ACRL Legislative Agenda 2021

Assembled by the ACRL Government Relations Committee:

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Tracy Elliot – Florida Gulf Coast University
Carrie Dunham-LaGree – Drake University
Daniel Cardwell – Hillsborough Community College

With generous support and direction provided by:

Kara Malenfant – Interim Executive Director, ACRL
Jacquelyn Bryant – Community College of Philadelphia (ACRL Division Councilor)
Carrie Russel – Director of Public Policy and Advocacy, ALA
Ann-Christie Galloway – ACRL Production Editor
The ACRL Legislative Agenda and the ALA Legislative Agenda list objectives for legislative action at the national level on issues that affect the welfare of libraries. ACRL’s annual Legislative Agenda focuses on issues affecting academic and research libraries that the U.S. Congress has recently taken or will act on in the year ahead. ACRL is active in advocating for policy and legislation through the ALA Public Policy and Advocacy Office, as well as through coalition work with groups, such as the Open Access Working Group and the Library Copyright Alliance. The following list is in priority order and includes the issues that will be the focus of ACRL’s advocacy in 2021:

1. Federal Funding for Libraries
2. Net Neutrality
3. Affordable College Textbook Act
4. Consumer Data Privacy
5. Open Access
6. Accessible Instructional Materials in Higher Education Act (Aim Higher)
7. Federal Funding for Higher Education
8. Environmental Impact of Data Centers
9. Watchlist:
   a. Public Access to Federally Funded Research
   b. Federal Depository Library Program (FDLP) Modernization Act
   c. Deferred Action for Childhood Arrival (DACA)/Immigration Issues

1. Federal Funding for Libraries

Background

The Institute of Museum and Library Services (IMLS) is the primary source of federal funding for libraries through the Library Services and Technology Act (LSTA). IMLS receives its funding through the annual appropriations process, with spending limits established each year through Labor, Health and Human Services, Education, and other related Agencies Appropriations Subcommittees. LSTA provides $197.4 million for libraries through the Grants to States program, the National Leadership Grants for Libraries, the Laura Bush 21st Century Librarian Program, and Native American Library Services. The Priorities of the LSTA Grants to States program are reflected in each state’s Five-Year Plan. The challenges brought upon libraries by the COVID-19 pandemic have been the cause of much concern across the United States. Further, the political climate has hardly been conducive to bipartisan deal-making, and very little of what has been introduced and passed in the House has been taken up by the Senate.

On July 2, 2020, Sen. Jack Reed (D-RI) and Rep. Andy Levin (D-MI) introduced the Library Stabilization Fund Act ([S.4181](https://www.govinfo.gov/content/pkg/CPB-95-A33/pdf/4181s.pdf)/[H.R.7486](https://www.govinfo.gov/content/pkg/CPB-95-A6/pdf/7486hr.pdf)). This bicameral legislation would provide $2 billion in
emergency recovery funding through IMLS, and would allow libraries to retain staff, maintain services, and keep communities informed and connected.


On July 23, 2020, IMLS announced 70 grants totaling $18,256,177 to support libraries across the country. These awards were made through several grant programs, including the National Leadership Grants for Libraries and the Laura Bush 21st Century Librarian Program. These grants were made available through the FY 2020 program.

On August 12, 2020, IMLS announced that CARES Act awards would be announced later in the month and continuing into September. The CARES Act included $50 million for libraries through IMLS. The awards included grants for Native American and Native Hawaiian Museum and Library Services, assisting tribes and organizations that primarily serve and represent Native Hawaiians in responding to the COVID-19 pandemic. According to IMLS Director Crosby Kemper, over 1,700 grants applications were received, “representing the overwhelming need in communities.”

On December 21, ALA welcomed the eighth consecutive increase in FY appropriations to IMLS, passing a budget bill on December 21 alongside the $900 billion Emergency COVID Relief package. This included $5 million for IMLS and $2 million for LSTA. LSTA also received $197.5 million of the total $257 million IMLS budget, and the FY 2021 bill saw some line item increases for libraries.

**Current Status**

The President’s budget for FY 2022 included increases for most education and other domestic priorities. The President’s funding request for IMLS will be released in May. The change in administration ends four years of attempts to eliminate library funding, which was criticized by ALA and ALA President Julius C. Jefferson Jr., Congress rejected these efforts and increased LSTA. ALA worked diligently to secure the inclusion of $200 million for IMLS dedicated to libraries in the American Rescue Plan Act (ARPA), which will be disseminated in the coming months. ARPA also includes support for broadband, education, state, local, territory, and tribal governments. ALA is working with its members to raise the profile of all library types to participate in ARPA funding over the next months.

**ACRL’s Position**

ACRL and ALA will continue the campaign to preserve federal funding for libraries through IMLS. ALA will continue to work to protect vital programs and will continue to advocate to Congress to make federal funding for our nation’s libraries and museums a continuing priority.
Advocacy from libraries at every level will be needed to obtain access to this funding that will be available until September 2022.

Links to More Information

Federal Funding for Library Programs 2017-2021 Summary Chart
ALA Welcomes 8th Consecutive Budget Increase for IMLS in FY 21
IMLS Announces $18.2 Million Investment in U.S. Library Initiatives
IMLS Opens Library Grants for National Leadership, Laura Bush 21st Century Librarian Programs
IMLS Appropriations Request for 2021

2. Net Neutrality

Background

Network neutrality is the principle that Internet service providers should treat all data equally and should not discriminate or provide preference to any data regardless of its source, content, or destination. Whether legislation is needed to ensure this kind of access has become a focal point in the debate over telecommunications reform. Those opposed to access mandates claim that such action goes against the long-standing policy to keep the Internet as free as possible from regulation and note the state of the Internet before this attempted regulation has allowed for commercial innovation and growth.

In 2015, the Obama Administration asked the Federal Communications Commission (FCC) to rule in favor of net neutrality by reclassifying broadband as a common carrier under Title II of the Communications Act of 1934 and Section 706 of the Telecommunications Act of 1996. In February 2015, the FCC approved reclassifying high-speed Internet as a telecommunications service rather than an information one, subjecting providers to regulation. In December 2017, the FCC voted in favor of repealing these policies, 3–2, along party lines.

On October 1, 2019, the U.S. Court of Appeals for the District of Columbia Circuit, upheld the government’s repeal of strict regulations for the companies that connect consumers to the Internet. However, the court also ruled the FCC had overstepped its legal authority when it declared that states cannot pass their own net neutrality laws and ordered the agency to review some aspects of its 2017 repeal of the rules, including public safety implications and how its decision will impact a government subsidy program for low-income users. In petitions filed in December 2019, technology and advocacy groups, along with 15 states that challenged the original decision, requested that the ruling be reconsidered.

On February 7, 2020, the full U.S. Court of Appeals for the District of Columbia Circuit declined without comment to rehear the decision that upheld the repeal of net neutrality laws, as did the three-judge panel that issued the ruling in October 2019. The appeals court's decision falls in
favor of the current position held by the FCC, allowing for the repeal of net neutrality regulations put in place by the FCC in 2015.

In September 2018, the California Internet Consumer Protection and Net Neutrality Act of 2018 was passed. This is the most notable of several state-level legislative actions in support of net neutrality. The California statute was challenged and preliminarily upheld in American Cable Association et al. v. Becerra, No 2:18-cv-02684 (E.D. Cal.). However, the Trump Department of Justice further challenged the California law, which led to a mutually agreed-upon delay of implementation for this statute.

Current Status

In early 2021, Jessica Rosenworcel was appointed interim chair of the FCC by President Biden. During a previous appointment as an FCC commissioner, Rosenworcel voted to uphold net neutrality rules. On February 8, 2021, Public Knowledge petitioned the FCC to reconsider the Restoring Internet Freedom Order. This reintroduces the possibility that FCC regulators may again change the classification of broadband and reinstate net neutrality rules. On February 23, 2021, the U.S. Department of Justice voluntarily dropped its case against California’s net neutrality law. While the industry-led challenges remained, a preliminary injunction to block the law was denied, with the presiding judge stating that the U.S. Congress should act to resolve the matter. Industry groups agreed, citing a piecemeal approach at the state level as an untenable solution to the question of net neutrality.

Impact on Libraries

Educational institutions, including libraries, rely on the high-bandwidth applications and services, which support access to resources, collaboration, content creation, and learning—activities core to their mission. The rollback of Obama-era net neutrality protections may lead to additional layers of economic influence making it more difficult for students and the public to access educational resources, with increased costs being passed on to both the consumer and educational institutions. Discriminatory network management practices by ISPs will inhibit the ability of colleges, universities, and libraries to be equal access providers of digital content and applications of all types via the Internet.

ACRL’s Position

ACRL stands with ALA as advocates for equitable access to the internet and for the network neutrality protections needed for libraries to fully serve their communities in the digital age. Without strong and clear net neutrality protections in place, there is nothing to stop internet service providers from blocking or throttling legal internet traffic or setting up commercial arrangements where certain traffic is prioritized. In a March 2017 letter to the FCC before the repeal vote, ACRL joined with several other associations in asserting that, “preserving the unimpeded flow of information over the public Internet and ensuring equitable access for all people is critical to our nation’s social, cultural, educational, and economic well-being.” In February 2018, ALA again affirmed that “Net Neutrality is essential to the promotion and practice of intellectual freedom and the free exercise of democracy.” ACRL will continue to
stand with ALA to advocate and defend the principles of net neutrality in support of equitable information access for all Americans.

Links to More Information

U.S. Appeals Court Will Not Reconsider Net Neutrality Repeal Ruling
DC Circuit Court Delivers Mixed Ruling on Net Neutrality
The Fight for Network Neutrality Continues, Despite Disappointing Court Ruling
The State of Net Neutrality: A Coast-to-Coast Roundup of Efforts to Restore the Open Internet
Net Neutrality: A Summary of Positions by the American Library Association
Net Neutrality: An Intellectual Freedom Issue
Net Neutrality Updates: What the Future Holds in Mozilla Case
Joint ACRL/ALA Letter to FCC Outlining Net Neutrality Principles

3. Affordable College Textbook Act

Background

The Affordable College Textbook Act addresses a critical challenge to college affordability. The increasing cost of textbooks has drawn the attention of students, parents, faculty, and institutions across the higher education sector. As a result, legislation has been introduced to combat these rising costs. The bill was first introduced in the 113th, 114th, and 115th Congress, but it did not advance.

According to SPARC, the Affordable College Textbook Act:

- Creates a grant program to support pilot programs at colleges and universities to create and expand the use of open textbooks with priority for those programs that will achieve the highest savings for students.
- Ensures that any open textbooks or educational materials created using program funds will be freely and easily accessible to the public.
- Requires entities who receive funds to complete a report on the effectiveness of the program in achieving savings for students.
- Improves existing requirements for publishers to make all textbooks and other educational materials available for sale individually rather than as a bundle.
- Requires the Government Accountability Office to provide an updated report on the price trends of college textbooks to Congress.

The Affordable College Textbook Act is supported by U.S. Public Interest Research Groups (PIRG), Scholarly Publishing & Academic Resources Coalition (SPARC), National Association of College Stores, Association of Big Ten Students, Young Invincibles, American Federation of Teachers, National Education Association, Service Employees International Union, American Association of Community Colleges, Association of Community College Trustees, UNCF, Creative Commons, Association of Research Libraries, the Association of College & Research Libraries, and CAST.
Current Status

On April 4, 2019, U.S. Sens. Dick Durbin (D-IL), Angus King (I-ME), Tina Smith (D-MN), and Kyrsten Sinema (D-AZ), along with U.S. Rep. Joe Neguse (D-CO-02), reintroduced the Affordable College Textbook Act to both houses of Congress. The bill, entered as H.R.2107 and S.103, was referred to the House Committee on Education and Labor and to the Senate Committee on Health, Education, Labor, and Pensions.

The Affordable College Textbook Act aims to permanently authorize funds for a grant program for the creation of Open Educational Resources (OER), following a pilot last year of $10 million that went to three institutions. It also asks institutions to increase transparency around course material costs.

Although the Affordable College Textbook Act itself remains in committee, Congress has funded the intended pilot projects through the Open Textbook Pilot Grant Program. In December 2019, a bipartisan budget agreement, the Further Consolidated Appropriations Act, 2020, renewed the pilot grant program for a third year. An additional $6 million was made available for new grants submitted by November 16, 2020.

Impact on Academic Libraries

Academic librarians are concerned about the affordability of higher education and the negative impact rising textbook costs have on students’ success. Campus libraries are known for facilitating free access to information resources through curated print and digital collections, course materials that faculty make available through library reserve systems, and interlibrary loan services. Digital Open Educational Resources are part of a larger open access movement to expand free, public access to scholarly and learning resources. College and university campuses are key locations sharing this content, encouraging their adaption for coursework, and expanding the corpus of openly available course content. As part of the commitment to embed information literacy and access to quality resources into the student experience and strategies for teaching and learning, librarians are working with academic colleagues to create such resources and to offer them freely for adoption by others.

OER are a growing part of academic library programs that support new methods of scholarly communication, open access, library publishing, and digital scholarship. They also may be a component of implementing new open pedagogies and developing digital literacy for students and faculty. OER greatly reduce the cost of attendance for all students and can have a positive impact on the accessibility of higher education to individuals in stressed economic conditions, particularly those from underrepresented groups.

ACRL’s position

ACRL joined with 14 other organizations to support the Affordable College Textbook Act in its introduction to Congress. This legislation’s aim at equity of access to higher education reflects ACRL’s values. Under the aegis of the proposed legislation, ACRL also supports continued funding for the Open Textbook Pilot Program.
4. **Consumer Data Privacy**

**Background**

Consumer Data Privacy deals with the right of consumers to be aware and in control of how their personal data is being used and sold by online companies. States have been working on consumer data privacy laws, such as Colorado, which passed [Protection for Consumer Data Privacy](https://www.colorado.gov/content/dam/colorado/legislature/cto/pdfs/2018/2018-215-bill-phoenix.pdf), and California, which passed the [California Consumer Privacy Act](https://leginfo.ca.gov/billtext18-19/bill/sb-503/billtext.html). The California Consumer Privacy Act requires companies to provide consumers with three primary rights: 1) a consumer has a right to know what information a business is collecting and selling, 2) consumers have the right to opt out of the sale of consumers’ information, 3) in certain circumstances, gives consumers the right to request that a business delete their information (Mulligan, Freeman, & Linebaugh, March 2019).

Given the impetus of the California law, the [EU’s General Data Protection Regulation](https://www.eugdpr.org/), and due to recent data breaches, there has been a greater push to construct a U.S federal consumer data privacy law (Ludas Orlofsky, March 2019). Bipartisan members of Congress have been working on legislation related to privacy in recent years with several bills introduced:

- **The Data Care Act** was introduced in Senate December 2018 and imposes various duties on online service providers with respect to their handling of user data, including duties to 1) reasonably secure sensitive data from unauthorized access, 2) refrain from using such data in a way that will result in reasonably foreseeable harm to the end user, and 3) not disclose individual identifying data to another party unless that party is also bound by the duties established in this bill. The bill authorizes the Federal Trade Commission (FTC) and specified state officials to take enforcement actions with respect to breaches of such duties.
- **The American Data Dissemination (ADD) Act** was introduced in Senate January 2019 and requires the FTC to recommend legislative action to impose privacy requirements
on providers of Internet services such as: restrict a provider from disclosing a user’s records, provide a user with the right to access and correct records, establish practices for the collection and maintenance of records, and exempt certain small providers from regulations’ requirements.

- **Social Media Privacy Protection and Consumer Rights Act** was introduced in Senate January 2019 and is intended to protect the privacy of users of social media and online platforms.

- **Protecting Consumer Information Act** was introduced in the House January 2019 and requires the FTC to review protections of customer information against cyber threats. The bill includes provisions related to investigations, enforcement, and regulations that apply to consumer reporting agencies.

- **A bill to amend the Children’s Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes** was introduced to Senate March 2019.

**Current Status**

On November 27, 2019, a **staff draft of the United States Consumer Data Privacy Act** (USCDPA) was released. The draft is informed by over a year of bipartisan negotiations and feedback from consumer advocates, state and local governments, and a number of stakeholders representing many sectors of the economy.

USCDPA would:

- **Establish a national standard** for the protection of consumer data privacy, bringing the United States in line with the European Union and other nations with unified standards and giving consumers strong protections regardless of where in America they live, work, or engage in commerce, both online and offline.

- **Give consumers control over their data** with the ability to know what companies have collected about them and request that it be corrected, deleted, or made portable, and the right to consent to or opt out of data practices in a clear and consistent way.

- **Protect the data of minors** under the age of 16 by requiring the individual or the individual’s parent or guardian to provide affirmative express consent (i.e., opt-in consent) before the minor’s data can be transferred to a third-party.

- **Require transparency and accountability** on the part of companies who collect and process consumer data, including standards for privacy policies, internal privacy controls, the designation of privacy and data security officers, and a new data broker registry.

- **Combat negative uses of data** by setting standards for data security and supporting efforts to mitigate algorithm bias and digital content forgeries, such as “deep fakes.”

- **Provide the FTC with new resources and capabilities** to enforce privacy protections, including through targeted rulemaking authority on key issues and by expanding the Commission’s authority to cover nonprofits and common carriers.

- **Allow states to protect their citizens** by granting state attorneys general the authority to enforce the provisions of the federal law.
• *Preserve existing federal privacy laws* that have been effective in protecting certain types of consumer data, such as the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191).

In March 2019, Vicky Ludas Orlofsky wrote on the ALA Intellectual Freedom Blog: “the issue of consumer data privacy is still very much in flux. While states continue to work independently, it remains to be seen whether a federal privacy bill will be passed this year and, if so, what it will look like.” Although this was written toward the beginning of 2019, it still very much applies in 2021.

**Impact on Academic Libraries**

Libraries retain and take careful steps to safeguard patron’s data, including circulation records, database searches, and Internet browsing usage histories. The protection of the patron’s right to privacy and freedom from monitoring of their selection and use of information sources is a core value of professional librarians. Students, faculty, researchers, and other stakeholders often use third-party software when using library sources, such as resource management tools, readers, and other online service providers. Access to patron data by third parties essentially destroys assurance of privacy when using library resources.

When evaluating legislation, we must thoroughly understand legal, audit, and cost compliance factors that will impact academic institutions. The EDUCAUSE Policy Advisory Committee delegated resources to evaluating the changes of the Safeguards Rule and Controlled Unclassified Information (CUI) guidelines in 2019 and expressed, "Concern about the growing tendency of legislative and regulatory privacy proposals to emphasize perspective "checklists" of requirement, as opposed to supporting compliance based on risk management" (Cummings, 2020). These are valuable points to consider when reviewing legislation concerning data privacy. We must work with legislative representatives to address these policy issues, while maintaining patron privacy as a top priority.

**ACRL’s Position**

The individual's right to privacy has long been an issue of interest and advocacy for the library community because it values the principles of free speech, inquiry, personal rights, and open government. Article VII of the *Library Bill of Rights* states, "Libraries should advocate for, educate about, and protect people’s privacy, safeguarding all library use data, including personally identifiable information.” The ongoing concern over the erosion of individual privacy and predatory online data mining practices warrants attention, engagement, and advocacy for government protections of the individual’s right to privacy.

**Links to More information**

- CRS Report-Data Protection Law: An Overview
- ALA Intellectual Freedom Blog-Consumer Data Privacy and the Federal Government
- Chairman Wicker's Discussion Draft the United States Consumer Data Privacy Act
- US Federal Policy Perspectives on the EDUCAUSE 2020 Top 10 IT Issues
5. Open Access

Background

In February 2020, the White House Office of Science and Technology Policy (OSTP), in conjunction with the National Science and Technology Council’s (NSTC) Subcommittee on Open Science (SOS), issued a Request for Information (RFI) from stakeholders in order to gather input on a potential executive order “ensuring broad public access to the peer-reviewed scholarly publications, data, and code that result from federally funded scientific research.” A White House executive order mandating public access to federally funded research would be a significant development in making research open and accessible to all.

In April 2020 ALA and ACRL issued a response to the OSTP RFI, which describes the current model of restricted access as the “most significant limitation to the effective communication of research outputs, which acts as a barrier to scientific advancement and inhibits U.S. global leadership.” The response outlines ALA and ACRL’s position that open access to publicly funded research should be immediate and permanent. The response states that providing immediate and permanent open access to publicly funded research is necessary to ensure that the United States “retains its place as a leader in scientific innovation and development.” The response cites examples from the current COVID-19 pandemic and characterizes open access as necessary to “improve the responsiveness of the scientific community and reduce the consequences for all subsequent disease outbreaks.” The response also discusses the economic impact of open access and cites European studies, which find significant economic benefit to providing public access to new research. The ALA/ACRL response concludes, “To advance scientific progress, student learning, U.S. global leadership and competitiveness, and quick and informed response to health threats such as COVID-19, we urge the Administration to provide for immediate open access to taxpayer-funded research.”

Current Status

Responses to the RFI closed on May 6, 2020. There has been no further information provided from the White House OSTP. Since the inauguration, the Biden administration has elevated the Director of OSTP to a cabinet-level position. Biden has voiced strong support for open access and open data policy in the past, most notably at a 2016 address to the American Association for Cancer Research.

Impact on Academic Libraries

Federal policy mandating open access for publicly funded research would require U.S. academic libraries to commit resources for faculty outreach and education. Librarians would likely play a large role in helping researchers understand the new requirements as well as their options for compliance. A federal open access policy could initiate the development of new approaches to the ways in which campuses track, manage, and report their research outputs and data. A mandate might also require institutions to commit new library resources or reshape
existing resources if campuses see sharp increases in institutional repository submissions, find
that researchers have new or rekindled interest in hosting open access publications, or find that
there is a need for additional funds to pay article processing fees.

A mandate that federally funded research be made publicly available would expand public
access to reliable information, provide opportunities for new economic growth, and increase the
speed at which researchers respond to new health and environmental challenges. Such a
mandate would require academic libraries to pivot human and financial resources in order to
support their campus researchers seeking compliance and map out a way forward that accounts
for this change in the scholarly publishing landscape.

ACRL’s Position

ACRL supports the expansion of public access to federally funded research. Specifically, ACRL
notes the difference between public access, in which a copy of an article in any format might be
made accessible, and open access, in which an article is made available in a machine-readable
format so that it can be processed and can contribute to large data sets derived from many
scholarly papers. Similarly, ACRL supports open data and encourages that open data be made
a part of an executive order.

ACRL also calls for published research to be made open access immediately and permanently.
Like Europe’s Plan S, ACRL sees immediate open access as a crucial component for delivering
the most current research to areas of study that change quickly and are on the cutting edge of
scientific discovery. COVID-19 research serves as a glaring example of how important it is for
new research to be made open access upon publication and not embargoed for months or
years. Likewise, once made publicly available, publications should remain open and not be
subject to removal from the public sphere at the behest of a publisher.

Links to More Information

White House OSTP RFI
ACRL / ALA RFI Response to the RFI
SPARC Response to the RFI
Full List of Responses to the RFI
SPARC Statement on a US National Open Access Policy
President Biden’s Remarks (as VP) to the American Association for Cancer Research
6. Accessible Instructional Materials in Higher Education Act (Aim Higher Act)

Background

The Accessible Instructional Materials in Higher Education Act (Aim Higher Act) seeks to create a commission to develop voluntary guidelines for postsecondary electronic instruction materials and related technologies. Coursework materials are increasingly delivered in digital forms with e-books, PDF articles, and interactive web content delivered from the learning management systems, databases, and the open web. Whereas traditional tangible print items present obstacles to students with disabilities, digital content offers opportunities to expand accessibility for these students.

The Aim Higher Act will establish an independent commission to:

- develop and issue voluntary accessibility guidelines for postsecondary electronic instructional materials and related technologies,
- develop a model framework for pilot testing, such materials and technologies, and
- produce an annotated list of information technology standards.

The Department of Education will review and update the voluntary guidelines, pilot testing framework, and information technology standards every five years.

This legislation has its roots in the Technology, Equality, and Accessibility in College and Higher Education (TEACH) Act, introduced in Congress in November 2013. According to proceedings of a 2017 EDUCAUSE conference, that bill was intended to foster the development of voluntary accessibility guidelines for postsecondary electronic instructional materials and related technologies. Beginning in fall 2014, major higher education associations worked to develop a legislative proposal that could generate sustained progress in the accessibility of postsecondary electronic instructional materials. The results of this collaboration were the Aim Higher Act, introduced on September 27, 2016, and subsequently reintroduced in 2017 and 2019. The Act was included in versions of the 2018 Higher Education Act reauthorization bill, but substantive differences in the details proposed by the House and Senate were not addressed.

The Aim Higher Act is supported by the National Federation of the Blind, the Association of American Publishers, the Software and Information Industry Association, the American Council on Education, EDUCAUSE, and other leading higher education associations, as well as groups such as the National Center for Learning Disabilities and the Association of University Centers on Disabilities.

There has also been activity in several states to support affordable textbook initiatives. For instance, the Senate and General Assembly of New Jersey enacted a statute in May 2019 requiring institutions of higher education to submit annual plans to expand the use of open
textbooks and commercial digital learning materials in order to achieve savings for students enrolled in the institution.

Current Status

On December 5, 2019, Congressman David Roe (R-TN) reintroduced H.R. 5312, AIM Higher Act. More than 40 cosponsors from both parties have added their name to the bill. On December 18, 2019, U.S. Senator Elizabeth Warren (D-MA) reintroduced S. 3095, the Aim Higher Act, cosponsored by Senators Michael Bennet (D-CO), Dan Sullivan (R-AK), Jon Tester (D-MT), and Joni Ernst (R-IA). Later cosponsors have included Kirsten Gillibrand (D-NY), Maria Cantwell (D-WA), Jacky Rosen (D-NV), and Tina Smith (D-MN). This bill was referred to the House Committee on Education and Labor and to the Senate Committee on Health, Education, Labor, and Pensions.

The bill creates a commission to develop voluntary guidelines for postsecondary electronic instruction materials and related technologies. The Department of Education will review and update the voluntary guidelines, pilot testing framework, and information technology standards every five years. Unfortunately, there has been no movement on this legislation since 2019.

Impact on Academic Libraries

The development of federal guidelines will directly benefit academic libraries and their users because libraries create and provide access to expansive online materials that are considered "postsecondary electronic instruction materials." The campus library is a central point of access for students in higher education, and academic libraries also provide direct instruction to students and create many instructional materials in digital formats. Therefore, these guidelines will help ensure that library instruction materials and resources are also accessible to all. This not only increases the accessibility of instructional materials for users with disabilities, but it also benefits all users by allowing them to access the information they need in the ways they need to, and that works best for them. Finally, while there are existing standards that this act will collate into an annotated list, these new guidelines will help to situate accessibility best practices into the context of higher education instruction, which academic libraries play an integral part, and libraries could use them to increase and ensure the accessibility of our instruction services and resources. The ACRL University Accessibility Interest Group is available to provide additional input and support for this work.

ACRL’s position

ACRL has not stated a public position on this legislation.

Links to More Information

Article in Educause Review (November 2020)
Elizabeth Warren speaks in support of AIM High (January 2020)
Brief article in Inside Higher Ed (December 2019)
Article in EDUCAUSE Review (September 2016)
7. Federal Funding for Higher Education

Background

There are two prominent areas of need/advocacy associated with the push for broader federal funding for higher education. One of these areas of need has emerged as a direct result of the COVID-19 pandemic and its effects on university budgets. Another relates to matters of equity, specifically in relation to the affordability of accessing higher education and the student debt crisis, and has also been amplified by the pandemic.

In a recent letter to Congress, the American Council on Education (ACE) has identified no less than $120 billion in pandemic-related expenses and lost revenue impacting students and institutions of higher learning. Since the onset of the pandemic, enrollment has dropped 3.3% at four-year institutions, and as much as 9.5% in the community college sector. International student enrollment is down by 43%, and the wider economic consequences of the pandemic are disproportionately affecting low-income and traditionally marginalized communities, where enrollments are down as much as 16%.

The American Civil Liberties Union (ACLU) has noted that over 44 million Americans are directly impacted by student loan debt. Further, minority communities, and women of color in particular, are disproportionately represented within these figures. Research conducted by the Heller School of Social Policy and Management points out that the median black borrower still owes 95% of their debt, while the median white borrower has paid off 94% of their debt. ACE identifies long-standing disparities in median household income and net wealth, when comparing black and white households, as the most likely explanation for the disparities in student debt across racial lines. Under such circumstances, any positive movement on student debt reform or debt forgiveness will also further the cause of social equity in education.

Current Status

Several new laws are providing COVID-19 relief to colleges and universities. The $2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L.116-136), passed in late March 2020, included $14 billion for institutions of higher learning. An additional $22.7 billion in relief for colleges was injected into the Consolidated Appropriations Act of 2021 (H.R. 133), while another $40 billion has been provided via the American Rescue Plan Act of 2021 (H.R.1319). Nevertheless, many advocacy groups have noted these funds fall short of current need.

In response to the pandemic’s exacerbating effects on the student debt crisis, President Biden has ordered a pause on all student debt payments and collections until further notice. Interest
on these loans will also be held at 0% during this pause. At the same time, members of Congress have introduced two bills aimed at tackling student debt along two separate fronts. The Public Service Appreciation through Loan Forgiveness Act (H.R. 251) seeks to bolster existing public service-based loan forgiveness programs through expanded promotion and outreach, as well as the development of an online portal that will ease the administrative burdens program participants currently face. In a move that may signal further push for debt forgiveness by the White House, H.R. 1683 will amend the Internal Revenue Code of 1986 in a manner that excludes certain student loan forgiveness from gross income of recipients.

Impact on Academic Libraries

Academic libraries are currently positioned to experience collateral fallout from the student loan crisis. With the multi-decade downward trend of public funding for colleges and universities, these institutions are forced to rely increasingly on tuition dollars as their main source of funding. Experts note this has led to the rapidly increasing costs of higher education, which in turn feeds the student debt crisis. Taken as a whole, this system of educational finance is unsustainable. Further, with the compounding effects of the COVID-19 pandemic on student debt repayment, universities should expect continued downward trends in enrollment. As tuition revenues drop, libraries have traditionally shouldered a disproportionate burden of institutional funding cuts. Therefore, any governmental action on student debt forgiveness, or the expansion of funding for educational access, that can bolster enrollment will help libraries maintain funding. Importantly, libraries will want to remain active in these conversations, as any well-meaning legislation that seeks to limit tuition rates, for example, without the provision of additional public funding for institutions, could result in significant funding cuts for libraries.

ACRL’s position

As noted by ALA, equity, diversity, and inclusion are fundamental values of the association and its members. Therefore, equitable access to higher education must be seen as foundational to the work and advocacy of ACRL and its members. So that ACRL members might gain a clearer understanding of these issues and their impact on libraries, the Government Relations Committee recommends ACRL leadership develop a formal policy statement on these matters.

Links to More Information

Race and Ethnicity in Higher Education (ACE)

Student Debt is a Racial Justice Issue (ACLU)

What Will It Take to Solve the Student Loan Crisis? (Harvard Business Review)
8. Environmental Impact of Data Centers

Background

As of 2020, data centers account for as much as 1% of global energy consumption (with the broader Internet sector comprising 2-4% of global consumption). This represents a doubling in the energy costs of these utilities since 2010, and some projections show these costs could increase another three-to-fourfold by 2030. As increased Internet use and demand for cloud computing grows, technological efficiencies may help to decrease the energy needs of global data center infrastructure. Nevertheless, it is important that organizations that rely on and champion these technologies, such as academic libraries and their parent institutions, fully appreciate their potential adverse impacts on the environment.

The Energy Efficient Government Technology Act (H.R.1420) sets forth requirements aimed at increasing the energy efficiency of information technologies and data centers within the federal government. In September 2019, this bill passed in the House and was routed to the Senate’s Committee on Energy and Natural Resources, which recommended the legislation pass in the Senate without amendment via S. Rept. 116-145. While no further action was taken on this particular bill, minimal elements were incorporated into Division Z (Energy Act of 2020) of the Consolidated Appropriations Act of 2021 (H.R. 133) and signed into law by the President in December 2020. It is important to note that these statutes only seek to establish energy efficiency standards for federally owned/operated data centers. The broader environment of privately operated data centers remains unaddressed by Congress.

Impact on Academic Libraries

While academic libraries owe it to their users to support the expansion of data-intensive and technology-assisted research, it will also be important to promote among library users a deeper understanding of the costs of this type of information access and use. Furthermore, it is imperative that libraries continue to review regulatory activities at the national level to ensure Internet and cloud-based technology infrastructures are made as energy efficient as possible.

ACRL’s position

ACRL has not stated a public position on this particular topic or any of the aforementioned legislation. It is the recommendation of the Government Relations Committee that ACRL examine this issue more deeply toward the development of an official position relative to the environmental sustainability of Internet technologies, and data center infrastructure specifically.

Links to More Information

United States Data Center Energy Usage Report
Recalibrating global data center energy-use estimates
Europe Edges Closer to Green Data Center Laws
ICYMI: What They’re Saying About the Energy Act of 2020
9. Watchlist

There are additional policy issues of great concern to academic librarians that are not included above because there is no pending legislation. Nevertheless, if legislation does arise or becomes necessary, ACRL will advocate for the best interests of academic and research libraries by relying on past precedent and current analysis.

a. Fair Access to Science and Technology Research Act (FASTR)

The Fair Access to Science and Technology Research Act (FASTR) was intended to mandate federal agencies and departments to preserve and make publicly available publicly funded research. The Federal Research Public Access Act (FRPAA), the predecessor to FASTR, was first introduced in 2006, reintroduced in 2009, and reintroduced again in the 112th Congress on February 9, 2012. It was superseded by FASTR, originally introduced in 2013, refiled on March 18, 2015, as S. 779/H.R. 1477, and again in summer 2017 as H.R. 3427/S. 1701, with bipartisan support in both the House and the Senate chambers.

While FASTR has not been reintroduced to Congress since 2017, and is not likely to be in the near future, it has widespread support among the library, higher education, advocacy, and funding organizations with a commitment to increased openness to all results of sponsored research, including both published articles and research data. New legislation needs to cover both, with reuse rights and immediate access (no embargoes). In addition to data gathered during the research process, access should include any code, software, algorithms, and computational tools that were developed and are necessary to do that validation. ACRL takes the position that new legislation should be developed to bring policy up to date, it should be inclusive of all research outputs and consistent with the policies in other countries.

b. Federal Depository Library Program (FDLP) Modernization Act

In March 2018, the House filed H.R. 5305, the FDLP Modernization Act of 2018. The bill addressed many issues, including improved access to electronic resources, digitization of historical publications for public access, modernization of the online repository, free public access to GPO’s online repository (govinfo.gov), and improved access to cataloging data produced by SuDoc. ALA, the American Association of Law Libraries, and the Association of Research Libraries cosigned a letter of support for H.R. 5305, while the GPO published a statement of its own. In April, amendments to H.R. 5305 were made available by the Committee on House Administration. The Congressional Budget Office (CBO) released their cost estimates for H.R. 5305 (the FDLP Modernization Act) on May 25, 2018. However, progress stalled, and H.R. 5305 died when the 115th Congress ended in January 2019. In July 2020, GPO released a new set of legislative proposals that fall along the same lines as those changes outlined within the FDLP Modernization Act. This activity renews hope that Congress may pass legislation to update internal policies and operations at GPO. As of February 2021, GPO
began soliciting feedback and comment on an updated version of proposed changes to Title 44 of the U.S. Code.

c. **Deferred Action for Childhood Arrival (DACA)/Immigration Issues**

The DACA program, put in place by the Obama Administration in 2012, protects individuals brought to the United States as children from deportation and is currently in litigation. In January 2018, a nationwide preliminary injunction was issued on the September 2017 rescission of the DACA program. In June 2018, the Memorandum from Secretary Kirstjen M. Nielsen agreed with the decision of Secretary Duke under the Duke Memorandum (set on September 5, 2017) to rescind the DACA policy. Despite the efforts of the Secretary of Homeland Security and the Trump Administration, the Ninth Circuit Court of Appeals upheld the nationwide preliminary injunction and required DHS to continue accepting renewal applications (National Law Review, November 12, 2018). The Supreme Court, in 2019, decided to review the DACA issue during its October term and a decision is anticipated sometime in 2020 (National Law Review, July 8, 2019). The U.S. Citizenship and Immigration Services (USCIS) is not accepting requests from individuals who have never been granted deferred action under DACA, but due to ongoing court orders, USCIS continues to accept renewal requests.

With the culmination of the 2020 elections, a series of proposed bills were sent to the chambers regarding DACA and immigration policy in general. As recently as December 17, 2020, Senator Catherine Cortez Masto (D-NV) introduced S.5055, a Senate bill emphasizing among other things the protection of immigrant families and promotion of citizenship. On January 20, 2021, the White House released a Memorandum for the Attorney General the Secretary of Homeland Security, titled *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)*.

On March 3, 2021, Rep. Roybal Abellard introduced H.R. 6, The American Dream and Promise Act, a bill to provide certain undocumented noncitizens with a path to receive permanent resident status. This bill contains other provisions for immigrants, including the authorization of cancellation of removal and adjustment of status for certain noncitizens. On March 16, the Rules Committee introduced a resolution to provide for one hour of general debate on several bills introduced in the House, including H.R. 6. As of the time of this writing, H.R. 6 has 175 co-sponsors.

The ACRL Board of Directors has publicly recognized DACA students, faculty, and staff in higher education—many of whom also work in libraries—as important and valued members of the academic community. The loss of these groups who “contribute their unique perspectives” would “harm intellectual freedom by removing the voices of vulnerable groups from the scholarly discourse, and would jeopardize the invaluable cultural enrichment brought to our campuses by immigrant students, faculty and staff.”

*Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)*

*National Law Review, November 12, 2018*

*Memorandum from Secretary Kirstjen M. Nielsen*