

**Details for
ACRL
Legislative Agenda 2006**

A. EXECUTIVE SUMMARY:

ACRL's legislative agenda includes objectives for legislative action at the national level on issues that may affect the welfare of academic and research libraries. These include the areas of intellectual property and copyright; public access to federally-funded research; technology, the Internet and telecommunications; government information; funding and reauthorization; and intellectual freedom and privacy. From the full list of legislative issues that ACRL takes an interest in, below, the focus for the fourth quarter of 2006 is on:

- 1. Public Access to Federally-Funded Research: NIH Public Access Policy and Federal Policy for Taxpayer Funded Research**
- 2. Copyright Act Section 108**
- 3. Broadband Wiretapping: CALEA**

B. ISSUES:

1. Intellectual Property and Copyright

- 1.1 Anti-circumvention
- 1.2 Broadcast Flags
- 1.3 Copyright Act Section 108
- 1.4 Database Protection
- 1.5 Digital Rights Management
- 1.6 Orphan Works

2. Public Access to Federally-Funded Research

- 2.1 NIH Public Access Policy
- 2.2 Federal Legislation

3. Technology, the Internet and Telecommunications

- 3.1 Broadband Wiretapping
- 3.2 Net Neutrality
- 3.3 Municipal Networks

4. Government Information

- 4.1 E-Government Act of 2002
- 4.2 Freedom of Information (FOIA)
- 4.3 Government Printing Office
- 4.4 Presidential Records

5. ACRL supports funding for:

- 5.1 Library Services and Technology Act (LSTA)
- 5.2 Federal Depository Library Program and the Government Printing Office
- 5.3 Institute of Museum and Library Services
- 5.4 Library of Congress
- 5.5 National Agricultural Library
- 5.6 National Library of Medicine
- 5.7 Environmental Protection Agency Libraries

6. Intellectual Freedom and Privacy

- 6.1 USA PATRIOT Act

C. BACKGROUND ON ISSUES:

1. Intellectual Property and Copyright

1.1 Anti-circumvention

Summary: Section 1201(a)(1) of the Digital Millennium Copyright Act governs the circumvention of technological protection measures that are placed on copyrighted works. The U.S. Copyright Office issued a ruling effective October 28, 2000 recognizing two narrow exemptions from the anti-circumvention prohibition: 1) Compilations consisting of web sites blocked by filtering software and 2) Literary works, including computer programs and databases, protected by access control mechanism that fail to permit access because of malfunction, damage or obsolescence.

In his October 28, 2003 triennial rulemaking, Librarian of Congress James Billington issued two new exemptions 1) People with vision or print disability may circumvent technological protection measures in order to access literary works, including eBooks, via a 'screen reader' or text-to-speech or text-to-Braille device. 2) Circumvention is allowed for computer programs and video games in formats that have become obsolete. These exemptions will remain in effect through October 27, 2006.

The DMCA's rulemaking procedure allows the Librarian of Congress, every three years, to adopt exceptions to the anti-circumvention provision, but the statutory standards have been interpreted so as to ensure the denial of almost all the exemptions requested. Further, while the process may permit exemptions for acts of circumvention, it does not permit exemptions for the manufacture and distribution of circumvention tools. Thus, even if you were to obtain an exemption, you would not be able to obtain a tool that allows you to use the exemption. The rulemaking procedure is impractical and ineffective.

Issue for Academic Libraries: Although the exemptions offer slight relief from the anti-circumvention rule, the DMCA still has a significant impact on libraries' and educational institutions' ability to make fair use of digital materials. Libraries are disappointed that the law will continue to disallow legitimate and customary uses of digital materials. We spend hundreds of millions of dollars each year on all forms of digital information and amending the law would allow libraries and users to receive the full benefit of their (and in many cases, the public's) investment in copyrighted products.

Recent Developments:

- During the 108th Congress there were six proposed bills that sought to restore consumer rights by trimming back the excesses of the Digital Millennium Copyright Act (DMCA).
- Further efforts are continuing in the 109th Congress, for example the Digital Media Consumers Rights Act of 2005 (H.R. 1201) introduced by Representatives Boucher (D-VA), Doolittle (R-CA) and Barton (R-TX) on March 9. It would allow the circumvention of anti-piracy, encryption technology in instances when a user intends to make "fair use" of the underlying work. Libraries are strong supporters of H.R. 1201 and its predecessor bill in the 108th Congress, H.R. 107 (which did not progress out of the Energy and Commerce Committee).
- On November 16, 2005 the U.S. House of Representatives Energy and Commerce Committee held a hearing entitled, "Fair Use: Its Effects on Consumers and Industry." The lively hearing, convened by the Committee's Subcommittee on Commerce, Trade and Consumer Protection, lasted more than two hours and elicited views from eight witnesses on fair use, copyright law, and technology. Prue Adler of the Association of Research Libraries [spoke](#) on behalf of the Library Copyright Alliance (ALA, ARL, AALL, MLA and SLA) to explain to the Subcommittee why fair use is so critical to libraries. Subcommittee Chairman Clifford Stearns (R-FL) opened the hearing by stating that the hearing was intended as "a reasoned and thoughtful examination of the law of

copyright and "fair use," how technology is making traditional "fair use" analysis and distinctions more nuanced, and how consumers are faring in the middle of all this. Mr. Stearns stated further that he would like the hearing to lay the groundwork for further examination of H.R. 1201.

- In October 2005, The Copyright Office issued its third [notice](#) of inquiry to begin the third round of triennial proceedings under Section 1201(a)(1) of the Digital Millennium Copyright Act of 1998. The law provides that there can be exemptions from the prohibition on circumvention for users of "classes of works" who would be "adversely affected by virtue of such prohibition in their ability to make noninfringing uses" of those works. Reply comments from interested parties are due February 2, 2006. The current exemptions will remain in effect until the Librarian of Congress' triennial rulemaking in October 27, 2006. Any changes made then will remain in effect until October 2009.
- December 1, 2005, the Library Copyright Alliance (ALA, ARL, AALL, MLA and SLA) and the Music Library Association filed [comments](#) with the U.S. Copyright Office requesting two new exemptions plus a renewal of the four exemptions [granted](#) in 2003. The first new exemption requested is for audiovisual works and sound recordings distributed in digital format when all commercially available editions contain access controls that prevent the creation of clip compilations and other educational uses. Teachers at the high school, college and graduate school level are increasingly unable, because of technological measures, to compile film and music clips to use in a variety of classes (for example, in media studies, literature, and criminal law). The second new exemption requested is for sound recordings or audiovisual works (including motion pictures) embodied in copies and phonorecords; computer programs or video games; or pictorial, graphic, or literary works or compilations distributed in formats protected by access controls that threaten privacy and security. This requested exemption was prompted by recent disclosures about Sony BMG's copy control technology placed on music CDs, which has raised a public outcry about access controls that threaten the privacy of computer users and the security of their computers. (74 [comments](#) were filed in all.)
- February 2006. 35 reply [comments](#) were filed.
- March and April 2006. The Copyright Office held public hearings to hear from witnesses directly as to whether exemptions will be renewed and/or issued by the Librarian of Congress.

Current Status: September 2006. Exemptions from the anti-circumvention provision are expected to be announced in October 2006. Controversy surrounding the DMCA is expected to continue. Attempts are anticipated to pass legislation protecting fair use in the digital environment and extending the control of copyright owners. ALA and ACRL carefully monitor these legislative activities.

1.2 Broadcast Flags

Summary: On November 4, 2003, the Federal Communications Commission (FCC) decided to enact broadcast flag copyright protection [rules](#) that would have gone into effect in 2005 except for lawsuit that delayed implementation. The rule is designed to facilitate the transition to digital televisions (DTV) by mandating that all digital electronic devices and personal computers include code—called a broadcast flag—that accompanies DTV signals to prevent redistribution of the digital content over the Internet.

Issue for Academic Libraries: A broadcast flag would seriously undermine the TEACH Act, which facilitates distance education in the digital era. The Technology, Education and Copyright Harmonization (TEACH) Act passed by the 107th Congress sets forth conditions under which government bodies and accredited nonprofit educational institutions can use copyrighted works in distance education courses conducted over the Internet (to show a clip from a TV show, for example). The Act contains a variety of procedural safeguards to ensure that the interests of the copyright owners are not harmed.

Recent Developments:

- ALA v. FCC is a January 2004 [case](#) in the U.S. Court of Appeals for the D.C. Circuit in which libraries and other public interest and consumer groups successfully challenged the FCC, arguing that imposition of the broadcast flag will prevent libraries, educational institutions, and consumers from exercising their fair use and other rights under copyright law and will hasten the advent of a world in which the consumer must pay to have access to electronic content. They also argued that the FCC acted in excess of its statutory authority.
- In May 2005, the Court of Appeals issued a unanimous [decision](#) striking down the FCC's rule, holding that the FCC exceeded its legal authority when it attempted to regulate consumers' use of TV receiver devices after the completion of a broadcast transmission. The court relied in large part on a declaration filed by Peggy Hoon, Scholarly Communication Librarian at N.C. State University, who explained the adverse impact that the flag would have on distance education activities at NCSU.
- Almost immediately after the court's decision was issued, the entertainment industry began promoting the introduction of legislation to overturn the court's decision. The recording industry is interested in an audio broadcast flag for digital radio.
- January 24, 2006. The U.S. Senate Commerce Committee held a hearing on the "broadcast flag." Jonathan Band testified for the Library Copyright Alliance (ALA, AALL, ARL, MLA and SLA), explaining to the Committee how the broadcast flag would hamper distance education activities by libraries and educational institutions. Attached to his [written testimony](#) were [five affidavits](#) from librarians that had been submitted to the D.C. Circuit Court of Appeals in the litigation over the broadcast flag. The Senate Commerce Committee Web site has [video](#) of the hearing. During the hearing there were references to a "Digital Content Protection Act of 2006," crafted by Sen. Gordon Smith (R-OR). This is a "discussion draft" bill that has not yet been introduced.
- November 2005 and June 2006. House Judiciary Committee held hearings on whether to authorize a new "broadcast flag" rule.
- Sen. Ted Stevens (R-AK) introduced S. 2686, which would reform the Telecommunications Act of 1996. It contains proposals to enact the broadcast flag and an audio flag, including the "Digital Content Protection Act" to give the FCC authority to reissue its flag rule. The current provision includes language about exceptions for educational and other uses along the lines of fair use, giving a clear signal that the library concerns were heard and heeded. The Senate Commerce Committee passed the larger bill in June. During hearings and markup libraries and higher education groups submitted a [statement](#) of continuing concerns. The House of Representatives has already passed [their proposal](#) to reform the Telecommunications Act, which did not contain either the video or audio flag.
- Rep. Joe Barton (R-TX), chair of the House Energy and Commerce Committee has stated that there will be no broadcast flag bill coming out of his committee unless it is linked with H.R. 1201, the [digital fair use bill](#). That Committee's Subcommittee on Telecommunications and the Internet held a [hearing](#) on June 27, "The Audio and Video Flags: Can Content Protection and Technological Innovation Coexist?" The library and educational community did not testify at the House hearing, but submitted a [statement](#) for the record.

Current Status: September 2006. Congress is back in session briefly before returning to their districts to campaign. With national security issues dominating, it is unlikely that communications issues will be a priority.

1.3 Copyright Act Section 108

Summary: The Library of Congress convened the [Section 108 Study Group](#) in early 2005 to examine Section 108 of the U.S. Copyright Act. Members of the Study Group from the library community are Lolly Gasaway, Jim Neal, Miriam Nisbet and Bob Oakley. The group will prepare findings and make recommendations to the Librarian of Congress by mid-2006 for possible alterations to the law that reflect current technologies. The Library of Congress National Digital Information Infrastructure and Preservation Program (NDIIPP) and the U.S. Copyright Office formed the Copyright Working Group.

Section 108 is a critical provision of the law as it concerns reproduction of copyrighted works by libraries and archives, including for preservation and inter-library loan. Section 108 privileges are set out separate from the Section 107 fair use privileges, and do not depend on application of the four factors listed as determining whether a use is "fair." They provide predictability for libraries and archives and for immunity from liability for the unsupervised use of on-site reproduction equipment.

Issue for Academic Libraries: There is growing concern that provisions of the Copyright Act may need revision to address issues arising from use of copyrighted works by libraries and archives in a digital environment. Digital technologies are radically transforming how copyrighted works are created and disseminated and also how libraries and archives preserve and make those works available.

Recent Developments:

- The group held its inaugural meeting at the Library of Congress in April, a second meeting in New York City in June, third in Washington September 8-9, and fourth meeting Nov. 10-11 in New York City.
- March 2006. The group held public roundtable discussions to solicit public comments.
- On [February 22, 2006](#) and [April 24, 2006](#) ARL and ALA filed comments on Section 108 Study Group efforts.
- On June 2 and 3, 2006, ALA's OITP and the Association of Research Libraries (ARL) convened a meeting in Chicago to discuss the needs and concerns of the library, archive and museum communities regarding proposed changes because Section 108 is complex and the library community needs to be prepared for future debate. OITP and ARL will prepare a brief draft white paper to stimulate and support discussion of the library community's likely recommendations and positions regarding proposed changes.

Current Status: September 2006. The Study Group is scheduled to continue meeting and drafting their report through early 2007. A public meeting is tentatively scheduled for January 2007. After the Study Group makes recommendations to the Librarian of Congress, the U.S. Copyright Office will hold public hearings before submitting recommendations to the U.S. Congress.

1.4 Database Protection

Summary: Database Protection Legislation poses a threat to the free flow of information and the public domain. Under copyright law, basic factual information is in the public domain and is not entitled to copyright protection. Creators of databases feel that the databases they have created should be protected because of the investment made in the database. For several years, Congress has tried to pass legislation that would provide what they believe is needed protection to databases.

Issue for Academic Libraries: The unimpeded flow of information is fundamental to the mission and activities of both higher education and libraries, making Database Protection a complex and challenging activity in these domains.

Recent Developments:

- Database and Collections of Information Misappropriation Act (H.R. 3261), introduced October 8, 2003, by Representative Coble (R-NC), was approved October 16 by the House Judiciary Committee Subcommittee on Courts, the Internet, and Intellectual Property. The Association of American Universities, the American Council on Education, and the National Association of State Universities and Land-Grant Colleges dropped their opposition to this bill after it was revised to protect “accredited nonprofit colleges and nonprofit research laboratories from liability.”
- On March 2, 2004 Representative Stearns (R-FL) introduced the alternate bill H.R. 3872, which the House Energy and Commerce Committee approved and unfavorably reported out H.R. 3261.
- January 2006. ALA’s Council passed a [resolution](#) concerning the European Commission’s recent [report](#) on the EC’s Database Directive issued in 1996. That Database Directive ([Directive 96/9/EC](#)) gave a novel, unprecedented form of “sui generis” (one of a kind) legal protection to databases even if they are not sufficiently original to be copyrighted. The ALA Council’s resolution urges the EC either to repeal its Database Directive or to withdraw the “sui generis” right while maintaining copyright protection for “original” databases.
- March 2006. The EC has invited stakeholders, by March 12, 2006, to submit their views and comments and to provide further evidence on the economic impact of "sui generis" protection in stimulating the production of European databases

Current Status: September 2006. Although ALA does not expect to see database protection legislation introduced in the 109th Congress, it would be the first time in many years for this perennial issue not to be raised. ALA will continue to be on the alert for any such bills and will continue to oppose provisions that seek to restrict the free flow of information in the public domain.

1.5 Digital Rights Management

Summary: Digital Rights Management is a term used for technologies that control how digital content is used. While copyright holders have exclusive rights of copyright—such as the right to make a copy or the right to distribute a work to the public—thus far they have not had the right to control how works are used (the right to see a work, for example, or to read a work). In addition, fair use, a statutory exemption to the copyright law, allows users to exercise a copyright under certain conditions. These user privileges are threatened by DRM. Copyright holders (for their part) have acted in response to the proliferation of digital content, where the 100th copy is as pure as the first, and the Internet, which enables the instantaneous distribution of digital content. The development of digital content along with the Internet has propelled content owners and users into a new arena where each is adjusting to ensure, assert and in some cases enhance their rights. For more see [OITP brief](#).

Issue for Academic Libraries: In the higher education and library arenas, DRM is interpreted broadly as encompassing much more than restricting access to content. It is recognized that a variety of DRM solutions are needed. These solutions need to implement intellectual property management in more comprehensive and sophisticated ways than current DRM implementations.

Recent Developments: The entertainment industry, led primarily by the [Motion Picture Association of America](#) (MPAA) and the [Recording Industry Association of America](#) (RIAA), is actively pursuing DRM-friendly policy initiatives through [federal legislation](#) and [regulations](#), the [courts](#) and [standards](#)

[organizations](#). In June 2004, the “Inducing Infringement of Copyrights Act (INDUCE Act) was introduced in the Senate. This legislation would have made companies and Internet providers liable if their software or technology could be shown to "induce" users to illegally use copyrighted works. Fortunately, the bill failed to advance out of the Senate Judiciary Committee.

Current Status: September 2006. ALA will be on the alert for similar legislation to be introduced in the 109th Congress. The library community as well as consumers and parts of the technology industry continue to oppose any government-mandated DRM.

1.6 Orphan Works

Summary: Orphan works are those copyrighted works whose owners are difficult or even impossible to find. Concerns have been raised that the uncertainty surrounding ownership of such works might needlessly discourage subsequent creators and users from incorporating such works in new creative efforts, or from making such works available to the public.

Issue for Academic Libraries: Chilling effect possible on the use of these works in new scholarship or materials creation.

Recent Developments:

- The Family and Entertainment Copyright Act of 2005 (S. 167), which the president, signed as Public Law No. 109-9 on April 27, includes a provision (Title IV “Preservation of Orphan Works Act”) amending Section 108 of the Copyright Act to allow libraries to engage in preservation, scholarship and research of musical works, motion pictures, and other audiovisual works during the last 20 years of their copyright term.
- The U.S. Copyright Office issued a [Notice of Inquiry](#) on January 26, 2005 soliciting advice on the problem of orphan works.
- The library community filed comments in [March](#) and [May](#) 2005 with the U.S. Copyright Office in support of a proposal to change copyright law allow use of orphaned works after a due diligence search for an owner.
- The U.S. Copyright Office held public roundtable [discussions](#) in summer 2005 to obtain additional comments and to give interested parties an opportunity to exchange their views in person. The library community participated in the July discussion in Washington and has also met with representatives of the Copyright Office to discuss concerns.
- January 31, 2006. The Copyright Office completed its study and submitted its [Report on Orphan Works](#) to the Senate Judiciary Committee. The report states that people who republish orphan works should pay "reasonable compensation" if the owners of the material surface and demand payment for the use of their materials. This recommendation could be accomplished by amending the Copyright Act. Critics say librarians, scholars, and museum directors could face infringement suits -- and large payouts -- if the copyright-office recommendation becomes law.
- March 8, 2006. A [hearing](#) took place before the House Judiciary Committee. Maria Pallante, Associate General Counsel and Director of Licensing for the The Solomon R. Guggenheim Foundation (Guggenheim Museum), made [comments](#) representing the views institutional copyright users, including ALA and ARL.
- May 22, 2006. Rep. Lamar Smith (R-TX), chair of the House Judiciary Committee’s Subcommittee on Courts, the Internet, and Intellectual Property, introduced H.R. 5439, the Orphan

Works Act of 2006. Remedies for infringement of a copyrighted work would be limited if the user (the alleged infringer) had made a reasonably diligent, good faith search to locate the owner of the work but was unable to find the owner. Libraries supported the bill, even though we had concerns with some aspects of it.

- Late Summer 2006. In a disappointing move this bill was combined with two others dealing with online music licensing and "enhanced" criminal copyright enforcement to form the larger and more complicated "Copyright Modernization Act of 2006," H.R. 6052.

Current Status: September 2006. Withdrawn three times from scheduled markup by the House Judiciary Committee, H.R. 6052 will not move forward in the current congressional session. There is no companion Senate bill. Libraries will work on the reintroduction of an orphan works bill in the new Congress next year, and ALA and ACRL are monitoring this issue regularly. The library community also is continuing to work closely with the American University's Washington College of Law on the proposal that it has made (through the Glusko-Samuelson Intellectual Property Clinic) for solving the orphan works problem.

2. Public Access to Research: National Institutes of Health Public Access Policy and Federal Policy for Taxpayer-Funded Research

Summary: The federal government spends over fifty five billion dollars annually to fund a wide variety of research in health, scientific, and other fields. Research sponsored by the National Institutes of Health along results in over 60,000 peer-reviewed articles per year. Wide, rapid, and easy access to the results of this research is essential for everyone who wishes to apply or build upon it, including faculty and students served by academic libraries. Giving taxpayers access to the non-classified research for which they have paid will advance research and all the benefits of research, from health care and pollution control to energy independence and public safety.

Issue for Academic Libraries: The present system of disseminating the results of publicly funded research is badly broken and severely limits access. Taxpayers pay for the research and very often the salary of the researcher as well. Research articles are then published in peer-reviewed journals, which charge subscription fees or per-article access fees. The cost of subscriptions has risen three times faster than inflation for more than 20 years and most subscriptions are unaffordable for most libraries. Journals typically demand to own copyright as well.

Changes in federal policy and legislation for taxpayer-funded research have the potential to greatly increase research access for faculty, students, and the general public, reversing to a substantial extent the loss in access that has resulted from journal price increases and subscription cancellations by libraries. If properly implemented, such policy changes will also protect the system of peer-reviewed journals.

Recent Developments in NIH Policy:

- In May 2005, upon the announcement of its [Public Access Policy](#), NIH convened a Public Access Working Group to inform the implementation of the policy. The group, which reports to the Board of Regents of NIH's National Library of Medicine, includes publishers, societies, researchers, patient groups, and libraries. The policy is designed to encourage NIH-funded researchers to deposit the results of their research in PubMed Central, the digital library of the National Library of Medicine. The policy, which is voluntary, calls on researchers to make their work openly accessible in PubMed Central within one year of acceptance in a peer-reviewed journal.
- At a November 15, 2005 meeting of the NIH Public Access Working Group, a majority of members called for NIH to adopt a revised policy that would require authors of NIH-funded research to deposit the final peer-reviewed version of their articles in PubMed Central and make them openly accessible within six months of their publication in a journal. This change, if

implemented, would substantially strengthen the NIH policy. NIH estimates that less than five percent of eligible research is making its way into PubMed Central under their current voluntary policy.

- On November 22, 2005, the Alliance for Taxpayer Access, a national coalition of over 60 library, non-profit, and patient advocacy groups – including ALA and ACRL – issued a [statement](#), praising the NIH PAWG for recommending that researchers be required to deposit published articles resulting from NIH funding in PubMed Central, NIH's online database of journal literature.
- February 1, 2006. The deadline [imposed](#) by Congress for the NIH to send a "progress report" to the appropriations committees documenting "(1) the total number of peer-reviewed articles deposited in PubMed Central since the May 2, 2005 implementation date and the distribution of chosen delay periods; (2) an assessment of the extent to which the implemented policy has led to improved public access; (3) an assessment of the impact of the policy on the peer review system; and (4) the cost of operating the database." The [report](#) indicates that, to date, less than 4% of NIH-funded manuscripts have been deposited into PubMed Central as a result of this policy.
- February 8, 2006. The Board of Regents of the National Library of Medicine reviewed the conclusions of the NIH Public Access Working Group (see [minutes](#)) and recommended a subsequent course of action to NIH Director Zerhouni. Their February 8 [letter](#) to the NIH Director notes, "The Board has concluded that the NIH Policy cannot achieve its stated goals unless deposit of manuscripts becomes mandatory." The Board also calls for a 6-month embargo, with exceptions made for journals published on a less-than bimonthly basis, and notes that the final published version of the article (vs. the author's final manuscript) is the most desirable version for ultimate deposit into PubMed Central. Finally, The Board encourages the NIH to develop a careful plan for "transitioning" to a mandatory policy
- April 10, 2006. NIH Public Access Working Group meeting scheduled.
- June 2006. A measure passed the House Appropriations bill for the Department of Health and Human Services directing the NIH to amend its existing Public Access Policy so that research grantees would be required to submit an electronic version of their final, peer-reviewed manuscript to PubMed Central within 12 months of publication.

Current Status: September 2006. The NIH Reauthorization Bill passed the House of Representatives. It provides for a sweeping overhaul of the NIH - the first of its kind in 13 years and includes key report language underscoring Congressional oversight to actively monitor participation rates and overall effectiveness of the NIH's Public Access Policy. The U.S. Senate will consider its Labor, HHS, Education, and Related Agencies Appropriations bill. ALA and ACRL are participating in the Open Access Working Group, which is working actively to strengthen NIH's Public Access Policy along the lines recommended by the NIH Public Access Working Group.

Recent Developments in Federal Legislation:

- On December 7, 2005, Senators Joe Lieberman (D-CT) and Thad Cochran (R-MS) introduced the American Center for [CURES Act](#) of 2005. Among its provisions, the bill would require that federally funded research appearing in peer-reviewed journals be made available in NIH's popular PubMed Central within six months of publication. It would apply to all Health and Human Services (HHS) agencies, including the National Institutes of Health (NIH), the Centers for Disease Control and Prevention, and the Agency for Healthcare Research and Quality. The bill also stipulates that non-compliance may be grounds for the sponsoring agency to refuse future funding. HHS agencies account for over half of all federally-funded research.

- May 3, 2006. Sen. John Cornyn (R-TX) & Sen. Joe Lieberman (D-CT) introduced The Federal Research Public Access Act, S. 2695. This bill requires that virtually all federally funded research appearing in peer-reviewed journals be made openly accessible in digital repositories within six months of publication. Each agency must:
 - Require each researcher funded totally or partially by the agency to submit an electronic copy of the final manuscript that has been accepted for publication in a peer-reviewed journal.
 - Ensure that the manuscript is preserved in a stable digital repository maintained by that agency or in another suitable repository that permits free public access, interoperability, and long-term preservation.
 - Require that free, online access to each taxpayer-funded manuscript be available as soon as possible, and no later than six months after the article has been published in a peer-reviewed journal.
- In May 2006, ACRL [endorsed](#) S. 2695 when it was introduced. ALA passed a [resolution](#) supporting the bill at Annual Conference 2006 in New Orleans. It was endorsed by ACRL, PLA and GODORT.
- In July 2006, ACRL, along with six other library groups and SPARC, sent a [letter](#) encouraging Senator Collins, Chair of the Committee on Homeland Security and Governmental Affairs, to hold hearings.
- Throughout the summer and fall support for the bill grew as higher ed administrators [backed](#) it.

Current Status: September 2006. ACRL encourages all academic librarians to work actively for passage of this bill. Encourage your Senator to Co-Sponsor this bill. Educate faculty and administrators on your campus about the need for open access to federally funded research. Enlist their support and encourage them to write to their senators and representatives. While many provosts and higher ed top administrators [back](#) this bill, more support is needed. Use the [FAQs for faculty and administrators](#). Read more on the [Alliance for Taxpayer Access](#) website and in the *C&RL News* article "[Public Access to Federally Funded Research: The Cornyn-Lieberman and CURES Bills](#)".

3. Technology, the Internet and Telecommunications

3.1 Broadband Wiretapping

Summary: The Communications Assistance for Law Enforcement Act (CALEA), passed in October 1994, forces telecommunications carriers to comply with law enforcement's legitimate wiretapping requests. Congress distinguished telecommunications services (telephony, fax, etc.) from "information services" such as Internet services, which are excluded from the Act. The development of Voice Over Internet Protocol (VOIP) services - essentially, telephone service running over the Internet - has made this separation harder to maintain. Law enforcement agencies petitioned the Federal Communications Commission (FCC) to provide the same kind of CALEA access to VOIP and other broadband packet-switching services, citing national security concerns. For more see [OITP brief](#).

Issue for Academic Libraries: In September 2005, the FCC released a major [rule](#) on the extension of CALEA to broadband networks. Since academic institutions are often Internet service providers, they must comply with this regulation. Libraries are not exempt from this rule, and the costs associated with CALEA compliance may have a major financial impact on academic institutions. Costs include equipment upgrades or new networks and the expense of 24/7 staffing as law enforcement expects that a tap could be in place within hours of the request.

Recent Developments:

- In mid-October 2005, the FCC ordered distributors of broadband and certain VOIP services to comply with CALEA. However, the rule does not specify what it means to be CALEA compliant; details will be included in a forthcoming rule.
- Fall 2005 – Summer 2006. ALA, ACRL and ARL have been engaged in a two-prong effort to seek exemption from CALEA for libraries. These efforts have taken the form of continued communication with the FCC and participation in rule-making processes, plus participation in a multi-party petition before the District of Columbia Court of Appeals.
- Summer 2006. There has been some question in higher education circles about whether public access terminals in campus libraries expose institutions to greater CALEA obligations. To assist in campus-based discussions on the applicability of CALEA to academic institutions, ALA, ACRL and ARL requested a [legal opinion](#) from Al Gidari of Perkins Coie on whether libraries were exempt from CALEA wiretap obligations. He prepared an additional [issue brief](#) focusing on whether user authentication is necessary to maintain private network status.

Current Status: September 2006 Sen. Mike DeWine (R-OH) is considering introducing a bill, drafted by the Department of Justice, which would be a sweeping rewrite of CALEA. This would essentially codify the FCC decision to expand CALEA to broadband providers. ALA and ACRL will monitor carefully the introduction of any legislation and assess its impact on libraries. This is a complex issue with a lengthy history. For more information read the [policy brief](#) issued by ALA's Office for Information Technology Policy and visit OITP's [CALEA web page](#).

3.2 Net Neutrality

Summary: "Net neutrality" means that consumers can access any legal content or run any Internet applications regardless of their network provider. Current telecommunications laws are being revamped but language prohibiting preferential treatment of network traffic has been removed. Internet service providers could decide to provide lots of bandwidth to certain customers and not to others. So telecommunications companies could dictate which Internet sites get preferential treatment (e.g. a company could pay their carrier a premium to deliver movies, videos, etc.). As bandwidth is a limited resource, every prioritized packet pushes aside another packet that is deemed less important. Internet network owners could be allowed to decide on their own how and when to restrict content or different kinds of traffic.

Issue for Academic Libraries: The issue of "net neutrality"—the idea that applications and content are available to all users—is a priority for the higher education community. Library services could be impaired or blocked by providers, particularly if "free" services and content provided by libraries are given low priority. Read more in the C&RL News Column "[Washington Hotline](#)" for September 2006.

Recent Developments:

- On Sept. 15, 2005 the House Energy and Commerce Committee circulated the first major draft of proposed changes in the nation's telecommunication's laws. The draft said Internet service providers must not "block, impair, interfere with the offering of, access to, or the use of such content, applications or services."
- On Nov. 2, 2005 Commerce Committee Chairman Barton (R-TX) and Subcommittee Chair Upton (R-MI) introduced another [draft](#). It included language specifically addressing the Internet video services that are proliferating as connection speeds increase and the phone companies get into the digital television business. In this draft, the prohibition on blocking or impeding content was gone.

The draft still grants municipalities the right to build and deploy broadband networks without any severe regulatory constraints.

- March 2, 2006. Senator Ron Wyden (D-OR) introduced the Internet Non-Discrimination Act of 2006, an effort to safeguard net neutrality. The bill aims to keep network operators from acting as gatekeepers by blocking, screening, or discriminating against certain kinds of Internet traffic or creating segregated Internet highways for their own preferred services.
- Some half-dozen bills were introduced in 2006 regarding the issue of net neutrality (S.2360, S.2917, HR5417, HR5273, HR5252, S.2686). While some included strong and enforceable net neutrality provisions, many included controversial pieces and that did not do enough to address net neutrality concerns.
- Mid-September 2006. Passage of comprehensive telecommunications legislation is currently stalled in the Senate. Several higher ed organizations [spoke out](#) on the lack of a strong net neutrality provision in the Communications Opportunity, Promotion, and Enhancement Act of 2006 (H.R. 5252).

Current Status: September 2006. While key Republican lawmakers are promising sweeping telecommunication reform legislation this year, it is doubtful that any net neutrality legislation would pass when Congress comes back for a lame-duck session, as appropriations will take precedence. Still, Senator Stevens (R-AK), chair of Senate Commerce Committee, plans to bring the Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686) to the Senate floor for a vote after the recess. However, he must find 60 votes necessary to prevent a filibuster - so this bill may not make it to a floor vote. S. 2686 has some provisions that librarians supports but omits some we would like on net neutrality. ALA and ACRL will continue to monitor legislation regarding net neutrality and engage library community as appropriate.

3.3 Municipal Networks

Summary: The 1996 Telecommunications Act makes no mention of the Internet and Congress and the Federal Communications Commission have set out to develop and propose revisions to the Act that will accommodate the Internet. These changes will affect communications in the United States for at least the next 15 years.

Reform and revision to the Telecom Act may well affect municipal networks, created by town and local governments to provide broadband access where commercial providers do not provide cost-effective service. At least 14 states have adopted restrictions on future public broadband projects. In these cases, cities and towns would no longer be able to offer free or low-cost broadband service.

Issue for Academic libraries: Many campuses extend their networks into the surrounding community. This often provides broadband access to otherwise underserved areas where commercial providers are unable to provide cost-effective services. This is an especially important issue for community colleges. Congress needs to amend existing legislation and enact new measures to promote advanced Internet service that is secure, affordable, and available to all.

Recent Developments:

- The Community Broadband Act of 2005 (S.1294), introduced by Senator McCain on June 23, 2005, would amend the Telecom Act to ensure that states may not prevent local governments from providing advanced telecom services.

- On June 8, 2006, the House passed the Communications Opportunity, Promotion, and Enhancement Act of 2006 (HR 5252), which would, as one of its provisions, govern municipal broadband networks.
- The Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686), introduced by Senate Commerce Committee Chairman Ted Stevens (R-AK), would authorize municipal broadband systems subject to nondiscrimination safeguards.

Current Status: September 2006. Key Republican lawmakers are promising sweeping telecommunication reform legislation this year. If Sen. Stevens can round up 60 votes needed to move S. 2686 to the Senate floor and gain passage for the bill during the lame duck session in November, it would be met in conference by the House-passed H.R. 5252. ALA and ACRL are monitoring and will engage library community as appropriate.

4. Government Information

4.1 E-Government Act of 2002

Summary: The E-Government Act of 2002, signed into law December 17, 2002, by President Bush, contains important provisions regarding the privacy implications of government information systems, digital divide concerns, community technology centers, and more. The bill creates an "Office of Electronic Government" (OEG) within the White House Office of Management and Budget (OMB). The President, without the advice and consent of the Senate, appoints the Administrator of this office. At this time of diminishing information about the government and newly restricted government information, the bill appropriately requires the "categorization" of information (e.g. inventorying, indexing, cataloging) and timetables for public access. At numerous points in the legislation, the OEG Administrator and other bodies are directed to consult with non-governmental groups, and libraries are specifically mentioned. One of these bodies is an Interagency Committee on Government Information. Although Committee membership does not include individuals outside government, membership is open to inclusion of representatives from the federal legislative and judicial branches. The Interagency Committee makes recommendations to the OMB Director on the adoption of standards, open to the maximum extent feasible to enable the organization and categorization of government information in a way that is searchable electronically and in ways that are interoperable across agencies. For more see ALA-WO [issues page](#).

Recent Developments: December 16, 2005 The Director of OMB issued a [Memorandum](#) (M-06-02) on "Improving Public Access to and Dissemination of Government Information and Using the Federal Enterprise Architecture Data Reference Model." According to OMB it identifies procedures to organize and categorize information and make it searchable across agencies to improve public access and dissemination (section I), discusses using the Federal Enterprise Architecture Data Reference Model (DRM) (section II), and reminds agencies of the breadth of their existing responsibilities primarily related to information access and dissemination, including under the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 35) and the E-Government Act of 2002.

Current Status: September 2006. ALA will be working with the Committee on Legislation's Subcommittee on Government Information and with GODORT on the issues raised by the Memorandum and other concerns with the implementation of the E-Government Act. ALA will also work with the other library associations and other groups in Washington on these issues.

4.2 Freedom of Information (FOIA)

Summary: During the 108th Congress, the bill creating the Department of Homeland Security contained provisions carving out "protection" for "critical infrastructure information" (CII) and called for guidance to be issued on access to and the handling of "sensitive homeland security information," a sub-category of "sensitive but unclassified" information. Other illustrative examples of congressional action on access

issues: the Department of Transportation got an expanded definition of “sensitive security information” into the authorization bill for federal highways, highway safety programs and transit programs; and the Defense Authorization legislation includes a provision that will exclude certain categories of unclassified satellite images from any public access.

Recent Developments:

- Openness Promotes Effectiveness in our National (OPEN) Government Act of 2005 (S. 394) was introduced by Senators Cornyn (R-TX) and Leahy (D-VT) on February 16, 2005. It is an important step toward strengthening FOIA and accountability and doubly important because it has bi-partisanship sponsorship. Representative Smith (R-TX) filed a companion bill, HR 867. The OPEN Government Act contains more than a dozen substantive provisions.
- Faster FOIA Act of 2005 (S. 589), introduced by Senators Cornyn (R-TX) and Leahy (D-VT) on March 10, 2005, would establish an advisory Commission on Freedom of Information Act Processing Delays. The Commission would report to Congress and the President its recommendations for steps that should be taken to reduce delays in the administration of FOIA.
- Restore FOIA Act (S. 622), introduced March 15, 2005 by Senators Leahy (D-VT), Levin (D-MI), Feingold (D-WI) and Lieberman (D-CT), restores the accountability of the government for records submitted to it by the private sector about the risks and vulnerabilities of privately-held "critical infrastructure."

Current Status: September 2006. ALA is working hard to promote these efforts, although the odds are very long against successful passage of this legislation. Although we expected more legislation to take bites out of FOIA and to expand the range of information that can be excluded, under the rubric of “sensitive security information” or some variant thereof, from public access, there has not been much in the first session of the 109th Congress. It is also possible that there will be push-back from Congress on Court decisions related to secrecy in immigration proceedings.

4.3 Government Printing Office

Summary: The Government Printing Office is undertaking a number of initiatives related to preservation of government documents (print and electronic) and creation of a [national bibliography](#). If done properly, these stand to improve the public’s chances of long-term access to government information. Legacy digitization initiatives benefit more than research libraries, as evidenced in several [testimonials](#).

Also, at ALA’s 2005 Midwinter Meeting in Boston, GPO informed the library community that their FY 2006 Salaries and Expenses (S&E) appropriations request for the Federal Depository Library Program (FDLP) will be for level funding (at the 2005 level), plus cost of living increases. One result of this request will be drastic changes in the distribution of print materials to our Nation’s federal depository libraries. These proposed changes would take effect October 1, 2005. Among the changes, the key is that GPO would produce and distribute in print only the 50 titles listed on the Essential Titles for Public Use in Paper Format, last revised in 2000.

Recent Developments:

- At Midwinter 2005, ALA passed a [resolution](#) urging Congress to: increase GPO’s FY 2006 S&E appropriations to maintain production and distribution of print materials to depository libraries at the FY 2004 level; require that GPO maintain production and distribution of print materials to depository libraries at no less than the FY 2004 level; hold timely oversight hearings on GPO’s new initiatives and changes to the Federal Depository Library Program.

- April 21, 2005, three Library associations sent a [letter](#) of support for GPO funding to the committee on appropriations.
- March 3, 2006. ACRL President Camila Alire sent a letter to Bruce James, Public Printer of the United States, supporting full funding for GPO Salaries and Expenses appropriation as presented in the President's FY 2007 budget. She noted that the GPO request includes funding to carry out may important projects related to the Strategic Vision for the 21st Century and the current and future needs of the Federal Depository Library Program and the public users ACRL members serve.
- April 25, 2006 Several Library associations sent a [letter of support](#) for GPO funding.

Current Status: September 2006. ALA and ACRL will continue to monitor the appropriations requests for GPO and GPO initiatives.

4.4 Presidential Records

Summary: On November 1, 2002, President Bush issued Executive Order 13233, Further Implementation of the Presidential Records Act (PRA). The PRA declared that the official records of former presidents should be readily available to the public. This order gives an incumbent or former president veto power over any public release of materials, even after the 12-year restriction period stated in the PRA has expired. This came to bear with as White House aides exerted full control over the documents related to Judge John Roberts' still under their authority, including those covering advice Roberts gave then-Solicitor General Kenneth W. Starr in the Administration of President George H.W. Bush. For context, see a [list](#) of historical works that would have been affected by this order.

Current Status: September 2006. ALA opposes Executive Order 13233 and calls on Congress to amend the PRA as necessary to reaffirm the intent of Congress that presidential records be made generally available to the public with limited statutory restrictions by the end of 12 years.

5. ACRL supports funding for:

- 5.1 Library Services and Technology Act (LSTA)
- 5.2 Federal Depository Library Program and the Government Printing Office
- 5.3 Institute of Museum and Library Services
- 5.4 Library of Congress
- 5.5 National Agricultural Library
- 5.6 National Library of Medicine
- 5.7 Environmental Protection Agency (EPA) Libraries

Reauthorization

- 5.1 The Library Services and Technology Act (LSTA)

Summary: LSTA was reauthorized as part of the Museum and Library Services Act of 2003 (H.R. 13) and signed by the President on September 25, 2003 (P.L. 108-81). Every fiscal year, Congress provides funding for LSTA in the Labor, Health and Human Services, Education, and Related Agencies Appropriations bill. Increasing funding to the full authorized level would allow libraries nationwide to build additional capacity and further expand core services.

Recent Developments:

- December 2005. Congress passed the Labor-HHS-Education Appropriations bill. LSTA was one of the few programs to receive an increase, funded at \$210.597 million, a \$5million increase over the funding levels for the last fiscal year.
- February 6, 2006. President Bush released a \$2.7 trillion fiscal year 2007 budget request that eliminates 141 programs. Despite the extremely tight fiscal environment where many programs are experiencing cuts in funding, the President requested \$262,240,000 for the Institute of Museum and Library Services, an increase of \$15,096,000 over FY06. For the Library Services and Technology Act, the budget includes \$220,855,000, an increase of \$10,258,000 from FY 06. Within that total is \$171,500,000 for Grants to State Library Agencies, which will enable the implementation of the new grant formula. Also included are \$25,000,000 for Librarians for the 21st Century program, \$12,930,000 for National Leadership Grants for Libraries, and \$3,675,000 for Improving Library Service to Native Americans. For school libraries, the President requested level funding for the Improving Literacy Through School Libraries Program. The budget also includes a request for \$30,000,000 to revitalize the consistently under-funded Washington, D.C. public library system.
- March 2005. In both the House and the Senate, Members of Congress circulated letters of support for LSTA to their respective Appropriations Committees requesting that the House and Senate include President Bush's request of \$220.855 million for LSTA and increased funding for the Improving Literacy Through School Libraries program for FY 2007.
- June 2006, The House Appropriations Committee approved the FY 2007 Labor, Health and Human Services, Education and Related Agencies Appropriations Bill.
- July 2006, the full Senate Appropriations Committee recommended funding levels for the FY 2007 Labor, Health and Human Services, Education and Related Agencies Appropriations Bill.

Current Status: September 2006. Neither the House nor the Senate is expected to vote on the bill before the midterm elections. If both the House and Senate are unable to pass the appropriations bill before the November elections, it is likely that it will be wrapped up into an omnibus-spending bill with other unfinished appropriations. It is expected Congress will return for a lame-duck session in November or December to finish work on appropriation bills.

5.7 The Environmental Protection Agency (EPA) Libraries

Summary: The proposed budget for the Environmental Protection Agency (EPA) includes a \$2 million cut that will likely result in the closure of the EPA Headquarters Library as well as many of its 27 regional and laboratory libraries. This change will make it more difficult for the agency's policymakers and the public to leverage the extensive, accurate knowledge found in these libraries, and to make important decisions that affect the environment, thereby potentially compromising the public's health.

If the budget cuts are implemented, they will severely weaken or eliminate public access to the EPA's scientific and technical information resources as well as the expertise of the information professionals who know how to identify and analyze them.

Issue for Academic Libraries: Many documents in EPA libraries are housed nowhere else. If EPA's library collections are put at risk, essential information about the environment will no longer be available to researchers. Additionally EPA regional libraries house environmental data that is specifically tailored to the issues faced in each library's geographic region, such as mining in Colorado and wetlands in Maryland.

Recent Developments: President Bush proposed a cut of \$2 million from the EPA library budget (contained in H.R. 5386, the Department of Interior, Environment, and Related Agencies Appropriations Act, 2007).

Current Status: September 2006. The EPA plans to close three of its regional libraries in Chicago, Dallas, and Kansas City by September 30, the end of the federal government's fiscal year. It is reported that EPA will also begin gradually reducing hours and services at other regional libraries. These changes will result in up to 80,000 documents being boxed up for digitization at some future date and an end to public access to many research materials once made available through EPA libraries. ALA asks members to contact your Senators and ask them to restore the \$2 million in funding for EPA libraries.

6. Intellectual Freedom and Privacy

6.1 USA PATRIOT Act

Summary: The USA PATRIOT Act broadly expands law enforcement's surveillance and investigative powers. In particular, the law raises complicated questions with respect to what constitutes a business record and the law's broad definition of computer trespassers. The law also creates a new relationship between domestic criminal investigations related to foreign intelligence. The new law moved through Congress quickly and as a result lacks an extensive legislative history that can be referenced. ALA and others in the library community will continue to analyze the act, monitor how it is implemented, and what its impact is on libraries and library.

Issue for Academic Libraries: For a general overview, see USA PATRIOT [Issues For Campuses](#). Also, in winter and spring 2005, ALA conducted a [study](#) on the *Impact and Analysis of Law Enforcement Activity in Academic and Public Libraries*. It comprised of a double-blind online survey of public and academic libraries and in-depth structured interviews of librarians and library leaders. Researchers contacted all 4,008 U.S. academic libraries for the survey. Overall, the study finds that there have been limited impacts on public and academic libraries in terms of law enforcement activity since the September 11, 2001 terrorist attacks in the United States. Nonetheless, the study also suggests that there have been some impacts and a number of key issues raising important questions for the library community to consider:

- Patrons have limited awareness of or knowledge about specific provisions of the PATRIOT Act or other related laws.
- A number of librarians are not aware of the implications and potential legal issues that might affect academic libraries as a result of the PATRIOT Act and other terrorist-related laws. In academic libraries some 54% of the respondents replied that their institution had not provided training to staff in how to handle law enforcement requests. A significant number of academic libraries either are not aware of the potential impacts from the PATRIOT Act in their library, do not consider these potential impacts important, or otherwise have other more pressing priorities and concerns.
- At some libraries, there may be a chilling effect on the potential use and credibility of the degree to which librarians can protect patron information from requests from law enforcement agencies. This can be reluctance on the part of patrons to check out certain material, ask certain types of questions, or concern about the privacy of their records. For the librarian's part this "chilling effect" manifests itself in "screening" the purchase and availability of certain materials, not responding completely to information requests, and concern about keeping certain types of patron records.
- An interesting theme that the interviews uncovered was the degree to which librarians were hesitant to "get involved" in controversial political issues.

Recent Developments:

- During the 108th Congress, legislators introduced several bills to amend controversial sections of the USA PATRIOT Act; none of them passed. A rider was included in the omnibus appropriations bill on Nov. 20th that requires every agency to have a chief privacy officer. This person will create policy for privacy and data protection assuring that technology does not “erode privacy protections relating to the use, collection, and disclosure of information.” Also, the “Intelligence Reform and Terrorism Prevention Act of 2004” included a Civil Liberties and Privacy Oversight Board, as called for by the 9/11 Commission, although the final version of the Board is significantly weaker than what the Commission, or the Senate had originally called for.”
- February 1, 2006, the U.S. House of Representatives voted to extend the USA PATRIOT Act in its current form until March 10. The Senate approved the same extension for further debate on the conference report. The Act was scheduled to sunset on December 31, 2005 and had been extended until February.
- March 1, 2006. Senate passed S. 2271.
- March 2, 2006. Senate voted 89-10 to pass legislation (H.R. 3199), already passed by the House, which reauthorizes the PATRIOT Act and fails to restore key library patron protections.
- March 7, 2006. House renews Patriot Act. With just two more votes than needed to meet a required two-thirds majority, the House reauthorized the USA Patriot Act, approving amendments passed a week earlier by the Senate to a bill revising the original act. As S. 2271, a flawed compromise bill, passed in the House, it extends Section 215 of the Act for another four years and adds almost none of the major reforms the library community has striven for since the PATRIOT Act was passed in 2001. It is the final vote on USA PATRIOT Act reauthorization for the next 4 years
- March 9, 2006. President Bush signed the renewal of the legislation.
- March 2006. ALA President Michael Gorman issued a [statement](#) saying , “we will continue to argue for a more stringent standard for Section 215 orders—one that requires the FBI to limit its search of library records to individuals who are connected to a terrorist or suspected of a crime. We will also seek the addition of a provision allowing recipients of Section 215 or 505 orders to pose a meaningful challenge to the “gag” order that prevents them from disclosing the fact that they have received such an order. We are encouraged by Members of Congress’ pledges to introduce legislation that will remedy those sections of the PATRIOT Act that infringe on the civil liberties of library patrons, and we look forward to working with those Senators and Representatives to repair this deeply flawed legislation.”

Current Status: September 2006. ACRL notes the need to monitor what is happening on campuses. The greatest potential for noticeable problems could be over foreign students, increased surveillance on college campuses and new attacks on academic freedom.