DRAFT

Ohio DPLA Legal Working Group

Recommendations for Three-Year Pilot Project

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***Executive Summary***

The working group was originally charged with creating a matrix of DPLA hub legal policies to determine what practices would be best for Ohio. The charge was changed after the December Symposium because it was realized that other working group reports were needed before making specific recommendations by this working group. As a result, the charge is now to provide general recommendations and build legal agreements upon the work of the other working groups later on.

***Charge and Activities***

*Charge*

To provide recommendations on legal questions and submitted by institutions as part of an Ohio DPLA Hub. This information will be included in the state application to be submitted to DPLA.

*Activities*

1. The working group reviewed DPLA hub websites to discover legal procedures and online policies. Few states have placed their policies online in full. Instead general information for potential participating institutions is present with contact information. The committee reviewed all hub websites listed on the DPLA website and policies that were available online. An attempt by the Steering Committee to collect policies from all hubs was not successful; however, project consultants were able to collect policies from North Carolina and Pennsylvania. These were reviewed for this report in addition to policies that were found online.
2. The working group hosted two discussion sessions at the Ohio DPLA Symposium in December 2015 to discover the needs and challenges for potential participating institutions. An average of 12 attendees was present in each session. A 10-15 minute PowerPoint presentation on copyright considerations was provided to attendees to trigger conversation and collect input for this white paper.

***Key Findings***

* Timing: This group’s work inter-connects with and is partially dependent on the work of governance, sustainability, and metadata working groups. An understanding of Ohio DPLA’s structure, future actions to ensure its success, and metadata practices will shape the legal directives and policies this group recommends. While this working group can provide basic recommendations until the end of the Ohio DPLA grant period, it is recommended that the group work with individuals hired to run the DPLA three-year pilot program to create policies during that time.
* Training: During the symposium in December 2015, many attendees stated that their biggest challenges were determining the copyright status and making appropriate claims for fair use for the items held in their collections. Many discussions within the groups were about general copyright questions and providing access to metadata was not deemed as a concern.

***Recommendations***

* Create a Collection Development Policy

Collection development policies are foundational documents created by institutions that hold special collections and archival items. A policy should be created to explain that individual institutions will be responsible for making any necessary copyright determinations/copyright clearances for material that will be accessible through DPLA Ohio and to serve as a guiding document for Ohio DPLA hub staff, Community Engagement Centers, and the Ohio DPLA Advisory Committee.

Many sections for content of this agreement were pulled from the partnership agreement created by the Indiana DPLA hub (<http://www.in.gov/library/files/dig_colldev07.pdf>). It is recommended for Ohio to use this policy as a reference document.

* + Suggested content for agreement
    - Mission Statement
    - Accepted Digitized Materials
      * Scope/Content: adheres to mission
      * Restrictions: address CCO and fair use
      * No duplicate records
      * Formats
      * Documentation/Description
    - Content collection priorities (optional)
    - Policy on removing items from hub
* Create a Partnership Agreement

In order for institutions to participate, an understanding of governance and policies of both DPLA and Ohio DPLA must be concise and clearly explained. This will reduce the number of questions or issues that may arise between Ohio DPLA and participating institutions.

Many sections for content of this agreement were pulled from the partnership agreement created by the Mountain West DPLA hub (<http://mwdl.org/docs/MWDL_Partnership_Agreement_ver12_2008-03-14.pdf>). It is recommended for Ohio to use this policy as a reference document.

* + Suggested content for agreement
    - Purpose of Agreement
    - Government Structure: responsibilities of participating organization, community engagement center, and project team as created by the Governance Committee
    - Copyright: follow *DPLA Data Use Best Practices* (<http://dp.la/info/wp-content/uploads/2013/04/DPLADataUseBestPractices.pdf>)
    - Metadata/Right Statements: follow *DPLA Recommendations for Standardized International Rights Statements* (<http://rightsstatements.org/files/151002recommendations_for_standardized_international_rights_statements.pdf>)
    - Procedures for a institutions that withdraws from hub
* Provide Training on Policies and Copyright

Based on researching work done in other DPLA hubs, the symposium, and past experience of working group members, training on the following topics should occur during the three year prototype period: DPLA rights and philosophy, DPLA’s *Getting is Right on Rights* Project, Creative Commons, copyright law, and resources for determining copyright.

Some training strategies could include using the train the trainer technique, creating a resources hub, and train on best practices in selecting collections.

***Challenges***

* The working group was unable to obtain agreements and other related documentation from all DPLA hubs to review as a resource in creating Ohio’s policies.

To create effective policies, all policies created by DPLA hubs should be reviewed. It may also be useful to schedule phone conversations with three other hubs to discuss their policies and the kinds of challenges they have encountered over time.

* Potential participating institutions are uncomfortable dealing with copyright for some items in their collections.

Training opportunities and resources can be created to assist participating institutions with copyright and other considerations. Many smaller institutions may decide not to participate in Ohio DPLA out of fear of litigation. Training will be needed to address these concerns.

***Appendix***

*Resources*

* *DPLA Data Use Best Practices*

<http://dp.la/info/wp-content/uploads/2013/04/DPLADataUseBestPractices.pdf>

* *DPLA Recommendations for Standardized International Rights Statements* <http://rightsstatements.org/files/151002recommendations_for_standardized_international_rights_statements.pdf>
* DPLA Hub Websites

<http://dp.la/info/hubs/>

* DPLA Hub Policies
  + Indiana
    - Collection Development Policy

(<http://www.in.gov/library/files/dig_colldev07.pdf>)

* + Mountain West
    - Member Agreement

<http://mwdl.org/docs/MWDL_Member_Agreement_rev2015-06-22.pdf>

* + - Partnership Agreement <http://mwdl.org/docs/MWDL_Partnership_Agreement_ver12_2008-03-14.pdf>
  + North Carolina
    - Partner Agreement Letter
  + Pennsylvania
    - Partner Agreement Letter