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When Libraries Close or Merge, What Happens to Perpetual Rights to eResources?

Coalition for Networked Information (CNI)
Pre-Recorded Briefing
February 2024

Speakers

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Executive Director
SCELC

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Senior Strategist
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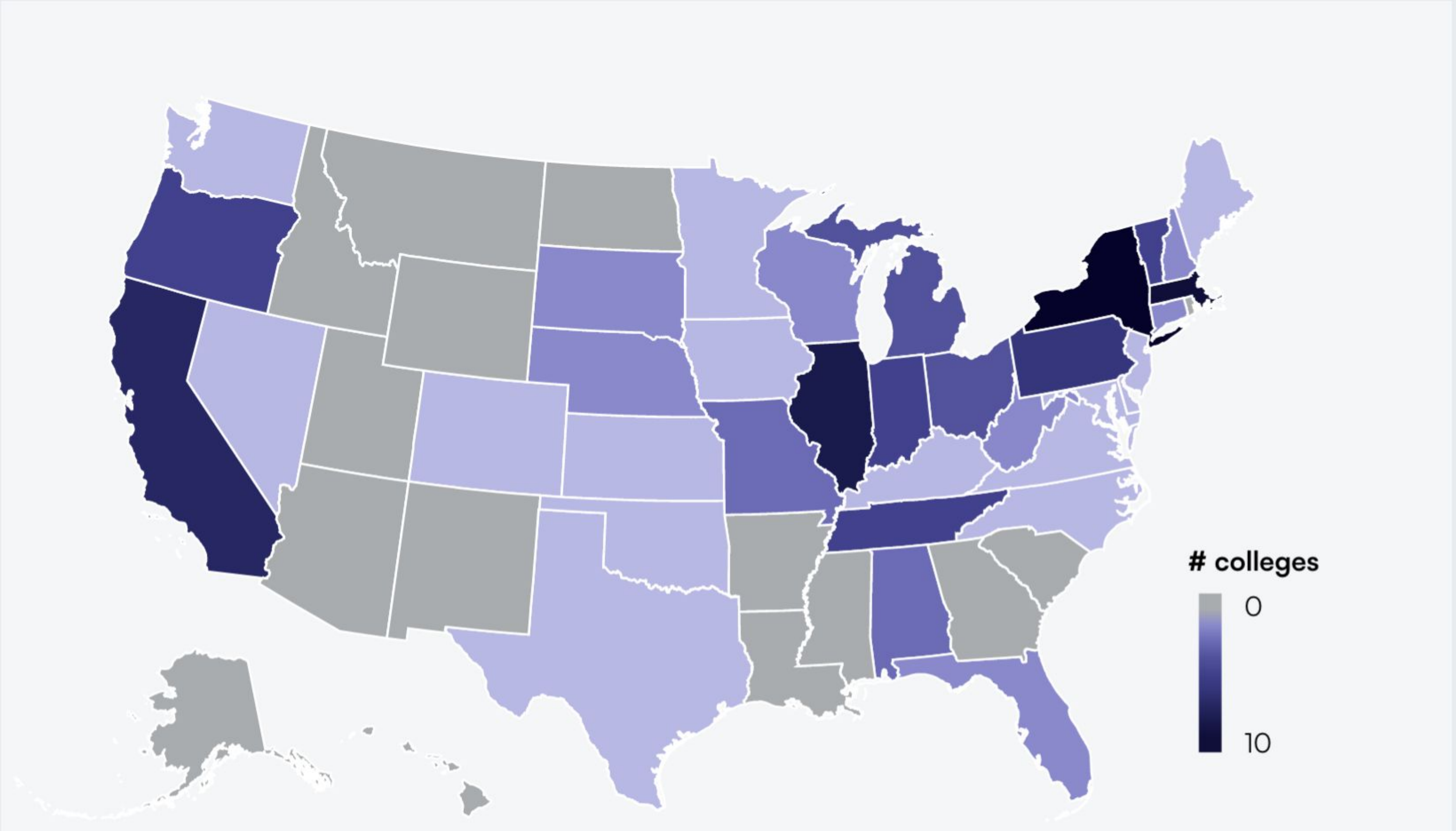
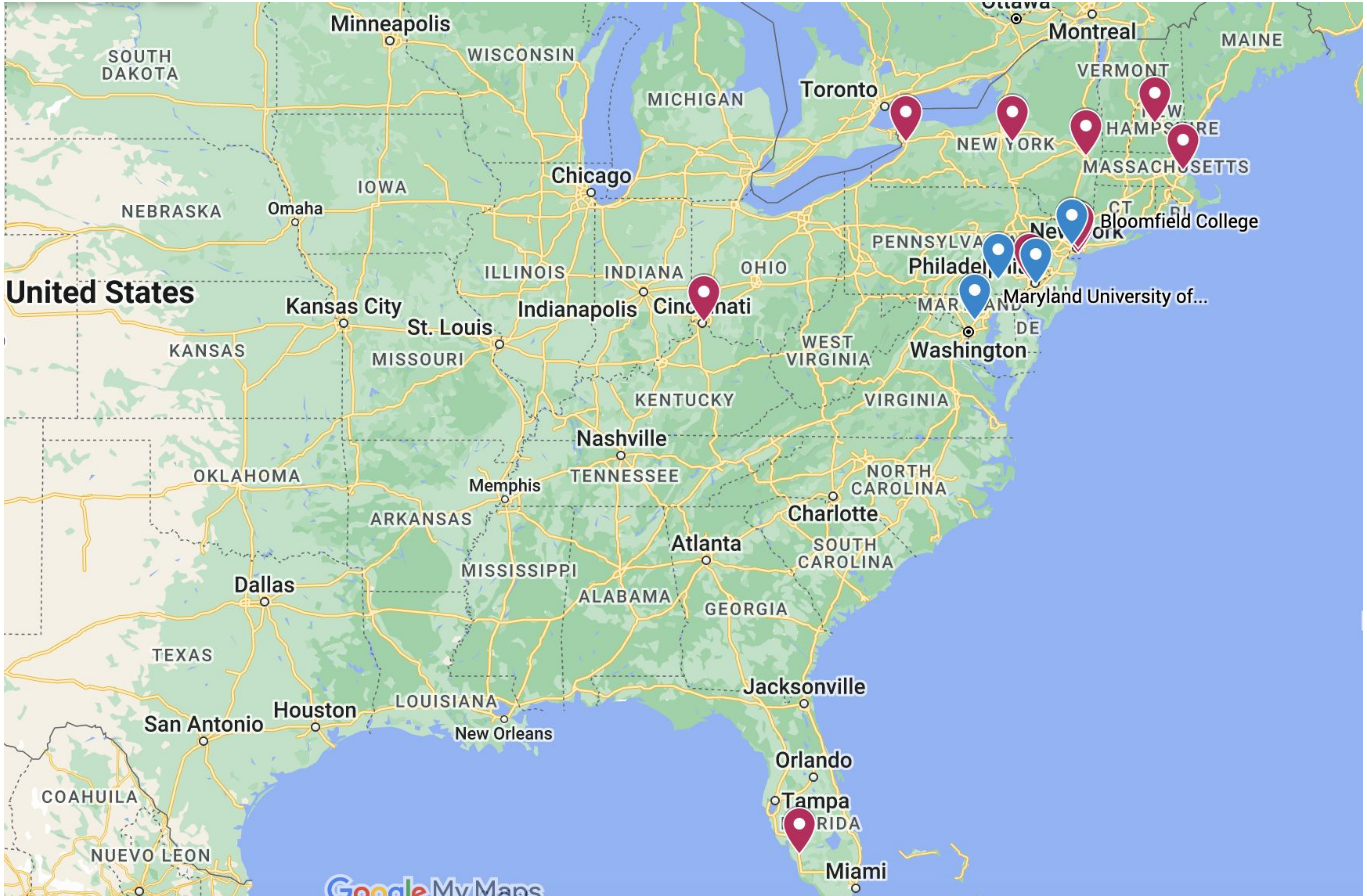
College Closures and Mergers by State since 2016



https://bit.ly/42b3jsM

Lyrasis-Impacting Closures and Mergers since 2022



Reasons for Closures and Mergers

- Demographic cliff ⟶ declining enrollment
- Pandemic and end of federal relief funds
- Waning public confidence in higher ed
- Public disinvestment in higher ed
- Mounting costs and debts
- Business-first mindset

Implications for Perpetual Rights

- Few industry standards, norms, or best practices exist to govern circumstances in which institutions can inherit rights
- Vendor license agreements may preclude transfer of rights between institutions
- Successor institutions may be forced to pay in full to (re)purchase eresources
- Can eresources count as tangible assets, to be donated or resold at the wishes of licensees or their successors?

Language for Vendor Licenses

Rights to Perpetual Access Works purchased by the Institution undergoing merger or acquisition shall be assigned to the Institution conducting the merger or acquisition. Publisher reserves the right to charge a reasonable one-time fee for expanded access if such a merger or acquisition results in a significantly larger number of users authorized to access the Perpetual Access Works than contemplated under this Agreement.

Closures and Mergers Landscape Survey

Perspectives of SCELC Libraries & US Academic Library Consortia

Teri Oaks Gallaway, SCELC Executive Director

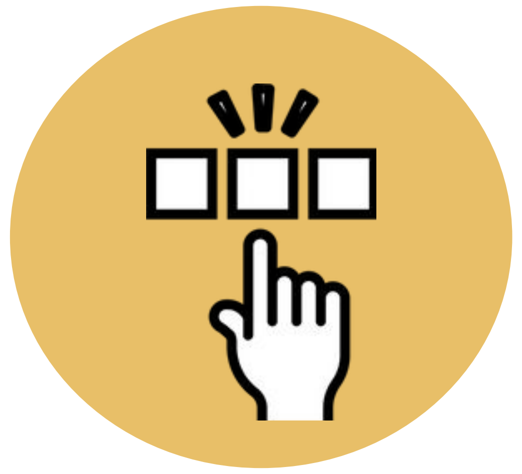
What is SCELC?

Statewide California Electronic Library Consortium (SCELC)

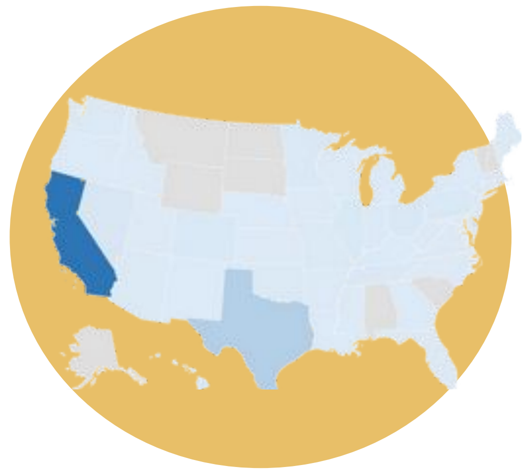
SCELC is an opt-in consortium, our libraries include academic, research and medical institutions, with a predominance of smaller libraries.

Two groups of SCELC libraries: Members and Affiliates.

Opt-in licensing



330+ institutions, 39 states



Primarily private academics, <3000 FTE

SCELC Recent Mergers & Closures Experiences

2022

July 2022

Mills College merger with Northeastern University
(Oakland, CA)
“Mills College at Northeastern University”

2022

August 2022

Marymount California University closure
(Los Angeles, CA)

2023

May 2023

Holy Names University closure
(Oakland, CA)

?

Next?

Project Goals

Understand the state of library, consortial, and vendor awareness, expectations, and preferences for managing merger and closure scenarios.

SCELC library community

North America academic consortia directors best practices

Follow-up interviews with vendors/publishers

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Goal: Don’t Panic

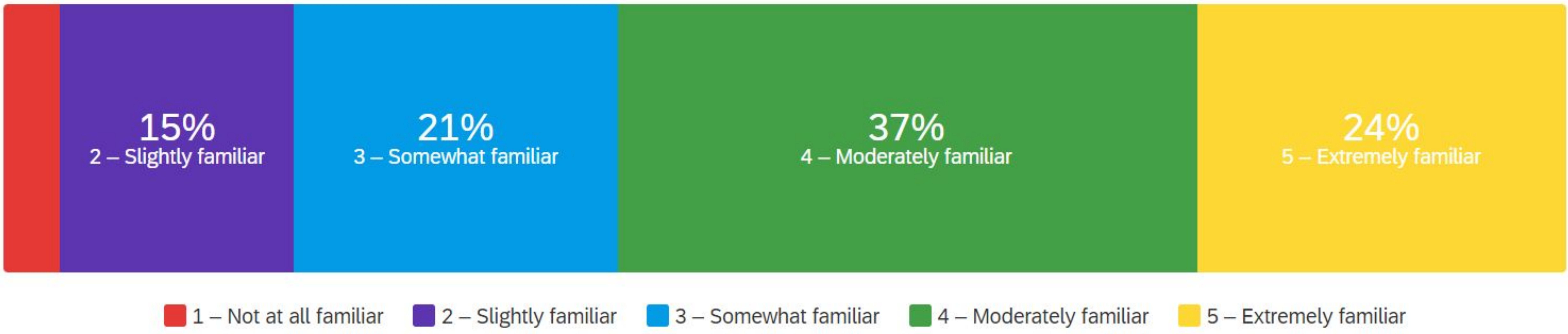
Survey Participants

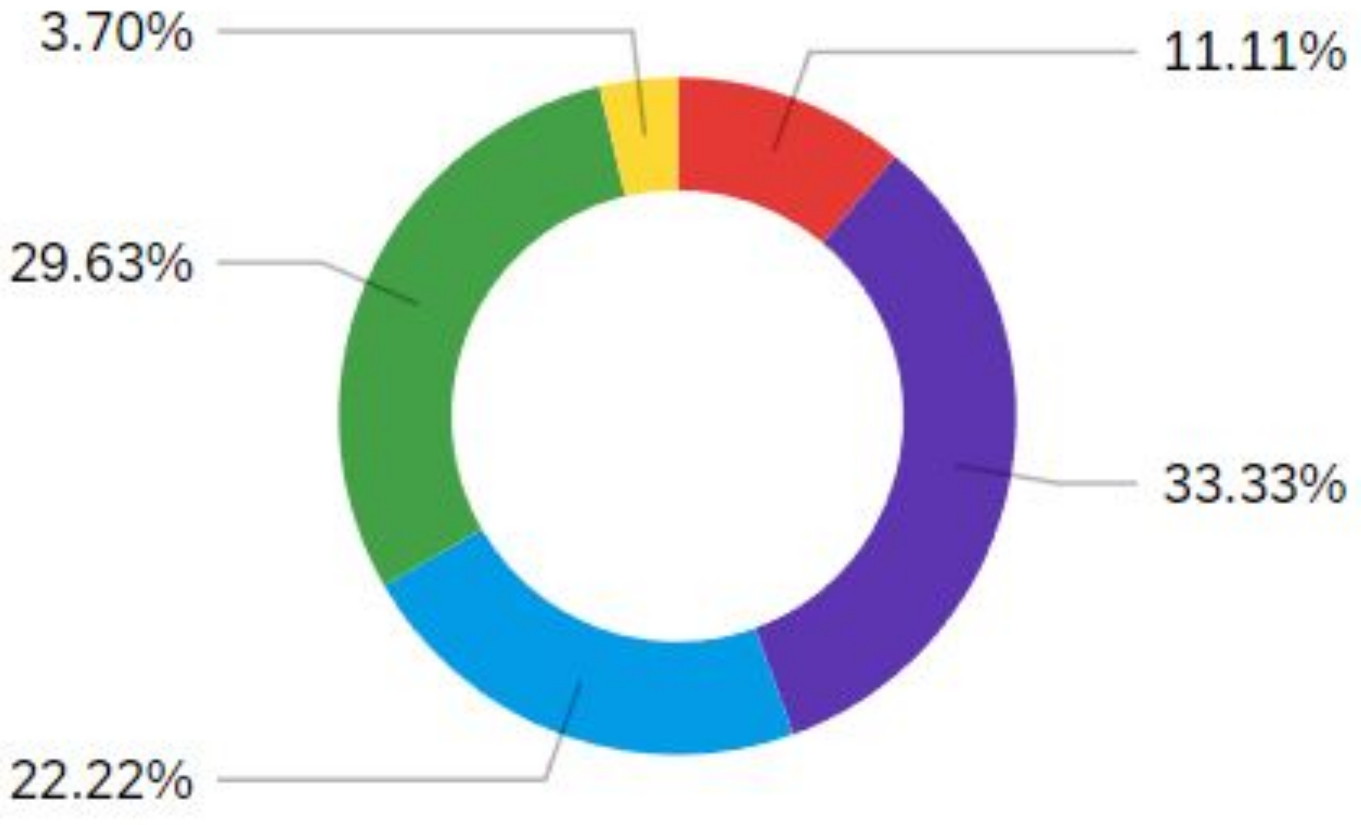
SCELC Member D&Ds
Selection Criteria: Existing Distribution list via Salesforce, scoped to academic member institutions

SCELC ERLs
Selection Criteria: Existing Distribution list via Salesforce, scoped to academic institutions, then narrowed by job title to identify a second respondent at each institution

ICOLC North America Consortia Directors
Selection Criteria: Contact list created from ICOLC listserv membership and updated through website verification

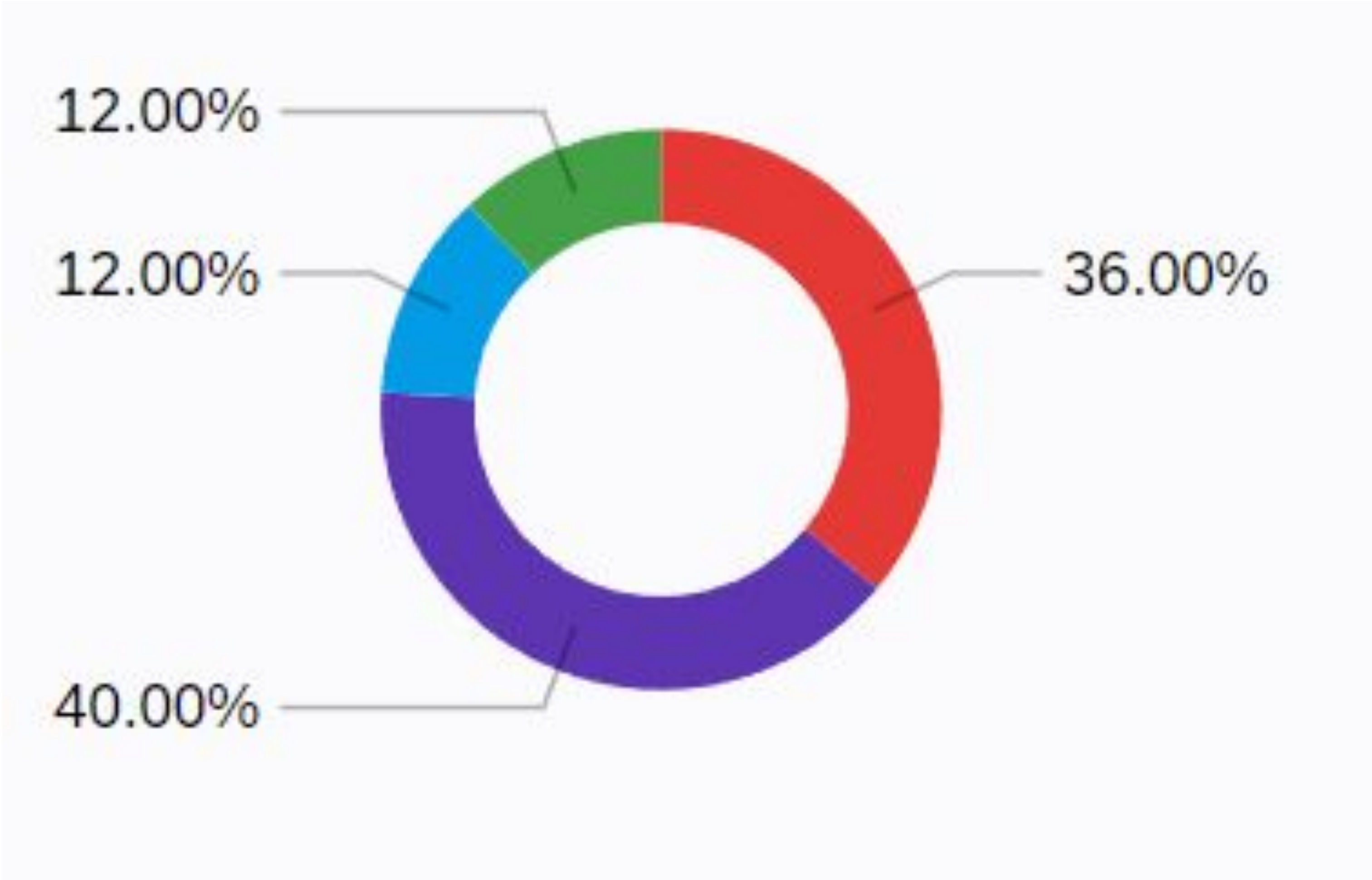
SCELC Awareness of Enrollment/Demographic Cliff





ER Staff (n=27)
vs.
Deans & Directors
(n=53)

SCELC Library Closure Prospects



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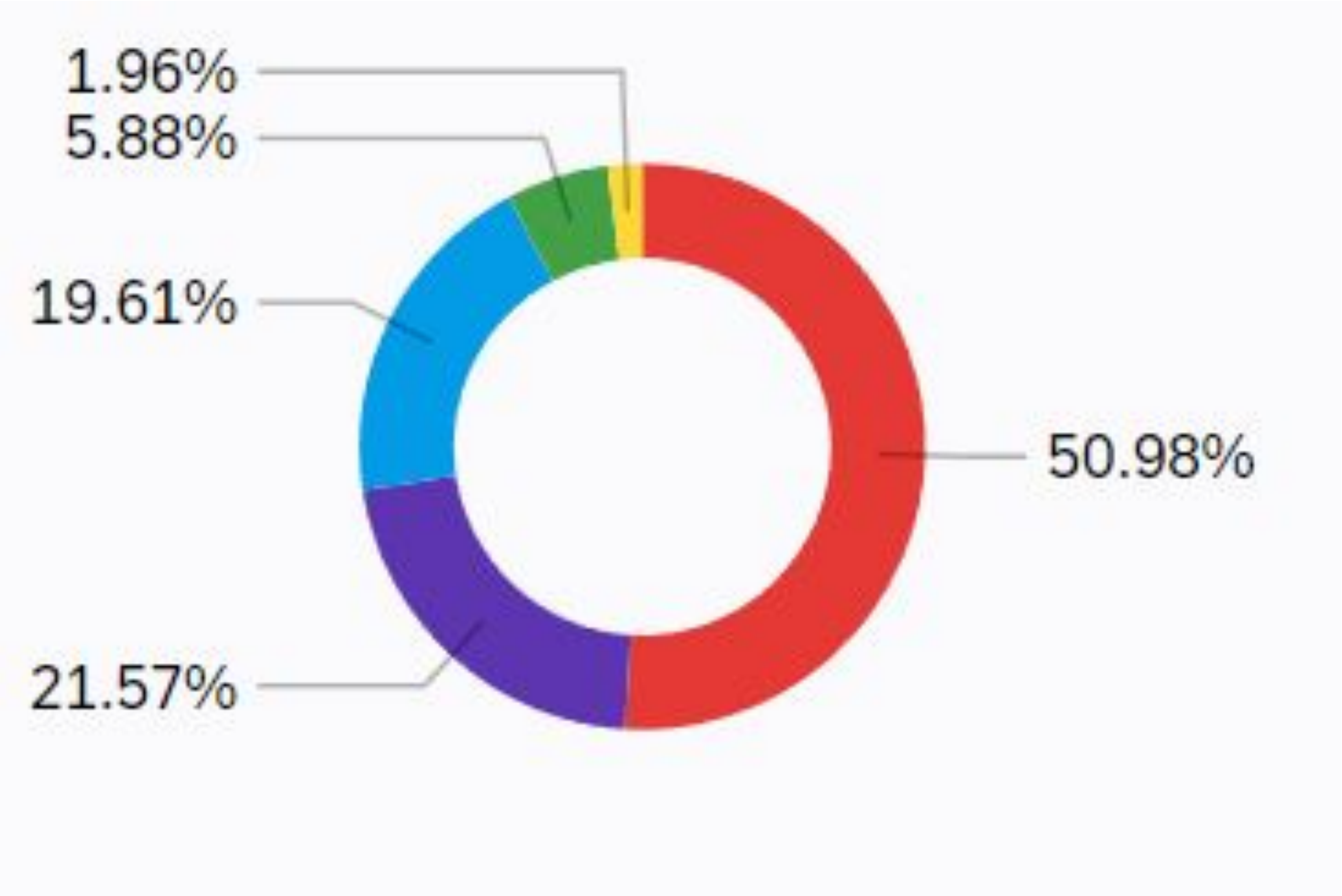
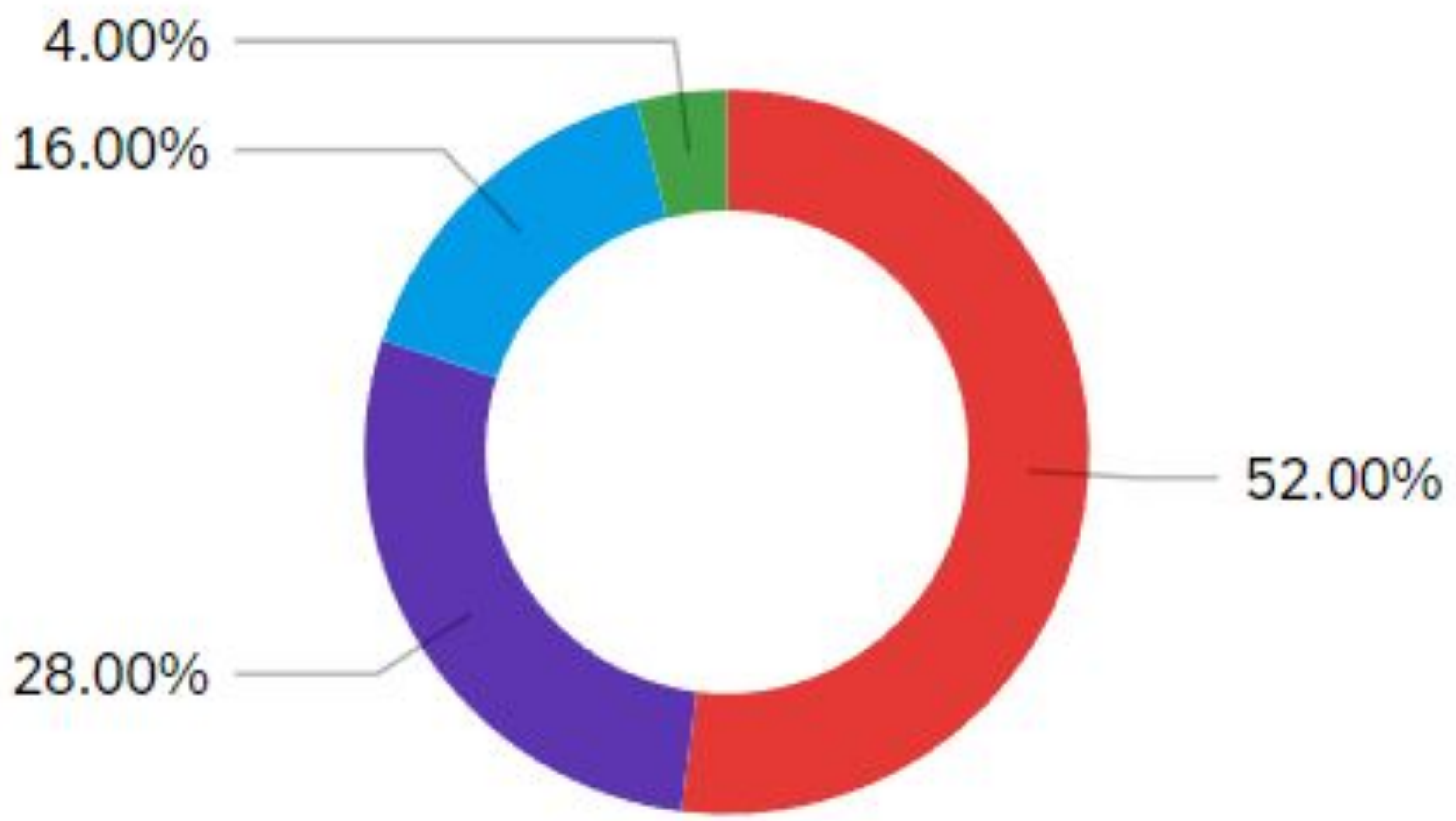


SCELC Library vs. Consortial Closure Prospects

SCELC Library Merger Prospects



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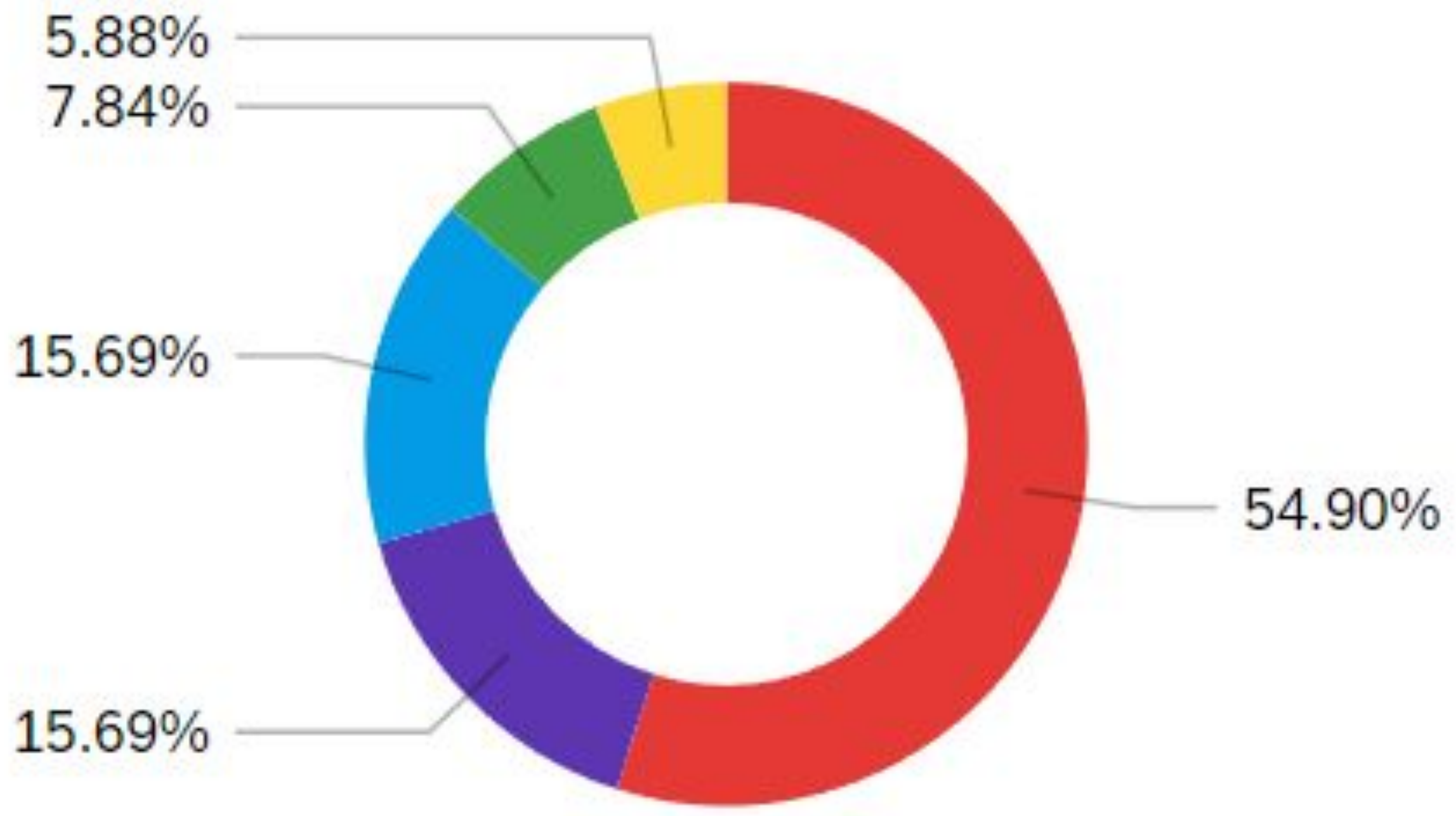
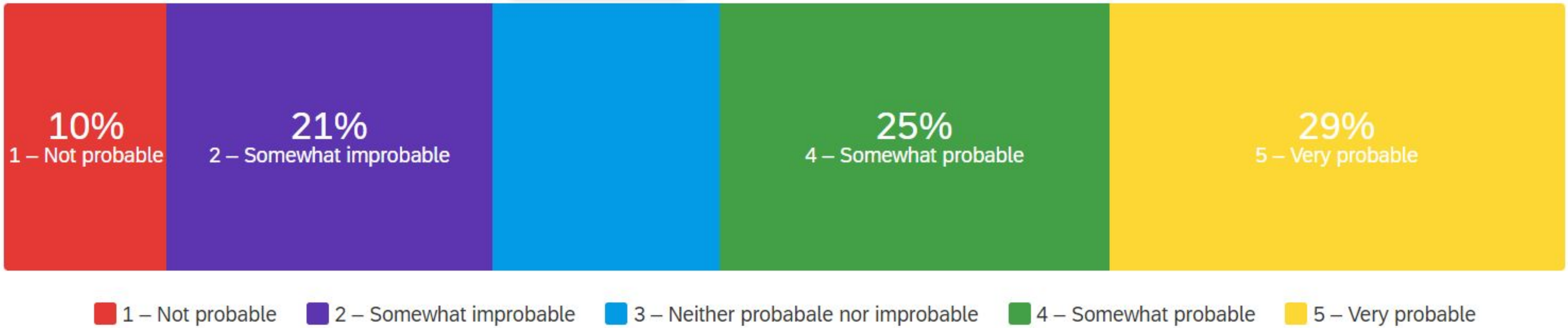
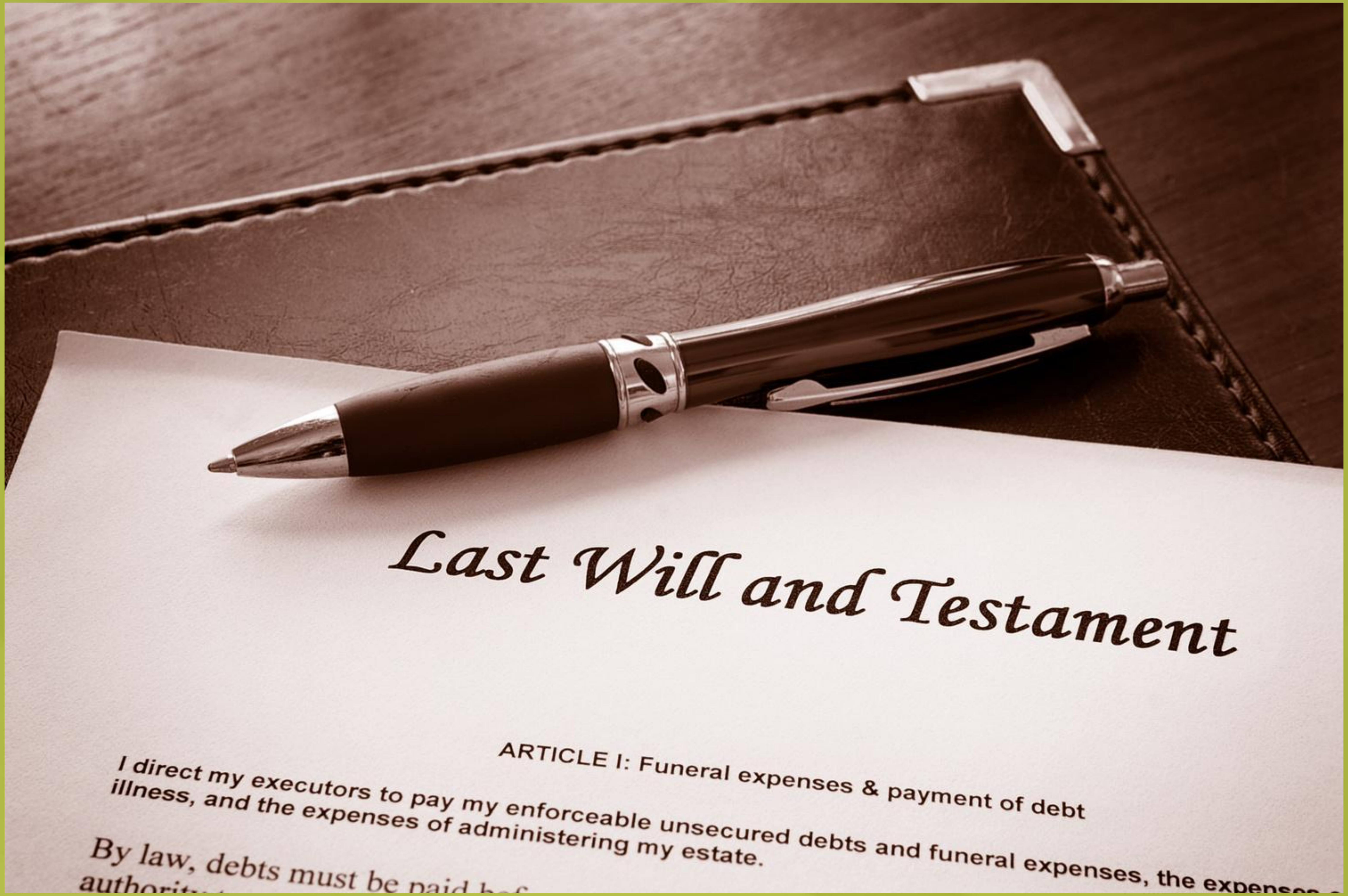


SCELC Library vs. Consortial Merger Prospects



Goal: Always Be Prepared



Goal: Identify Solutions

In the event of a merger or closure, what licensing services support would you expect consortia to provide for reassignment of perpetual access rights for electronic materials?

- Negotiating pricing for reassignment of perpetual access rights, 71.91%
- Managing relationships with vendors during reassignment of perpetual access rights, 77.53%
- Managing flow-through spending (invoices/billings) on licensed resources (acting as the middle-person between vendor and libraries) during reassignment of perpetual access rights, 62.92%
- Communicating with library community regarding reassignment of perpetual access rights, 60.67%
- Analyzing licenses for key permissions for reassignment of perpetual access rights on libraries' behalf, 60.67%
- Advocating for library needs for reassignment of perpetual access rights (e.g. by communicating on their behalf to vendors, by setting expectations with vendors), 84.27%

In the event of a merger or closure, what education, training, or technology services support would you expect consortia to provide for reassignment of perpetual access rights for electronic materials?

- Providing professional development opportunities for members and/or non-members about reassignment of perpetual access rights, 83.33%
- Develop or manage interlibrary loan or resource sharing infrastructure (e.g., technology and support) between a regional collection of libraries to support reassignment of perpetual access rights, 53.62%
- Develop or maintain a shared technological platform on behalf of some or all consortium members to support reassignment of perpetual access rights, 59.42%

IDEAS & CONCERNS

Thanks for giving me something else to worry about in the middle of the night!

Sometimes the content is worth the cost of the reassignment of perpetual access rights, but other times I'm not sure that it is.

There's no instruction manual about how to cope with mergers/closures. Staff are dealing with loss of their livelihood and mourning the loss of an organization they've helped to shape. It's very difficult to do much of anything once word comes out about the end of the organization.

PUBLISHER PERSPECTIVES

Do you have provisions or procedures in place to handle transfer or reassignment of perpetual access rights for electronic materials in the event of an institutional closure or merger?

Can you comment on any of these potential license provisions for transfer or reassignment of perpetual access rights for electronic materials in the event of an institutional merger or closure?

From a publisher standpoint, what should be done to allow mergers or closures to be managed in a more efficient manner? At the time of acquisition? At the time of merger or closure?

Progress

We understand some colleges and universities are unfortunately forced to close or merge with other institutions for budgetary or other reasons and the perpetual rights to content that those institutions have purchased through licensing with the publisher are institutional assets with value. On the rare occasion this happens, PUBLISHER is committed to work closely with the institution and/or consortium to provide options for permanent transfer of content to other entities in a mutually equitable manner that recognizes the rights of institutions and publishers with regard to these assets.

Questions?

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