

LEGISLATIVE UPDATE
September 17, 2008

HOUSE HEARING ON THE NIH PUBLIC ACCESS POLICY
Written by Dale Dirks and Dane Christensen

On Thursday, September 11th, The House Judiciary Committee's Subcommittee on Courts, the Internet, and Intellectual Property convened a hearing to discuss the *Fair Copyright in Research Works Act* (H.R. 6845). According to Congressman John Conyers (D-MI), the chairman of the full committee and sponsor of the legislation, this bill was crafted to "role back the clock" on the National Institutes of Health's (NIH) public access policy which was updated through last years appropriations legislation.

The hearing was attended by subcommittee chairman Congressman Howard Berman (R-CA) and ranking member Congressman Howard Coble (R-NC). Also attending the hearing were subcommittee members Congresswoman Zoe Lofgren (D-CA), Congressman James Sensenbrenner (R-WI), Congressman Melvin Watt (D-NC), Congressman Darrell Issa (R-CA), Congressman Steve Chabot (R-OH), Congressman Bob Goodlatte (R-VA), and Congressman Conyers. It is important to note that key staff members from both the House and Senate Appropriations Committees also attended the hearing.

During opening statements numerous members of the subcommittee, including the chairman and ranking member, voiced their displeasure that the appropriations committees had taken the lead on this issue and circumvented their jurisdiction. Many of the subcommittee members, including some currently cosponsoring H.R. 6845, admitted that they were not well educated on this issue and felt that the bill under consideration was an appropriate vehicle to initiate important dialogue. However, Congresswoman Lofgren and Congressman Watt made a point to imply that the update to the NIH public access policy was undeniably a good thing and that this hearing was perhaps a better venue for asking Dr. Elias Zerhouni, the NIH Director, unrelated science and public health questions.

Testifying in favor of the new public access policy were Dr. Zerhouni and Heather Dalterio Joseph, the Executive Director of the Scholarly Publishing and Academic Resources Coalition. Testifying in opposition to the new policy was former Congressman Ralph Oman, the Pavel Professorial Lecturer in Intellectual Property Law Fellow at the Creative Innovative Economy Center of The George Washington University Law School and Dr. Martin Frank, the Executive Director of the American Physiological Society. All copies of testimony can be obtained by following this link:
http://judiciary.house.gov/hearings/hear_090911_1.html.

Given the timing of this hearing, it appeared that its intention was not to advance H.R. 6845, but to give the subcommittee members a forum for voicing their displeasure with the appropriations committees. Further off-the-record discussion with committee staff

confirmed that neither the House nor the Senate intended to consider H.R. 6845, either as a stand alone measure or as part of a larger package.

Following is an email with additional links to news articles and information provided by the SPARC Policy Action Network re: the NIH Public Access Policy:

Dear friends,

It's hard to describe how important your letters and calls to Congress have been over the last two weeks. Your quick action and cogent expressions of support for the NIH policy, and of strong opposition to HR6845, have helped our efforts to stop this latest threat to the NIH Public Access policy enormously. Thank you.

As a result of the collaborative efforts of constituents, and of our partner organizations ARL, AALL, ACRL, ALA, ATA, GWLA, **MLA**, **AAHSL**, PLoS, Public Knowledge, Science Commons, Genetic Alliance, AVAC, ACOR, Chordoma Foundation – and many, many others – we secured a spot as witness at the hearing last Thursday. Heather Joseph testified on behalf of the library and patient communities, and as a career-long publisher, and brought much-needed balance to the meeting.

There was some significant media coverage of the event, from:

- The Chronicle of Higher Education - <http://chronicle.com/daily/2008/09/4589n.htm>
- Library Journal - <http://www.libraryjournal.com/info/CA6595597.html?nid=2673#news1>

Your contributions helped this to happen. Thank you.

There's more work yet to be done while HR6845, the Fair Copyright in Research Works Act, remains on the table. Please stay tuned for next steps.

With best wishes,

Jennifer

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(The Scholarly Publishing & Academic Resources Coalition)
<http://www.arl.org/sparc>

HOUSE HEARING ON THE ROLE OF LIBRARIES

Written by Dale Dirks and Dane Christensen

On Thursday, September 11th, the House Education and Labor Committee's Healthy Families and Communities Subcommittee held a hearing entitled, *Examining the Role of Museums and Libraries in Strengthening Communities*. The hearing was presided over by the subcommittee's chair, Congresswoman Carolyn McCarthy (D-NY), and attended by the subcommittee's ranking member, Congressman Todd Platts (R-PA), and also Congressman David Davis (R-TN).

Presenting testimony at the hearing were Dr. Anne-Imelda M. Radice, the Director of the Institute of Museum and Library Services (IMLS), Ms. Suzanne LeBlanc, the Executive Director of the Long Island Children's Museum, Ms. Claire Zales, the Executive Director of the Arizona Health Science Library, and Dr. Eric Jolly, the President of the Science Museum of Minnesota. The hearing was an opportunity to highlight the important federal programs museums and libraries use to enrich their communities, and all who presented testimony spoke about the specific programs they were familiar with.

While the importance of Medline Plus was repeatedly stressed, other programs were praised as well. Most notably, these included the IMLS's new *connecting to collections* initiative (<http://www.ims.gov/collections/index.htm>) and the *Laura Bush 21st Century Librarian* program. (<http://www.ims.gov/applicants/grants/21CenturyLibrarian.shtm>).

Copies of all testimony can be viewed at: <http://edlabor.house.gov/hearings/hfc-2008-09-11.shtml>.

NIH REAUTHORIZATION

On Tuesday, September 9th, NIH Director Dr. Elias Zerhouni testified before the House Energy and Commerce Committee's Health Subcommittee. The title and focus of the hearing was the NIH Reform Act of 2006 (also known as the NIH reauthorization): Progress, Challenges, and Next Steps. The transcript of his testimony can be accessed through this link: <http://www.nih.gov/news/health/sep2008/od-09b.htm>.