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AAP Supports School Library Amendment to NCLB

AAP has joined the American Library Association in urging the adoption of an amendment to the No Child Left Behind reauthorization bill that would strengthen school library services. Proposed by Rep. Raul Grijalva (D-AZ), the amendment would ensure that each school library has at least one state-certified school library media specialist.

A letter to the Chairman and Ranking Member of the House Education and Labor Committee points out that because No Child Left Behind does not address the role of school libraries in academic achievement, too often the response of school districts to budget cuts has been to replace professional school library media specialists with non-professionals or to close school libraries altogether. Noting that extensive research over the past four decades confirms a clear link between professionally staffed school library media programs and student achievement, the Grijalva amendment would require school districts "to the extent feasible," to ensure that every school within the district employs at least one state-certified library media specialist in each school library, and would require that "books and materials be appropriate for, and engage the interest of, students in all grade levels and students with special learning needs, including English-language learners." Other groups signing the letter include PEN American Center and the New York Library Association.

New Legislation Seeks to End NSL Abuses

AAP and the other organizations comprising the Campaign for Reader Privacy (ALA, ABA and PEN American Center) joined in issuing a statement of support for newly introduced bipartisan legislation, S.2088—The National Security Letter Reform Act of 2007. to curb the FBI's abuse of the NSL powers granted under the Patriot Act. The bill was introduced in the Senate by Russ Feingold (D-WI), John Sununu (R-NH), Dick Durbin (D-IL), Lisa Murkowski (R-AK), Ken Salazar (D-CO), and Chuck Hagel (R-NE), and is intended to address abuses detailed in a report issued last March by the Justice Department's Inspector General, and to remedy constitutional flaws cited in a recent federal court ruling (see separate story). other members of the Senate to join in co-sponsoring the bill, AAP President Pat Schroeder promised: "We intend to lobby hard for its passage." The joint statement can be found at http:// www.publishers.org/main/Press-Center/NSLReformActRelease.htm

Washington Event Focuses on Universal Pre-Kindergarten Movement

AAP President Pat Schroeder participated in a program hosted by the Pew Charitable Trusts and Pre-K Now featuring a discussion of the national pre-k movement and focusing specifically on a newly published book by David Kirp, *The Sandbox Investment: The Preschool Movement and Kids-First Politics* (Harvard University Press), the first comprehensive portrait of the universal pre-kindergarten movement. Susan Urahn of the Pew Center on the

States moderated a discussion between Mr. Kirp and *USA Today* editorial writer Richard Whitmire highlighting growing agreement among parents and politicians that preparing children for school is one of today's most crucial social, economic and workforce development issues.

Pre-K Now also released Votes Count: Legislative Action on Pre-K FY08, its annual analysis of state-level support for high quality, voluntary pre-k programs. Among the report's highlights: funding for pre-K this year was \$4.8 billion, representing a \$2 billion increase in the last two years; only 40 percent of Latinos go to pre-school compared with 60 percent of African Americans and Caucasians. The full report can be viewed at http://www.preknow.org/resource/votescount/index.cfm



OFAC Suit Settled

On October 1, AAP's Professional and Scholarly Publishing Division joined co-plaintiffs in announcing the successful resolution of the lawsuit against the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). Revised regulations issued by OFAC (which enforces trade embargoes against "enemy" nations) no longer require specific license applications for government permission to engage in basic publishing activities with countries under U.S. trade embargo.

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The lawsuit was filed in September 2004 by AAP/PSP, the Association of American University Presses, PEN American Center, and Arcade Publishing, an independent publishing house, in response to the Treasury Department's continued attempts to exert control over publishing activities involving information and literature from countries under U.S. trade embargoes. The regulations, which required publishers and authors to seek a license from the government to perform routine activities necessary to publish foreign works, including paying advances, doing substantive editing, or marketing works from Cuba, Iran, and Sudan, were seen as a violation of the First Amendment and of specific laws passed by Congress that exempt "information and informational materials" from trade embargoes. The lawsuit cited more than a dozen works that were jeopardized by the regulations, ranging from an article by Iranian scientists on identifying earthquake hazards, to an encyclopedia of Cuban music, and the PEN Anthology of Contemporary Iranian Literature.

The plaintiffs agreed to dismiss the lawsuit in light of the revised regulations, "while reserving the right to challenge the regulations in the future should OFAC again threaten to require American authors and publishers to obtain prior government permission before working with authors in countries that are subject to U.S. trade sanctions." For additional information: Allan Adler, AAP Washington (adler@publishers.org).

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Registration Open for the PSP 2008 Annual Conference

Registration is open for the 2008 Annual PSP conference, *Interactivity 2008: Communities, Content, Connectivity.*

New incentives for this year's conference include a 30 percent discount for new attendees or those who have not attended a conference since 2004. Three concurrent sessions--in humanities and social sciences; in science and technology; and in medicine--will be held to serve different disciplinary interests. Dr. Jerome Groopman, Professor of Medicine at Harvard Medical School, staff writer for The New Yorker, and author of How Doctors Think, and Chris Willis, vice president for Social Media at Footnote.com., will be featured keynote speakers. The conference will be held February 6-8, 2008 at the Mayflower Hotel in Washington, D.C. Visit www.pspcentral.org for more information and registration details.



AAP Participates in Copyright Alliance Expo on Capitol Hill

AAP was one of the participants in the first annual Copyright Alliance Exponential which was held on Capitol Hill October 11 to highlight the importance of copyright to the nation's creative and economic vitality. The Alliance, which is composed of organizations, trade groups, associations, and corporations with a strong reliance on copyright as an engine of creative growth, was created to

educate policy makers and the public about the importance of copyright.

AAP was on hand with other Alliance members to discuss the need for continued and strengthened copyright protection and the impact of the copyright industries on job growth and the U.S. economy.



SIP 2008 Annual Meeting to be Held At BookExpo

In its ongoing efforts to provide small and independent publishers with valuable educational opportunities and a meaningful networking forum, AAP's Smaller and Independent Publishers Committee (SIP), in cooperation with BookExpo America announced on October 9 that the AAP/SIP annual meeting will be held in Los Angeles in conjunction with BEA in 2008. Book-Expo will be held at the Los Angeles Convention Center May 29-June 1.

The AAP/SIP program, entitled Starting... Growing... Maturing... How to Successfully Navigate the Life Cycles of an Independent Publishing House, is intended to give small and independent presses the tools they need to develop successful long-term growth and entrepreneurial strategies. Sessions will focus on organic growth, growth through acquisition, labor and capital, changing technologies, employee ownership, and distribution decisions, among other subjects. The program will be held on Thursday, May 29, prior to the

opening of the convention hall exhibits

The co-location is a strategic part of AAP's ongoing efforts to provide educational support for, and by, smaller and independent publishers, and to expand educational outreach to the independent publishing community nationwide who will be attending the book industry's national convention.

Program details on the AAP's Small and Independent Annual Meeting and registration will be provided in the next few weeks.



AAP President Pat Schroeder Reads for the Record

AAP President and CEO Pat Schroeder joined in Jumpstart's Read for the Record event, held in late September at the Smithsonian Institution to advocate for early education for the nation's children. The event was designed to encourage children and adults to read the same book on the same day in order to raise awareness of the importance of early education. The nationwide campaign brings children and adults together to read at events in schools, libraries, stores, hotels, playgrounds, homes and offices. Created in 1993, Jumpstart has been bringing at-risk preschool children and adults together in intensive year-long relationships to build the vital literacy, social and emotional skills children need to thrive.

Mrs. Schroeder read Munro Leaf's beloved children's classic *The Story of Ferdinand*, the tale of a bull who

would rather stop and smell the flowers than fight.



Federal Court Rules National Security Letter Statute Unconstitutional

AAP welcomed a ruling in September by U.S. District Court Judge Victor Marrero striking down the National Security Letter provision of the USA Patriot Act as unconstitutional. In the fall of 2006 AAP joined in filing an *amicus* brief supporting an ACLU legal challenge which argued that the changes Congress made in the reauthorized Patriot Act failed to remedy constitutional flaws.

National Security Letters are administrative subpoenas which can be issued by FBI field agents with no judicial oversight and which give the government unlimited access to electronic communications transactions records, including those of Internet service providers and public libraries. In the fall of 2004, ruling in an earlier ACLU legal challenge, Judge Marrero held the NSL statute in violation of the Fourth Amendment's ban on unreasonable searches and seizures, and ruled that the gag order constituted a prior restraint of speech in violation of the First Amendment. The government appealed to the Second Circuit, but before the appellate court could rule, Congress amended the Patriot Act and the case was send back to Judge Marrero to look at the constitutional questions again in light

of the changes in the reauthorized act.

In his latest ruling, Judge Marrero held that the permanent and all-encompassing gag order permitted under the revised statute violates the First Amendment and that the amended statute also violates constitutional principles of separation of powers by denying the courts the ability to conduct a *meaningful* judicial review of requests to modify the gag order. For additional information contact Judith Platt (jplatt@publishers.org).

AAP Asks New York Court to Assert Jurisdiction in *Ehrenfeld* Case

On October 4, AAP joined a broad coalition of media groups including Amazon.com, the Reporters Committee for Freedom of the Press, and the Authors Guild, in asking New York's highest appeals court to allow U.S. author Rachel Ehrenfeld to proceed with efforts to have a British libel judgment against her declared unenforceable in the United States. Ms. Ehrenfeld had a default judgment entered against her after refusing to participate in a libel suit brought in the U.K. by Saudi billionaire Khalid bin Mahfouz over her book Funding Evil. The case, seen as a classic example of "libel tourism," was tried and judged by a British court despite the fact that neither bin Mahfouz nor Ms. Ehrenfeld reside in Great Britain and the book was never published there. Ms. Ehrenfeld went into federal court in New York seeking to have the British judgment declared unenforceable.

In April 2006, a federal district court dismissed her case for lack of personal jurisdiction over bin Mahfouz under New York's "long-arm statute," which allows courts to take

personal jurisdiction over non-residents who "transact business" within the state. The district court found that the Saudi's actions in connection with his U.K. libel suit, (sending cease and desist letters and other letters and electronic communications regarding the suit and serving legal papers) did not fall within the scope of the long-arm statute. The Second Circuit of Appeals to which Ehrenfeld then turned, found that this question had not been addressed by New York courts. Recognizing the important First Amendment implications, the Second Circuit has asked the state appellate court to rule on the question of whether the actions taken by bin Mahfouz constitute "doing business" in New York. If so, Ms. Ehrenfeld will be able to proceed with her legal action.

COPA Challenge Before the 3rd Circuit (Again)

AAP was one of a group of media, technology and free speech organizations, including the Center for Democracy and Technology, the Freedom to Read Foundation, and the Society of Professional Journalists, who filed an *amicus* brief on October 29 urging the U.S. Court of Appeals for the 3rd Circuit to strike down—yet again—the Child Online Protection Act (COPA) on First Amendment grounds.

The second attempt by Congress to criminalize harmful to minors speech on the Internet, COPA was passed nine years ago after the Supreme Court struck down the Communications Decency Act (CDA). The COPA challenge has made a convoluted trip through the federal courts, coming before the Supreme Court on two separate occasions. Earlier this year it was struck down for a second

time by the same federal district judge who issued a preliminary injunction in 1999. Since the law was first challenged in 1998, AAP has played a key role in providing friend-of-the-court support. The brief filed on October 29 again argues that COPA places unconstitutional burdens on producers and distributors of First Amendment-protected speech. The brief asserts that there are more effective, less restrictive means of preventing children from accessing inappropriate speech on the Internet, including filtering and other technological tools available to parents, as well as broad-based educational initiatives.

AAP Joins in New York Right of Publicity Case

AAP has joined a host of media companies, including *The New York Times*, Hearst Corporation, and Hachette Book Group USA, in filing an *amicus* brief in the New York Court of Appeals, the state's highest appellate court, in *Nussenzweig v. DiCorcia*, a case involving the right of publicity under the New York civil rights law. The New York statute prohibits the use of an unauthorized image "for advertising or for the purposes of trade."

The suit was brought by an individual whose photograph was taken without permission by a professional photographer shooting images of passers-by in Times Square. The plaintiff claims that the use of his image in a book of art photographs and in a gallery exhibition catalogue, as well as the sale of prints, violates his publicity rights. The case was dismissed by a trial court which found the suit to have been filed beyond the time allowed by the statute of limitations, and also found the claims were barred by the First Amendment. The state's

intermediate appellate court agreed about the statute of limitations, but declined to address the constitutional issues and gave the plaintiff leave to appeal to New York's highest court.

Pointing to the narrow scope of the statutory publicity right, which is limited to uses involving advertising or trade, the brief stresses that First Amendment-protected expressive and newsworthy uses, even if they are made to earn a profit, are exempt. "The display of a photograph of a passer-by in an art exhibition and the sale of such a photograph is an expressive use and as such beyond the scope [of the statute] even though the gallery and the photographer seek to turn a profit," the brief argues.



2008 School Division Annual Meeting to Be Held in Sacramento

The AAP School Division will hold its 2008 Annual Meeting, at the Sheraton Grand Hotel in Sacramento, California February 7-8, 2008. Widely considered the most important gathering for publishers of preK-12 instructional materials, the meeting offers unique educational and networking opportunities, highlighting the convergence of traditional business models and evolving trends that continue to shape instructional materials publishing. A complete agenda and registration information will be available at www.aapschool.org.



California Governor Signs AAP-Supported Textbook Bill

After months of intense negotiation and educational efforts, on October 12 California Governor Arnold Schwarzenegger signed Assembly Bill 1548, The Textbook Transparency Act. The new law requires publishers to extend the practice of disclosing prices to faculty and to list changes between editions and the prior copyright date of editions. The bill also requires bookstores to post their retail pricing policies, prohibits the sale of free sample instructor copies, bans conflicts of interest in choosing course materials, and encourages early ordering by faculty.

On the same day, the Governor vetoed Senate Bill 832, noting that the measure, which had Public Interest Research Group (PIRG) support, failed to recognize that the affordability of textbooks is a shared responsibility among publishers, college bookstores, and faculty members.

Education, Lobbying Efforts Continue on Capitol Hill

Representative Julia Carson (D-IN) and several co-sponsors have introduced federal legislation, H.R. 3512, that among other provisions would require college textbook publishers to furnish faculty members with written information on wholesale pricing for course materials as well as a full history of revisions for all course materials. In all

instances, publishers would also be required to "unbundle" their course materials

AAP staff and member publishers met with Rep. Carson's staff in late September to outline publishers' concerns and outreach efforts are continuing on Capitol Hill.

Publishers Weather Contentious Textbook Hearing in Massachusetts

On October 2, Sandi Kirshner (Pearson Education) and PJ Boardman (Cengage Learning) testified in Boston at a contentious hearing of the House Joint Committee on Higher Education on HB1200, a legislative proposal that would force publishers to un-bundle their materials and would require publishers to provide a "complete list" of all of products, wholesale prices, and estimated length of time the product will be on the market during every interaction with a faculty member. In a markedly hostile atmosphere, Kirshner and Ms. Boardman offered a reasoned perspective on choice, value, student needs, faculty expectations and the importance of publishing to the Boston and Massachusetts economies. AAP is continuing education and lobbying outreach efforts with Massachusetts legislators.



AAP Supports USTR Action On China's Market Access Barriers

AAP expressed support for action taken October 10 by the office of the U.S.

Trade Representative in asking the World Trade Organization (WTO) to establish a dispute settlement panel in a case challenging China's market access restrictions on the products of the U.S. copyright industries, including books, journals, theatrical films, DVDs, and sound recordings. The case was brought by the U.S. in an effort to "eliminate Chinese import and internal distribution barriers that significantly hamper the ability of U.S. publishers and producers of audiovisual products to get their legitimate products into the Chinese marketplace," specifically Chinese laws and regulations "that deny U.S. companies the right to import books, journals, movies, music and videos into China,...discriminate against U.S. distributors in China, and impede the distribution of these products."

The U.S. case on market access barriers was initiated with a request for consultations in April of this year and parallels the case brought by the U.S. challenging China's failure to adequately protect intellectual property rights. Having approved a U.S. request for establishment of a panel in the intellectual property rights case in September, the WTO Dispute Settlement Body considered the market access request at its October meeting. As expected under WTO rules and procedures, China blocked consensus concerning approval of the request. Since the second request is automatically granted under WTO rules, the Dispute Settlement Body is expected to consider and grant the request at its next meeting on November 15.

AAP Welcomes Launch of Anti-Counterfeiting Trade Agreement

AAP applauded the October 23 launch of the Anti-Counterfeiting

Trade Agreement, a major new international initiative to protect intellectual property. The agreement was announced simultaneously by the U.S. and several trading partners, bringing together governments committed to strong intellectual property rights protection and the establishment of standards for enforcing those rights.

AAP attended the launch on Capitol Hill, along with representatives from the Office of the U.S. Trade Representative (USTR), the Congressional Caucus on Intellectual Property and Piracy Prevention, and representatives of several foreign governments. The Anti-Counterfeiting Trade Agreement proposal provides for international cooperation among enforcement authorities, sharing of "best practices" for preventing IPR infringement, and construction of an up-to-date legal framework on which to build effective anti-piracy and anti-counterfeiting measures. Specific areas of focus include Internet infringements, criminal and civil enforcement measures, optical disc piracy, and improved prevention of cross-border piracy and counterfeiting. AAP will be working with USTR and other participants in the negotiations to ensure that book publishers' views are represented.

Anti-Piracy Enforcement Action Carried Out in China

AAP's enforcement program in China, carried on jointly with the Publishers Association of the U.K., (PA) succeeding in launching another productive raid. Responding to an AAP/PA complaint, authorities at the Shan'xi Provincial Copyright Bureau raided warehouses belonging to a textbook center affiliated with Jiao Tong University in the city of Xi'an, seizing nearly 2,000 suspected

infringing titles. The inspection and enforcement action was carried out with the reported cooperation of university officials. The books seized were primarily professional, medical, scientific, and technical titles belonging to AAP member publishers John Wiley & Sons, Pearson, Macmillan, Springer, Houghton Mifflin, Elsevier, and Cambridge University Press.



AAP Annual Human Resources Seminar Set for November 8th

AAP and Total Compensation Solutions will host the annual Human Resources Seminar on Thursday, November 8, from 9 am - 11:30 am at the AAP New York office. The seminar will feature a presentation on the findings of the annual survey on Compensation and Benefits in the Book Publishing Industry, including trends in salary administration and health and welfare benefits plans. There is no charge to attend but registration is required. To register contact Tina Jordan at tjordan@publishers.org

Introduction to Publishing Course to be Given November 28

AAP will present its annual *Introduction to Publishing* course on November 28. The day-long program is designed for individuals relatively new to the book publishing industry. Entitled *Advance Your Titles: Advance Your Career*; this year's seminar will focus on the practical aspects of the full life-cycle

of a book, as well as the ways in which individuals can continue to grow and advance their careers. Attendees will learn about managing the editor-author relationship, the ways in which booksellers use tools such as co-op to get books to readers, how to stretch a marketing budget into a creative campaign, widgets and book searches, how to leverage different types of media including blogs, book reviews, and television, and much more. The cost for employees of AAP member houses is \$195, and \$245 for employees of non-member publishers. Registration information and the current agenda are available online http://www.publishers.org/main/ Conferences/conf Calendar.htm. For more information contact Christina Rodriguez at crodriguez@publishers.org or (212) 255-0200 ext. 262.



NOVEMBER

November 5th, Monday

PSP Journals Committee Meeting, 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

November 7th, Wednesday

School Division Florida Committee Meeting in Orlando, Florida (time and place to be announced) (JAY DISKEY)

November 8th, Thursday

AAP Annual Human Resources Seminar, 9:00 a.m. – 11:30 a.m., Rooms 1 and 2 (TINA JORDAN)

November 9th, Friday

RPAC Seminar, 9:00 a.m. – 5:00 p.m., Rooms 1 and 2 (ROMINA NAVEI-RA)

PSP Books Boot Camp West Coast @ Jossey-Bass Offices, 989 Market St., San Francisco, CA, 9:00 a.m. – 5:00 p.m. (SARA FIRE-STONE)

November 11th, Tuesday

Audio Meeting, 9:00 a.m., Room 1 (TINA JORDAN)

November 12th, Monday

Libraries Lunch, 12:00 p.m. -3:00 p.m., Rooms 1 and 2 (TINA JORDAN)

November 12th – 18th, Monday – Sunday

FYI: Children's Book Week

November 13th, Tuesday

PSP/EIC Meeting, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

PIWOG, 3:00 p.m. – 5:00 p.m., Rooms 1 and 2 (TINA JORDAN)

November 14th, Wednesday

AAP Board of Directors, 10:00 a.m. – 3:00 p.m., Rooms 1 and 2 (TINA JORDAN)

Freedom to Read Committee @ Weil, Gotshal and Manges, 767 Fifth Ave, NY, 12:00 p.m. (JUDY PLATT)

November 15th, Thursday

PSP AMPC, 10:00 a.m.- 11:30 a.m., Rooms 1 and 2 (SARA FIRES-TONE)

PSP Executive Council, 12:00 p.m. – 3:00 p.m., Rooms 1 and 2

(SARA FIRESTONE)

AAP DIWG Meeting, 9:00 a.m. – 11:00 a.m. (offisite location tba) (ED McCOYD)

November 16th, Friday

PSP Books Seminar...Finance for Non-Financial Professionals (Books Focused), 9:00 a.m. – 3:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

November 19th, Monday

Copyright Committee, 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (ALLAN ADLER)

November 20th, Tuesday

YPG-PC(tentative) 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (CHRISTINA RODRIGUEZ)

November 22nd – 23rd, Thursday – Friday

Thanksgiving Holiday – AAP offices are closed

November 27th, Tuesday

Audio Meeting, 9:00 a.m., Room 1 (TINA JORDAN) IFTP, 12:00 p.m., Room 1 (MAR-LENE SCHEUERMANN)

November 28th, Wednesday

Introduction to Publishing -Advance Your Titles: Advance Your Career @ RANDOM HOUSE, Louis L'Amour Room, 1745 Broadway, 14th floor, New York, NY 10019 (CHRISTINA RODRIGUEZ)

November 29th, Thursday

Trade Executive Meeting, 11:00 a.m. – 3:00 p.m., Rooms 1 and 2 (TINA JORDAN)

November 30th, Friday

PSP Books Committee, 12:30 p.m. – 2:30 p.m., Rooms 1 and 2 (SARA FIRESTONE)

Yale Student Group Invitation, 3:00 p.m. – 4:45 p.m., Rooms 1 and 2 (PAT SCHROEDER)

DECEMBER

December 3rd, Monday

PSP Journals Meeting, 12:30 p.m. – 2:00 p.m., Rooms 1 and 2 (SARA FIRESTONE)

December 4th, Tuesday

YPG-PC (tentative) 12:00 p.m. – 2:00 p.m., Rooms 1 and 2 (CHRISTINA RODRIGUEZ)

December 5th, Wednesday

DIWG, 11:00 a.m. – 3:00 p.m., Rooms 1 and 2 (ED McCOYD)

December 6th, Thursday

DRRC, 12:00 p.m. – 2:30 p.m., Rooms 1 and 2 (CHRISTINA RO-DRIGUEZ)

International Sales, 3:00 p.m. – 5:00 p.m., Rooms 1 and 2 (TINA JOR-DAN)

December 11th, Tuesday

Audio Meeting, 9:00 a.m., Room 1 (TINA JORDAN) DRRC (tentative) 12:00 p.m. – 2:30 p.m., Rooms 1 and 2 (CHRISTINA RODRIGUEZ)

December 12th, Wednesday

Freedom to Read, 12:00 p.m. – 5:00 p.m., Rooms 1 and 2 (JUDY PLATT)

December 13th, Thursday

IFTP, 12:00 p.m., Room 1 (MAR-LENE SCHEUERMANN)