

Welcome to Tuesday Topics, a monthly series organized by the Oregon Library Association's [Intellectual Freedom Committee](#) and covering topics with intellectual freedom implications for libraries of all types. This guest post is written by Arlene Weible, Federal Regional Depository Coordinator, Oregon State Library.

Arlene has been a government information librarian for 24 years and has served as Chair of ALA's Government Documents Round Table and the Government Publishing Office's Depository Library Council.



## **November 2016 Tuesday Topic: Copyright Reform and Libraries**

This past summer, library professional associations expressed concerns to the U.S. Copyright Office about its proposal to reform the library reproduction exemption of U.S. copyright law, known specifically as [Section 108](#). This section allows libraries to reproduce and distribute one copy of a work under certain circumstances, such as the copying of materials for interlibrary loan or reproducing at-risk material for preservation purposes.

The Copyright Office [explained the reform effort](#) as necessary to update the law's "obsolete" language to better reflect 21<sup>st</sup> century publishing and reproduction practices. While there is a detailed explanation of the library associations' objections, it really boils down to the old adage "if it ain't broke, don't fix it". The [Library Copyright Alliance](#) and the [Society of American Archivists](#) both released statements indicating that the current language adequately protects library practices and attempts to update the law could do more harm than good.

Another aspect of the objections to the reform is the process that was used to solicit feedback. Typically, when federal agencies want public feedback, they provide for a process of public comments. These comments are then published, making it clear which groups are trying to influence the agency's decision-making. (See [regulations.gov](#) for many examples!) In this instance, the Copyright Office asked for private meetings with groups to receive the feedback. This lack of transparency makes it difficult to understand which groups are providing comments and does not establish a written record, which could lead to misinterpretation of what is discussed during meetings. The Association of Research Libraries lays out the library community's concerns in this [blog post](#).

How is it that the Copyright Office can deviate from a public comment process? As an office of the Library of Congress, it is not subject to the same operating rules as federal executive agencies. Legislative agencies tend to have more flexibility in the way they seek feedback from the public. It will be interesting to see how Carla Hayden, the new Librarian of Congress, will impact this process and how reform efforts may move forward. She has already made [leadership changes](#) at the Copyright Office by recently removing the head of the office, Maria Pallante. Pallante had been [criticized](#) for favoring the entertainment industry and advocating to move the Copyright Office out of the Library.

What does this mean for the reform of Section 108? While it seems likely that the Copyright Office will move forward with Copyright Act reform recommendations to the House Judiciary Committee, the leadership changes at the Office and political climate in Congress makes it difficult to predict how much interest or momentum there will be for the Section 108 changes. My best advice, stay tuned! Follow the [news feed](#) at the Library Copyright Alliance web site or [ALA's District Dispatch](#) for the latest updates.

And, if you want to take a deeper dive into the issues, I'd suggest the following for further reading.

- [Copyright Office Intent On Changing The Part Of Copyright That Protects Libraries & Archives, Even Though No One Wants It Changed](#), August 1, 2016. TechDirt Blog.
- [The Section 108 Study Group Report](#). March 2008. [This report was commissioned by the Copyright Office to explore reform ideas.]
- [Does the Copyright Office Belong in a Library?](#) Library Journal, July 2, 2015.
- [Captured: Systemic Bias at the U.S. Copyright Office](#). Public Knowledge, September 8, 2016.
- [Libraries as Creatures of Copyright: Why Librarians Care about Intellectual Property Law and Policy](#), ALA web site.
- *Complete Copyright for K–12 Librarians and Educators* by Carrie Russell, ALA Editions, 2012. [Available to [borrow from State Library](#) or [purchase from ALA](#).]

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