

ACRL Legislative Agenda 2023-2024

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 acted, 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 working with coalitions such as the Open Access Working Group and the Library Copyright Alliance. The following action areas are listed in priority order and include issues that will be the focus of ACRL's advocacy efforts in 2023-2024, along with a watchlist of policy issues of great concern to academic librarians that have no currently pending legislation:

1. Upholding Intellectual Freedom
2. Federal Funding for Libraries
3. Net Neutrality
4. Open Access and Federally Funded Research
5. Affordable College Textbook Act
6. Watchlist:
 - a. Deferred Action for Childhood Arrival (DACA)/Immigration Issues
 - b. Environmental Impact of Data Centers
 - c. Consumer Data Privacy
 - d. Accessible Instructional Materials
 - e. Court Cases to Watch

1. Upholding Intellectual Freedom

Background

Intellectual freedom is a core value of the library profession, and libraries are integral to the provision of spaces and information resources that support their users' active and free pursuit of the widest variety of information and ideas. Unfortunately, these core library values and functions are under near constant challenge by those who wish to place limitations on the ideas and information to which library users have access. While case law has firmly established publicly funded libraries as public fora protected from state-sponsored censorship, challenges persist. For example, recent criticisms of Critical Race Theory have led to efforts by some lawmakers to place limitations on the content that educators, including librarians, can share with the broader public. Importantly, critical race theorists wish to understand how racial inequities persist within institutions and systems—an intellectual pursuit that libraries are well positioned to support. However, numerous public officials, at both the state and federal levels, have moved to introduce legislation meant to curb this pursuit and shape how students discuss this nation's past and present. As of the writing of this document, thirty-six states have adopted or introduced laws or policies that place restrictions on how educators discuss matters of race and racism.

Impact on Academic Libraries

Citing Articles I and II of the [Library Bill of Rights](#), libraries are knowledge centers for patrons who want to gain more insight into current issues. Libraries should be able to offer books and documents that examine the history of racism as well as materials that call for social justice.

Libraries are involved in challenging disinformation and promoting truth by fighting censorship and providing access to relevant materials. Learning and discussing diversity issues without offering patrons access to theoretical frameworks can lead to an oversimplification of race, ethnicity, power, and privilege.

On April 4, 2023, the ACRL president, vice-president/president-elect, and immediate past-president encouraged ACRL members to [confront book challenges and censorship in libraries](#) and uphold intellectual freedom rights.

ACRL's Position

ACRL's [Standards for Libraries in Higher Education](#) contain nine principles reflecting the core roles and contributions of libraries to their institutions, including "Professional Values: Libraries advance professional values of intellectual freedom, intellectual property rights and values, user privacy and confidentiality, collaboration, and user-centered service." In pursuit of these values, the [ACRL Plan for Excellence](#) makes specific note of the strategic importance of supporting libraries in advancing issues of equity, diversity, and inclusion. In August 2022, ALA, ACRL, the Public Library Association (PLA), and the Association of Research Libraries (ARL) approved the [Cultural Proficiencies for Racial Equities: A Framework](#). Created by a joint task force, this document provides recommendations for bolstering racial equity within libraries.

Links to More Information

[All Information \(Except Text\) for H.R.3046](#)

[Race and Ethnicity in Higher Education \(ACE\)](#)

[#TruthBeTold](#)

2. 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 generally receives its funding through the annual appropriations process, with spending limits established each year through the Departments of Labor, Health and Human Services, and Education, along with other related agencies' appropriations subcommittees. In FY2023, LSTA provided \$211 million for libraries in all 50 states, the District of Columbia, Territories, and Freely Associated States through the Grants to States program, the National Leadership Grants for Libraries, the Laura Bush 21st Century Librarian Program, and Native American Library Services. [View the most recent grants and funding](#) that have gone to support libraries across the United States on the IMLS website.

Impact on Libraries

The IMLS is the largest source of federal funding for libraries. Through their grant programs, the IMLS helps support innovative research in academic libraries, as well as impactful programming and training opportunities for librarianship at large.

Current Status

President Biden requested the IMLS budget for FY2024 be increased to \$294.8 million for supporting libraries and museums through a post-pandemic landscape. Significantly, this budget maintains \$211 million in funding for LSTA, including \$180 million for the Grants to States program.

ACRL's Position

Continued advocacy by ACRL and ALA is vital each year to ensure that the recent IMLS funding increases continue in order to support equitable and innovative library services.

Links to More Information

[IMLS Grants to States Program](#)

[FY2023 Appropriations Bill](#)

[ALA Statement on increase for IMLS funding](#)

[President Biden Press Release for increase in IMLS funding](#)

3. 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 argue that 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.” More extensive background on net neutrality issues can found in the links to more information provided below.

Current Status

In July 2021, President Biden called on the FCC to restore net neutrality rules in an [executive order](#). Jessica Rosenworcel was confirmed by the Senate as FCC chairwoman in December 2021 and has [signaled renewed interest](#) in the issue. 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. In July 2022, Senator Ed Markey (D-MA) [introduced a bill](#) to make net neutrality a federal law. Biden's other nominee to the FCC, Gigi Sohn, was not confirmed in 2022. Sohn was reintroduced as a nominee in 2023 but has withdrawn their nomination leaving the FCC deadlocked.

Impact on Libraries

Educational institutions, including libraries, rely on 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

[ALA Net Neutrality](#)

[Net Neutrality and the Battle for the Open Internet](#)

[Net Neutrality Law: An Overview](#)

[Stepping In: The FCC's Authority to Preempt State Laws Under the Communications Act](#)

4. Open Access to Federally Funded Research

Background

The White House Office of Science and Technology Policy (OSTP) released an [August 2022 memo](#) with the subject line, “Ensuring Free, Immediate, and Equitable Access to Federally Funded Research.” Known as the Nelson Memo, it outlines a mandate that publications from all publicly funded research be made openly accessible. The memo states that all federal funding agencies must update their public access policies by December 31, 2025, in accordance with the new stipulations.

As part of this new guidance, access to publications resulting from funded research must be made open without an embargo. The policy also states that the associated data from articles must also be made accessible and that federal agencies should begin to develop plans for making available publicly funded research data not associated with an article. Data repositories used for deposit must align with the OSTP’s [“Guidance on Desirable Characteristics of Data Repositories for Federally Funded Research,”](#) a document released by OSTP in May 2022.

The August memo appears to be the beginning of a longer process in which agencies create public access plans that the National Science and Technology Council Subcommittee on Open Science will then coordinate and align. Many questions about process details and implementation remain.

Current Status

Under the terms of the Nelson Memo, agencies have until mid-2023 to update and submit their plans and until December 31, 2025, to fully implement them.

Impact on Academic Libraries

A [2022 study](#) found that, of the 275,825 publications resulting from public funding in 2021, 32% were behind paywalls and another 19% were made accessible through “bronze” open access (at the publisher’s discretion with no formal license for reuse) or through hybrid journals. Based on the 2021 data, this means researchers will be looking to make open approximately 88,000 articles that would have otherwise been paywalled and possibly another 52,000 if bronze and hybrid open access (OA) are deemed unacceptable OA options. This represents a historic amount of research needing to be OA compliant. Creating comprehensive systems for researcher education, compliance, and data management will present real challenges for academic libraries. Outreach and scholarly communications will take on new importance and are likely to require additional staffing and funding.

Librarians are poised to play a meaningful role in helping researchers to understand the requirements, their responsibilities, and ways to comply. If it becomes clear that universities will

be the institutions managing compliance, libraries may find new opportunities in this process for collaboration and developing new approaches to scholarly communications.

ACRL's Position

ACRL supports immediate open access in a machine-readable format that is permanent. These criteria are supported by the OSTP memo guidance.

As federal funding agencies begin to submit plans and details for providing complete and immediate open access emerge, ACRL will follow developments to ensure that academic libraries and librarians are recognized as stakeholders in the process.

Links to More Information

[OSTP memo Ensuring Free, Immediate, and Equitable Access to Federally Funded Research](#)

[OSTP Issues Guidance to Make Federally Funded Research Freely Available Without Delay](#)

[ACRL / ALA RFI Response to the Request for Information from OSTP and the National Science and Technology Council Subcommittee on Open Science](#)

5. 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. Textbooks are often overlooked costs for students and can ultimately be the deciding factor if students decide to go to college or choose to take or complete a course. As a result, legislation has been introduced to combat these rising costs and support the use of open textbooks. In the 117th Congress, U.S. Senators Dick Durbin (D-IL), Angus King (I-ME), Tina Smith (D-MN), and Kyrsten Sinema (D-AZ), along with U.S. Representative Joe Neguse (D-CO-02), [introduced the Affordable College Textbook Act](#) to both houses of Congress. Although the act was not passed, it has been reintroduced, [most recently in the Senate in the 118th Congress](#), and has helped to spark a grant program, the Open Textbook Pilot Program, which awards grant money to institutions that want to explore Open Educational Resource (OER). Through the focus of OER initiatives, the federal government began to realize that additional recommendations needed to be made for higher education institutions to increase access to all types of resources and research.

The Affordable College Textbook Act aims to permanently authorize funds for a grant program for the creation of OER. The grant money can be used in some of the following ways: the provision of funding for professional development around the open textbook process, the creation or adaptation of open textbooks, the development of supplemental material, or the facilitation of research surrounding open textbooks and OER material correlated to student success and cost savings. Although the Affordable College Textbook Act itself remains in committee, Congress has funded the pilot projects outlined in the legislation through the [Open Textbook Pilot Grant Program](#), first funded in 2018. On March 11, 2022, Congress allotted \$11 million for the Open Textbook Pilot Program while SPARC is advocating for a \$25 million

appropriation for FY 2023. These projects are estimated to provide about \$220 million in savings to students.

Current Status

Most recently, the Affordable College Textbook Act was reintroduced in the Senate on March 27, 2023, by U.S. Senators Dick Durbin (D-IL), Angus King (I-ME), Tina Smith (D-MN), and Kyrsten Sinema (I-AZ). The bill, [S.978](#), was referred by the [Senate Committee on Health, Education, Labor, and Pensions](#) and was read twice but was ultimately referred back to the committee. This version of the bill includes updated information about the cost of textbooks and authorizes a grant program (similar to the Open Textbook Pilot Grant) that would help universities expand access to open textbooks. This program would create more support for faculty to develop open material. The bill also calls on publishers and institutions to be more transparent about the cost of textbooks and requirements for course material, along with disclosing how publishers are using student data. Rep. Joe Neguse (D-CO-02) introduced the House companion bill, [H.R. 1811](#).

Impact on Academic Libraries

Academic librarians are concerned with the affordability of higher education and the negative impact rising textbook costs have on student 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. College and university campuses are key locations sharing this content, encouraging open educational resources and their adaption for coursework, and expanding the corpus of openly available course content. As part of the commitment to embedding information literacy and access to quality resources into the student experience and strategies for teaching and learning, librarians are working with their academic colleagues to create such resources and to offer them freely for others.

ACRL's Position

ACRL supports the legislation that makes college textbooks affordable, having joined 14 other organizations to support the Affordable College Textbook Act on its initial introduction to Congress and again on its 2023 reintroduction. This legislation's aim at equity of access to higher education reflects ACRL's core values. Under the aegis of the proposed legislation, ACRL also supports continued funding for the Open Textbook Pilot Program along with the creation of open materials.

Links to More Information

[SPARC Description](#)

[Program award page \(U.S. Department of Education\)](#)

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

6. 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. Deferred Action for Childhood Arrival (DACA)

The DACA program, established by the Obama Administration in 2012, protects individuals brought to the United States as children from deportation, remains in litigation. In 2017, the Department of Homeland Security (DHS) issued a [memorandum to rescind DACA](#). The Ninth Circuit Court of Appeals blocked the rescission in 2018 and required DHS to continue accepting renewal applications ([National Law Review, November 12, 2018](#)). The Supreme Court overturned the Trump Administration's termination of DACA in a [2020 decision](#), finding that doing so violated the Administrative Procedure Act. In January 2021, President Biden issued an [executive order](#) reinstating DACA. The U.S. District Court for the Southern District of Texas [declared DACA unlawful in July 2021](#), but issued a partial stay of its order which allows DHS to continue to accept initial, as well as renewal, DACA requests. However, the stay permits DHS to only approve renewal requests and prohibits DHS from approving initial DACA requests. On Aug. 30, 2022, DHS published the [DACA Final Rule](#), with the intent to preserve and fortify the DACA policy. The Fifth Circuit Court of Appeals later [partially affirmed the district court's decision](#) but retained the partial stay. The DACA Final Rule went into effect on October 31, 2022.

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.”

b. Environmental Impact of Data Centers

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 four-fold 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.

Over the past four years, congress has peripherally addressed the sustainability of data centers, most notably through Division Z (Energy Act of 2020) of the Consolidated Appropriations Act of 2021 ([H.R. 133](#)). The Energy Efficient Government Technology Act ([H.R.1420](#)) also saw movement with passage in the House, but has stalled since its endorsement by the Senate's Committee on Energy and Natural Resources via [S. Rept. 116-145](#).

c. Consumer Data Privacy

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 [Protections for Consumer Data](#)

[Privacy](#); California, which passed the [California Consumer Privacy Act](#); and Virginia, which passed the [Consumer Data Protection Act](#).

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. [American Data Privacy and Protection Act, H.R.](#) is a U.S. proposed federal online privacy bill that would regulate how organizations store and use consumer data. This is the first American consumer privacy bill to pass committee make up, and it was introduced to the House in June 2022. Concerns for stronger protections were raised from California legislatures and others and have been sent to Congress for amendment, currently waiting period. An additional item to watch is the social media app TikTok, which may be collecting user data. There have been discussions about regulating the app which may impact institutions, students, and faculty using the app. [Some states](#) and [government agencies](#) have already banned the use of the app.

d. Accessible Instructional Materials

Campus libraries act as central points of access for instructional content, and the development of accessibility guidelines for instructional materials will ensure this content is accessible to all. Previously proposed legislation (i.e., the Accessible Instructional Materials in Higher Education Act - AIM Higher Act) sought to promote the development of 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. What's more, reform efforts will provide an opportunity to consolidate and refine existing standards to ensure their alignment with current accessibility best practices.

e. Court Cases to Watch

There are pending cases of great concern to academic librarians that ACRL will continue to monitor:

- a. [Hachette v. Internet Archive](#): "This decision impacts libraries across the US who rely on controlled digital lending to connect their patrons with books online."
- b. [Department of Education v. Brown](#) and [Biden v. Nebraska](#): SCOUS is hearing two cases regarding student loan forgiveness that focus on two key questions - 1) Do the petitioners meet the requirements for standing or injury from the policy? and 2) Does the Department of Education have the legal authority to grant student loan forgiveness?
- c. [Students for Fair Admissions Inc. v. President & Fellows of Harvard College](#): "Whether the Supreme Court should overrule *Grutter v. Bollinger* and hold that institutions of higher education cannot use race as a factor in admissions; and (2) whether Harvard College is violating Title VI of the Civil Rights Act by penalizing Asian American applicants, engaging in racial balancing, overemphasizing race and rejecting workable race-neutral alternatives."

Assembled by the ACRL Government Relations Committee:

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