

# Open Access

Open access (OA) literature is digital, online, free of charge and free of most copyright and licensing restrictions

Open Access Overview by Peter Suber  
<http://www.earlham.edu/~peters/fos/overview.htm>

# 2005 Legislation: NIH Public Access

(H.R. 3010; H.Rept.109-143)

- In 2004, Congressional report language mandated that authors funded by the National Institute of Health (NIH) voluntarily submit within 12 months of publication, copies of their journal manuscripts to NIH's free access database, PubMed Central.
- There has only been a 4% compliance rate since the implementation of this language in 2005
- In September 2006, to facilitate more compliance, NIH announced procedures to permit some open access publishers to post manuscripts or articles directly to PMC or to give NIH access to articles for the embargoed period, or a maximum of 12 months.

## 2005 Legislation

### S.2104: The American Center for Cures Act

Introduced December 14, 2005.

Principal Sponsors: Sen. Lieberman (D-CT) and Thad Cochran (R-MS)

Required NIH grantees to provide NIH with a final version of all peer-reviewed manuscripts accepted for publication within six months of publication.

Reported out of the authorizing Committee and approved by the House of Representatives in Sept. 2006.

Language included in accompanying report: "The Committee has listened to stakeholders concerns about NIH's current open access policy with respect to making published literature available online. The Committee will continue to monitor the open access policies adopted by the NIH, including the management of the program and the participation levels of scientific journals."

## 2006 Legislation

### NIH Appropriation Bill

- The House Appropriations Committee reported legislation, H.R. 5647; H.Rept. 109-515) that would change NIH's policy to make it **mandatory** that all NIH-funded researchers submit electronic versions of final, peer-reviewed manuscripts to PubMed Central within one year of publication in a journal. No further action has occurred.
- The Senate bill, S.3708, and accompanying report, 109-287, do not contain this language.

## 2006 Legislation

### Federal Research Public Access Act (S.2695)

- Introduced 5/2/06 by Sens. Cornyn (R-Tx) & Lieberman (D-CT)
- Would require all federal agencies that fund research totaling \$100 million or more annually to develop policies requiring all final manuscripts resulting from federal funding to be deposited in a publicly accessible archive within six months of publication.
- Includes eleven agencies across all fields: NSF, NASA, DOE, USDA, DOD, EPA, Commerce, Education, Homeland Security, DOT

## S.2695: Federal Research Public Access Act

- This legislation has generated considerable reaction.
- On July 2006, the provosts of 25 universities released an open letter to the Higher Education Community” supporting the bill as “good for education and good for research” Additional support has come from major New England university provosts.
- Subsequently, the Presidents of 53 liberal arts colleges issued a joint letter supporting the legislation.

## S.2695: Federal Research Public Access Act

Some Scholarly associations, academics and publishers objected on the following grounds:

The costs of a broader policy would detract from research funding.

Government mandated access may produce a trade-off between investing in new research opportunities and expanded dissemination of current research.

Just because the bill supports the concept of peer review doesn't mean its provisions would permit the journals that do peer review to survive.

The government might not maintain databases;

Long-term viability has yet to be proven.

Some journals would be forced to close for lack of income;

The government should not interfere in private activities by creating such publication databases.

## 2006 Legislation

### NIH Reauthorization Act

- The NIH Reauthorization Act, H.R.6164; H.Rept. 109-687 calls for monitoring of NIH's Open Access activities.
- The bill was approved by the House of Representatives on Sept. 26, 2006.

*A Member of Congress had planned to (but did not) introduce an amendment during committee consideration of H.R. 6164, the NIH Reauthorization Act, "that would have required all journal articles about federally funded research to be deposited in a free, open archive (NIH's Pub Med) no later than six months after they were accepted for publication."*

## Controversial Issues for the 110<sup>th</sup> Congress

- Modifying NIH's Public Access policy to require the government to link to the original journal's website to read articles
  - Limiting federal systems to scientific information developed using federal funds
  - Monitoring the added costs of expanding PubMed Central
  - Determining if other agencies will use governmental nonexclusive licensing to allow access to commercially published journal articles, regardless of copyright ownership;
  - Assessing the quality of science published in open access journals; and
  - Evaluating the economic impacts of open access publishing on commercial publishing.
- Long-term viability still to be proven.

# Opposition to Open Access

## Commercial Publishers

- Traditional subscriber-pays commercial publishers and some scholarly associations object to most open access publishing because it may duplicate what publishers sell, weaken the publishing industry and erode profits.

## DC Principles Coalition 75 Publishers – 400 Journals

- Not-for-Profit Publishers Committed to for Free Access to Science
- The *DC Principles* provide what has been called the needed “middle ground” in the increasingly heated debate between those who advocate immediate unfettered online access to medical and scientific research findings and advocates of the current journal publishing system.
- Represents 65 societies and university presses
  - Over 600,000 Individual members
  - Over 380 publications with 800,000 articles currently online and nearly 500,000 articles available for free
  - [www.deprinciples.org](http://www.deprinciples.org)

## 110<sup>th</sup> Congress Legislative Activity

Many in the science, engineering and technology community feel that Open Access is not a matter of “if”, but “when.” Legislative activity on Open Access is expected in the 110<sup>th</sup> Congress.