

The Obama Administration—Opportunities and Challenges

WASHINGTON, D.C., February 9, 2009 — Change has come to Washington with the inauguration of President Barack Obama. His long-standing commitment to openness in government, government accountability, and the importance of public participation, both as a U.S. senator and during his presidential campaign, are well documented. We were very pleased that John Podesta, former chief of staff to President Clinton and a strong defender of freedom of information, advised the campaign and co-chaired the transition team. Professor Podesta's involvement assured us that early presidential actions would be taken on a number of our recommendations in the report "Moving Toward a 21st Century Right-to-Know Agenda: Recommendations to President-elect Obama and Congress," which was the topic of this column in February.

President Obama used his first full day in office to issue an important executive order to ensure the timely release of presidential records and two memoranda to encourage more transparency and accountability. On January 21, he issued Executive Order 13489 on Presidential Records. It revokes President Bush's 2001 Executive Order 13233, which gave current and former presidents and vice presidents greatly expanded authority to withhold presidential records. AALL, other open government groups, and a bipartisan group of members of Congress strongly opposed the Bush directive and have worked diligently, though unsuccessfully, since 2001 to enact legislation that would revoke it.

Obama also issued two important memoranda on January 21. The Memorandum on the *Freedom of Information Act (FOIA)* affirms that the presumption of disclosure should be applied to all decisions involving *FOIA*. The Memorandum on Transparency and Open Government directs the chief technology officer (who has yet to be named), in coordination with the director of the Office of Management and Budget and the administrator of general services, to coordinate the development of recommendations for an open government directive within 120 days. AALL is pleased with Obama's early signs of commitment to government transparency and

accountability, although we will continue to monitor developments and contribute to the new directive.

When the transition team invited organizations and members of the public to "Your Seat at the Table" in December, our policy committees and I collaborated to develop a Statement on the Public Policy Positions of AALL. It defines an ambitious set of our top policy goals for the next few years. If we're successful in achieving them, all law librarians, the larger legal community, and the American public will benefit greatly. We will need all the help we can get from our chapters and our members, however, to reach these goals. (For more information on how you can help, see the *Members' Briefing* insert.)



In furtherance of our policy goals to improve the public's right to access government information, AALL will work to get President Obama's support for no-fee public access to the Public Access to Court Electronic Records (PACER) system. AALL's Executive Board endorsed a "Resolution on No-Fee FDLP Access to PACER" in 2006 that was instrumental in getting the Government Printing Office to work with the Administrative Office on a pilot project to make the PACER system available at no cost to users of federal depository libraries. A three-year pilot project was launched in 2007 at 17 federal depository libraries, 10 of which are law libraries. The pilot is on temporary suspension while a preliminary assessment is under way, and we expect it to resume shortly. However, the Executive Board amended our Government Relations Policy in 2007, and it now explicitly states that information on government Web sites must be available without charge. This policy statement directs us to make no-fee public access to PACER among our top priorities.

AALL will also work to get crucial support from the administration, Congress, and the Administrative Office of the U.S. Courts for a public domain citation system for federal legal information. Since the early 1990s, AALL has promoted the move to a public domain citation system, a style of citation that does not favor a particular source, forum, format, or medium. To date, a number of states have successfully adopted and used a public domain citation format. They have found that use of technology allows them to implement the change in a fairly easy

and inexpensive way. The *E-Government Act of 2002* (P.L. 107-347) specifically requires that all federal courts establish Web sites that contain "access to the substance of all written opinions issued by the court." A public domain citation system would make these online opinions citable directly without research into another source. The result is an easier and fairer system for finding the law. Our biggest ally on this important issue is the American Bar Association, whose D.C. Governmental Affairs Office staff has agreed to work with us to make a public domain citation system a reality.

On the copyright front, President Obama has signaled that we'll face new challenges in light of several recent appointments he has made from the content community to key intellectual property offices at the Department of Justice. Nonetheless, our policy statement reinforces AALL's commitment to preserving an equitable balance between the rights of users of information and the rights of copyright owners and licensors. This balance is essential to innovation and to the free flow of information.

In our transition statement, we argue for the inclusion of fair use provisions in free trade agreements and treaties. In addition, we will urge the new administration to promote openness and transparency in trade and treaty negotiations, especially where those actions have an impact on copyright and the free flow of goods and ideas. For example, it was only after media leaks and heightened criticism occurred last fall that the United States trade representative released information to the public about the draft Anti-Counterfeiting Trade Agreement and held a public meeting here in D.C.

I hope that this short summary of a handful of the issues you'll find in the full statement will encourage you to read it and, very importantly, lend a hand when we ask for your help to make them become a reality. As law librarians, we are challenging ourselves with a very ambitious set of policy goals that are at the core of our principles and policies. It's well worth the effort, and with your help, we will succeed. You'll find the entire Statement to the Obama-Biden Transition Team at www.aallnet.org/aallwash/AALLTransition2008.pdf, or simply type "Public Policy Positions" into the search box on AALLNET. ■

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