

DPLA Ohio Legal Working Group Final Report—April 2016

Recommendations for Three-Year Pilot Project

March 14, 2016

Co-chairs: Chatham Ewing, Cleveland Public Library
Katy Klettlinger, State Library of Ohio

Members: Paula Brehm-Heeger, Public Library of Cincinnati and Hamilton County
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Sandra Enimil, Ohio State University
Lisa Mackinder, Ohio University

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 DPLA Ohio 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 (Appendix A).
2. The working group hosted two discussion sessions at the DPLA Ohio 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 DPLA Ohio'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 DPLA Ohio 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 DPLA Ohio hub staff, Community Engagement Centers, and the DPLA Ohio 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 Partnership Agreement

A simple agreement in letter format should be created which addresses DPLA's requirement to access metadata linked to digital objects from the hub. The agreement should acknowledge that metadata from all contributed content will be accessed and made public to DPLA Ohio and DPLA in-house and online.

A drafted letter was created by the working group (Appendix B) using agreements created by North Carolina and Pennsylvania DPLA hubs (Appendix C).

- Create an Information Document in addition to Partnership Agreement

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

Many sections for content of this document 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 DPLA Ohio out of fear of litigation. Training will be needed to address these concerns.

Appendix A: 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

Appendix B: Draft Partnership Agreement Letter

[Date]
[Contact, Title]
DPLA Ohio
State Library of Ohio
274 E. First Avenue
Columbus, Ohio 43201

Dear [Contact]:

I am writing to authorize the Ohio DPLA Project to harvest the metadata and previews for selected digital collections made available by [INSTITUTION NAME]. The DPLA Ohio operates as a program of the State Library of Ohio on behalf of the DPLA Ohio statewide collaborative effort among cultural heritage institutions to make information about our digital collections widely available.

I understand that DPLA Ohio will share the digital collections metadata and previews with the Digital Public Library of America (DPLA) under the terms of the agreement established between the DPLA and State Library of Ohio, which are available for review on the State Library of Ohio website at [website]. I further understand the metadata and previews – as distinguished from the digital objects themselves – will be made freely available by the DPLA for harvesting and reuse under a Creative Commons CC0 license.

Thank you very much for your consideration. Please advise if you have any questions.

Sincerely,

[Name]
[Title]
[Institution]

Links to the documents mentioned:

- * Agreement established between the DPLA and State Library of Ohio [link]
- * Creative Commons CC0 license [<https://creativecommons.org/about/cc0>]

Appendix C: Agreement Letters from North Carolina and Pennsylvania

North Carolina



Deborah Jakubs

Rita DiGiallonardo Holloway University Librarian
Vice Provost for Library Affairs

June 3, 2014

Nick Graham
North Carolina Digital Heritage Center
Campus Box 3930
University of North Carolina at Chapel Hill
Chapel Hill, NC 27514

Dear Nick:

I am writing to authorize the North Carolina Digital Heritage Center (NCDHC) to harvest the metadata for selected digital collections made available by Duke University Libraries, for the purpose of sharing with the Digital Public Library of America (DPLA), under the terms of the agreement established between the DPLA and the NCDHC. I understand that the descriptive metadata – as distinguished from the digital objects themselves – will be made freely available by the DPLA for harvesting and re-use under a Creative Commons CC0 license.

Thanks very much for your consideration. Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Jakubs", with a checkmark at the end.

Deborah Jakubs
Rita DiGiallonardo Holloway University Librarian
Vice Provost for Library Affairs

Pennsylvania

Catherine C. Wilt
Pennsylvania Digital Collections Project
% Pennsylvania Academic Library Consortium, Inc.
P.O. Box 58906
Philadelphia, PA 19102-8906

Dear Cathy:

I am writing to authorize the Pennsylvania Digital Collections Project (PDCP) to harvest the metadata and previews for selected digital collections made available by INSTITUTION NAME. The PDCP operates as a program of the Pennsylvania Academic Library Consortium, Inc. (PALCI) on behalf of the PDCP statewide collaborative effort among cultural heritage institutions to make information about our digital collections widely available.

I understand PDCP will share the digital collections metadata and previews with the Digital Public Library of America (DPLA) under the terms of the agreement established between the DPLA and PALCI, which are available for review on the PDCP website. I further understand the metadata and previews – as distinguished from the digital objects themselves – will be made freely available by the DPLA for harvesting and re-use under a Creative Commons CC0 license.

Thank you very much for your consideration. Please advise if you have any questions.

Sincerely,

Name
Title
Institution

Link to the documents mentioned:

* Agreement established between the DPLA and PALCI --

<https://drive.google.com/open?id=0B-icpMLW3cRXaUNaa1pVVHBHR2M>

* Creative Commons CC0 license -- <https://creativecommons.org/about/cc0>