ALA Council Committee Report Form

TO: ALA Council

DATE: June 9, 2025

RE: *(select one)*

X ACTION REQUESTED

☐ **INFORMATION**

X REPORT

ACTION REQUESTED/INFORMATION/REPORT:

Committee on Professional Ethics (COPE)
Report to Council

As the chair of the Committee on Professional Ethics (COPE), I am pleased to report on the committee's activities since LibLearnX in January 2025.

Charge

The council committee on professional ethics shall augment the Code of Ethics by explanatory interpretations and additional statements, prepared by this committee or elicited from other units of ALA. When units of the association develop statements dealing with ethical issues, a copy will be sent to the committee on professional ethics for review so that it may be compared to the existing ALA code of ethics in order to determine whether or not conflicts occur.

COPE Statements, Q&As, and Working Groups

As the Office for Intellectual Freedom (OIF) prepares to for the next edition of the Intellectual Freedom Manual, the COPE committee members and liaisons have been updating and revising the following committee documents for updates and possible publication in the 11th edition of the manual: approved by cope

> Speech in the Workplace Q&A – Completed and waiting for updated document to be reflected on the ALA Code of Ethics webpages. Document is no longer a Q&A but a resource guide that reflects the changing needs of library workers.

Copyright: An Interpretation of the Code of Ethics– Revised draft is currently under review, with plans to bring to Council for a vote at Annual Conference.

The next projects for the committee are the revision of the following committee documents:

Conflicts of Interest Q&A

Ethics and Social Media Q&A

Thank You

The Committee on Professional Ethics would like to acknowledge and thank the unit liaisons for their commitment and contributions. COPE also thanks the OIF staff for their commitment, assistance, and hard work. In particular, Eric Stroshane for serving as staff liaison, and Aimee Strittmatter for scheduling our meetings. COPE thanks President Cindy Hoyl and the Executive Board for their confidence in the committee and for allowing them to serve ALA.

Respectfully submitted,
ALA Committee on Professional Ethics

Julia Warga, chair
Kat Breitenbach
Richard Groves
Wanda Mae Huffaker
Dr. Karen Snow
John Spears
Amy Sarkaria Wiggins
Afton Fawn Ussery (committee associate)

ACTION REQUESTED FROM COUNCILORS IS TO CAST THEIR VOTE TO:

The Committee on Professional Ethics moves the adoption of the following action item:

- Approval of *Copyright: An Interpretation of the Library Code of Ethics (APPENDIX #1)*

ACTION REQUESTED BY JULIA WARGA, CHAIR, COMMITTEE ON PROFESSIONAL ETHICS

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Eric Stroshane

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BACKGROUND: *(add information)*

Appendix #1

Current Interpretation

Copyright

Adopted by ALA Council on July 1, 2014; amended January 29, 2019, Article IV of the Code of Ethics of the American Library Association states that librarians "respect intellectual property rights and advocate balance between the interests of information users and rights holders." Copyright is the aspect of intellectual property most pertinent for libraries. Copyright, as established by the U.S. Constitution and the Copyright Act, is a system of rights granted by the law combined with limitations on those rights.

Article IV of the ALA's *Code of Ethics* states that library workers "respect intellectual property rights and advocate balance between the interests of information users and rights holders." Copyright[1] is the aspect of intellectual property law that has the most impact on libraries. Copyright, as established by the U.S. Constitution[2] and the Copyright Act, is a system of rights granted by law combined with limitations on those rights.

Copyright law was established to encourage authors, artists, and others to create and share their works by granting them specific exclusive rights in their works.[3] Those rights are limited by certain exceptions like fair use or the term of copyright. These limitations are necessary to ensure a well-functioning copyright law that protects creators' rights while also preserving freedom of information and freedom of expression.

A shared purpose of copyright and libraries is to benefit the public through the creation and dissemination of information and creative works. In pursuit of this goal, copyright law should balance the public's need to access and use informative and creative works with the economic interests of right's holders.

Libraries represent the very best of this balance in U.S. copyright law. Libraries serve the economic purpose of copyright through billions of dollars spent on copyrighted materials for libraries (such as books, journals, motion pictures, art, and music). Libraries serve the "use and access" purpose of copyright by circulating billions of copyrighted items annually. Libraries are thus economic engines of both copyright law and knowledge distribution.

Libraries have both the opportunity and the obligation to work toward that balance when they engage in activities such as acquiring information resources for their communities, curating and preserving cultural heritage, establishing services and programs to enhance access to information, and lending books or other resources.

Copyright law provides a copyright holder with an exclusive legal right to make copies of the work, create derivative works based on the original, distribute the work to the public, and perform or display the work in public. However, copyright law also provides the public the right to make fair use[4] of the copyrighted work. Additionally, there are restrictions to the exclusive rights of copyright holders, such as the First Sale Doctrine, which allows the public to borrow, loan, sell, or transfer a purchased, particular copy of a work. The public has unlimited use of the work when the copyright term expires.[5]

Copyright law also provides numerous specific exceptions for libraries, archives, and nonprofit educational institutions. Depending on the nature of the institution, these exceptions may include the

ability to make copies for users; preserve and make replacement copies of works; create accessible copies for print-disabled users; and perform or display works for educational purposes.

Libraries and their parent institutions have a responsibility to promote and maintain policies and procedures that are consistent with their ethical obligations, their institutional missions, and the law, including copyright law. Such policies and procedures should measure legal risk and respect the rights of both copyright holders and users of copyrighted works. It is the library's responsibility to make sure all of the workers, not just librarians, are familiar with copyright law that affect library services.

Library workers are increasingly critical resources for copyright information in their communities. Consequently, they should be informed about copyright developments and maintain current awareness of all copyright issues. Library workers should develop a solid understanding of the law, its purpose, and the details relevant to library activities. This includes the ability to read, understand, and analyze various copyright scenarios, including fair use and other copyright limitations, using both good judgment and risk mitigation practices.

Library workers should use these skills to identify their rights and the rights of their users. Further, they should be ready to perform outreach surrounding copyright topics and refer users with questions pertaining to copyright to reliable resources. However, library workers should avoid providing legal advice. They may provide information about the law and copyright, but should recommend that patrons consult an attorney for legal advice.

Library workers should also be prepared to explain restrictions on patron use of content based on digital licensing agreements. Licensed e-content, including e-books, databases and video streaming services, may have limitations on use beyond those present in copyright law.

Libraries have a proud history of advocating for the public interest. They recognize that copyright law should not expand the rights of copyright holders without sufficiently considering the benefit to the public interest. When the balance between rights holders and information users needs to be restored, library workers should engage with rights holders and legislators to advocate on behalf of their users and users' rights.

[1] Copyright protects "original works of authorship fixed in any tangible medium of expression." Copyright Act of 1976, 17 U.S.C. § 102 (2011).

[2] Article 1, Section 8 of the U.S. Constitution empowers Congress to pass laws "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

[3] The exclusive rights of a copyright owner include reproduction, the creation of derivative works, distribution, public performance, public display, and the public performance of sound recordings by means of digital audio transmission. Copyright Act of 1976, 17 U.S.C. § 106.

[4] Fair use applies when considering these four factors: purpose and character of use, the nature of the copyrighted work, the amount and substantiality used, and potential effects on the market for the work. Copyright Act of 1976, 17 USC § 107.

[5] Copyright Act of 1976, 17 U.S.C. § 109.

Adopted by ALA Council on July 1, 2014; amended January 29, 2019.

ACTION ITEM: The Committee on Professional Ethics moves the adoption of the following action item: "Copyright: An Interpretation of the Code of Ethics"

Copyright

Article IV of the ALA's *Code of Ethics* states that library workers "respect intellectual property rights and advocate balance between the interests of information users and rights holders." In libraries, copyright[1] is the most important part of intellectual-property law. U.S. Copyright law, as established by the U.S. Constitution and the Copyright Act, grants creators rights over their work, but also puts limitations on those rights.

Copyright law was established to encourage people to share their created works by giving them specific exclusive rights such as reproduction, distribution, and public performance.[3] There are limits to those rights, like fair use or the length of copyright term. These limitations are necessary to protect creators' rights while also preserving freedom of information and freedom of expression.

Copyright and libraries both aim to benefit the public by creating and sharing information and creative works. Copyright law should balance the public's access to these works with the economic interests of rights holders. Libraries represent the very best of this balance in U.S. copyright law. Libraries are the economic engine of both copyright law and information sharing by spending billions of dollars on copyrighted materials, such as books, journals, movies, art, music, etc. Libraries serve the "use and access" purpose of copyright when users borrow billions of copyrighted items each year.

Libraries have both the opportunity and the duty to maintain this balance. They do this by:

- acquiring information resources;
- curating and preserving cultural heritage;
- offering services and programs that improve access to information; and
- lending books or other resources.

Copyright law gives rights holders the exclusive legal right to:

- make copies of the work;
- create derivative works;
- distribute the work to the public; and
- perform or display the work in public.

Copyright law also gives the public the right to make fair use[4] of copyrighted works. There are also restrictions to the exclusive rights of copyright holders. For example, the First Sale Doctrine allows the public to borrow, loan, sell, or transfer a purchased, particular copy of a work. The public has unlimited use of the work when the copyright term expires.[5]

Copyright law provides a specific exception for libraries, archives, and nonprofit educational institutions.[6] This exception may allow institutions to:

- make limited copies for users;
- preserve and make replacement copies;

- create copies for accessibility purposes; and
- perform or display works for educational purposes.

This exception sets boundaries to ensure that libraries can carry out their mission while following copyright law.

Libraries and their parent institutions have a responsibility to promote and maintain policies and procedures that align with their ethical duties, missions, and the law. This includes copyright law. These policies and procedures should carefully weigh legal risks and respect the rights of both copyright holders and users of those copyrighted works. Libraries also need to ensure that all staff know about the copyright laws that impact their library's services.

Library workers serve a critical role in providing copyright information to their communities. They must be informed about copyright updates and understand the law, its purpose, and its relevance to library activities. This includes understanding and analyzing various copyright scenarios, such as fair use and other limitations, with good judgment and strategies to reduce risk.

Library workers should use these skills to identify their rights and the rights of their users. They should do outreach about copyright topics and refer users with questions to reliable resources. However, library workers should avoid providing legal advice. They may provide information about the law and copyright but should recommend users consult an attorney for legal advice.

Library workers should be able to explain to users any restrictions on how they can use content based on digital-licensing agreements that may exceed those covered by copyright law. This includes digital content like e-books, databases and streaming services.

Libraries have a proud history of advocating for the public interest. They recognize that copyright law must balance the rights of creators with the needs of the public. If there is an unfair balance between the rights holders and the public's access to information, library workers should speak up. They should engage with rights holders and legislators to advocate for laws and practices that protect users' right to access information and ensure broad public access to information.

NOTES

1. Copyright protects "original works of authorship fixed in any tangible medium of expression." Copyright Act of 1976, 17 U.S.C. § 102 (2011).
2. Article 1, Section 8 of the U.S. Constitution empowers Congress to pass laws "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."
3. The exclusive rights of a copyright owner include reproduction, the creation of derivative works, distribution, public performance, public display, and the public performance of sound recordings by means of digital audio transmission (Copyright Act of 1976, 17 U.S.C. § 106).
4. Fair use applies when considering these four factors: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality used, and potential effects on the market for the work (Copyright Act of 1976, 17 U.S.C. § 107).
5. Copyright Act of 1976, 17 U.S.C. § 109.
6. Copyright Act of 1976, 17 U.S.C. § 108.3