

## Overview of NIH's Draft Public Access Policy and Supplemental Guidance

On June 18, NIH released its draft [Public Access Policy and Supplemental Guidance](#) for implementation of the [2022 OSTP Nelson Memorandum](#). Below is a quick overview for SPARC members; we'll follow up with talking points and some additional information on submitting public comments by the end of this week. And please note: NIH indicates that the Policy and Guidance documents specifically focus on scholarly publications (and not data) as the NIH's policy for [Data Management and Sharing \(DMS\)](#) was already issued and has been in effect since January 25, 2023.

### Overall Requirements and Scope

- The Policy requires immediate public access to articles - embargos are no longer allowed.
- NIH reiterates authors **do not have to pay a fee** to comply with the Policy.
- The Policy applies to manuscripts accepted for publication on or after **October 1, 2025**. This means the Policy will apply to existing grants if the article is published on or after that date.
- The Policy requires that final peer-reviewed manuscripts be submitted to PubMed Central (PMC) to be made publicly available immediately upon publication.
- The Policy requires that grantees explicitly grant the NIH the right to make the manuscript available in PMC without an embargo.
- The Policy does not explicitly grant full reuse rights of the manuscript to the public.

### Compliance

- NIH will maintain its two existing submission pathways: submission of the final peer-reviewed manuscript to PMC directly or submission of the final published article to PMC from a journal that has a formal agreement with the National Library of Medicine (NLM).

### Publication Costs

- Submission of the manuscript to PMC **remains free** under the Policy.
  - NIH notes that any fee requested during the publication process for submission to PMC is **not** an allowable cost under the new Policy.
- Authors do **not** have to pay an article processing charge (APC) to comply with the Policy. However, "reasonable" publication costs are allowed to be requested as direct or indirect costs.
  - NIH does not define what a "reasonable" publication cost is.
  - However, the Guidance provides language encouraging authors and institutions to consider a variety of factors when determining if a publication cost is "reasonable," including sustainability of library or lab budgets and professional or institutional priorities.
- The proposed Policy and Guidance documents outline additional **unallowable** publication costs, including:
  - Any fee requested during the publication process for submission to PMC (i.e., article development charges or other attempts to extract payment from manuscript deposit).

- Costs for which the institution already pays a fee that would cover the publication (e.g., costs to publish in a journal for which the institution already has a “read-and-publish” agreement).
- Costs that are charged differentially because the author is subject to NIH’s Public Access Policy.
- Publication costs incurred after the closeout of the award.

### **Reuse of Publications**

- The Policy requires grantees to provide **NIH** with rights to the accepted manuscript that are equivalent to those of the Federal Purpose License (“A royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.”).
- NIH is **not** proposing to authorize **the public** to make broad reuse of the work.

### **Enforcement**

- Non-compliance with the Policy, including failure to acknowledge federal funding in the manuscript, may be considered when making future funding decisions for the grantee or cause a delay in the continuation of non-competing grant awards.

NIH is the first agency to release its draft policy. All agency policies must be issued before December 31, 2024 as required by the Nelson Memo. SPARC will closely monitor these policies as they are released and provide similar summaries for SPARC members. If you have questions about NIH’s proposed Policy and Guidance documents, please contact: [katie@sparcopen.org](mailto:katie@sparcopen.org).