publisher's version/PDF cannot be used On author or institutional server only
	American Medical Association <i>(JAMA)</i>	<ul style="list-style-type: none"> NIH & Wellcome Trust funded authors may submit articles to PMC 6 months after publication
	Imperial College Press <i>(Journal of Bioinformatics and Computational Biology)</i>	<ul style="list-style-type: none"> Author retains no rights

Controlling Copyright

- What to do with ‘White Journals?’
 - Amend agreement
 - Look around at affiliations
 - Payment option (PLoS and BioMed Central)
 - Write your own...

Controlling Copyright - Amend

- Add NIH suggested language to the publisher's form
 - 'X Journal acknowledges that Y author retains the right to provide a copy of the final manuscript to NIH upon acceptance for X Journal publication or thereafter for public archiving in PubMed Central as soon as possible after publication by X Journal.'
- Attach SPARC Author Addendum to copyright agreement
 - Author retains ability to post article on personal website and all types of IRs
 - Publisher must supply author with final typeset version of manuscript

Controlling Copyright - Affiliations

- Institutional Copyright Policies
 - University of California Scholarly Work Copyright Rights Policy
 - UC Board of Regents retains the right to place all work published by UC faculty in the UC institutional repository
 - Harvard Faculty of Arts and Sciences
 - "make available his or her scholarly articles and to exercise the copyright in those articles. In legal terms, the permission granted by each Faculty member is a nonexclusive, irrevocable, paid-up, 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, provided that the articles are not sold for a profit."

Controlling Copyright – Write One

- Sample Publication Agreement - The following is an agreement between [the author(s)] and [the publisher/journal] concerning [title], a work written by the author(s).
- Author's Grant of Rights
 - The author grants to the publisher exclusive first publication rights in the work, and further grants a non-exclusive license for other uses of the work for the duration of its copyright in all languages, throughout the world, in all media.
 - The publisher agrees to publish the article in [journal title or edited volume title].
 - The publisher shall include a notice in the Work saying "Copyright [author's name]. Readers of this article may copy it without the copyright owner's permission, if the author and publisher are acknowledged in the copy and copy is used for educational, not-for-profit purposes."
- Author's Ownership of Copyright
 - Copyright in the work remains with the author.
- Warranty of Authorship
 - The author warrants to the publisher that the article is original and that he/she is the sole author and has the full power to make this agreement. The author indemnifies the publisher against any losses and other expenses, including reasonable attorney's fees, after final judgment of any claim or action against any of all of these warranties.

Why is copyright important?

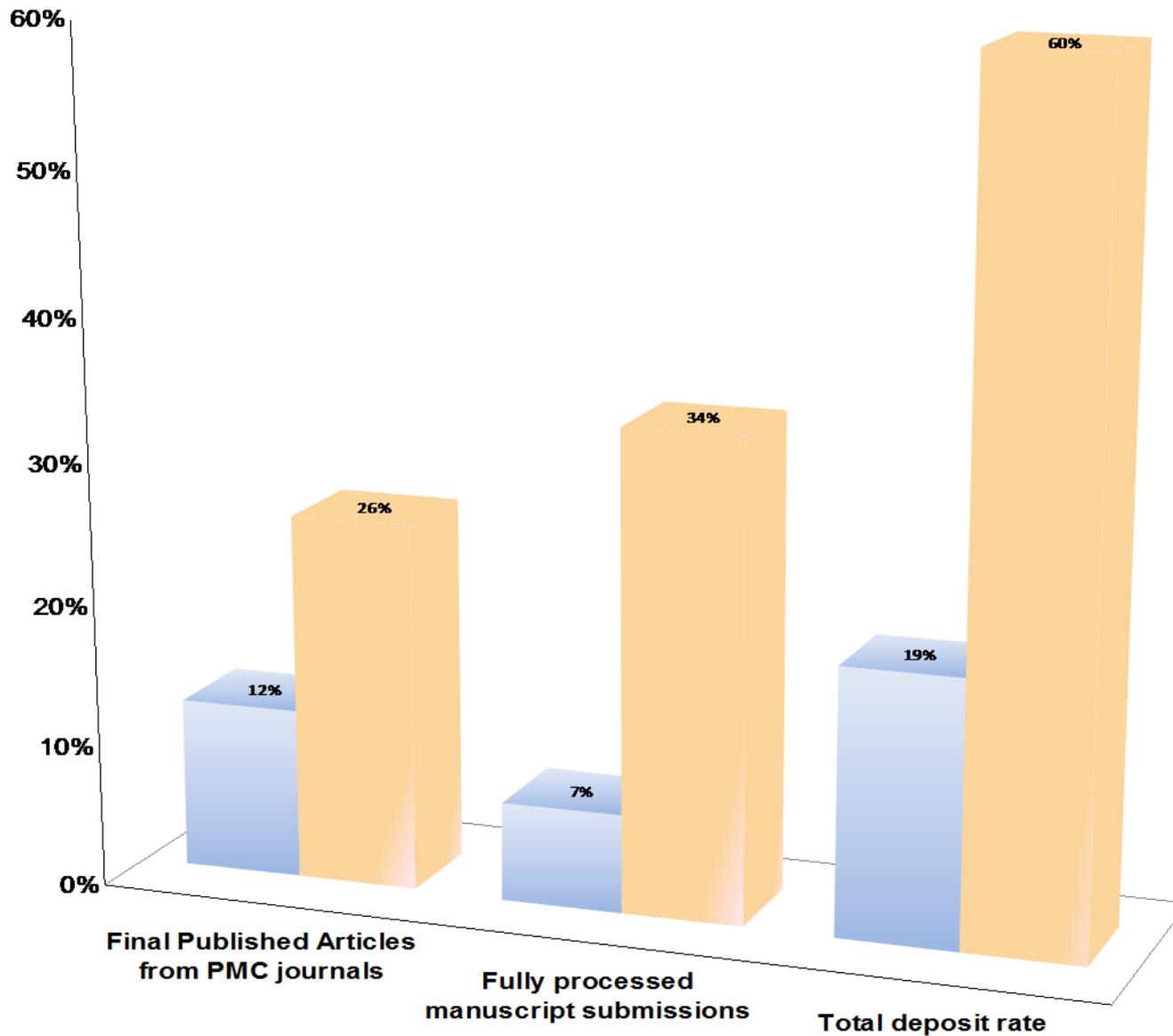
- Translational research = bench to bedside to community
- Public Access is NOT Open Access

NIH Policy Lead-in

- NIH Public Access:
 - Ensures that the public has access to the published results of NIH-funded research.
 - Requires scientists to submit final peer-reviewed journal manuscripts that arise from NIH funds to the digital archive PubMed Central (PMC) (<http://www.pubmedcentral.nih.gov>).
 - Requires that these final peer-reviewed manuscripts be accessible to the public on PubMed Central to help advance science and improve human health.

Public Access Policy applies to any final manuscript that:

- Is peer-reviewed;
- And, is accepted for publication in a journal on or after April 7, 2008;
- And, arises from:
 - Any direct funding from an NIH grant or cooperative agreement active in Fiscal Year 2008, or;
 - Any direct funding from an NIH contract signed on or after April 7, 2008, or;
 - Any direct funding from the NIH Intramural Program, or;
 - An NIH employee.



■ Voluntary policy: 2005-2007

■ Mandatory policy: July 2008 to August 2009, estimated

Manuscript Deposits

- 56% of NIHMS submissions are completed within one month.
- 93% of NIHMS submissions are completed within 3 months.
- Delays are almost always because authors do not respond to NIHMS prompts quickly.

New: My Bibliography

- As of July 23, 2010, researchers will no longer be able to add citations manually into eRA Commons to comply with the NIH Public Access policy. You must use My NCBI's "My Bibliography".
- <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-10-103.html>

Required actions:

- If not already established, PD/PIs must **establish a My NCBI account** to gain access to My Bibliography.
- My NCBI accounts must be **linked to** eRA Commons accounts.
- As of July 23, 2010, Commons will no longer support manual entry of citations. PD/PIs will no longer be able to type or copy and paste citation data into Commons and must enter new citations into their My NCBI accounts.
- As of October 22, Commons will no longer display citations that a PI has manually entered into Commons. All citations previously entered manually into Commons will be removed from the Commons system. Therefore, these citations must be **added to My Bibliography** so that they will continue to appear in Commons and can be associated with future annual progress reports.

My NCBI / My Bibliography function

- New feature in My Bibliography facilitates the management of publication compliance.
- Introduced January 2010.
- eRA Commons users – Extramural principal investigators, grantees or applicants.
- Link eRA Commons account with My NCBI/My Bibliography account.
- New Awards View in My Bibliography provides compliance view.

My Bibliography

- Awards View
 - Check if publications are compliant
 - Start Manuscript Submission Process
 - Associate NIH extramural awards with publications
 - Designate delegates to manage bibliographies
 - Delegates must have their own MyNCBI account.

My Bibliography – Awards View

- Compliance Indicators
 - Non compliant.
 - Citation has been submitted and is in process.
 - Citation is compliant and PMCID number is also displayed.
 - Not Applicable (N/A) label – articles submitted prior to April 7, 2008 and are not covered by the policy.
 - Question Mark (?) – more information is needed before compliance status can be indicated.

 Public Access Compliance: Non-compliant. No PMCID 3 months post publication. NIHMS ID: [NIHMS70841](#)
[NIH Funding](#): No funding has been associated with this citation.

 Public Access Compliance: PMC Journal – In Process
[NIH Funding](#): No funding has been associated with this citation.

 Public Access Compliance: Complete. PMCID: [PMC2632597](#)
[NIH Funding](#): No funding has been associated with this citation.

 Public Access Compliance: Not applicable
[NIH Funding](#): No funding has been associated with this citation.

 Public Access Compliance: [Edit Status](#)
[NIH Funding](#): No funding has been associated with this citation.

- James RS. [Effects of aestivation on skeletal muscle performance](#). Prog Mol Subcell Biol. 2010;49:171–81. PubMed PMID: 20069409.

● Public Access Compliance: Error: NIHMS ID: NIHMS does not exist

[NIH Funding:](#)

R01 AI044076-06 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-07 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES

- lepricon . lepricon. Leprosy review. 2008 May ; 

● Public Access Compliance: Error: NIHMS ID: NIHMS has been removed. Please provide a new NIHMS ID.

[NIH Funding:](#)

R01 AI044076-06 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-07 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES

- Chen CC, Chen TF, Hwang YC, Wen YR, Chiu YH, Wu CY, Chen RC, Tai JJ, Chen TH, Liou HH. [Different prevalence rates of Parkinson's disease in urban and rural areas: a population-based study in Taiwan](#). Neuroepidemiology. 2009;33(4):350–7. Epub 2009 Nov 4. PubMed PMID: 19887842.

● Public Access Compliance: Non-compliant. No PMCID 3 months post publication.

NIHMS ID: [NIHMS54654](#)

[NIH Funding:](#)

R01 AI044076-08 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-09 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-10 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-11A1 – TPN Induced Changes in Intraepithelial Lymphocytes

- Kujawa SG, Liberman MC. [Adding insult to injury: cochlear nerve degeneration after "temporary" noise-induced hearing loss](#). J Neurosci. 2009 Nov 11;29(45):14077–85. PubMed PMID: 19906956.

● Public Access Compliance: In process at NIHMS. (NIHMS ID: [NIHMS163964](#))

[NIH Funding:](#)

R29 AI044076-04 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES

- Marom M, Hagalili Y, Sebag A, Tzvier L, Atlas D. [Conformational changes induced in the voltage-gated calcium channels Cav1.2 by BayK 8644 or FPL-64176 modify the kinetics of secretion independently of Ca²⁺ influx](#). J Biol Chem. 2010 Jan 6. [Epub ahead of print] PubMed PMID: 20054004.

● Public Access Compliance: PMC Journal – In Process

[NIH Funding:](#) No funding has been associated with this citation.

- Mohammed F. [Screening for colorectal cancer](#). N Engl J Med. 2010 Jan 7;362(1):85; author reply 85. PubMed PMID: 20058342.

● Public Access Compliance: Method B Journal – Pending PMC Submission

[NIH Funding:](#)

R01 AI044076-06 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES
R01 AI044076-07 – TPN INDUCED CHANGES IN INTRAEPITHELIAL LYMPHOCYTES

- Allen P, Thompson JL, Herman CJ, Whyte AN, Wolfe VK, Qualls C, Helitzer DL. [Impact of periodic follow-up testing among urban American Indian women with impaired fasting glucose](#). Prev Chronic Dis. 2008 Jul;5(3):A76. Epub 2008 Jun 15. PubMed PMID: 18558026; PubMed Central PMCID: PMC2483541.

● Public Access Compliance: Complete. PMCID: [PMC2483541](#)

[NIH Funding:](#) No funding has been associated with this citation.

- Komáromy AM, Alexander JJ, Cooper AE, Chiodo VA, Glushakova LG, Acland GM, Hauswirth WW, Aguirre GD. [Targeting gene expression to cones with human cone opsin promoters in recombinant AAV](#). Gene Ther. 2008 Jul;15(14):1049–55. Epub 2008 Mar 13. PubMed PMID: 18337838; PubMed Central PMCID: PMC2726772.

● Public Access Compliance: Complete. PMCID: [PMC2726772](#)

[NIH Funding:](#) No funding has been associated with this citation.

- Przytycka TM, Jothi R, Aravind L, Lipman DJ. [Differences in evolutionary pressure acting within highly conserved ortholog groups](#). BMC Evol Biol. 2008 Jul 17;8:208. PubMed PMID: 18637201; PubMed Central PMCID: PMC2488352.

● Public Access Compliance: Complete. PMCID: [PMC2488352](#)

[NIH Funding:](#) No funding has been associated with this citation.

- Huang Y, Koonin EV, Lipman DJ, Przytycka TM. [Selection for minimization of translational frameshifting errors as a factor in the evolution of codon usage](#). Nucleic Acids Res. 2009 Nov;37(20):6799–810. Epub 2009 Sep 10. PubMed PMID: 19745054; PubMed Central PMCID: PMC2777431.

● Public Access Compliance: Complete. PMCID: [PMC2777431](#)

[NIH Funding:](#) No funding has been associated with this citation.

- Wolf YI, Novichkov PS, Karev GP, Koonin EV, Lipman DJ. [Inaugural Article: The universal distribution of evolutionary rates of genes and distinct characteristics of eukaryotic genes of different apparent ages](#). Proc Natl Acad Sci U S A. 2009 May 5;106(18):7273–80. Epub 2009 Apr 7. PubMed PMID: 19351897; PubMed Central PMCID: PMC2666616.

● Public Access Compliance: Complete. PMCID: [PMC2666616](#)

[NIH Funding:](#) No funding has been associated with this citation.

Public Access Policy Information

- Detailed Policy information is available at:
 - <http://PublicAccess.nih.gov>
 - Information on submission process, policy details, and FAQs.
- Additional information available at:
 - PubMed Central (www.pubmedcentral.nih.gov/)
 - NIH Manuscript Submission System (www.nihms.nih.gov/)
 - My Bibliography (<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-10-103.html>)