**What’s New in the**

**“****Resolution in Defense of the Right to Engage in Political Boycotts”?**

In 2019 SRRT submitted a resolution opposing legislation that would target the free speech of supporters of Palestinian rights, especially by punishing boycotters of Israel.[[1]](#endnote-1) The resolution was approved by an ALA Membership meeting and was subsequently forwarded by Council to a task force. Ultimately, the task force submitted a revised version to Council.[[2]](#endnote-2) SRRT was the only group represented on the task force that endorsed the revised resolution. Consequently, Council discussion at the ALA Midwinter meeting in 2020 reverted to consideration of the original resolution, which was defeated.

**What’s changed?**

What has changed that warrants reconsideration of the issue of anti-boycott legislation? Two developments stand out:

*1. Assaults on Free Speech*

In 2020 SRRT Action Council observed that “free expression and intellectual freedom are currently under attack” and it predicted that “unless it is stopped, we can expect even more restrictive legislation against supporters of Palestinian rights—and then perhaps against other groups ....”[[3]](#endnote-3) Since then, there has been a massive assault on free speech.

*Regarding the right to boycott, one form this has taken has been the introduction of copycat legislation targeting other boycotts. At the time of this writing, bills patterned after anti-BDS legislation that target companies boycotting the fossil fuel industry have been introduced in at least five states and have passed in one.[[4]](#endnote-4) Copycat bills targeting companies that boycott the firearm and ammunition industry have been introduced in at least 12 states and have passed in two.[[5]](#endnote-5)*

Regarding boycotts for Palestinian rights, the number of states that have adopted legislation against boycotts of Israel has grown from 27 in January 2020 to 32 today, and similar bills are currently pending in 12 states.[[6]](#endnote-6) On the federal level, the Combatting BDS Act, which would condone the state legislation against boycotts of Israel, and The Israel Anti-Boycott Act, which would criminalize boycotts of Israel, have been reintroduced.[[7]](#endnote-7) Though federal courts in five states have declared state legislation against boycotts of Israel unconstitutional, several states have responded by amending their anti-BDS laws to remove the standing of plaintiffs without addressing the constitutional violations.[[8]](#endnote-8) Given the willingness of the current Supreme Court to overturn precedents regarding established constitutional rights, the future of the right to boycott is uncertain.

More broadly, in the wake of demonstrations responding to the murder of George Floyd in 2020, there has been a massive wave of state legislation restricting the right to demonstrate.[[9]](#endnote-9) In the last two legislative sessions more than 100 curriculum censorship bills have been introduced in state legislatures.[[10]](#endnote-10) And, of course, there has been an unprecedented number of book challenges in libraries.[[11]](#endnote-11)

*2. What we know about the library connection*

The most frequent objection to our earlier resolution in 2019-2020 was that it was not a library issue. In response, we cited relevant ALA core values and policies in defense of free speech.[[12]](#endnote-12) Beyond that, at the Midwinter meeting we pointed to a few library-related contracts and an RFP that contained explicit state-mandated anti-boycott pledges.[[13]](#endnote-13) We predicted that many more could be found.

 *Since then, we have located RFPs and contracts for at least 172 separate library projects that have been forced to include state-mandated pledges the contractor will not boycott Israel.[[14]](#endnote-14) We are also beginning to find library-related RFPs that prohibit contracts with companies that boycott energy companies and library-related RFPs that prohibit contracts with “firearm entities” or firearm trade associations.[[15]](#endnote-15)*

Contractors that have been compelled to sign these pledges have included a library, a library association, and diverse library vendors and contractors. Institutions forced to participate in violations of the First Amendment by requiring these pledges have included libraries, library boards, a library association, colleges and universities, school boards, state library agencies, and various other governmental bodies. Affected contracts have related to nearly every aspect of library operations, including library construction; the hiring of library directors, librarians, and staff; and the purchase of books, periodicals, databases, integrated library systems, library furniture, and equipment.

**The resolution**

The current resolution reflects the changes in the situation and the new evidence of the impact of anti-boycott legislation on libraries. It also addresses some concerns expressed in 2019-2020.

* The scope has been broadened to include the current bills and laws targeting the right to boycott fossil fuel and firearms industries.
* The resolution highlights the relevant library-related RFPs and contracts we have found.
* While continuing to note relevant federal bills, the resolution emphasizes the state legislation that most directly impacts libraries.
* Although we disagree with the argument we have heard that ALA resolutions should not name bills and have noted many cases in which ALA resolutions have done just that, the current resolution’s text does not explicitly name any current bill.
* Responding to an OIF concern about raising different “distinct questions” in one resolution, the current resolution addresses *only bills and laws that* *explicitly* *punish or condone the punishment of political boycotts*.
1. “Resolution in Defense of the Free Speech of Supporters of the Movement for Palestinian Rights” [https://www.ala.org/aboutala/sites/ala.org.aboutala/files/content/governance/council/council\_documents/2019\_ac\_docs/ALA CD 49 Resolution in Defense of the Free Speech for Palestinian Rights.pdf](https://www.ala.org/aboutala/sites/ala.org.aboutala/files/content/governance/council/council_documents/2019_ac_docs/ALA%20CD%2049%20Resolution%20in%20Defense%20of%20the%20Free%20Speech%20for%20Palestinian%20Rights.pdf). [↑](#endnote-ref-1)
2. “Resolution Opposing the Free Speech and Intellectual Freedom Restrictions in the Combating BDS Act, Anti-Semitism Awareness Act, and Related Legislation,” <https://www.ala.org/rt/sites/ala.org.rt/files/content/SRRT/Resolutions/2020/Resolution%20Opposing%20the%20Free%20Speech%20and%20Intellectual%20Freedom%20Restrictions.pdf> [↑](#endnote-ref-2)
3. SRRT Action Council, “Response to the Report of the Resolution Review Task Force,” <https://www.ala.org/rt/sites/ala.org.rt/files/content/SRRT/Resolutions/2020/SRRT%20Report.pdf>. [↑](#endnote-ref-3)
4. #  S.B. 13, 2021,Texas, <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00013F.pdf#navpanes=0>.

# Other states that have introduced such legislation include Indiana, West Virginia, Louisiana, and Oklahoma. See Alex Kane, “What the Fossil Fuel Industry Learned from Anti-BDS Laws,” *Jewish Currents*, April 4, 2022, <https://jewishcurrents.org/what-the-fossil-fuel-industry-learned-from-anti-bds-laws>; Chris McGreal, “Rightwing lobby group Alec driving laws to blacklist companies that boycott the oil industry, *The Guardian*, February 8, 2022, <https://www.theguardian.com/environment/2022/feb/08/rightwing-lobby-alec-blacklist-companies-boycott-oil-industry>; David Armiak, “ALEC’s ‘Critical Energy Theory’ Bills Moving in Four States,” Exposed by CMD, Center for Media and Democracy, February 8, 2022,

#  <https://www.exposedbycmd.org/2022/02/08/alecs-critical-energy-theory-bills-moving-in-four-states/>.

 [↑](#endnote-ref-4)
5. #  S.B. 19, 2021, Texas, <https://capitol.texas.gov/tlodocs/87R/billtext/html/SB00019F.htm>; H.B. 3144, Oklahoma, <http://webserver1.lsb.state.ok.us/cf_pdf/2021-22%20ENGR/hB/HB3144%20ENGR.PDF>. See also “A bill in the Arizona House would punish banks that refuse business from gun firms,” NPR, February 18, 2022, <https://www.npr.org/2022/02/18/1081917682/a-bill-in-the-arizona-house-would-punish-banks-that-refuse-business-from-gun-fir> ; Noah Taborda, “Kansas Senate considers shielding firearm industry from discrimination by businesses,” *Kansas Reflector*, February 22, 2022, <https://kansasreflector.com/2022/02/22/kansas-senate-considers-shielding-firearm-industry-from-discrimination-by-businesses/>; “Free Speech-Quashing Laws Based on Israel-Focused Anti-Boycott Laws,” Foundation for Middle East Peace, March 24, 2022 and updated regularly, <https://fmep.org/wp/wp-content/uploads/BDS-Laws-as-Template-for-Laws-on-Other-Issues.pdf>.

 [↑](#endnote-ref-5)
6. Palestine Legal, <https://legislation.palestinelegal.org/>. [↑](#endnote-ref-6)
7. Palestine Legal: Federal Legislation, <https://legislation.palestinelegal.org/#federal>. [↑](#endnote-ref-7)
8. #  MEE Staff in Washington, “US: Georgia Court Rules Anti-BDS Legislation Unconstitutional," Middle East Eye, May 24, 2021, <https://www.middleeasteye.net/news/us-georgia-court-rules-anti-bds-law-unconstitutional>; “[Elliot Setzer](https://www.lawfareblog.com/contributors/esetzer), “Eighth Circuit Strikes Down Arkansas’s Anti-BDS Law,” Lawfare, March , 2021, <https://www.lawfareblog.com/eighth-circuit-strikes-down-arkansass-anti-bds-law>.; Foundation for Middle East Peace, “Constitutionality Issues & BDS Legislation: Source Docs & Expert Views,” <https://fmep.org/resource/constitutionality-issues-bds-legislation-expert-views/>.

 [↑](#endnote-ref-8)
9. #  Sophie Quinton, “Eight States Enact Anti-Protest Laws,” PEW, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/06/21/eight-states-enact-anti-protest-laws>; US Protest Law Tracker, <https://www.icnl.org/usprotestlawtracker/>;By [Reid J. Epstein](https://www.nytimes.com/by/reid-j-epstein) and [Patricia Mazzei](https://www.nytimes.com/by/patricia-mazzei), *G.O.P. Bills Target Protesters (and Absolve Motorists Who Hit Them),* Published April 21, 2021 Updated June 16, 2021, <https://www.nytimes.com/2021/04/21/us/politics/republican-anti-protest-laws.html>

 [↑](#endnote-ref-9)
10. “Bills to ban US schools’ discussion of LGBTQ+ issues are threat to free speech – report,” *The Guardian*, Feb. 15, 2022, <https://www.theguardian.com/world/2022/feb/15/lgbtq-rights-ban-us-schools-republicans>. [↑](#endnote-ref-10)
11. “Fighting Censorship Efforts Across the Country,” *State of America’s Libraries*, April 2022, p. 4, <https://www.ala.org/news/sites/ala.org.news/files/content/state-of-americas-libraries-special-report-pandemic-year-two.pdf> [↑](#endnote-ref-11)
12. See SRRT Action Council, “Response to the Report of the Resolution Review Task Force,” January 17, 2020, pp. 1-6, <https://www.ala.org/rt/sites/ala.org.rt/files/content/SRRT/Resolutions/2020/SRRT%20Report.pdf>. [↑](#endnote-ref-12)
13. These contracts and RFP included: Florida Department of Management Services, [Contract for Operation and Management of Gadsen Correctional Facility](https://www.dms.myflorida.com/content/download/147317/981665/DMS-1718-023_GCF_Contract_%26_Exhibits_Executed_REDACTED.pdf). Service commencement date: Aug. 1, 2019. [Contract includes: 4.37 Library 4.37.1 CONTRACTOR shall provide an inmate law library in compliance with the Florida Statutes, Florida Administrative Code, and FDC policy and procedure. 4.37.2 CONTRACTOR will provide a general library for inmate use.]; City of Chandler [Arizona], [Purchase Agreement with Baker & Taylor, LLC; Ingram Library Services, LLC; and Midwest Tape, LLC,  for Library Materials and Related Services](https://www.chandleraz.gov/sites/default/files/20180913_30.pdf). Date prepared: Aug. 27, 2018; Houston [Texas] Community College System, [Request for Proposal (Services): Library Discovery Layer](https://www.hccs.edu/about-hcc/procurement/rfps/RFP-18-34-Library-Discovery-Layer-06.14.2018.pdf). Proposal deadline: Jul. 13, 2018. [↑](#endnote-ref-13)
14. “Anti-BDS Legislation: The Library Connection,” SRRT, <https://www.ala.org/rt/srrt/irtf/anti-bds-legislation-library-connection>. [↑](#endnote-ref-14)
15. #  Texas library-related RFPs, that require the contractor will not boycott energy companies include the following: City of Celina, Library Master Plan. Issue date: Apr. 4, 2022; City of Edinburg, [RFP: Radio Frequency Identification System (RFID): Conversion and Equipment](https://cms7files.revize.com/edinburgtx/z/02%20RFP%202022-010%20RADIO%20FREQUENCY%20INDENTIFICATION%20SYSTEM.pdf) for Dustin Michael Sekula Memorial Library. RFP issued Feb. 4, 2022; City of Houston [Request for Proposals for City of Houston Downtown Facilities Plan](https://purchasing.houstontx.gov/bids/T30037/T30037%20-%20Request%20for%20Proposals.pdf). (Plan to “modernize, renovate, finance, operate, and maintain four city buildings” including the Central Library.) Date issued: Sept. 24, 2021. Texas library-related RFPs that require the contractor will not boycott a firearm entity or a firearm trade association include those listed above that prohibit boycotts of energy companies and also City of Bourne, [Request for Proposal Telecommunications System and Carrier Services](https://www.ci.boerne.tx.us/DocumentCenter/View/17657/Request-for-Proposal-Telecommunications-System-PDF?bidId=) (to connect three buildings, including the library), Date issued: Jan. 4, 2022. For the relevant conditions for TexShare and TexQuest issued by the Texas State Library and Archives Commission, see Texas State Library and Archives Commission, [Standard Terms and Conditions for TexShare and/or TexQuest Agreements](https://www.tsl.texas.gov/sites/default/files/public/tslac/admin/tandc/General%20Terms%20and%20Conditions_2021.pdf). Date: 2021.

 [↑](#endnote-ref-15)