TO: ALA Executive Board

RE: Librarianship and Traditional Cultural Expressions

ACTION REQUESTED/INFORMATION/REPORT:

For information only.

ACTION REQUESTED BY:
Loriene Roy, ALA Immediate Past President

CONTACT PERSON:
Carrie Russell, Director, Program on Public Access to Information, Office for Information Technology Policy, ALA Washington Office
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DRAFT OF MOTION:
N/A

DATE: July 6, 2009

BACKGROUND:


OITP requests feedback on the document; comments can be sent to crussell@alawash.org. Background on this discussion is available at http://wo.alala.org/tce/. OITP anticipates bringing the document to ALA Council at the 2010 ALA Midwinter Meeting.

Attachments:
Memo to ALA Divisions, Offices, Chapters and Round Tables
Draft Document – Librarianship and Traditional Cultural Expressions: Nurturing Understanding and Respect
June 25, 2009

TO: ALA Divisions, Offices, Chapters and Roundtables

FROM: Carrie Russell, Director, Program on Public Access to Information, Office for Information Technology Policy, Washington Office

Request for Feedback on Library Principles Concerning Traditional Cultural Expressions

In 2007, the Office for Information Technology Policy (OITP) received grant funds from the MacArthur Foundation to increase ALA’s presence at international copyright forums, primarily the World Intellectual Property Organization (WIPO). ALA’s interest in international copyright has increased due to new directions WIPO has taken that more likely affect U.S. copyright law, and by extension, affect library services and user access to information. How? As a member nation of the Berne Convention, the United States is obligated to align its copyright law to reflect changes made in international copyright law. For example, the Digital Millennium Copyright Act of 1998 was passed as a result of WIPO copyright treaties.

ALA (in partnership with ACRL and ARL) has non-governmental organization (NGO) status at WIPO. We are allowed to comment before the Assembly when recognized by the presiding officer, and work to influence the decision-making process and promote outcomes that protect library users and the public interest. We also consult with the U.S. delegation to ensure that library interests are understood and considered.

One WIPO initiative that is a focus for libraries is the Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions/Folklore. In brief, the issue explores whether copyright law should protect folklore (now called Traditional Cultural Expressions (TCEs)). TCEs are creative works made by indigenous communities. In many oral traditions, these creative works—and the creative process—are handed down from generation to generation and include native music, stories, dance, wood carvings, paintings, and architectural works, such as totem poles. Several nations, including the U.S., have considered many of these works to be public domain because of their age. If, for example, WIPO decided that a copyright regime should protect TCEs, the U.S. would implement a law extending copyright protection to a great body of works held in libraries, archives and museums that have not been previously protected by copyright law.

Applying traditional norms of Western copyright law to TCEs is a complex and potentially troublesome proposition. Oftentimes, original authorship and date of publication of TCEs are unknown because many TCEs are created by communities in the oral tradition. Changes to the original work make it difficult to pin down the original work, and any derivative works. While the intent of U.S.-based copyright law is to advance learning through the dissemination of creative works, TCEs, as observed by several indigenous cultures, are owned by the particular tribe, never meant to be shared with the outside world. Indigenous people see these works as an essential part of who they are. TCEs may be sacred and not meant to be seen by others. As part of their tradition, only authorized persons within indigenous communities have access to TCEs. Indigenous cultures do not want their works used in ways that they find offensive or disrespectful. Many of these culturally sensitive TCEs have been acquired by libraries, who often unknowingly provide access and preserve these works. To compound the concern, digital technologies have expanded access to TCEs exponentially, creating more opportunities for exposure and misuse. There is a long history of commercial interests capitalizing on TCEs without consent or compensation.

ALA has no policy position on TCEs, but other associations and groups have studied these concerns for decades. The United Nations passed the United Nations Declaration on the Rights of Indigenous People. IFLA passed a resolution on TCEs several years ago, and the Society of American Archivists have developed draft protocols regarding TCEs. As we learn about TCEs and their importance to indigenous cultures, does this new understanding affect what we believe about indigenous artifacts? Does this new understanding affect the traditional role of libraries— to provide access to information, to preserve the cultural heritage, and ensure open inquiry? If asked for the U.S. library position about the management and protection of TCEs, how would we respond?
Over the last year, OITP has convened meetings with stakeholders to learn more, discuss the issues and determine if any ALA action was warranted. The consensus reached was that ALA should develop TCE principles and seek ALA endorsement as policy. The goal was to recognize the unique nature of TCEs while continuing to support library values of open access, freedom of information, diversity of opinion and other values articulated n the Library Bill of Rights.

The resulting draft principles—“Librarianship and Traditional Cultural Expressions: Nurturing Understanding and Respect” (http://wo.al.org/tce/wp-content/uploads/2009/06/TCE-Draft-June-10-09.pdf)—were developed by ALA members appointed to represent indigenous, intellectual freedom, diversity, Native American, and rural communities. Now we are seeking feedback from a wider range of librarians and organizations representing archivists, folklorists, museum professionals, tribal leaders, and tribal associations. We have strived to make this process open and inclusive. We seek positive steps forward with broad member support.

Our objective is to finalize the principles document by Midwinter 2010 for ALA Council consideration and endorsement. Working under the “no surprises rule,” we are seeking feedback throughout this participatory process. We will consider all feedback we receive as we work to make this document reflect the values of ALA membership.

ACTION REQUESTED
What do we want from you?
We want you to participate in this process by reviewing the principles and providing feedback. Tell us if clarification or additional information is necessary. Provide ideas to improve the principles. Tell us if you support the principles. “Wordsmithing,” while not welcome on the ALA Council floor, is welcome now. Be specific regarding your suggestions.

How? You can send feedback to Carrie Russell (crussell@alawash.org) or visit the TCE web site (http://wo.al.org/tce/) to provide your feedback online. By visiting the web site, you can view video of presentations culled from a November 2008 conference OITP held to explore the issues. You will also find additional resources at the web site to further examine the subject.

Deadlines for feedback? Ideally by November 2009, but we will continue to receive and consider feedback up to the Midwinter conference, January 15, 2010. At Midwinter, we will return with a resolution for your endorsement of the principles.
Librarianship and Traditional Cultural Expressions: Nurturing Understanding and Respect
Draft 3 – June 29, 2009

Contact:
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Introduction

Libraries hold in their collections resources that constitute or reflect a vast array of traditional knowledge and traditional cultural expressions (TCEs).1 TCEs are integral to the cultural and social identities of indigenous and local communities that produce them. They embody know-how and skills; they transmit core values and beliefs. Their protection is related to the promotion of creativity, enhanced cultural diversity and the preservation of cultural heritage.

Because TCEs play a special role in the communities that create them, libraries must manage and care for these materials in a manner that recognizes the unique qualities and concerns of their owners. Many indigenous and local communities struggle with the preservation of their culture. Preserving and providing access to TCEs is a significant and complex activity.

Libraries provide access to much of the world’s intellectual creativity and cultural accomplishments. This practice of librarianship is reflected in eleven Core Values identified by the American Library Association (ALA).2 Among the core values are access, diversity, preservation, service and social responsibility. Together, these values address librarians’ responsibility to meet the information needs of library users of all kinds by providing equitable access to a wide range of resources and services, and by supporting individual expression as a tenet of intellectual freedom.

The five concept areas addressed in this document are central to the topic of collecting, preserving, organizing and accessing TCEs. They represent the relationship between libraries and TCEs as a holistic cycle. This cycle begins with the understanding of the cultural meaning and context in which these expressions are created. Library activities relating to TCEs must recognize and respect these meanings and contexts within the overall mission of the library to serve as a forum for free expression and access to ideas for all people of the community the library serves. The central activity of the library is defined as one of stewardship of information to its users—in the case of TCEs this would mean respectful caretaking of traditional knowledge and traditional cultural expressions. Therefore, librarians, indigenous peoples and other tradition-bearers must establish frameworks designed to encourage reciprocity, collaboration and access in the stewardship of cultural heritage collections.

Meaning and Social Context

- Traditional knowledge and cultural expressions exist and are created within an indigenous or folk cultural environment that may include culturally-specific meaning, reflecting cultural history, spirituality, world view, artistic expression, respect for the land, and continuity of culture.
- Traditional cultural expressions do not exist separately from the living cultures they reflect. Tradition-bearers are the living repositories of cultural heritage.
- Traditional cultural expressions hold great power and meaning within indigenous and traditional folk communities and are a part of daily life in source communities.

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1 Traditional cultural expressions defined as, but not limited to, narratives, poetry, music, art, designs, names, signs, symbols, performances, architectural forms, handicrafts.
2 See ALA Core Values at http://www.ala.org/ala/aboutala/offices/oif/statementspols/corevaluesstatement/corevalues.cfm
• Indigenous societies have customary laws and traditions regarding use of knowledge and expression.

• Traditional cultural expressions and traditional knowledge often are associated with communities rather than specific individuals.

**Respect, Recognition, Understanding**

• Libraries must consider the cultural authority of the tradition-bearers who practice traditional knowledge and create traditional cultural expressions that may be held in library collections.

• Libraries must respect, recognize and understand that cultural traditions of Indigenous societies have been disrupted over time, and that libraries may hold vital links in their collections for the restoration, maintenance or on-going cultural conservation of traditional cultural expressions.

• Libraries should develop collections reflective of local needs. Libraries that collect materials on indigenous cultures should attempt to acquire materials written, produced, illustrated and/or directed by indigenous peoples.

• Libraries should develop access guidelines and protocols that respect traditional cultures and fulfill the library’s obligation to serve as a community forum for ideas and information.

• Libraries should educate their patrons on the ethical use of documentary materials that reflect traditional knowledge and traditional cultural expressions.

**Responsibility**

• Indigenous and local communities should define what is public knowledge and what is private or sacred knowledge. Tradition-bearers should offer guidance for access to traditional cultural expressions based on relevant criteria such as cultural status, gender, age, and other factors.

• Librarians have a responsibility to develop an understanding of the traditions and cultures associated with materials held in their collections.

• Librarians have a responsibility for developing policies and guidelines for preservation and use, including research use, of traditional cultural expressions in agreement with the cultural values and legal norms of indigenous and local communities.

**Reciprocity and Collaboration**

• Libraries must collaborate with indigenous and local communities on a continuing basis to maintain a dynamic and reciprocal relationship that guides acquisition, preservation, and access to traditional cultural expressions.

• Libraries have a responsibility to share their guidelines on access and use of traditional knowledge and cultural expressions with their users.

• Libraries should collaborate with indigenous and local communities to identify potential misuse of traditional cultural expressions.

• Libraries and communities should manage physical collections, and should develop information systems appropriate to indigenous culture, in a spirit of reciprocal curation that encourages knowledge and respect for tradition.
Stewardship

- Libraries should continue to play an active role in using technology to preserve and provide access to intellectual content. Librarians should share this expertise with those communities who choose to preserve and access cultural heritage.

- Libraries must be particularly sensitive to the fact that digitizing traditional cultural expressions could expose the content to a world beyond the boundaries of the library, and makes it potentially more vulnerable to misuse.

- Libraries should strive to provide the necessary social and cultural context in connection with use of indigenous materials in their collections, and ensure, when possible, appropriate use of materials.

- Library staff should engage in continuing education to stay abreast of issues surrounding the stewardship of traditional knowledge and traditional cultural expressions.

- Libraries should seek opportunities to consult with traditional and indigenous communities concerning identification, treatment and use of works, and concerning repatriation of cultural heritage when appropriate.

Conclusion

Librarians are professionals with a social responsibility to provide and promote public access to information. We recognize the distinctive needs and concerns of the cultural communities we serve. We embrace and respect the diversity of all peoples.

The special sensitivity and care TCEs require are supported by the fundamental tenets of librarianship. These principles serve as a reminder of core library values and our mission to safeguard and provide access to materials without sacrificing individual liberty or respect for cultural differences.

Embracing these principles will advance the role of librarians as stewards of knowledge and cultural heritage. Consensus on these principles within the library community will establish the library’s voice advocating for reason and respect in national and international discussions concerning protection of and access to unique creative works of traditional cultural expression.

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3 For more information on library values and activities in digital environments, see http://www.ala.org/ala/aboutala/offices/wo/referenceab/principles/principles.cfm