

## ACRL Legislative Agenda 2022

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 action on, or is expected to 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 2022:

1. Federal funding for libraries
2. Net neutrality
3. Affordable College Textbook Act
4. Consumer data privacy
5. Public access to federally funded research
6. Accessible Instructional Materials in Higher Education Act (AIM HIGH)
7. Federal funding for higher education
8. Environmental impact of data centers
9. Watchlist:
  - a. Changes to federal copyright laws (SMART Copyright Act of 2022)
  - b. Federal Depository Library Program (FDLP) Modernization Act
  - c. Deferred Action for Childhood Arrival (DACA)/Immigration Issues

### 1. Federal Funding for Libraries

#### Background

The Library Services and Technology Act (LSTA) is the primary source of federal funding for libraries and is administered by the Institute of Museum and Library Services (IMLS). LSTA receives its funding through the annual appropriations process, with spending limits established each year through Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittees in the U.S. House and U.S. Senate. In FY 2022, LSTA received \$197.4 million. Most of this funding was allocated to states through the Grants to States formula funding program. Other LSTA programs are the National Leadership Grants for Libraries, the Laura Bush 21st Century Librarian Program, and Native American Library Services. Individual state priorities for the LSTA Grants to States program are reflected in each state's Five-Year Plan. The continuation of the COVID-19 pandemic has perpetuated considerable concern for libraries well into the new fiscal year.

In March 2022, Congress provided \$197.4 million for LSTA, which was included in the \$276.8 million for IMLS. In 2021, Congress included \$200 million in emergency relief for libraries in the American Rescue Plan Act (P.L. 117-2) to assist libraries in responding to COVID-19.

## **Impact on Libraries**

On August 5, 2021, the Institute of Museum and Library Services, in association with the American Library Association, the American Alliance of Museums, the Center for Disease Control and Prevention, and the Association of Science and Technology Centers, announced an unprecedented partnership to increase awareness of vaccine safety in our communities across the country aptly titled *Communities for Immunity*. “Access to information about vaccines and trusted messengers to effectively convey it locally is a matter of life and death. America’s 117,000 libraries provide both, serving communities at greatest risk of contracting the coronavirus and those most hesitant to receive the vaccine,” said Patty Wong, ALA. “ALA is proud to join the *Communities for Immunity* initiative to offer resources and funding to supercharge the capacity of our nation’s second responders.”

On January 27, 2022, the FCC updated the definition of “library” in its E-Rate program to establish tribal libraries as candidates for affordable Internet. This program makes telecommunications services available to libraries at discounted levels. IMLS’s programs can provide the library infrastructure that supports both access to broadband and the resources and services needed for necessary digital inclusion. The Director of the IMLS, Crosby Kemper, applauded the FCC’s action. Kemper has made addressing the digital divide within under resourced communities a priority, as he recently cohosted the National Tribal Broadband Summit in collaboration with the White House Council for Native American affairs and several others, including the Department of Commerce and the Department of the Interior.

While IMLS is the primary federal funding agency that supports libraries, ACRL continues to monitor the budgets of other agencies that award grants in support of academic libraries, including the Library of Congress, National Endowment for the Humanities (NEH), the National Endowment for the Arts (NEA), the National Historical Publications and Records Commission (NHPRC), and the grant-making division of the National Archives and Records Administration (NARA). ACRL members also benefit from the Federal Work-Study Program, funded through the Department of Education, which subsidizes the wages of student assistants in academic libraries across the country.

## **Current Status**

On March 15, President Joe Biden signed the FY 2022 Consolidated Appropriations Act, which contained only flat funding for LSTA at \$197.4 million. On March 28, the president submitted his FY 2023 budget request to Congress which included a \$3.6 million increase for LSTA and an \$8.8 million increase for IMLS. This is the first recommended presidential increase for LSTA in more than five years.

## **ACRL’s Position**

College and university libraries are core to the academic mission of higher education, and strong libraries are key to an informed and civil society. ACRL and ALA continue the campaign to preserve and expand federal funding for libraries through IMLS and other federal agencies. ALA continues 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.

## Links to More Information

[Institute for Library and Museum Services \(IMLS\)](#)  
[IMLS Grants](#)  
[IMLS News](#) (includes announcements of recent grants funding)  
[National Endowment for the Humanities \(NEH\)](#)  
[NEH Grants](#)  
[NEH News](#) (includes announcements of recent grants funding)  
[National Endowment for the Arts \(NEA\)](#)  
[NEA Grants](#)  
[NEA News](#) (includes announcements of recent grants funding)  
[National Historical Publications and Records Commission \(NHPRC\)](#)  
[NHPRC Grants](#)  
[November 2021 NHPRC Grant Awards](#)  
[Library of Congress](#)  
[LOC Programs and Grants](#)  
[Federal Work-Study Program, Department of Education](#)

## 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. 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.” 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, tech 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 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 2022, Senator Ed Markey (D-MA) [indicated that he would introduce a bill](#) to make net neutrality a federal law. Jessica Rosenworcel was confirmed by the Senate as chairwoman in December 2021 and has [signaled renewed interest](#) in the issue. 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 reimpose 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. On January 28, 2022, a U.S. Court of Appeals [upheld](#) California's net neutrality law, saying the 2017 decision by the FCC to reverse federal Internet protections could not bar state action. The FCC could take up net neutrality once a third Democratic commissioner is confirmed, but this nomination is currently stalled in Congress, and significant movement on this issue is not likely in 2022.

### **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. 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**

[Where Net Neutrality Is Today and What Comes Next: 2021 in Review](#)  
[U.S. Appeals Court Will Not Block California Net Neutrality Law](#)  
[U.S. Appeals Court Will Not Reconsider Net Neutrality Repeal Ruling](#)

[DC Circuit Court Delivers Mixed Ruling on Net Neutrality](#)  
[Washington Hotline: 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, expanding and updating provisions from Durbin’s College Textbook Affordability Act contained in the 2008 Higher Education Opportunity Act. The increasing cost of textbooks has drawn the attention of students, parents, faculty, and institutions across the higher education sector. Textbooks are often overlooked costs for students and can ultimately be the deciding factor if students decide to go to college. As a result, legislation has been introduced to combat these rising costs and support the use of open textbooks. The bill was first introduced in the 113th, 114th, 115th and 116th 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; and
- requires the Government Accountability Office to provide an updated report on the price trends of college textbooks to Congress.

The Affordable College Textbook Act aims to permanently authorize funds for a grant program for the creation of Open Educational Resources (OER). The grant money can be used in some of the following ways: provide funding for professional development around the open textbook process; the creation or adaptation of open textbooks; the development of supplemental material; or research surrounding open textbooks and OER material correlated to student success and savings. On January 20, 2022, the U.S. Department of Education released [new guidelines for use of COVID-19 relief](#) funds related to OER initiatives. Institutions can now use their grant funds to create an OER library, program, or join a partnership of an existing OER project.

- Additionally, Congress has funded the intended pilot projects through the [Open Textbook Pilot Grant Program](#), first funded in 2018. The Department of Education

awarded \$7 million to nine projects during the 2021 competition. Including funding in the FY 2022 Consolidated Appropriations Act, the total federal investment in the Open Textbooks Pilot is now \$35 million.

These projects are estimated to provide about \$220 million in savings to students.

The reintroduced Affordable College Textbook Act is supported by U.S. PIRG, Scholarly Publishing & Academic Resources Coalition (SPARC), National Association of College Stores, Young Invincibles, American Federation of Teachers, National Education Association, American Association of Community Colleges, Creative Commons, Association of Research Libraries, the Association of College & Research Libraries, Achieving the Dream, Washington Student Association, Open Oregon Educational Resources, and Institute for the Study of Knowledge Management in Education.

### **Current Status**

On March 10, 2022, the Affordable Textbook Act was reintroduced in Congress. The Senate bill was introduced by Senate Majority Whip Dick Durbin (D-IL) with Senators Angus King (I-ME), Tina Smith (D-MN), and Kyrsten Sinema (D-AZ). The House companion was introduced by Representative Joe Neguse (D-CO-02).

### **Impact on Academic Libraries**

Academic librarians are concerned for 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 OER 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. Open Educational Resources 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 under-represented groups. During the 2020 COVID-19 pandemic, the need for electronic, open educational resources became increasingly apparent as classes were moved online.

### **ACRL's Position**

ACRL supports legislation that makes college textbooks affordable, having most recently joined with 13 other organizations in March 2022 to [support](#) the Affordable College Textbook Act upon its reintroduction 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.

## Links to More Information

Affordable College Textbook Act

[Text of H.R. 2107 / S. 1036](#)

[SPARC Description](#)

[SPARC Fact Sheet](#)

[U.S. PIRG Press Release](#)

Open Textbook Pilot Programs

[Program Award Age \(U.S. Department of Education\)](#)

[SPARC Description](#)

[LibreTexts Project at UC Davis \(Funded Through the Open Textbook Pilot Program\)](#)

Other OER Information

[Babson Survey Research Group National Survey on OER Adoption](#)

[“Open Educational Resources and College Textbook Choices: A Review of Research on Efficacy and Perceptions.”](#) *Educational Technology Research and Development* 64, p. 573–590 (2016).

SPARC, [“Leveraging OER to Meet Student Basic Needs with COVID Relief Dollars.”](#)

## 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. 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.” States have been working on consumer data privacy laws, such as Colorado, which passed [Protections for Consumer Data Privacy](#), and California, which passed the [California Consumer Privacy Act](#), and Virginia, which passed the [Consumer Data Protection Act](#). 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 consumer’s information, 3) In certain circumstances, gives consumers the right to request that a business delete their information.

Given the impetus of the California law, the [EU’s General Data Protection Regulation](#), 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 the U.S. 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 and specified state officials to take enforcement actions with respect to breaches of such duties.

- [The American Data Dissemination \(ADD\) Act](#) was introduced in the U.S. Senate January 2019 and requires the Federal Trade Commission 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 the U.S. 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 U.S. House of Representatives January 2019 and requires the Federal Trade Commission 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 the U.S. Senate March 2019.

### Current Status

This initiative for federal consumer data privacy legislation is stalled in Congress. 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 Federal Trade Commission with new resources and capabilities* to enforce privacy protections, including 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 2022.

### **Impact on Academic Libraries**

Libraries retain and take careful steps to safeguard patron 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 that will impact academic institutions and its constituents. The EDUCAUSE Policy Advisory Committee delegated resources to evaluate the changes of the Safeguards Rule and 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.” 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**

ACRL supports legislation that upholds the individual’s right to privacy, which 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. The ongoing concern over the erosion of individual privacy and predatorial 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 \(3/25/2019\)](#)

[ALA Intellectual Freedom Blog-Consumer Data Privacy and the Federal Government \(3/27/2019\)](#)

[Chairman Wicker’s Discussion Draft The United States Consumer Data Privacy Act \(12/3/2019\)](#)

[U.S. Federal Policy Perspectives on the EDUCAUSE 2020 Top 10 IT Issues](#)

## 5. Public access to federally funded research

### Background

Several federal agencies have established guidelines for increasing access to the results of research funded through their grant programs. These include the National Science Foundation [Public Access Initiative](#) and their current guidelines [document](#) outlining requirements of grant recipients for access, and also the National Institutes of Health [Public Access Policy](#), which requires funded research to be placed into [PubMed Central](#).

The Biden administration elevated the Director of the White House Office of Science and Technology Policy (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. 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 February 2020, 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 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." 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.

The [Fair Access to Science and Technology Research Act \(FASTR\)](#) was the last bill intended to create a comprehensive mandate for all 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 and reintroduced during several subsequent legislative sessions usually with strong bipartisan support. It also received widespread support among 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 comprehensive 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 perform that validation.

## Current Status

On January 26, 2022, the House released H.R. 4521, its version of the [America COMPETES Act of 2022](#), with significant differences from the Senate-approved [S. 1260, U.S. Innovation and Competition Act \(USICA\)](#). While the Senate version includes a provision on public access to federally funded research, which would codify the OSTP order to extend NIH procedures to all agencies, the House bill does not. ACRL and ALA are monitoring this legislation through their membership in the [Open Access Working Group \(OAWG\)](#). The legislation was moved to conference committee, where differences are intended to be reconciled. On March 31, 2022, 12 members of OAWG, including ACRL and ALA, [asked Congressional leaders](#) to retain language ensuring that taxpayers are guaranteed timely, free access to the results of publicly funded research. The letter asks that this provision (Section 2527 in USICA) be retained during conference negotiations between the House and Senate.

## 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 and 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 legislation to expand 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. ACRL is committed to open access to all research outputs consistent with policies of other countries and supports open data policies providing access to research data in its raw form.

ACRL also calls for published research to be made open access immediately and permanently. 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.

ACRL must take a proactive stance on pending federal legislation and, along with ALA and OAWG, engage with advocates in strategic states to speak with federal legislators in key offices and Congressional committees.

### **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](#)

[U.S. GAO Report \(2019\) that Informed the OSTP RFI](#)

[SPARC Statement on a U.S. National Open Access Policy](#)

[Vice President Biden's Remarks to the American Association for Cancer Research](#)

## **6. Accessible Instructional Materials in Higher Education Act (AIM HIGH)**

### **Background**

The Accessible Instructional Materials in Higher Education Act (AIM HIGH) 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.

AIM HIGH 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 result of this collaboration was AIM HIGH, 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.

AIM HIGH is supported by the National Federation of the Blind (NFB), the Association of American Publishers (AAP), the Software and Information Industry Association (SIIA), the American Council on Education (ACE), 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.

On March 5, 2020, during the 116th Congress, Bill Cassidy (D-LA) reintroduced [S. 3410](#), AIM HIGH Act. It had only one cosponsor, Bob Casey (D-PA). On December 5, 2019, David Roe (R-TN) reintroduced [H.R. 5312](#), AIM HIGH Act. More than 40 cosponsors from both parties added their names to the bill but it did not advance. The bill would have created a commission to develop voluntary guidelines for postsecondary electronic instruction materials and related technologies. The Department of Education would review and update the voluntary guidelines, pilot testing framework, and information technology standards every five years.

### **Current Status**

No legislation on accessible instructional materials has been introduced in the 117th Congress.

### **Impact on Academic Libraries**

The ACRL [Standards for Distance Learning Library Services](#) specifically address the need for services, facilities, equipment, and technological infrastructures that provide equitable access to all researchers, including those with physical and cognitive disabilities.

The development of federal guidelines, as suggested in the AIM HIGH Act, 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, new federal guidelines would 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.

### **ACRL’s position**

ACRL is committed to open and equitable access to high-quality scholarly information resources, including accessibility by those with disabilities. Establishing guidelines to leverage technological tools to deliver digital content will ensure the accessibility of instructional materials to all user groups.

### **Links to more information**

Accessible Instructional Materials in Higher Education Act (AIM HIGH Act)

[Text of S. 3410](#)

[Text of H. 5312](#)

[Text of S. 3095](#)

Article in [Inside Higher Ed](#) (April 2021)

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 [Braille Monitor](#) (March 2017)  
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 2020 [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%.

In the face of decreased government funding in recent decades, institutions have passed the costs for education directly to students through higher tuition. 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.

[As noted by ALA](#), Equity, Diversity, and Inclusion are fundamental values of the association and its members. Similarly ACRL's [core commitment](#) creates diverse and inclusive communities in the Association and in academic and research libraries, as stated in ACRL's [strategic plan](#).

### Current status

Several new laws are providing COVID-19 relief to colleges and universities. On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES), [Public Law 116-136](#). This bill allotted \$2.2 trillion to provide economic aid to Americans impacted by the pandemic. Of that \$2.2 trillion, about \$14 billion was given to the Office of Postsecondary Education to create the Higher Education Emergency Relief Fund (HEERF). This grant provided money to specific institutions that met [certain requirements](#), such as participating Title IV schools, Historically Black Colleges and Universities (HCBUs), minority serving institutions, and others.

On December 27, 2020, additional funding was allocated to create the Higher Education Emergency Relief Fund II (HEERF II) through the Coronavirus Response and Relief Supplemental Appropriations Act 2021 (CRRSAA), [Public Law 116-260](#). This provided an additional \$81.88 billion to higher education systems and expanded the eligibility requirements to include [additional categories](#) for supporting student aid for public and nonprofit institutions.

On March 11, 2021, the Higher Education Emergency Relief Fund III (HEERF III) was authorized by the American Rescue Plan, [Public Law 117-2](#), and was signed into effect providing \$39.6 billion to support institutions in higher education. [Details of the funding](#) provide information on eligibility requirements, yet experts and higher education institutions reported that the aid fell short of actual need.

In response to the pandemic's exacerbating effects on the student debt crisis, [President Biden extended a pause on all student debt payments and collections](#) through August 31, 2022. Interest on these loans will also be held at 0% during this pause. Members of Congress have introduced several bills and resolutions in an effort to cut down on the amount of debt that Americans shoulder. Some of these include: V.E.T Student Loans Act ([H.R. 5097](#)), Student Loan Forgiveness for Frontline Health Workers Act ([H.R. 2418](#)), and Debt-Free College Act of 2021 ([H.R. 2804](#)). Most recently, a resolution was introduced to the House ([H.R. 100](#)) and Senate ([S.R. 46](#)) called on the President of the United States to take executive action to broadly cancel up to \$50,000 in federal loan debt. Yet, the Biden Administration has only [affected changes](#) to programs for Public Service Loan Forgiveness ([PSLF](#)) and income-driven repayment plans (IDR), which affect specific populations with student loan debt.

### **Impact on academic libraries**

Academic libraries are currently positioned to experience collateral fallout of the student loan crisis. With the multidecade 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, which 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 resulting in significant funding cuts for libraries.

### **ACRL's position**

ACRL supports increased federal funding for higher education, seeing equitable access as foundational to the work of our association and its members. The COVID-19 pandemic has dramatically affected university operating budgets, often seeing libraries at the forefront of budget cuts. Any additional higher educational funding can help libraries expand new initiatives and purchase more diverse collections to support programs. ACRL also supports student loan debt forgiveness in order to create more equitable access to higher education.

## 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 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 117th Congress has not yet proposed any bill that would address the environmental impact of data centers in the United States. And while previous congressional movement on this issue has been limited, a few pieces of legislation are worth note. The Energy Efficient Government Technology Act ([H.R. 1420](#)) set 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, who 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 Trump 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 support the expansion of data-intensive and technology assisted research, it is also 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 and its members are concerned about the environmental sustainability of Internet technologies, particularly significant energy inefficiencies of data center infrastructures and the negative impact they create through the use of nonrenewable energy sources.

## Links to more information

[United States Data Center Energy Usage Report](#)  
[The Environmental Footprint of Data Centers in the United States](#)  
[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, because new bills were introduced during the creation of this legislative agenda, or action is not likely in the current legislative session. Should issues on the watchlist become active, ACRL will advocate for the best interests of academic and research libraries by relying on past precedent and current analysis.

### a. Changes to federal copyright laws (SMART Copyright Act of 2022)

Following earlier discussion drafts, on March 17, 2022, Senator Thom Tillis (R-NC), chairman of the Senate Judiciary Committee on Intellectual Property, introduced [S. 3880](#), “Strengthening Measures to Advance Rights Technologies Copyright Act of 2022” or the “SMART Copyright Act of 2022.” The bill, cosponsored by Patrick Leahy (D-VT), suggests sweeping changes to the safe harbors for online service providers contained in the Section 512 of the Digital Millennium Copyright Act. These changes would threaten libraries’ ability to provide Internet access and would lead to increased filtering, limiting free speech and fair use rights. The Library Copyright Alliance, a partnership between ACRL, ALA, and the Association of Research Libraries (ARL), opposes this legislation and issued [a statement on March 24, 2022](#). The Author’s Alliance, which [also opposes the bill](#), believes that “because 2022 is an election year, [it has been speculated](#) that the SMART Act of 2022 is unlikely to pass during this legislative session.” As [Leahy is planning to retire](#), Tillis will need to find a new cosponsor to reintroduce the bill in a future legislative session.

### b. Federal Depository Library Program (FDLP) Modernization Act

In March of 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](#), and improved access to cataloging data produced by SuDoc. The American Library Association (ALA), 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, the 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 the GPO. As of February 2021, the 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 was 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 and the Secretary of Homeland Security, titled [Preserving and Fortifying Deferred Action for Childhood Arrivals \(DACA\)](#). On March 3, 2021, Rep. Lucille Roybal-Allard (D-CA) 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 cancellation of removal policies and adjustment of status for certain noncitizens.

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.”

## **ACRL Legislative Agenda 2022**

Assembled by the ACRL Government Relations Committee:

**Erik Nordberg, Chair** – The University of Tennessee-Martin

**Mark Offtermatt, Vice-Chair** – Navajo Technical University

**Daniel Cardwell** – Hillsborough Community College

**Dan DeSanto** – University of Vermont

**Angela Hackstadt** – University at Albany, State University of New York

**H Pedelty** – University of Iowa

**Hallie Pritchett** – North Dakota State University

**Raymond Pun** – Stanford University

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**Kevin Walker** – The University of Alabama

**Carrie Dunham-LaGree** – Drake University, ex-officio Member

**Jacquelyn Bryant** – Community College of Philadelphia, ACRL Board liaison

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