

To: Dr. Lawrence Tabak, Principal Deputy Director, National Institutes of Health

From: Erin O'Shea, HHMI President

Date: August 02, 2024

Regarding: NIH draft Public Access Policy

Dear Dr. Tabak,

We offer feedback on the three sections of the NIH draft public access policy. We support the overarching proposed changes and suggest targeted revisions for your consideration to avoid unintended consequences that may arise from the language in the current draft.

1. On the draft Public Access Policy

We commend the NIH for eliminating the embargo period on publications resulting from NIH-funded research. We also support the proposed language in the draft Public Access Policy that clearly states that submission of manuscripts to PubMed Central (PMC) remains free for authors. This provides a critical option to ensure that publication costs do not impede any NIH-funded researcher's ability to comply with the policy.

Re-use rights for the public: To unlock their full value, we encourage the NIH to ensure that the public is **explicitly authorized** to fully reuse publications resulting from NIH research. To this end, we recommend that the NIH add language to its Public Access Policy making this clear.

We suggest that NIH add the following language (or similar) to its Policy text: "*NIH hereby exercises its right under this license to authorize members of the public to reuse all or any part of the work for any purpose so long as the original authors receive attribution in a reasonable manner.*"

This language has the added advantage that it brings the NIH policy in closer alignment with immediate open access policies from funders and philanthropies, including HHMI, who have opted for a CC BY license requirement to support as broad a public reuse right as possible. Without the added language, the NIH policy may inadvertently cause a retrenchment from CC BY as the preferred license for open access.

4000 Jones Bridge Road, Chevy Chase, Maryland 20815

301.215.8500 | www.hhmi.org

2) draft Guidance on Government Use License and Rights

In addition to including the recommended language above to the Policy itself, explicit authorization for the public to reuse publications should also be incorporated in two additional places in the Guidance:

- 1) In the statement NIH requires of authors submitting manuscripts to PMC; and
- 2) In the sample language NIH recommends that authors attach to manuscripts.

Incorporating language that explicitly authorizes public reuse in these two places will ensure that authors and users of the publications clearly understand that the public can make broad reuse of the work.

3) draft Guidance on Publication Costs

As fees that some publishers charge for open access [continue to increase](#), this Guidance will be important to reduce the inequities resulting from article fee-based business models that require authors to pay to publish. This Guidance should not impede and perhaps can help to encourage the development of alternative models for research communication (including preprints; Publish, Review, Curate models; Diamond Open Access models; etc).

Unallowable costs: The draft policy states that ‘*Costs for services (e.g., peer review) for which there is no resulting publication are unallowable because costs must be chargeable or assignable in accordance with the relative benefits received.*’ **We advise against limiting the term ‘publication’ to the peer reviewed article** and suggest a minor edit to clarify that published peer review reports can serve as a publication for purposes of assessing the relative benefits received: ‘Costs for services (e.g., peer review) for which there is no resulting publication (*e.g., peer reviewed article or peer review reports*) are unallowable because costs must be chargeable or assignable in accordance with the relative benefits received.’

We and others have suggested that a preprint-based publishing system would improve the rigor and efficiency of publishing services ([Stern B and O’Shea E, 2019](#); [Avissar-Whiting M et al, 2023](#); [Sever R, 2023](#)). Researchers would publish preprints that are improved and validated through open post-publication peer review and subsequent curation efforts (Publish, Review, Curate). An open peer review process enables better accountability and credit for authors, peer reviewers, and journals and provides useful context for readers. We understand that the NIH public access policy applies to the final peer reviewed article and does not take a position on

preprints and open post-publication peer review. But these publishing practices can still contribute to the trustworthiness of the final peer reviewed article and should thus not be excluded from financial support. Without the suggested clarification, the NIH public access policy may inadvertently undermine a path towards sustainable business models for innovative publishing approaches that use preprints and open post-publication peer review.

Assessing ‘reasonable’ publishing costs: We support NIH’s positions that *‘reasonable publication costs ensure an equitable system for publishing opportunities’* and that reasonable costs can be defined based on factors that include the size of grant awards, library budgets and institutional priorities. But we are concerned that NIH plans to encourage *‘authors to publish papers arising from NIH-funded research in reputable journals.’* We suggest a revised sentence to **expect scientists (not journals) to act reputably, or with integrity, throughout the publishing process**, for example: *‘we expect scientists to act with integrity in the publishing process, by adhering to high standards of research and publishing ethics and by contributing to a rigorous peer review process’*. While journal standards are important, these standards are eroding not just because of bad journal actors but also because even so-called reputable journals suffer from system-level challenges that undermine their quality control mechanisms. These challenges arise in part because even so-called reputable journals do little to prevent another (reputable) journal from publishing an article that their expert peer reviewers deemed flawed. This rejection – resubmission ‘loophole’ has turned publishing into a game of getting articles into the right journals, wastes time in the form of redundant peer review, increases publishing costs, and undermines quality control at the systems level and at the level of individual journals, including so-called reputable ones. For example, many journals need to spend more resources than in the past on [screening submissions and finding suitable reviewers](#) which elevates the risk that their quality control mechanisms will be overwhelmed. We worry that without revising the recommendation to make clear that scientific authors are expected to do more than simply publish in reputable journals, this Guidance could stymie the important goals of reasonable publishing costs and rigorous evaluation of research findings.

We hope that you find these suggestions useful for your revisions of the draft policy.

Best regards,



Erin O'Shea

President, Howard Hughes Medical Institute

4000 Jones Bridge Road, Chevy Chase, Maryland 20815

301.215.8500 | www.hhmi.org