



A Look at the US National Institutes of Health Commitment to Open Access

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Abstract

In 2008, the Consolidated Appropriations Act (PL 110-161) codified into law the National Institutes of Health (NIH) voluntary Public Access. Division G, Title II, Section 218 of PL 110-161 requires 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.’ It also requires the NIH to implement the public access policy in a manner consistent with copyright law.

The importance of this Act is significant in that it guarantees that all published research funded all or in part by an NIH grant must be openly accessible to the public no later than 12 months after the official date of publication. It is also significant in that compliance with the NIH Policy is 1) a statutory requirement, and 2) a term and condition of NIH grant awards and cooperative agreements.

The history of how this open access (OA) policy formally became federal law is an interesting exploration of legislative, scientific, and public dialogues surrounding the transparency, accountability, and accessibility of federally funded research. In this paper, I examine these dialogues, starting with the initial policy statement on enhancing public access to archived publications resulting from NIH-funded research, through the multiple Notices of Public Meeting (as required by US law), to current efforts and technology to track and ensure public access compliance. I also describe how the Fair Copyright in Research Works Act affected the creation of the NIH Open Access Policy.