

**To: Governmental Relations Committee  
Joint MLA/AAHSL Legislative Task Force**

**From: Mary M. Langman**

**Subject: Legislative Update**

**Date: September 15, 2011**

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This report covers MLA's public policy activities since the 2011 Annual Meeting. Links to statements the association has signed onto are included in this update.

### **Fiscal Year 2012 NIH Funding**

October 1 marks the start of Fiscal Year 2012. The Senate Labor-HHS-Education Subcommittee is scheduled to consider its FY 2012 spending bill on Tuesday, September 20. Earlier this week, the House Appropriations Committee filed a continuing resolution (CR, H.J. Res. 79) to provide federal funding past September 30. The CR funds the federal government at a rate of \$1.043 trillion, the amount mandated in the Budget Control Act of 2011, which is nearly \$7 billion below the current year. As a result, funding in the CR is reduced by 1.5 percent from the FY 2011 levels. The House and Senate are expected to vote on the CR the week of September 19. The CR extends until November 18 giving the House and Senate time to consider legislation.

The committee statement is available at

<http://appropriations.house.gov/News/DocumentSingle.aspx?DocumentID=260104>.

The text of the CR is available at:

[http://rules.house.gov/Media/file/PDF\\_112\\_1/Floor\\_Text/FY12CR%20FY11914.pdf](http://rules.house.gov/Media/file/PDF_112_1/Floor_Text/FY12CR%20FY11914.pdf).

### **MLA/AAHSL Actions**

- In September, MLA and AAHSL signed onto a Coalition for Health Funding letter to leaders of the House and Senate Appropriations Committee and members of the House and Senate Labor-HHS-Education Appropriations Subcommittees urging them to make NIH FY 2012 funding a national priority. [http://www.mlanet.org/government/gov\\_pdf/2011\\_sept\\_chcf\\_fy12\\_ltrr.pdf](http://www.mlanet.org/government/gov_pdf/2011_sept_chcf_fy12_ltrr.pdf)
- In August, MLA and AAHSL signed onto an Ad Hoc Group for Medical Research letter requesting that the National Institutes of Health (NIH) be recognized as a critical national priority in the FY 2012 Labor-HHS-Education Appropriations bill. [http://www.mlanet.org/government/gov\\_pdf/2011\\_aug\\_adhoc\\_lhhs\\_ltrr .pdf](http://www.mlanet.org/government/gov_pdf/2011_aug_adhoc_lhhs_ltrr.pdf)

Continue to watch for updates in MLA-FOCUS and on the GRC and Legislative Task Force listservs.

### **Disaster Preparedness Legislation**

MLA is monitoring legislation relating to public health preparedness. H.R. 2405, The “Pandemic and All-Hazards Preparedness Reauthorization Act of 2011,” introduced in the House on June 28, provides funding levels and reauthorizes certain provisions of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act relating to public health preparedness. The Senate HELP Committee is also working on a reauthorization of PAHPA, but hasn’t introduced legislation yet.

### **Proposed Revisions to OMB Circular-A-21**

In July, Barbara Epstein, chair of MLA’s Ad Hoc Committee for Advocating Scholarly Communications and Pat Thibodeau, AAHSL president, submitted comments on behalf of the two associations in response to an NIH request for information on the reduction of cost and burden associated with federal cost principles for educational institutions (OMB Circular A-21, 2CFR Part 220). A newly established federal interagency task force will recommend specific revisions and clarifications to Circular a-21 that could reduce administrative burden or cost associated with compliance requirements for federal research grants and contracts awarded to educational institutions.

MLA and AAHSL’s comments addressed the issue of recovery of direct costs associated with administrative and project management support for investigators. The associations recommended that language be added to the provisions for publication and printing costs explicitly stating that author fees for publication in open access journals are allowable as a necessary part of research costs and eligible for reimbursement through direct grant funding. The associations also recommended that this principle be applied consistently across government agencies. More information can be found on the NIH website at <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-11-091.html>.

### **Google Books Settlement**

On September 15, Judge Denny Chinn established a trial schedule for the Google Books case to begin in July 2012. Parties are continuing negotiations while also preparing for trial.

More information is available at <http://www.publishersweekly.com/pw/by-topic/digital/copyright/article/48709-judge-adopts-pre-trial-schedule-at-google-status-conference-but-settlement-talks-continue.html>.

An overview of the case and its implications for libraries can be found on MLANET at [http://www.mlanet.org/members/mla\\_news/2010/jan\\_10/google.html](http://www.mlanet.org/members/mla_news/2010/jan_10/google.html) and [http://www.mlanet.org/government/gov\\_pdf/2009\\_october\\_google\\_books.pdf](http://www.mlanet.org/government/gov_pdf/2009_october_google_books.pdf).

### **Authors Guild, Inc. et al. v. HathiTrust et al.**

Relevant to some of the issues being addressed in the Google Books Settlement is a new case in which the Authors Guild has sued five universities and the HathiTrust alleging copyright infringement over their use of certain digitized copies of books made by Google in its Books Library Project. The lawsuit focuses on

copyrighted orphan works scanned by Google. Concerns address plans to provide full-text access to digitized orphan works to University of Michigan users and visitors to its campus libraries for works that are part of the university libraries print collection.

For an overview of this case, see

[http://www.pcworld.com/article/239914/authors\\_guild\\_sues\\_universities\\_over\\_google\\_book\\_scanning.html](http://www.pcworld.com/article/239914/authors_guild_sues_universities_over_google_book_scanning.html)

For a copy of the complaint, see <http://www.authorsguild.org/advocacy/articles/authors-3.attachment/authors-v-hathitrust-9834/Authors%20v.%20HathiTrust%20Complaint.pdf>

Other resources include ARL's newly released "Resource Packet on Orphan Works" Legal and Policy Issues for Research Libraries" [http://www.arl.org/bm~doc/resource\\_orphanworks\\_13sept11.pdf](http://www.arl.org/bm~doc/resource_orphanworks_13sept11.pdf)

MLA will work with its Ad Hoc Committee for Advocating Scholarly Communications to monitor this case and the Google Books Settlement.

### **EPA Libraries**

In June, MLA, the American Association of Law Libraries (AALL) and the Special Libraries Association (SLA) issued a statement congratulating the Environmental Protection Agency (EPA) on the release of its Library Network Strategic Plan. The Strategic Plan outlines a three-year strategy for Fiscal Years 2012-2014 for building on the Library Network's successes and accomplishments to provide EPA employees and the public with access to environmental information. The plan comes after more than five years of advocacy on behalf of MLA, AALL, and SLA to ensure that the libraries remained open to the public.

A copy of the associations' statement to EPA is available at

[http://www.mlanet.org/government/gov\\_pdf/2011\\_june\\_epa\\_statement.pdf](http://www.mlanet.org/government/gov_pdf/2011_june_epa_statement.pdf) and the Strategic Plan can be found at [http://www.epa.gov/libraries/strategic\\_plan.html](http://www.epa.gov/libraries/strategic_plan.html).

### **America Competes Reauthorization Act of 2010**

The America COMPETES Reauthorization Act of 2010 directs the Office of Science and Technology Policy (OSTP) to establish an interagency public access committee or working group under the National Science and Technology Council (NSTC) to coordinate federal science agency research policies related to the dissemination and long-term stewardship of the results of unclassified research. The bill includes language that MLA and AAHSL recommended to protect NIH's public access policy: "Sec. 103 INTERAGENCY PUBLIC ACCESS COMMITTEE. (d) Application with Existing Law. Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access."

In August, Senators Robert Menendez (NJ), James Inhofe (OK) and John Boozman (AR) urged OSTP to promote collaboration with non-profit and commercial sector publishers in an effort to spur development of innovative public-private partnerships that enhance access to information and reduce federal agency budgets. Out of concern with public access mandates related to private-sector articles and the impact they may have on publishing jobs in the U.S. and private-sector investment in publishing, the Senators

requested OSTP to broaden interagency consultations to include key economic and trade agencies under the NSTC to ensure that critical US economic interests are properly accounted for by the working group.

For more information on MLA's public policy activities visit <http://www.mlanet.org/government> or contact Mary Langman, Coordinator, Information Issues and Policy, [langman@mlahq.org](mailto:langman@mlahq.org).