

# **North Dakota Intellectual Freedom Handbook For Libraries**

Prepared by the  
**Intellectual Freedom Committee**  
of the  
**North Dakota Library Association**

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## Introduction

Intellectual Freedom is the right of every individual to any information they seek regardless of the subject, format or philosophy expressed. Intellectual Freedom is at the heart of librarianship and the library is the most available and important point of access to information for all. Intellectual Freedom cannot exist as long as the right to information is challenged by censorship and any library may be a target of censorship.

The Intellectual Freedom Committee of the North Dakota Library Association has compiled the Intellectual Freedom Handbook to provide information on preparing for censors and effectively handling them.

If your library experiences censorship, report the incident to the NDLA Intellectual Freedom Committee. Incident reporting allows the committee to offer assistance to libraries facing book challenges and to track the frequency and type of challenges. All information will be kept confidential and used to track incident statistics. No release of information that would identify a specific challenge incident would be made without express prior permission of the library involved.

To report an incident to the Intellectual Freedom Committee, complete the Challenge Incident Report found in this manual and send it to the current chair of the NDLA Intellectual Freedom Committee. This information may be obtained by checking the current executive board information on the NDLA web site. (<http://www.ndla.info>).

You may also contact the American Library Association's Office for Intellectual Freedom at 1-800-545-2433. More information and contact information for OIF can be found at [www.ala.org](http://www.ala.org). Click on "Issues and Advocacy" and follow the links to Intellectual Freedom.

The revision of this Intellectual Freedom Handbook was prepared by members of the North Dakota Library Association Intellectual Freedom Committee

## **NDLA Statement on Intellectual Freedom**

The North Dakota Library Association is concerned with the needs and rights of all citizens of North Dakota to have free access to library collections of sufficient scope and quality to provide the means for fruitful inquiry. It is the position of the North Dakota State Library Association to affirm and actively protect the freedoms of speech and press as guaranteed by the Constitution of the United States of America and to support the policy statements pertaining to intellectual freedom heralded by the American Library Association. It is understood that libraries provide interested students and citizens with records of the past, desired information on all subjects and relevant points of view relating to contemporary and controversial issues.

It is the responsibility of librarians to accept as their broadest obligation the encouragement of free inquiry to vast and divergent information in order to preserve the perpetuation of the democratic process. This responsibility is accompanied by a commitment to defend the democratic process against any attempts on the part of any persons or groups to obstruct free access to any other citizen of North Dakota.

## **Authority and Composition of the Intellectual Freedom Committee**

The North Dakota Library Association hereby empowers the Intellectual Freedom Committee to act in its behalf in the following areas of concern: legislation, education, policy development, support and assistance, in promoting free access of information to all citizens of North Dakota.

The President of the North Dakota Library Association will appoint the Chairperson for a one-year term. The Chairperson, in consultation with the President, will appoint a committee composed of representatives of all constituent groups of the association.

## **NDLA Intellectual Freedom Committee: Purpose**

July 7, 1984 Draft of the Intellectual Freedom Handbook  
Prepared by Dan Koper

Revised July 9, 1984 by the NDLA Intellectual Freedom Committee  
Revised April 2008 by the NDLA Intellectual Freedom Committee

The purpose of the NDLA Intellectual Freedom Committee (IFC) is threefold:

1. The IFC will annually review and update as necessary the NDLA "Intellectual Freedom Handbook" in time for the yearly NDLA conference.
2. The IFC will encourage libraries to promote intellectual freedom and the first amendment through programs, displays, reading lists and similar activities.
3. The IFC will promote librarian, trustee and school administrator awareness of intellectual freedom concerns and issues through the "Intellectual Freedom Handbook", "The Goodstuff", workshops, conference programs and through the NDLA listserv and other electronic means.

### **I. IFC Annual Report**

The IFC will present an annual report to the NDLA Executive Board on the status of intellectual freedom in the state. The report will include general statistics on challenges both to materials and patron records. THIS REPORT WILL NOT IDENTIFY SPECIFIC LIBRARIES OR INCIDENTS. The report will also include recommendations deemed appropriate by the IFC to maintain and promote intellectual freedom within the state.

### **II. Regional and National Liaison**

The IFC chairperson will act as a liaison for NDLA to regional and national groups concerned with intellectual freedom.

### **III. Assistance and advice**

The IFC will provide assistance and advice to librarians, trustees and school administrators as requested. The IFC may also make public statements as necessary to promote or support intellectual freedom.

### **IV. Awareness**

The IFC will actively promote awareness of intellectual freedom issues by providing information, workshops and conference programs for librarians, trustees and school administrators. The IFC will be responsive to the needs of those most involved in the day to day activities where intellectual freedom is most vulnerable.

IFC and North Dakota Libraries

## **V. Policies and Procedures**

All libraries are encouraged to establish the following policies and set a date to annually review them. Libraries may choose not to use the model policies in this handbook, but should create something similar to fit their environment.

### **A. General Policy**

This covers the rules under which the library operates, i.e. hours, length of loan period, conduct in the library, overdue book policy, etc. This should also include policies on displays, meetings and programs held at the library.

### **B. Material Selection Policy**

This covers the purpose, goals and procedures of selection for your library and the conditions of acceptance and disposition of donated material. A portion should be devoted to the systematic withdrawal of materials from the collection.

### **C. Procedure for Challenging Materials**

This should include a copy of the request for reconsideration of material form, the purpose and procedure of the challenge process and instructions to send an initial and final report on the challenge to the NDLA IFC.

### **D. Policy on Confidentiality of Records**

This should state which records are considered confidential and the conditions under which they will be released, e.g., court order. It is important to be aware of the current law regarding open public meetings and records. However, the right to privacy of patron records should be closely guarded and the policy should note the distinction between the two. The policy should also include instructions to send an initial and final report on the challenge to the NDLA IFC.

## **VI. Legislation**

Legislation affecting intellectual freedom must be monitored not only at the state and national level, but also at the city, county and school district level. Legislative challenges to intellectual freedom are not always as obvious as censorship. Legislative action can strengthen as well as weaken the ability of libraries to dispense information in a free society. The IFC, librarians, trustees and school administrators need to stay informed and share information on legislative action affecting intellectual freedom.

Speaking out is sometimes difficult, especially if we find a particular piece of material or issue personally unpleasant. However, we must recognize that individual taste is not always the best arbitrator of a free and open exchange of idea.

**Challenge Incident Report  
North Dakota Library Association  
Intellectual Freedom Committee**

Please fill out and mail this report as soon as possible after each challenge to 1-confidentiality of library records or 2-library material. This will enable the NDLA Intellectual Freedom Committee (IFC) to offer assistance, should you desire it. In addition, the information you provide allows the IFC to spot any systematic attempts to challenge confidentiality of records across the state.

Challenges are reported to NDLA membership in the IFC's annual report. The report does not identify specific incidents or libraries.

This report should be mailed to the current chair person of the IFC. This information may be obtained by contacting the current President of NDLA or checking the current the executive board information on the NDLA web site (<http://www.ndla.info>).

Institution name: \_\_\_\_\_

Institution address: \_\_\_\_\_

Person to contact for further information: \_\_\_\_\_

Contact information: Phone \_\_\_\_\_ Email \_\_\_\_\_

Briefly describe the challenge, including the person's name and the group (if any) s/he represents. You may attach separate sheets for extra space if needed.

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Does your library have a formally approved written procedure for challenges to 1-confidentiality of library records or 2-library material?     YES     NO

Would you like someone from the NDLA IFC to call you?     YES     NO

Your name: \_\_\_\_\_ Date: \_\_\_\_\_

**Resolution Incident Report  
North Dakota Library Association  
Intellectual Freedom Committee**

Please fill out and mail this report as soon as possible after each challenge to 1- confidentiality of library records or 2-library material is resolved. This will enable the NDLA Intellectual Freedom Committee (IFC) to keep accurate statistics on confidentiality of records or material challenges in the state. In addition, current information allows the IFC to spot any systematic attempts to challenge confidentiality of records across the state. In addition, the information you provide allows the IFC to spot any systematic attempts to challenge confidentiality of records across the state.

If you did not file a Challenge Incident Report, please do so and submit it with this report.

This report should be mailed to the current chair person of the IFC. This information may be obtained by contacting the current President of NDLA or checking the current the executive board information on the NDLA web site (<http://www.ndla.info>).

Institution name: \_\_\_\_\_

Institution address: \_\_\_\_\_

Person to contact for further information: \_\_\_\_\_

Contact information: Phone \_\_\_\_\_ Email \_\_\_\_\_

Briefly describe the resolution of this challenge. You may attach separate sheets for extra space if needed.

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Would you like someone from the NDLA IFC to call you?     YES     NO

Your name: \_\_\_\_\_ Date: \_\_\_\_\_

## Checklist for Community Understanding

How can we develop a method for analyzing the population of our community? How can we find the information we need as librarians and trustees that will allow us to form adequate selection policies? There are many ways to develop and carry through a community study, but all ways should be based on a statement of goals:

1. What are we hoping to accomplish?
2. How can we evaluate the results?
3. How can we use the results in the most effective manner?

Ask yourself the following questions to see if you **really** know your community:

1. What percentage of your community do you serve, or not serve?
2. Are you aware of other services available in your community for purposes of referral?
3. Do you provide equal access to people who cannot use regular library facilities or materials?
4. How visible are the services offered by your library?
5. Is your collection tailored to the needs of your community?
6. Are you continuously planning for the needs of a changing community?
7. How well do you know the people in your community?

\_\_\_\_\_ Ages

\_\_\_\_\_ Religions

\_\_\_\_\_ Educational backgrounds

\_\_\_\_\_ Politics

\_\_\_\_\_ Economic backgrounds

\_\_\_\_\_ Languages Spoken

\_\_\_\_\_ Occupations

\_\_\_\_\_ Recreational Interests

\_\_\_\_\_ Minority groups

\_\_\_\_\_ Ethnic interests



## Checklist for Promoting Intellectual Freedom and Preparing for Challenges

- \_\_\_\_\_ 1. Has a written materials selection policy been formally adopted by your governing body (ies)?
- \_\_\_\_\_ 2. If you have a materials selection policy, is it revised and updated annually? \*Note: We suggest that this annual review be done within 6 months of the selection of new board members.
- \_\_\_\_\_ 3. Does your governing body have a formally approved procedure for handling challenges of materials?
- \_\_\_\_\_ 4. Are you familiar with the principles of collection development? (See Guidelines for Collection Development elsewhere in this handbook.)
- \_\_\_\_\_ 5. Do you have open communication lines with civic, religious, educational and political bodies in your community?
- \_\_\_\_\_ 6. Are you aware of groups in your community who are likely to initiate complaints about library materials?
- \_\_\_\_\_ 7. Are you aware of groups in your community who are advocates of intellectual freedom and who might have resources they would enlist in your support.
- \_\_\_\_\_ 8. Are you aware of state and national organizations who are advocates of intellectual freedom? (See Contacts for Intellectual Freedom elsewhere in this handbook.)
- \_\_\_\_\_ 9. Is everyone in your system including librarians, board members, administrators, teachers and secretaries aware of the contents of your materials selection policy?
- \_\_\_\_\_ 10. If you are in a school system, have you prepared written rationale for using specific classroom materials, especially in regard to those that students are required to use in order to meet educational objectives?
- \_\_\_\_\_ 11. Do you report any challenges to intellectual freedom or confidentiality of records to the NDLA Intellectual Freedom Committee? (See appropriate procedure elsewhere in this handbook.)



## Dealing with Concerns about Library Resources

As with any public service, libraries receive complaints and expressions of concern. One of the librarian's responsibilities is to handle these complaints in a respectful and fair manner. The complaints that librarians often worry about most are those dealing with library resources or free access policies. The key to successfully handling these complaints is to be sure the library staff and the governing authorities are all knowledgeable about the complaint procedures and their implementation. As normal operating procedure each library should:

1. *Maintain a materials selection policy.* It should be in written form and approved by the appropriate governing authority. It should apply to all library materials equally.
2. *Maintain a library service policy.* This should cover registration policies, programming and services in the library that involve access issues.
3. *Maintain a clearly defined method for handling complaints.* The complaint must be filed in writing and the complainant must be properly identified before action is taken. A decision should be deferred until fully considered by appropriate administrative authority. The process should be followed, whether the complaint originates internally or externally.
4. *Maintain in-service training.* Conduct periodic in-service training to acquaint staff, administration, and the governing authority with the materials selection policy and library service policy and procedures for handling complaints.
5. *Maintain lines of communication with civic, religious, educational, and political bodies of the community.* Library board and staff participation in local civic organizations and presentations to these organizations should emphasize the library's selection process and intellectual freedom principles.
6. *Maintain a vigorous public information program on behalf of intellectual freedom.* Newspapers, radio, and television should be informed of policies governing resource selection and use, and of any special activities pertaining to intellectual freedom.
7. *Maintain familiarity with any local municipal and state legislation pertaining to intellectual freedom and First Amendment rights.* Following these practices will not preclude receiving complaints from pressure groups or individuals but should provide a base from which to operate when these concerns are expressed. When a complaint is made, follow one or more of the steps listed below:
  - a. Listen calmly and courteously to the complaint. Remember the person has a right to express a concern. Use of good communication skills helps many people understand the need for diversity in library collections and the use of library resources. In the event the person is not satisfied, advise the complainant of the library policy and procedures for handling library resource statements of concern. If a person does fill out a form about their concern, make sure a prompt written reply related to the concern is sent.
  - b. It is essential to notify the administration and/or the governing authority (library board, etc.) of the complaint and assure them that the library's

- procedures are being followed. Present full, written information giving the nature of the complaint and identifying the source.
- c. When appropriate, seek the support of the local media. Freedom to read and freedom of the press go hand in hand.
  - d. When appropriate, inform local civic organizations of the facts and enlist their support. Meet negative pressure with positive pressure.
  - e. Assert the principles of the *Library Bill of Rights* as a professional responsibility. Laws governing obscenity, subversive material and other questionable matter are subject to interpretation by courts. Library resources found to meet the standards set in the materials selection or collection development policy should not be removed or restricted from public access until after an adversary hearing resulting in a final judicial determination.
  - f. Contact the **ALA Office for Intellectual Freedom** and your **state intellectual freedom committee** to inform them of the complaint and to enlist their support and the assistance of other agencies.

The principles and procedures discussed above apply to all kinds of resource related complaints or attempts to censor and are supported by groups such as the National Education Association, the American Civil Liberties Union and the National Council of Teachers of English, as well as the American Library Association. While the practices provide positive means for preparing for and meeting pressure group complaints, they serve the more general purpose of supporting the *Library Bill of Rights*, particularly Article 3, which states that “Libraries should challenge censorship in the fulfillment of the responsibility to provide information and enlightenment.”

Office for Intellectual Freedom  
American Library Association  
50 E. Huron Street  
Chicago, IL 60611  
1-800-545-2433  
[oif@ala.org](mailto:oif@ala.org)

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January 12, 1983; November 17, 2000*

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## **If You Receive a Complaint**

In the event that a person or group attempts to have any materials restricted or removed from your library, the following steps are recommended:

1. Remain calm, cool and collected. Be reasonable and rational at all times. Do not demean the person making the complaint. Be courteous and DO NOT ARGUE.
2. Try to resolve the complaint informally at the point of contact (Circulation or Reference Desk). Many people just want to blow off steam.
3. If the person insists on pursuing the complaint, provide a "Request for Reconsideration of Library Resources" form. Ask the person to fill it out completely and return the form. Explain the library's procedure for handling a complaint.
4. Notify administration or the governing board with a written factual account of the situation.
5. Do your homework. Review reasons material was selected for your collection.
6. If the incident becomes a public issue, seek the support of the local media. Local civic organizations may also be enlisted for support. Meet negative pressure with positive pressure.
7. Contact NDLA's current Intellectual Freedom Committee chairperson and national organizations for intellectual freedom information and assistance.
8. When you, and administration or governing board, have decided what action to take, write a formal letter to the person or group stating this information. See sample "Letter to Complainant."

If challenged, you may request assistance from the following organizations:

North Dakota Library Association  
Intellectual Freedom Committee  
For current chair information, check NDLA's website: [www.ndla.info](http://www.ndla.info)

American Library Association  
1-800-545-2433  
Office for Intellectual Freedom  
50 East Huron Street  
Chicago, IL 60611

## Letter to Complainant (Sample)

April 7, 2008

Dear \_\_\_\_\_,

Thank you for taking the time to contact the library regarding your concerns about access and use of \_\_\_\_\_ in our library. We appreciate patron input about library services and materials, and do take these concerns seriously. After carefully reviewing \_\_\_\_\_ and reading professional reviews of the title, we have decided to retain it in the library. While individual opinions are respected, the collection is built for the entire community. One person may not agree with a title, but we cannot make those decisions for all of the people in the community.

The \_\_\_\_\_ Library maintains specific procedures and guidelines for the selection of print and non-print library materials.

To help you understand the selection process, we are sending copies of the library's:

1. Mission statement, which details the goals and objectives of the library
2. Materials Selection Policy statement

If you have additional concerns after you review this material, please complete the Request for Reconsideration of Materials form provided and return it to me. You may be assured of prompt attention to your request. If I have not heard from you within two weeks, we will assume you no longer wish to file a formal complaint.

Thank you for your continued interest in the Library and its mission.

Sincerely,

Library Director

**Request for Reconsideration of Library Resources (Sample)**

Name \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email: \_\_\_\_\_

Do you represent self? \_\_\_\_ Organization? \_\_\_\_

Resource on which you are commenting:

\_\_\_\_ Book \_\_\_\_ Textbook \_\_\_\_ Video \_\_\_\_ Display  
\_\_\_\_ Magazine \_\_\_\_ Library Program \_\_\_\_ Audio Recording  
\_\_\_\_ Newspaper \_\_\_\_ Electronic information/network (please specify)  
\_\_\_\_ Other \_\_\_\_\_

Title \_\_\_\_\_

Author/Producer \_\_\_\_\_

What brought this resource to your attention?

Have you examined the entire resource?

What concerns you about the resource? (use other side or additional pages if necessary)

Are there resource(s) you suggest to provide additional information and/or other viewpoints on this topic?

## Request for Consideration of Library Resources (Sample)

Name \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email: \_\_\_\_\_

Library Card Barcode (if the item is purchased, we will put you on hold for the item if desired) \_\_\_\_\_

Title \_\_\_\_\_ Author \_\_\_\_\_

Publisher/Producer \_\_\_\_\_ Copyright \_\_\_\_\_

Edition \_\_\_\_\_ Price \_\_\_\_\_

Subject area \_\_\_\_\_

Type (book, dvd, cd, etc.) \_\_\_\_\_

Source: Where did you hear or read of this?

Why do you feel this material is needed in the library?

## **Materials Selection Policy**

The library must have a material selection policy, and it must be in writing. The material selection policy should apply to all library materials, from books to videos to electronic sources, including CD-ROMs and the Internet, whatever media the library uses to deliver information. It should reflect the library's philosophy of service to the community.

If a library is faced with a formal request for reconsideration, the written material selection policy will give the governing body a local statement on which to rely in its response to the request. Obviously, book reviews and other outside sources are helpful in defending the material, but a formally adopted material selection policy provides an excellent defense because it was created with input from local residents, i.e. the governing body.

The governing body of the library must adopt the material selection policy in a formal meeting that is posted to allow the public to attend and comment.

The library's material selection policy must include a standard written form for the patron to complete, usually called "Request for Reconsideration of Library Materials."

See the sample policy on page 89 of the NDLA Intellectual Freedom Handbook, or ask other librarians if they would share their policies as examples.

The library staff and governing body must be aware of the contents of the material selection policy. If there is a request for reconsideration of library materials, all must speak with one voice. A basic understanding of the library's selection policy will help ensure this unity.

All staff members involved in selecting materials should understand the policy and follow its guidelines when making collection development decisions, so there will be less chance of "internal censorship" on the part of the library staff.

### **Elements of a Materials Selection Policy**

- A. Goals of the library (mission statement, philosophy of access to materials)
- B. Purpose of the Material Selection Policy
- C. Community profile
  - 1. Library's service area, including projected growth
  - 2. Types of people in the community
  - 3. Educational background of the community
  - 4. Special factors which might influence the selection of materials

- D. Intellectual freedom statements
  - 1. Library Bill of Rights
  - 2. Free Access to Libraries
  - 3. Statement on Labeling
  - 4. Freedom to Read Statement
  - 5. First Amendment to the Constitution
- E. Library's role in cooperation, e.g., coordinated buying agreements, interlibrary loan
- F. Organization of the selection process
  - 1. Qualifications of selectors
  - 2. Authority for selection decisions (ultimate and delegated)
  - 3. Legal responsibility for selection
- G. Some possible selection criteria
  - 1. Present and potential relevance to community needs
  - 2. Relevance of subject, format, and reading level for the intended audience
  - 3. Importance as a document of the times
  - 4. Literary and artistic merit
  - 5. Accuracy of content
  - 6. Appropriateness and effectiveness of medium to content
  - 7. Format is appropriate to library use and is not easily damaged
  - 8. Reputation and/or significance of author, publisher or producer
  - 9. Author or producer is already represented in the collection
  - 10. Author or illustrator is local
  - 11. Positive reviews by critics, staff members and/or professional journals
  - 12. Coverage in local or popular media
  - 13. Popularity with library patrons
  - 14. Continuation of a series
  - 15. Balances existing materials in the collection
  - 16. Enhances a specific collection in the library
  - 17. Insufficient materials available on the subject
  - 18. Not available from other lending sources
  - 19. Within limits of budget for materials
  - 20. Winners of recognized awards
- H. Formats (types of materials to be included in the collection)
  - 1. Print: Books, newspapers, periodicals, paperbacks, vertical file, government documents, maps
  - 2. Non-Print: films/filmstrips, videocassettes, records, cassettes, compact disks, microforms, art prints, educational games and toys, realia
  - 3. Electronic: CD-ROM programs and databases, computer software, on-line services, Internet, other wide area networks
- I. Special collections
  - 1. Local history
  - 2. Genealogy

- 3. Large print
- 4. Foreign language
- J. Limits of the collection (areas in which the library will not be purchasing)
  - 1. Monetary limitations
  - 2. Formats
  - 3. Abridgments
  - 4. Space limitations
- K. Gift and memorial policy
  - 1. Materials
  - 2. Personal property and money
- L. Preservation policy, including binding, microfilming, restoration, housing, and storage
- M. Replacement and duplicates policies
- N. Withdrawing and discarding policies
- O. Requests for reconsideration of materials
  - 1. Procedure for handling requests
  - 2. Reconsideration of materials form
- P. Reevaluation of the materials selection policy
  - 1. How often
  - 2. By whom
- Q. Approval by governing body

### **General Elements of a Policy**

Some libraries have a specific Intellectual Freedom Policy; others have intellectual freedom issues addressed within other policies. Whichever way you go, your policies should include the following elements:

#### Access

The library should reaffirm the mission statement, the Library Bill of Rights, and the Freedom to Read Statement. Together, these documents attest that the library's materials and services will not be denied based on any factor that could be prejudicial.

#### Confidentiality

The library should make a commitment to strict confidentiality of information for all patrons and staff members in all library operations including registration information, circulation records, overdue notices, and notification of reserved materials.

### Facility Use

The library should clearly designate who is responsible for the use of meeting space, display space, and bulletin boards. The principles of intellectual freedom should be affirmed in all cases, whether it is the library or some outside entity making use of any of these facilities.

### Rights of Children

The library should affirm the rights of children to enjoy all the benefits of intellectual freedom that adults enjoy, including freedom of access to information and confidentiality.

### Special Note: The Internet

While the principles of intellectual freedom should not change in regard to information in any format, a special mention may be necessary if the library offers Internet access. Library policy should include a disclaimer that the library is not responsible for material found on the Internet or World Wide Web, the policy on the use of the Internet by minors, and possibly a statement defining "acceptable use." Governing all this should be the principle that the library does not exist to limit access to information. Policies should affirm the ways in which the Internet is meant to augment the information available at the library.

## Role of Trustees

In meeting challenges to intellectual freedom, public library trustees play three major roles:

1. **Role of Policymaker**—Library boards should update their materials selection/collection development policies to incorporate new technology and non-book materials. Be prepared by updating your library's policy manual before you receive a complaint.
2. **Role of Employer**—The role of the board is to support decisions made by the library staff, pursuant to board-approved collection development policies. When materials are challenged, the board should support selection decisions if these fall within board-approved policies.
3. **Role of Access Provider**—If the library board decides to remove a properly selected item from the library's collection, the library board has denied access to that item to all residents of the library's service area. The public library is a limited public forum under the First Amendment, and the library board has the responsibility to protect the library's patrons' First Amendment rights of access to library materials. In preparation for challenges, read ALA's Freedom to Read Statement and the Library Bill of Rights, as well as your library's selection policy.

—*Written by Ruth Dukelow,*

*Access, March/April 1995, vol. 12, no. 5,*

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## Policy on Confidentiality of Library Records

The Council of the American Library Association strongly recommends that the responsible officers of each library, cooperative system, and consortium in the United States:

1. Formally adopt a policy that specifically recognizes its circulation records and other records identifying the names of library users to be confidential. (See also *ALA Code of Ethics*, Article III, “We protect each library user’s right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired or transmitted” and *Privacy: An Interpretation of the Library Bill of Rights*.)
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order or subpoena as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.
3. Resist the issuance of enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.<sup>1</sup>

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<sup>1</sup>Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library’s officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

Adopted January 20, 1971; revised July 4, 1975, July 2, 1986, by the ALA Council.

[ISBN 8389-6082-0]

## **Suggested Procedures for Implementing "Policy on Confidentiality of Library Records"**

When drafting local policies, libraries should consult with their legal counsel to ensure these policies are based upon and consistent with applicable federal, state, and local law concerning the confidentiality of library records, the disclosure of public records, and the protection of individual privacy.

(See Interpretations to the Library Bill of Rights: *Access to Electronic Information, Services and Networks* and *Privacy*)

Suggested procedures include the following:

1. The library staff member receiving the request to examine or obtain information relating to circulation or other records identifying the names of library users must immediately refer the person making the request to the responsible officer of the institution, who shall explain the confidentiality policy.
2. The director, upon receipt of such process, order, or subpoena, shall consult with the appropriate legal officer assigned to the institution to determine if such process, order, or subpoena is in good form and if there is a showing of good cause for its issuance.
3. If the process, order, or subpoena is not in proper form or if good cause has not been shown, the library should insist that such defects be cured before any records are released.
4. The legal process requiring the production of circulation or other library records is ordinarily in the form of a subpoena *duces tecum* (bring your records) requiring the responsible library officer to attend court or to provide testimony at his or her deposition. It also may require him or her to bring along certain designated circulation or other specified records.
5. Staff should be trained and required to report any threats or unauthorized demands (e.g., those not supported by a process, order, or subpoena) concerning circulation and other records to the appropriate officer of the institution.
6. Any problems relating to the privacy of circulation and other records identifying the names of library users that are not provided for above shall be referred to the responsible officer.

Adopted by the ALA Intellectual Freedom Committee  
January 9, 1983; revised January 11, 1988; revised March 18, 2005

**Policy on the Confidentiality of Library Records (Sample)**  
Bismarck Veterans Memorial Public Library

The Library Board of Directors recognizes its responsibility to protect the privacy of each patron concerning personal records relating to use of library materials.

Records are required for controlling the use of library materials both on or off the library premises. These records are not in any way intended for the purpose of monitoring a user's reading or pursuit of information. Circulation records are kept to protect public property. Summary statistics of library use are kept to measure organizational activity.

Any library record which includes a library user's name or information sufficient to identify a user together with the subject about which the user requested information, is exempted from the public records disclosure requirements of NDCC 44-04-18 pursuant to NDCC 40-38-12 and shall not be made available upon request of any person other than the patron.

However, library records shall be released when required pursuant to a court order or subpoena. Only the Library Director or his representative is authorized to release requested records pursuant to court order or subpoena. A complete record of the information released, a signed receipt form and a copy of the court order or subpoena will be retained in a file designated by the Director. Should any question arise concerning the court order or subpoena, the Library Director will consult the Library Board of Directors and the City Attorney.

The Library Board shall take steps to request that the issuing court grant an appropriate court order to assure that any information released pursuant to a court order or subpoena shall be limited to the specific need for which it was requested and further released only to a person with the need to know the information.

**APPROVED BY THE LIBRARY BOARD OF DIRECTORS**

April 18, 1985, Effective July 1, 1985, Reaffirmed May 25, 2006

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**Receipt to Accompany Release of Library Records Pursuant to Court Order, Court-Sanctioned Subpoena or Search Warrant (Sample)**

I, \_\_\_\_\_, representing (individual or organization)\_\_\_\_\_ at

(address)\_\_\_\_\_ request that the Library Director, acting on behalf of the Library Board of Directors, release the following specific information from library records as specified in the accompanying court-sanctioned document:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(signature) \_\_\_\_\_

(date) \_\_\_\_\_

## **Policy concerning Confidentiality of Personally Identifiable Information about Library Users**

"In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf" (See Interpretations to the Library Bill of Rights: *Privacy*).

The ethical responsibilities of librarians, as well as statutes in most states and the District of Columbia, protect the privacy of library users. Confidentiality extends to "information sought or received and resources consulted, borrowed, acquired or transmitted" (*ALA Code of Ethics*), and includes, but is not limited to, database search records, reference interviews, circulation records, interlibrary loan records and other personally identifiable uses of library materials, facilities, or services.

The First Amendment's guarantee of freedom of speech and of the press requires that the corresponding rights to hear what is spoken and read what is written be preserved, free from fear of government intrusion, intimidation, or reprisal. The American Library Association reaffirms its opposition to "any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution" and "encourages resistance to such abuse of governmental power . . .". In seeking access or in the pursuit of information, confidentiality is the primary means of providing the privacy that will free the individual from fear of intimidation or retaliation.

The American Library Association regularly receives reports of visits by agents of federal, state, and local law enforcement agencies to libraries, asking for personally identifiable information about library users. These visits, whether under the rubric of simply informing libraries of agency concerns or for some other reason, reflect an insensitivity to the legal and ethical bases for confidentiality, and the role it plays in the preservation of First Amendment rights, rights also extended to foreign nationals while in the United States. The government's interest in library use reflects a dangerous and fallacious equation of what a person reads with what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information. It also is a threat to a crucial aspect of First Amendment rights: that freedom of speech and of the press include the freedom to hold, disseminate and receive unpopular, minority, extreme, or even dangerous ideas.

The American Library Association recognizes that law enforcement agencies and officers may occasionally believe that library records contain information that would be helpful to the investigation of criminal activity. The American judicial system provides the mechanism for seeking release of such confidential records: a court order, following a showing of *good cause* based on *specific facts*, by a court of competent jurisdiction.

The American Library Association also recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate national security concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Access to this unclassified information should be handled no differently than access to any other information. Therefore, libraries and librarians have a legal and ethical responsibility to protect the confidentiality of all library users, including foreign nationals.

Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of origin, age, background, or views. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users.

Adopted July 2, 1991, by the ALA Council; amended June 30, 2004.

[ISBN 8389-7554-2]

## **Examples of Confidentiality Violation**

- List of overdue books that a student has is sent to the homeroom teacher with name of the books included.
- First and last names of children at story times on posters, name tags, etc.
- Users requesting name of books checked out by other family members.
- Teachers requesting a list of students who have checked out materials on reserve.
- Administrators requesting the reading records of students or users.
- Leaving the name of the last user on the book card in non-computerized library systems.
- Public sign-up sheets for use of online or CD ROM resources.

## **Law Enforcement Inquiries: Guidelines for Staff**

Even before 9-11, increased visits to libraries by law enforcement agents, including officers of county sheriff's departments and FBI agents, were raising considerable concern among the public and the library community. Our professional ethics require that a patron's personal information be kept confidential. In addition, Colorado has one of the strongest confidentiality laws in the U.S. to protect citizens' First Amendment rights. Confidential library records should not be released or made available in any format to a federal agent, law enforcement officer or other person *unless a court order in proper form has been entered by a court of competent jurisdiction after showing good cause* by the law enforcement agency or person seeking the records. The American Library Association gives us the following recommended procedures to prepare staff for law enforcement visits:

### **Before any visit:**

- Designate the person or persons who will be responsible for handling law enforcement requests. In most circumstances, it should be the library director, library manager, or person-in-charge.
- Train all library staff, including volunteers, on the library's procedure for handling law enforcement requests. They should understand that it is lawful to refer the agent or officer to an administrator in charge of the library, and that they do not need to respond immediately to any request.

### **During the visit:**

- Staff should immediately ask for identification if they are approached by an agent or officer, and then immediately refer the agent or officer to the library director or other designated officer of the institution.
- The director or officer should meet with the agent with library counsel or another colleague in attendance.
- If the agent or officer does not have a court order compelling the production of records, the director or officer should explain the library's confidentiality policy and the state's confidentiality law, and inform the agent or officer that users' records are not available except when a proper court order in good form has been presented to the library.
- Without a court order, neither the FBI nor local law enforcement has authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the person speaking to the agent or officer. If the agent or officer persists, or makes an appeal to patriotism, the director or manager should explain that, as good citizens, the library staff will not respond to informal requests for confidential information, in conformity with professional ethics, First Amendment freedoms, and state law.
- If the agent or officer presents a court order, the library director or manager should immediately refer the court order to the library's legal counsel for review.

**If the court order is in the form of a subpoena:**

- Counsel should examine the subpoena for any legal defect, including the manner in which it was served on the library, the breadth of its request, its form, or an insufficient showing of good cause made to a court. If a defect exists, counsel will advise on the best method to resist the subpoena.
- Through legal counsel, insist that any defect be cured before records are released and that the subpoena is strictly limited to require release of specifically identified records or documents.
- Require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects.
- Review the information that may be produced in response to the subpoena before releasing the information. Follow the subpoena strictly and do not provide any information that is not specifically requested in it.
- If disclosure is required, ask the court to enter a protective order (drafted by the library's counsel) keeping the information confidential and limiting its use to the particular case. Ask that access be restricted to those persons working directly on the case.

**If the court order is in the form of a search warrant:**

- A search warrant is executable immediately, unlike a subpoena. The agent or officer may begin a search of library records as soon as the library director or manager is served with the court's order.
- Ask to have library counsel present before the search begins in order to allow library counsel an opportunity to examine the search warrant and to assure that the search conforms to the terms of the search warrant. Especially in Colorado after the Tattered Cover decision, the court order must have been entered for good cause.
- Cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are viewed or scanned. ALA recommends gathering the exact information for the agent or officer rather than let them rifle through library databases or records.

**If the court order is either a subpoena or a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (USA PATRIOT Act amendment):**

- The recommendations for regular subpoenas and search warrants still apply. However, subpoenas and search warrants issued by a FISA court also contain a "gag order." That means that no person or institution served with the warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant.
- If it is a FISA subpoena, then the FISA judge is supposed to fix a "time to respond", which may a period of days or may be immediately. Like other search warrants, FISA warrants are executable immediately.

- The library and its staff must comply with this order. No information can be disclosed to any other party, including the patron whose records are the subjects of the search warrant.
- The gag order does not change a library's right to legal representation during the search. The library can still seek legal advice concerning the court order and request that the library's legal counsel be present during the actual search and execution of the court order.
- FISA orders may be challenged in court. Librarians should seek legal counsel to determine if circumstances support such a challenge.

**If the order is a National Security Letter (NSL) issued under Section 505 of the USA PATRIOT Act:**

- The recommendations for a regular subpoena still apply. However, like a FISA order, an NSL also contains a gag order. That means that no person or institution served with the NSL can disclose that the NSL has been served or that records have been produced pursuant to the NSL. The gag order does not prevent consultation with legal counsel.
- NSLs may be challenged in court. Librarians should seek legal counsel to determine if circumstances support such a challenge.

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These guidelines were prepared using information from the American Library Association's website. Permission to reproduce these guidelines for training and educational purposes has been granted.

**Procedure for Employees Regarding Law Enforcement Inquiries (Sample)**  
Bismarck Veterans Memorial Public Library  
2/13/08

What to do if an agent of a federal, state or local law enforcement department comes to the library to request information:

1. **All employees should always get their supervisor.** If the request comes when a supervisor is not present, inform the senior reference librarian on duty.
2. **Library personnel should always call the Director, in the Library or at home.** If the Director is not available, call the Assistant Director in the Library or at home.

Below is the normal procedure that a supervisor (Library Director, Assistant Director, or stated person in charge) will follow. *(Sample copies of a court order and court endorsed subpoena are attached, with the caveat that these vary widely in format.)*

If a verified law enforcement agent presents a court order, court-issued search warrant or court-sanctioned subpoena:

We accept the copy of the document and cooperate to provide what they need in compliance with the court sanctioned document.\*

If a verified law enforcement agent presents a subpoena:

We accept the subpoena. (This is a subpoena that has not been court-sanctioned.) Nothing need be given to anyone at the moment. Respond to the officer/agent with a "Thank you, I will give this to the director." The director and library counsel will follow through as necessary.

If a verified law enforcement agent makes a verbal request:

We do not give out information that connects a patron with library materials or services solely on a verbal request. Contact the director to have him explain the matter. Mention the state law (see Attachment 1) that protects library records. As you would with any request of this nature, say something like "I'm sorry, but I cannot help you with this information."

\*If possible, make a list of any materials confiscated so that these items can be checked out as "missing".

## **Library Bill of Rights**

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948, by the ALA Council; amended February 2, 1961; amended June 28, 1967; amended January 23, 1980; inclusion of "age" reaffirmed January 24, 1996.

## **Administrative Policies and Procedures Affecting Access to Library Resources and Services**

### **An Interpretation of the Library Bill of Rights**

The right of free access to information for all individuals is basic to all aspects of library service regardless of type of library. Article 5 of the LIBRARY BILL OF RIGHTS protects the rights of an individual to use a library regardless of origin, age, background, or views. The central thrust of the LIBRARY BILL OF RIGHTS is to protect and encourage the free flow of information and ideas. The American Library Association urges that all libraries set policies and procedures that reflect the basic tenets of the LIBRARY BILL OF RIGHTS.

Many libraries have adopted administrative policies and procedures regulating access to resources, services, and facilities, i.e., specific collections, reference services, interlibrary loan, programming, meeting rooms, exhibit space. Such policies and procedures governing the order and protection of library materials and facilities, and the planning of library programs and exhibits, could become a convenient means for removing or restricting access to controversial materials, limiting access to programs or exhibits, or for discriminating against specific groups of library patrons. Such abuse of administrative procedures and policies is in opposition to the LIBRARY BILL OF RIGHTS.

The American Library Association recommends that all libraries with rare or special collections formulate policies and procedures for such collections so as not to restrict access and use due to age or the nature of the patron interest in the materials. Restricted access to such collections is solely for the protection of the materials, and must in no way limit access to the information and ideas contained in the materials.

The Model Interlibrary Loan Code of the American Library Association recommends that all library patrons be eligible for interlibrary loan, in accordance with Article 5 of the LIBRARY BILL OF RIGHTS and the statement FREE ACCESS TO LIBRARIES FOR MINORS. The Model Interlibrary Loan Code states the importance of considering the needs and interests of all users, including children and young adults. Borrowing libraries should provide the resources to meet the ordinary needs of all of its primary clientele, and any members of its clientele should be eligible for interlibrary loan. When libraries adhere to the Model Interlibrary Loan Code, access to information is protected.

Library administrative policies should examine all restrictions to resources or services associated with age, as all are violations of Article 5 of the LIBRARY BILL OF RIGHTS and the statement on restricted access to library materials. For example, privileges associated with library cards should be consistent for all library users, no matter what the age. Library policies in which certain patrons, usually minors, are denied library privileges available to other library patrons are not endorsed by the American Library Association, as they violate Article 5 of the LIBRARY BILL OF RIGHTS, as well as the statement on FREE ACCESS TO LIBRARIES FOR MINORS. It is parents and only

parents who may restrict their children-and only their children-from access to library materials and services.

Reference service policies and procedures, such as library policies limiting the time sent on answering telephone reference questions, should provide for equitable service to all library patrons, regardless of age or type of question. These policies must apply to both adult and child patrons.

Policies governing the use of meeting rooms and exhibits should be examined to ensure that minors are not excluded from a program of interest to them based on age. Meeting rooms and exhibit spaces should also be available on an "equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use," and should not be denied to anyone based solely on age.

Policies should reflect that a person's right to attend a library initiated program" should not be denied or abridged because of origin, age, background, or views," as stated in LIBRARY INITIATED PROGRAMS AS A RESOURCE, an Interpretation of the LIBRARY BILL OF RIGHTS.

Adopted January 27, 1982 by the ALA Council.

## Access for Children and Young Adults to Nonprint Materials

### An Interpretation of the Library Bill of Rights

Library collections of nonprint materials raise a number of intellectual freedom issues, especially regarding minors. Article V of the Library Bill of Rights states, "A person's right to use a library should not be denied or abridged because of origin, age, background, or views."

The American Library Association's principles protect minors' access to sound, images, data, games, software, and other content in all formats such as tapes, CDs, DVDs, music CDs, computer games, software, databases, and other emerging technologies. ALA's *Free Access to Libraries for Minors: An Interpretation of the Library Bill of Rights* states:

. . . The "right to use a library" includes free access to, and unrestricted use of, all the services, materials, and facilities the library has to offer. Every restriction on access to, and use of, library resources, based solely on the chronological age, educational level, literacy skills, or legal emancipation of users violates Article V.

. . . [P]arents—and only parents—have the right and responsibility to restrict access of their children—and only their children—to library resources. Parents who do not want their children to have access to certain library services, materials, or facilities should so advise their children. Librarians and library governing bodies cannot assume the role of parents or the functions of parental authority in the private relationship between parent and child.

Lack of access to information can be harmful to minors. Librarians and library governing bodies have a public and professional obligation to ensure that all members of the community they serve have free, equal, and equitable access to the entire range of library resources regardless of content, approach, format, or amount of detail. This principle of library service applies equally to all users, minors as well as adults. Librarians and library governing bodies must uphold this principle in order to provide adequate and effective service to minors.

Policies that set minimum age limits for access to any nonprint materials or information technology, with or without parental permission, abridge library use for minors. Age limits based on the cost of the materials are also unacceptable. Librarians, when dealing with minors, should apply the same standards to circulation of nonprint materials as are applied to books and other print materials except when directly and specifically prohibited by law.

Recognizing that librarians cannot act *in loco parentis*, ALA acknowledges and supports the exercise by parents of their responsibility to guide their own children's reading and viewing. Libraries should provide published reviews and/or reference works that contain information about the content, subject matter, and recommended audiences for nonprint

materials. These resources will assist parents in guiding their children without implicating the library in censorship.

In some cases, commercial content ratings, such as the Motion Picture Association of America (MPAA) movie ratings, might appear on the packaging or promotional materials provided by producers or distributors. However, marking out or removing this information from materials or packaging constitutes expurgation or censorship.

MPAA movie ratings, Entertainment Software Rating Board (ESRB) game ratings, and other rating services are private advisory codes and have no legal standing (Expurgation of Library Materials). For the library to add ratings to nonprint materials if they are not already there is unacceptable. It is also unacceptable to post a list of such ratings with a collection or to use them in circulation policies or other procedures. These uses constitute labeling, "an attempt to prejudice attitudes" (Labels and Rating Systems), and are forms of censorship. The application of locally generated ratings schemes intended to provide content warnings to library users is also inconsistent with the Library Bill of Rights.

The interests of young people, like those of adults, are not limited by subject, theme, or level of sophistication. Librarians have a responsibility to ensure young people's access to materials and services that reflect diversity of content and format sufficient to meet their needs.

Adopted June 28, 1989, by the ALA Council; amended June 30, 2004.

[ISBN 8389-7351-5]

## **Access to Digital Information, Services, and Networks**

### **An Interpretation of the Library Bill of Rights**

#### **Introduction**

Freedom of expression is an inalienable human right and the foundation for self-government. Freedom of expression encompasses the freedom of speech and the corollary right to receive information.<sup>1</sup> Libraries and librarians protect and promote these rights regardless of the format or technology employed to create and disseminate information.

The American Library Association expresses the fundamental principles of librarianship in its Code of Ethics as well as in the Library Bill of Rights and its Interpretations. These principles guide librarians and library governing bodies in addressing issues of intellectual freedom that arise when the library provides access to digital information, services, and networks.

Libraries empower users by offering opportunities both for accessing the broadest range of information created by others and for creating and sharing information. Digital resources enhance the ability of libraries to fulfill this responsibility.

Libraries should regularly review issues arising from digital creation, distribution, retrieval, and archiving of information in the context of constitutional principles and ALA policies so that fundamental and traditional tenets of librarianship are upheld. Although digital information flows across boundaries and barriers despite attempts by individuals, governments, and private entities to channel or control it, many people lack access or capability to use or create digital information effectively.

In making decisions about how to offer access to digital information, services, and networks, each library should consider intellectual freedom principles in the context of its mission, goals, objectives, cooperative agreements, and the needs of the entire community it serves.

#### **The Rights of Users**

All library system and network policies, procedures, or regulations relating to digital information and services should be scrutinized for potential violation of user rights. User policies should be developed according to the policies and guidelines established by the American Library Association, including “Guidelines for the Development and Implementation of Policies, Regulations, and Procedures Affecting Access to Library Materials, Services, and Facilities.”

Users’ access should not be restricted or denied for expressing, receiving, creating, or participating in constitutionally protected speech. If access is restricted or denied for behavioral or other reasons, users should be provided due process, including, but not limited to, formal notice and a means of appeal.

Information retrieved, utilized, or created digitally is constitutionally protected unless determined otherwise by a court of competent jurisdiction. These rights extend to minors as well as adults (“Free Access to Libraries for Minors”; “Access to Resources and Services in the School Library Media Program”; “Access for Children and Young Adults to Nonprint Materials”; and “Minors and Internet Interactivity”).<sup>2</sup>

Libraries should use technology to enhance, not deny, digital access. Users have the right to be free of unreasonable limitations or conditions set by libraries, librarians, system administrators, vendors, network service providers, or others. Contracts, agreements, and licenses entered into by libraries on behalf of their users should not violate this right. Libraries should provide library users the training and assistance necessary to find, evaluate, and use information effectively.

Users have both the right of confidentiality and the right of privacy. The library should uphold these rights by policy, procedure, and practice in accordance with “Privacy: An Interpretation of the Library Bill of Rights,” and “Importance of Education to Intellectual Freedom: An Interpretation of the Library Bill of Rights.”

### **Equity of Access**

The digital environment provides expanding opportunities for everyone to participate in the information society, but individuals may face serious barriers to access.

Digital information, services, and networks provided directly or indirectly by the library should be equally, readily, and equitably accessible to all library users. American Library Association policies oppose the charging of user fees for the provision of information services by libraries that receive support from public funds (50.3 “Free Access to Information”; 53.1.14 “Economic Barriers to Information Access”; 60.1.1 “Minority Concerns Policy Objectives”; 61.1 “Library Services for the Poor Policy Objectives”). All libraries should develop policies concerning access to digital information that are consistent with ALA’s policies and guidelines, including “Economic Barriers to Information Access: An Interpretation of the Library Bill of Rights,” “Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities,” and “Services to Persons with Disabilities: An Interpretation of the Library Bill of Rights.”

### **Information Resources and Access**

Libraries, acting within their mission and objectives, must support access to information on all subjects that serve the needs or interests of each user, regardless of the user’s age or the content of the material. In order to preserve the cultural record and to prevent the loss of information, libraries may need to expand their selection or collection development policies to ensure preservation, in appropriate formats, of information obtained digitally. Libraries have an obligation to provide access to government information available in digital format.

Providing connections to global information, services, and networks is not the same as selecting and purchasing materials for a library collection. Libraries and librarians

should not deny or limit access to digital information because of its allegedly controversial content or because of a librarian's personal beliefs or fear of confrontation. Furthermore, libraries and librarians should not deny access to digital information solely on the grounds that it is perceived to lack value. Parents and legal guardians who are concerned about their children's use of digital resources should provide guidance to their own children. Some information accessed digitally may not meet a library's selection or collection development policy. It is, therefore, left to each user to determine what is appropriate.

Publicly funded libraries have a legal obligation to provide access to constitutionally protected information. Federal, state, county, municipal, local, or library governing bodies sometimes require the use of Internet filters or other technological measures that block access to constitutionally protected information, contrary to the Library Bill of Rights (ALA Policy Manual, 53.1.17, Resolution on the Use of Filtering Software in Libraries). If a library uses a technological measure that blocks access to information, it should be set at the least restrictive level in order to minimize the blocking of constitutionally protected speech. Adults retain the right to access all constitutionally protected information and to ask for the technological measure to be disabled in a timely manner. Minors also retain the right to access constitutionally protected information and, at the minimum, have the right to ask the library or librarian to provide access to erroneously blocked information in a timely manner. Libraries and librarians have an obligation to inform users of these rights and to provide the means to exercise these rights.<sup>3</sup>

Digital resources provide unprecedented opportunities to expand the scope of information available to users. Libraries and librarians should provide access to information presenting all points of view. The provision of access does not imply sponsorship or endorsement. These principles pertain to digital resources as much as they do to the more traditional sources of information in libraries ("Diversity in Collection Development").

<sup>1</sup>Martin v. Struthers, 319 U.S. 141 (1943); Lamont v. Postmaster General, 381 U.S. 301 (1965); Susan Nevelow Mart, The Right to Receive Information, 95 Law Library Journal 2 (2003).

<sup>2</sup>Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969); Board of Education, Island Trees Union Free School District No. 26 v. Pico, 457 U.S. 853, (1982); American Amusement Machine Association v. Teri Kendrick, 244 F.3d 954 (7th Cir. 2001); cert.denied, 534 U.S. 994 (2001)

<sup>3</sup>"If some libraries do not have the capacity to unblock specific Web sites or to disable the filter or if it is shown that an adult user's election to view constitutionally protected Internet material is burdened in some other substantial way, that would be the subject for an as-applied challenge, not the facial challenge made in this case." United States, et al. v. American Library Association, 539 U.S. 194 (2003) (Justice Kennedy, concurring).

See Also: "Questions and Answers on Access to Digital Information, Services and Networks: An Interpretation of the Library Bill of Rights."

Adopted January 24, 1996; amended January 19, 2005; and July 15, 2009, by the ALA Council.

## **Access to Library Resources and Services Regardless of Sex, Gender Identity, or Sexual Orientation**

### **An Interpretation of the Library Bill of Rights**

American libraries exist and function within the context of a body of laws derived from the United States Constitution and the First Amendment. The *Library Bill of Rights* embodies the basic policies that guide libraries in the provision of services, materials, and programs.

In the preamble to its Library Bill of Rights, the American Library Association affirms that *all* [emphasis added] libraries are forums for information and ideas. This concept of *forum* and its accompanying principle of *inclusiveness* pervade all six Articles of the *Library Bill of Rights*.

The American Library Association stringently and unequivocally maintains that libraries and librarians have an obligation to resist efforts that systematically exclude materials dealing with any subject matter, including sex, gender identity, or sexual orientation:

- Article I of the *Library Bill of Rights* states that "Materials should not be excluded because of the origin, background, or views of those contributing to their creation." The Association affirms that books and other materials coming from gay, lesbian, bisexual, and/or transgendered presses, gay, lesbian, bisexual and/or transgendered authors or other creators, and materials regardless of format or services dealing with gay, lesbian, bisexual and/or transgendered life are protected by the *Library Bill of Rights*. Librarians are obligated by the *Library Bill of Rights* to endeavor to select materials without regard to the sex, gender identity, or sexual orientation of their creators by using the criteria identified in their written, approved selection policies (ALA policy 53.1.5).
- Article II maintains that "Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval." Library services, materials, and programs representing diverse points of view on sex, gender identity, or sexual orientation should be considered for purchase and inclusion in library collections and programs. (ALA policies 53.1.1, 53.1.9, and 53.1.11). The Association affirms that attempts to proscribe or remove materials dealing with gay, lesbian, bisexual, and/or transgendered life without regard to the written, approved selection policy violate this tenet and constitute censorship.
- Articles III and IV mandate that libraries "challenge censorship" and cooperate with those "resisting abridgement of free expression and free access to ideas."

- Article V holds that "A person's right to use a library should not be denied or abridged because of origin, age, background or views." In the *Library Bill of Rights* and all its Interpretations, it is intended that: "origin" encompasses all the characteristics of individuals that are inherent in the circumstances of their birth; "age" encompasses all the characteristics of individuals that are inherent in their levels of development and maturity; "background" encompasses all the characteristics of individuals that are a result of their life experiences; and "views" encompasses all the opinions and beliefs held and expressed by individuals. Therefore, Article V of the *Library Bill of Rights* mandates that library services, materials, and programs be available to all members of the community the library serves, without regard to sex, gender identity, or sexual orientation. This includes providing youth with comprehensive sex education literature (ALA Policy 52.5.2).
- Article VI maintains that "Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use." This protection extends to all groups and members of the community the library serves, without regard to sex, gender identity, or sexual orientation.

The American Library Association holds that any attempt, be it legal or extra-legal, to regulate or suppress library services, materials, or programs must be resisted in order that protected expression is not abridged. Librarians have a professional obligation to ensure that all library users have free and equal access to the entire range of library services, materials, and programs. Therefore, the Association strongly opposes any effort to limit access to information and ideas. The Association also encourages librarians to proactively support the First Amendment rights of all library users, regardless of sex, gender identity, or sexual orientation.

Adopted June 30, 1993, by the ALA Council; amended July 12, 2000, June 30, 2004.

[ISBN 8389-7701-4]

## **Access to Resources and Services in the School Library Media Program**

### **An Interpretation of the Library Bill of Rights**

The school library media program plays a unique role in promoting intellectual freedom. It serves as a point of voluntary access to information and ideas and as a learning laboratory for students as they acquire critical thinking and problem-solving skills needed in a pluralistic society. Although the educational level and program of the school necessarily shape the resources and services of a school library media program, the principles of the Library Bill of Rights apply equally to all libraries, including school library media programs. Under these principles, all students have equitable access to library facilities, resources, and instructional programs.

School library media specialists assume a leadership role in promoting the principles of intellectual freedom within the school by providing resources and services that create and sustain an atmosphere of free inquiry. School library media specialists work closely with teachers to integrate instructional activities in classroom units designed to equip students to locate, evaluate, and use a broad range of ideas effectively. Intellectual freedom is fostered by educating students in the use of critical thinking skills to empower them to pursue free inquiry responsibly and independently. Through resources, programming, and educational processes, students and teachers experience the free and robust debate characteristic of a democratic society.

School library media specialists cooperate with other individuals in building collections of resources that meet the needs as well as the developmental and maturity levels of students. These collections provide resources that support the mission of the school district and are consistent with its philosophy, goals, and objectives. Resources in school library media collections are an integral component of the curriculum and represent diverse points of view on both current and historical issues. These resources include materials that support the intellectual growth, personal development, individual interests, and recreational needs of students.

While English is, by history and tradition, the customary language of the United States, the languages in use in any given community may vary. Schools serving communities in which other languages are used make efforts to accommodate the needs of students for whom English is a second language. To support these efforts, and to ensure equitable access to resources and services, the school library media program provides resources that reflect the linguistic pluralism of the community.

Members of the school community involved in the collection development process employ educational criteria to select resources unfettered by their personal, political, social, or religious views. Students and educators served by the school library media program have access to resources and services free of constraints resulting from personal, partisan, or doctrinal disapproval. School library media specialists resist

efforts by individuals or groups to define what is appropriate for all students or teachers to read, view, hear, or access via electronic means.

Major barriers between students and resources include but are not limited to imposing age, grade-level, or reading-level restrictions on the use of resources; limiting the use of interlibrary loan and access to electronic information; charging fees for information in specific formats; requiring permission from parents or teachers; establishing restricted shelves or closed collections; and labeling. Policies, procedures, and rules related to the use of resources and services support free and open access to information.

It is the responsibility of the governing board to adopt policies that guarantee students access to a broad range of ideas. These include policies on collection development and procedures for the review of resources about which concerns have been raised. Such policies, developed by persons in the school community, provide for a timely and fair hearing and assure that procedures are applied equitably to all expressions of concern. It is the responsibility of school library media specialists to implement district policies and procedures in the school to ensure equitable access to resources and services for all students.

Adopted July 2, 1986, by the ALA Council; amended January 10, 1990; July 12, 2000; January 19, 2005; July 2, 2008.  
[ISBN 8389-7053-2]

## Challenged Materials

### An Interpretation of the Library Bill of Rights

The American Library Association declares as a matter of firm principle that it is the responsibility of every library to have a clearly defined materials selection policy in written form that reflects the *Library Bill of Rights*, and that is approved by the appropriate governing authority.

Challenged materials that meet the criteria for selection in the materials selection policy of the library should not be removed under any legal or extra-legal pressure. The *Library Bill of Rights* states in Article I that “Materials should not be excluded because of the origin, background, or views of those contributing to their creation,” and in Article II, that “Materials should not be proscribed or removed because of partisan or doctrinal disapproval.” Freedom of expression is protected by the Constitution of the United States, but constitutionally protected expression is often separated from unprotected expression only by a dim and uncertain line. The Constitution requires a procedure designed to focus searchingly on challenged expression before it can be suppressed. An adversary hearing is a part of this procedure.

Therefore, any attempt, be it legal or extra-legal, to regulate or suppress materials in libraries must be closely scrutinized to the end that protected expression is not abridged.

Adopted June 25, 1971, by the ALA Council; amended July 1, 1981; January 10, 1990.

[ISBN 8389-6083-9]

## Diversity in Collection Development

### An Interpretation of the Library Bill of Rights

Throughout history, the focus of censorship has fluctuated from generation to generation. Books and other materials have not been selected or have been removed from library collections for many reasons, among which are prejudicial language and ideas, political content, economic theory, social philosophies, religious beliefs, sexual forms of expression, and other potentially controversial topics.

Some examples of censorship may include removing or not selecting materials because they are considered by some as racist or sexist; not purchasing conservative religious materials; not selecting materials about or by minorities because it is thought these groups or interests are not represented in a community; or not providing information on or materials from non-mainstream political entities.

Librarians may seek to increase user awareness of materials on various social concerns by many means, including, but not limited to, issuing bibliographies and presenting exhibits and programs. Librarians have a professional responsibility to be inclusive, not exclusive, in collection development and in the provision of interlibrary loan. Access to all materials legally obtainable should be assured to the user, and policies should not unjustly exclude materials even if they are offensive to the librarian or the user. Collection development should reflect the philosophy inherent in Article II of the *Library Bill of Rights*: "Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval." A balanced collection reflects a diversity of materials, not an equality of numbers. Collection development responsibilities include selecting materials in the languages in common use in the community the library serves. Collection development and the selection of materials should be done according to professional standards and established selection and review procedures.

There are many complex facets to any issue, and variations of context in which issues may be expressed, discussed, or interpreted. Librarians have a professional responsibility to be fair, just, and equitable and to give all library users equal protection in guarding against violation of the library patron's right to read, view, or listen to materials and resources protected by the First Amendment, no matter what the viewpoint of the author, creator, or selector. Librarians have an obligation to protect library collections from removal of materials based on personal bias or prejudice, and to select and support the access to materials on all subjects that meet, as closely as possible, the needs, interests, and abilities of all persons in the community the library serves. This includes materials that reflect political, economic, religious, social, minority, and sexual issues.

Intellectual freedom, the essence of equitable library services, provides for free access to all expressions of ideas through which any and all sides of a question, cause, or

movement may be explored. Toleration is meaningless without tolerance for what some may consider detestable. Librarians cannot justly permit their own preferences to limit their degree of tolerance in collection development, because freedom is indivisible.

Adopted July 14, 1982, by the ALA Council; amended January 10, 1990.

[ISBN 8389-6552-0]

## **Economic Barriers to Information Access**

### **An Interpretation of the Library Bill of Rights**

A democracy presupposes an informed citizenry. The First Amendment mandates the right of all persons to free expression, and the corollary right to receive the constitutionally protected expression of others. The publicly supported library provides free, equal, and equitable access to information for all people of the community the library serves. While the roles, goals and objectives of publicly supported libraries may differ, they share this common mission.

The library's essential mission must remain the first consideration for librarians and governing bodies faced with economic pressures and competition for funding.

In support of this mission, the American Library Association has enumerated certain principles of library services in the *Library Bill of Rights*.

### **Principles Governing Fines, Fees, and User Charges**

Article I of the *Library Bill of Rights* states:

Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves.

Article V of the *Library Bill of Rights* states:

A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

The American Library Association opposes the charging of user fees for the provision of information by all libraries and information services that receive their major support from public funds. All information resources that are provided directly or indirectly by the library, regardless of technology, format, or methods of delivery, should be readily, equally and equitably accessible to all library users.

Libraries that adhere to these principles systematically monitor their programs of service for potential barriers to access and strive to eliminate such barriers when they occur. All library policies and procedures, particularly those involving fines, fees, or other user charges, should be scrutinized for potential barriers to access. All services should be designed and implemented with care, so as not to infringe on or interfere with the provision or delivery of information and resources for all users. Services should be reevaluated regularly to ensure that the library's basic mission remains uncompromised.

Librarians and governing bodies should look for alternative models and methods of library administration that minimize distinctions among users based on their economic status or financial condition. They should resist the temptation to impose user fees to alleviate financial pressures, at long-term cost to institutional integrity and public confidence in libraries.

Library services that involve the provision of information, regardless of format, technology, or method of delivery, should be made available to all library users on an equal and equitable basis. Charging fees for the use of library collections, services, programs, or facilities that were purchased with public funds raises barriers to access. Such fees effectively abridge or deny access for some members of the community because they reinforce distinctions among users based on their ability and willingness to pay.

### **Principles Governing Conditions of Funding**

Article II of the *Library Bill of Rights* states:

Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

Article III of the *Library Bill of Rights* states:

Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

Article IV of the *Library Bill of Rights* states:

Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

The American Library Association opposes any legislative or regulatory attempt to impose content restrictions on library resources, or to limit user access to information, as a condition of funding for publicly supported libraries and information services.

The First Amendment guarantee of freedom of expression is violated when the right to receive that expression is subject to arbitrary restrictions based on content.

Librarians and governing bodies should examine carefully any terms or conditions attached to library funding and should oppose attempts to limit through such conditions full and equal access to information because of content. This principle applies equally to private gifts or bequests and to public funds. In particular, librarians and governing bodies have an obligation to reject such restrictions when the effect of the restriction is to limit equal and equitable access to information.

Librarians and governing bodies should cooperate with all efforts to create a community consensus that publicly supported libraries require funding unfettered by restrictions. Such a consensus supports the library mission to provide the free and unrestricted exchange of information and ideas necessary to a functioning democracy.

The Association's historic position in this regard is stated clearly in a number of Association policies: 50.4 "Free Access to Information," 50.8 "Financing of Libraries," 51.2 "Equal Access to Library Service," 51.3 "Intellectual Freedom," 53 "Intellectual Freedom Policies," 59.1 "Policy Objectives," and 60 "Library Services for the Poor."

Adopted June 30, 1993, by the ALA Council.

[ISBN 8389-7702-2]

## Evaluating Library Collections

### An Interpretation of the Library Bill of Rights

The continuous review of library materials is necessary as a means of maintaining an active library collection of current interest to users. In the process, materials may be added and physically deteriorated or obsolete materials may be replaced or removed in accordance with the collection maintenance policy of a given library and the needs of the community it serves. Continued evaluation is closely related to the goals and responsibilities of all libraries and is a valuable tool of collection development. This procedure is not to be used as a convenient means to remove materials presumed to be controversial or disapproved of by segments of the community. Such abuse of the evaluation function violates the principles of intellectual freedom and is in opposition to the Preamble and Articles I and II of the *Library Bill of Rights*, which state:

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services:

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

The American Library Association opposes such “silent censorship” and strongly urges that libraries adopt guidelines setting forth the positive purposes and principles of evaluation of materials in library collections.

Adopted February 2, 1973, by the ALA Council; amended July 1, 1981.

[ISBN 8389-5406-5]

## **Exhibit Spaces and Bulletin Boards**

### **An Interpretation of the Library Bill of Rights**

Libraries often provide exhibit spaces and bulletin boards. The uses made of these spaces should conform to the *Library Bill of Rights*: Article I states, "Materials should not be excluded because of the origin, background, or views of those contributing to their creation." Article II states, "Materials should not be proscribed or removed because of partisan or doctrinal disapproval." Article VI maintains that exhibit space should be made available "on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use."

In developing library exhibits, staff members should endeavor to present a broad spectrum of opinion and a variety of viewpoints. Libraries should not shrink from developing exhibits because of controversial content or because of the beliefs or affiliations of those whose work is represented. Just as libraries do not endorse the viewpoints of those whose work is represented in their collections, libraries also do not endorse the beliefs or viewpoints of topics that may be the subject of library exhibits.

Exhibit areas often are made available for use by community groups. Libraries should formulate a written policy for the use of these exhibit areas to assure that space is provided on an equitable basis to all groups that request it.

Written policies for exhibit space use should be stated in inclusive rather than exclusive terms. For example, a policy that the library's exhibit space is open "to organizations engaged in educational, cultural, intellectual, or charitable activities" is an inclusive statement of the limited uses of the exhibit space. This defined limitation would permit religious groups to use the exhibit space because they engage in intellectual activities, but would exclude most commercial uses of the exhibit space.

A publicly supported library may designate use of exhibit space for strictly library-related activities, provided that this limitation is viewpoint neutral and clearly defined.

Libraries may include in this policy rules regarding the time, place, and manner of use of the exhibit space, so long as the rules are content neutral and are applied in the same manner to all groups wishing to use the space. A library may wish to limit access to exhibit space to groups within the community served by the library. This practice is acceptable provided that the same rules and regulations apply to everyone, and that exclusion is not made on the basis of the doctrinal, religious, or political beliefs of the potential users.

The library should not censor or remove an exhibit because some members of the community may disagree with its content. Those who object to the content of any exhibit held at the library should be able to submit their complaint and/or their own exhibit proposal to be judged according to the policies established by the library.

Libraries may wish to post a permanent notice near the exhibit area stating that the library does not advocate or endorse the viewpoints of exhibits or exhibitors.

Libraries that make bulletin boards available to public groups for posting notices of public interest should develop criteria for the use of these spaces based on the same considerations as those outlined above. Libraries may wish to develop criteria regarding the size of material to be displayed, the length of time materials may remain on the bulletin board, the frequency with which material may be posted for the same group, and the geographic area from which notices will be accepted.

Adopted July 2, 1991, by the ALA Council; amended June 30, 2004.

[ISBN 8389-7551-8]

## **Expurgation of Library Materials**

### **An Interpretation of the Library Bill of Rights**

Expurgating library materials is a violation of the Library Bill of Rights. Expurgation as defined by this interpretation includes any deletion, excision, alteration, editing, or obliteration of any part(s) of books or other library resources by the library, its agent, or its parent institution (if any). By such expurgation, the library is in effect denying access to the complete work and the entire spectrum of ideas that the work intended to express. Such action stands in violation of Articles I, II, and III of the Library Bill of Rights, which state that "Materials should not be excluded because of the origin, background, or views of those contributing to their creation," that "Materials should not be proscribed or removed because of partisan or doctrinal disapproval," and that "Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment."

The act of expurgation has serious implications. It involves a determination that it is necessary to restrict access to the complete work. This is censorship. When a work is expurgated, under the assumption that certain portions of that work would be harmful to minors, the situation is no less serious.

Expurgation of any books or other library resources imposes a restriction, without regard to the rights and desires of all library users, by limiting access to ideas and information. (See also other Interpretations to the Library Bill of Rights, including Access to Electronic Information, Services, and Networks and Free Access to Libraries for Minors.)

Further, expurgation without written permission from the holder of the copyright on the material may violate the copyright provisions of the United States Code.

Adopted February 2, 1973, by the ALA Council; amended July 1, 1981; January 10, 1990.

[ISBN 8389-5419-7]

## Free Access to Libraries for Minors

### An Interpretation of the Library Bill of Rights

Library policies and procedures that effectively deny minors equal and equitable access to all library resources available to other users violate the *Library Bill of Rights*. The American Library Association opposes all attempts to restrict access to library services, materials, and facilities based on the age of library users.

Article V of the *Library Bill of Rights* states, "A person's right to use a library should not be denied or abridged because of origin, age, background, or views." The "right to use a library" includes free access to, and unrestricted use of, all the services, materials, and facilities the library has to offer. Every restriction on access to, and use of, library resources, based solely on the chronological age, educational level, literacy skills, or legal emancipation of users violates Article V.

Libraries are charged with the mission of developing resources to meet the diverse information needs and interests of the communities they serve. Services, materials, and facilities that fulfill the needs and interests of library users at different stages in their personal development are a necessary part of library resources. The needs and interests of each library user, and resources appropriate to meet those needs and interests, must be determined on an individual basis. Librarians cannot predict what resources will best fulfill the needs and interests of any individual user based on a single criterion such as chronological age, educational level, literacy skills, or legal emancipation.

Libraries should not limit the selection and development of library resources simply because minors will have access to them. Institutional self-censorship diminishes the credibility of the library in the community, and restricts access for all library users.

Children and young adults unquestionably possess First Amendment rights, including the right to receive information in the library. Constitutionally protected speech cannot be suppressed solely to protect children or young adults from ideas or images a legislative body believes to be unsuitable for them.<sup>1</sup> Librarians and library governing bodies should not resort to age restrictions in an effort to avoid actual or anticipated objections, because only a court of law can determine whether material is not constitutionally protected.

The mission, goals, and objectives of libraries cannot authorize librarians or library governing bodies to assume, abrogate, or overrule the rights and responsibilities of parents. As "Libraries: An American Value" states, "We affirm the responsibility and the right of all parents and guardians to guide their own children's use of the library and its resources and services." Librarians and governing bodies should maintain that parents—and only parents—have the right and the responsibility to restrict the access of their children—and only their children—to library resources. Parents who do not want

their children to have access to certain library services, materials, or facilities should so advise their children. Librarians and library governing bodies cannot assume the role of parents or the functions of parental authority in the private relationship between parent and child.

Lack of access to information can be harmful to minors. Librarians and library governing bodies have a public and professional obligation to ensure that all members of the community they serve have free, equal, and equitable access to the entire range of library resources regardless of content, approach, format, or amount of detail. This principle of library service applies equally to all users, minors as well as adults. Librarians and library governing bodies must uphold this principle in order to provide adequate and effective service to minors.

<sup>1</sup>See Erznoznik v. City of Jacksonville, 422 U.S. 205 (1975)-"Speech that is neither obscene as to youths nor subject to some other legitimate proscription cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable [422 U.S. 205, 214] for them. In most circumstances, the values protected by the First Amendment are no less applicable when government seeks to control the flow of information to minors. See Tinker v. Des Moines School Dist., *supra*. Cf. West Virginia Bd. of Ed. v. Barnette, 319 U.S. 624 (1943)."

Adopted June 30, 1972, by the ALA Council; amended July 1, 1981; July 3, 1991, June 30, 2004.

[ISBN 8389-7549-6]

## **Importance of Education to Intellectual Freedom**

### **An Interpretation of the Library Bill of Rights**

Education in support of intellectual freedom is fundamental to the mission of libraries of all types. Intellectual freedom is a universal human right that involves both physical and intellectual access to information and ideas. Libraries provide physical access through facilities, resources, and services. Libraries foster intellectual access through educational programs and instruction in essential information skills.

Article I of the Library Bill of Rights “affirms that all libraries are forums for information and ideas.” Physical access to information is listed as the first principle:

Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

Article II of the Library Bill of Rights emphasizes the importance of fostering intellectual access to information by providing materials that allow users to evaluate content and context and find information representing multiple points of view:

Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

The universal freedom to express information and ideas is stated in the *Universal Declaration of Human Rights*, Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

The importance of education to the development of intellectual freedom is expressed in the *Universal Declaration of Human Rights*, Article 26:

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages . . . .

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial, or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Libraries of all types foster education by promoting the free expression and interchange of ideas. Libraries use resources, programming, and services to strengthen intellectual and physical access to information and thus build a foundation of intellectual freedom: collections (both real and virtual) are developed with multiple perspectives and individual needs of users in mind; programming and instructional services are framed around equitable access to information and ideas; and teaching of information skills is integrated appropriately throughout the spectrum of library programming and leads to empowered lifelong learners.

Through educational programming and instruction in information skills, libraries empower individuals to explore ideas, access and evaluate information, draw meaning from information presented in a variety of formats, develop valid conclusions, and express new ideas. Such education facilitates intellectual access to information and offers a path to intellectual freedom.

Adopted July 15, 2009, by the ALA Council

## Intellectual Freedom Principles for Academic Libraries

### An Interpretation of the Library Bill of Rights

A strong intellectual freedom perspective is critical to the development of academic library collections and services that dispassionately meet the education and research needs of a college or university community. The purpose of this statement is to outline how and where intellectual freedom principles fit into an academic library setting, thereby raising consciousness of the intellectual freedom context within which academic librarians work. The following principles should be reflected in all relevant library policy documents.

1. The general principles set forth in the *Library Bill of Rights* form an indispensable framework for building collections, services, and policies that serve the entire academic community.
2. The privacy of library users is and must be inviolable. Policies should be in place that maintain confidentiality of library borrowing records and of other information relating to personal use of library information and services.
3. The development of library collections in support of an institution's instruction and research programs should transcend the personal values of the selector. In the interests of research and learning, it is essential that collections contain materials representing a variety of perspectives on subjects that may be considered controversial.
4. Preservation and replacement efforts should ensure that balance in library materials is maintained and that controversial materials are not removed from the collections through theft, loss, mutilation, or normal wear and tear. There should be alertness to efforts by special interest groups to bias a collection through systematic theft or mutilation.
5. Licensing agreements should be consistent with the *Library Bill of Rights*, and should maximize access.
6. Open and unfiltered access to the Internet should be conveniently available to the academic community in a college or university library. Content filtering devices and content-based restrictions are a contradiction of the academic library mission to further research and learning through exposure to the broadest possible range of ideas and information. Such restrictions are a fundamental violation of intellectual freedom in academic libraries.
7. Freedom of information and of creative expression should be reflected in library exhibits and in all relevant library policy documents.
8. Library meeting rooms, research carrels, exhibit spaces, and other facilities should be available to the academic community regardless of research being pursued or subject being discussed. Any restrictions made necessary because of limited availability of space should be based on need, as reflected in library policy, rather than on content of research or discussion.
9. Whenever possible, library services should be available without charge in order to encourage inquiry. Where charges are necessary, a free or low-cost

alternative (e.g., downloading to disc rather than printing) should be available when possible.

10. A service philosophy should be promoted that affords equal access to information for all in the academic community with no discrimination on the basis of race, values, gender, sexual orientation, cultural or ethnic background, physical or learning disability, economic status, religious beliefs, or views.
11. A procedure ensuring due process should be in place to deal with requests by those within and outside the academic community for removal or addition of library resources, exhibits, or services.
12. It is recommended that this statement of principle be endorsed by appropriate institutional governing bodies, including the faculty senate or similar instrument of faculty governance.

Approved by ACRL Board of Directors: June 29, 1999  
Adopted July 12, 2000, by the ALA Council.

## **Labels and Rating Systems**

### **An Interpretation of the Library Bill of Rights**

Libraries do not advocate the ideas found in their collections or in resources accessible through the library. The presence of books and other resources in a library does not indicate endorsement of their contents by the library. Likewise, providing access to digital information does not indicate endorsement or approval of that information by the library. Labeling and rating systems present distinct challenges to these intellectual freedom principles.

Labels on library materials may be viewpoint-neutral directional aids designed to save the time of users, or they may be attempts to prejudice or discourage users or restrict their access to materials. When labeling is an attempt to prejudice attitudes, it is a censor's tool. The American Library Association opposes labeling as a means of predisposing people's attitudes toward library materials.

Prejudicial labels are designed to restrict access, based on a value judgment that the content, language, or themes of the material, or the background or views of the creator(s) of the material, render it inappropriate or offensive for all or certain groups of users. The prejudicial label is used to warn, discourage, or prohibit users or certain groups of users from accessing the material. Such labels sometimes are used to place materials in restricted locations where access depends on staff intervention.

Viewpoint-neutral directional aids facilitate access by making it easier for users to locate materials. The materials are housed on open shelves and are equally accessible to all users, who may choose to consult or ignore the directional aids at their own discretion. Directional aids can have the effect of prejudicial labels when their implementation becomes proscriptive rather than descriptive. When directional aids are used to forbid access or to suggest moral or doctrinal endorsement, the effect is the same as prejudicial labeling.

Many organizations use rating systems as a means of advising either their members or the general public regarding the organizations' opinions of the contents and suitability or appropriate age for use of certain books, films, recordings, Web sites, games, or other materials. The adoption, enforcement, or endorsement of any of these rating systems by a library violates the Library Bill of Rights. When requested, librarians should provide information about rating systems equitably, regardless of viewpoint.

Adopting such systems into law or library policy may be unconstitutional. If labeling or rating systems are mandated by law, the library should seek legal advice regarding the law's applicability to library operations.

Libraries sometimes acquire resources that include ratings as part of their packaging. Librarians should not endorse the inclusion of such rating systems; however, removing or destroying the ratings—if placed there by, or with permission of, the copyright holder—could constitute expurgation (see "Expurgation of Library Materials: An

Interpretation of the Library Bill of Rights”). In addition, the inclusion of ratings on bibliographic records in library catalogs is a violation of the Library Bill of Rights. Prejudicial labeling and ratings presuppose the existence of individuals or groups with wisdom to determine by authority what is appropriate or inappropriate for others. They presuppose that individuals must be directed in making up their minds about the ideas they examine. The American Library Association affirms the rights of individuals to form their own opinions about resources they choose to read or view.

Adopted July 13, 1951, by the ALA Council; amended June 25, 1971; July 1, 1981; June 26, 1990; January 19, 2005; July 15, 2009.

## **Minors and Internet Interactivity**

### **An Interpretation of the Library Bill of Rights**

The digital environment offers opportunities for accessing, creating, and sharing information. The rights of minors to retrieve, interact with, and create information posted on the Internet in schools and libraries are extensions of their First Amendment rights. (See also other interpretations of the Library Bill of Rights, including “Access to Digital Information, Services, and Networks,” “Free Access to Libraries for Minors,” and “Access for Children and Young Adults to Nonprint Materials.”)

Academic pursuits of minors can be strengthened with the use of interactive Web tools, allowing young people to create documents and share them online; upload pictures, videos, and graphic material; revise public documents; and add tags to online content to classify and organize information. Instances of inappropriate use of such academic tools should be addressed as individual behavior issues, not as justification for restricting or banning access to interactive technology. Schools and libraries should ensure that institutional environments offer opportunities for students to use interactive Web tools constructively in their academic pursuits, as the benefits of shared learning are well documented.

Personal interactions of minors can be enhanced by social tools available through the Internet. Social networking Web sites allow the creation of online communities that feature an open exchange of information in various forms, such as images, videos, blog posts, and discussions about common interests. Interactive Web tools help children and young adults learn about and organize social, civic, and extra-curricular activities. Many interactive sites invite users to establish online identities, share personal information, create Web content, and join social networks. Parents and guardians play a critical role in preparing their children for participation in online activity by communicating their personal family values and by monitoring their children’s use of the Internet. Parents and guardians are responsible for what their children—and only their children—access on the Internet in libraries.

The use of interactive Web tools poses two competing intellectual freedom issues—the protection of minors’ privacy and the right of free speech. Some have expressed concerns regarding what they perceive is an increased vulnerability of young people in the online environment when they use interactive sites to post personally identifiable information. In an effort to protect minors’ privacy, adults sometimes restrict access to interactive Web environments. Filters, for example, are sometimes used to restrict access by youth to interactive social networking tools, but at the same time deny minors’ rights to free expression on the Internet. Prohibiting children and young adults from using social networking sites does not teach safe behavior and leaves youth without the necessary knowledge and skills to protect their privacy or engage in responsible speech. Instead of restricting or denying access to the Internet, librarians and teachers should educate minors to participate responsibly, ethically, and safely.

The First Amendment applies to speech created by minors on interactive sites. Usage of these social networking sites in a school or library allows minors to access and create resources that fulfill their interests and needs for information, for social connection with peers, and for participation in a community of learners. Restricting expression and access to interactive Web sites because the sites provide tools for sharing information with others violates the tenets of the Library Bill of Rights. It is the responsibility of librarians and educators to monitor threats to the intellectual freedom of minors and to advocate for extending access to interactive applications on the Internet.

As defenders of intellectual freedom and the First Amendment, libraries and librarians have a responsibility to offer unrestricted access to Internet interactivity in accordance with local, state, and federal laws and to advocate for greater access where it is abridged. School and library professionals should work closely with young people to help them learn skills and attitudes that will prepare them to be responsible, effective, and productive communicators in a free society.

Adopted July 15, 2009, by the ALA Council.

## **Library-Initiated Programs as a Resource**

### **An Interpretation of the Library Bill of Rights**

Library-initiated programs support the mission of the library by providing users with additional opportunities for information, education, and recreation. Article I of the *Library Bill of Rights* states: “Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves.”

Library-initiated programs take advantage of library staff expertise, collections, services and facilities to increase access to information and information resources. Library-initiated programs introduce users and potential users to the resources of the library and to the library’s primary function as a facilitator of information access. The library may participate in cooperative or joint programs with other agencies, organizations, institutions, or individuals as part of its own effort to address information needs and to facilitate information access in the community the library serves.

Library-initiated programs on site and in other locations include, but are not limited to, speeches, community forums, discussion groups, demonstrations, displays, and live or media presentations.

Libraries serving multilingual or multicultural communities should make efforts to accommodate the information needs of those for whom English is a second language. Library-initiated programs that cross language and cultural barriers introduce otherwise underserved populations to the resources of the library and provide access to information.

Library-initiated programs “should not be proscribed or removed [or canceled] because of partisan or doctrinal disapproval” of the contents of the program or the views expressed by the participants, as stated in Article II of the *Library Bill of Rights*. Library sponsorship of a program does not constitute an endorsement of the content of the program or the views expressed by the participants, any more than the purchase of material for the library collection constitutes an endorsement of the contents of the material or the views of its creator.

Library-initiated programs are a library resource, and, as such, are developed in accordance with written guidelines, as approved and adopted by the library’s policy-making body. These guidelines should include an endorsement of the *Library Bill of Rights* and set forth the library’s commitment to free and open access to information and ideas for all users.

Library staff select topics, speakers and resource materials for library-initiated programs based on the interests and information needs of the community. Topics, speakers and resource materials are not excluded from library-initiated programs because of possible controversy. Concerns, questions or complaints about library-initiated programs are

handled according to the same written policy and procedures that govern reconsiderations of other library resources.

Library-initiated programs are offered free of charge and are open to all. Article V of the *Library Bill of Rights* states: “A person’s right to use a library should not be denied or abridged because of origin, age, background, or views.”

The “right to use a library” encompasses all the resources the library offers, including the right to attend library-initiated programs. Libraries do not deny or abridge access to library resources, including library-initiated programs, based on an individual’s economic background or ability to pay.

Adopted January 27, 1982, by the ALA Council; amended June 26, 1990; July 12, 2000.

[ISBN 8389-6528-8]

## Meeting Rooms

### An Interpretation of the Library Bill of Rights

Many libraries provide meeting rooms for individuals and groups as part of a program of service. Article VI of the *Library Bill of Rights* states that such facilities should be made available to the public served by the given library “on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.”

Libraries maintaining meeting room facilities should develop and publish policy statements governing use. These statements can properly define time, place, or manner of use; such qualifications should not pertain to the content of a meeting or to the beliefs or affiliations of the sponsors. These statements should be made available in any commonly used language within the community served.

If meeting rooms in libraries supported by public funds are made available to the general public for non-library sponsored events, the library may not exclude any group based on the subject matter to be discussed or based on the ideas that the group advocates. For example, if a library allows charities and sports clubs to discuss their activities in library meeting rooms, then the library should not exclude partisan political or religious groups from discussing their activities in the same facilities. If a library opens its meeting rooms to a wide variety of civic organizations, then the library may not deny access to a religious organization. Libraries may wish to post a permanent notice near the meeting room stating that the library does not advocate or endorse the viewpoints of meetings or meeting room users.

Written policies for meeting room use should be stated in inclusive rather than exclusive terms. For example, a policy that the library’s facilities are open “to organizations engaged in educational, cultural, intellectual, or charitable activities” is an inclusive statement of the limited uses to which the facilities may be put. This defined limitation would permit religious groups to use the facilities because they engage in intellectual activities, but would exclude most commercial uses of the facility.

A publicly supported library may limit use of its meeting rooms to strictly “library-related” activities, provided that the limitation is clearly circumscribed and is viewpoint neutral.

Written policies may include limitations on frequency of use, and whether or not meetings held in library meeting rooms must be open to the public. If state and local laws permit private as well as public sessions of meetings in libraries, libraries may choose to offer both options. The same standard should be applicable to all.

If meetings are open to the public, libraries should include in their meeting room policy statement a section that addresses admission fees. If admission fees are permitted, libraries shall seek to make it possible that these fees do not limit access to individuals who may be unable to pay, but who wish to attend the meeting. Article V of the *Library*

*Bill of Rights* states that “a person’s right to use a library should not be denied or abridged because of origin, age, background, or views.” It is inconsistent with Article V to restrict indirectly access to library meeting rooms based on an individual’s or group’s ability to pay for that access.

Adopted July 2, 1991, by the ALA Council.

[ISBN 8389-7550-X]

## Privacy

### An Interpretation of the Library Bill of Rights

#### Introduction

Privacy is essential to the exercise of free speech, free thought, and free association. The courts have established a First Amendment right to receive information in a publicly funded library.<sup>1</sup> Further, the courts have upheld the right to privacy based on the Bill of Rights of the U.S. Constitution.<sup>2</sup> Many states provide guarantees of privacy in their constitutions and statute law.<sup>3</sup> Numerous decisions in case law have defined and extended rights to privacy.<sup>4</sup>

In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf.<sup>5</sup>

Protecting user privacy and confidentiality has long been an integral part of the mission of libraries. The ALA has affirmed a right to privacy since 1939.<sup>6</sup> Existing ALA policies affirm that confidentiality is crucial to freedom of inquiry.<sup>7</sup> Rights to privacy and confidentiality also are implicit in the *Library Bill of Rights*'<sup>8</sup> guarantee of free access to library resources for all users.

#### Rights of Library Users

The Library Bill of Rights affirms the ethical imperative to provide unrestricted access to information and to guard against impediments to open inquiry. Article IV states: "Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas." When users recognize or fear that their privacy or confidentiality is compromised, true freedom of inquiry no longer exists.

In all areas of librarianship, best practice leaves the user in control of as many choices as possible. These include decisions about the selection of, access to, and use of information. Lack of privacy and confidentiality has a chilling effect on users' choices. All users have a right to be free from any unreasonable intrusion into or surveillance of their lawful library use.

Users have the right to be informed what policies and procedures govern the amount and retention of personally identifiable information, why that information is necessary for the library, and what the user can do to maintain his or her privacy. Library users expect and in many places have a legal right to have their information protected and kept private and confidential by anyone with direct or indirect access to that information. In addition, Article V of the *Library Bill of Rights* states: "A person's right to use a library should not be denied or abridged because of origin, age, background, or views." This article precludes the use of profiling as a basis for any breach of privacy rights. Users have the right to use a library without any abridgement of privacy that may result from equating the subject of their inquiry with behavior.<sup>9</sup>

## Responsibilities in Libraries

The library profession has a long-standing commitment to an ethic of facilitating, not monitoring, access to information. This commitment is implemented locally through development, adoption, and adherence to privacy policies that are consistent with applicable federal, state, and local law. Everyone (paid or unpaid) who provides governance, administration, or service in libraries has a responsibility to maintain an environment respectful and protective of the privacy of all users. Users have the responsibility to respect each others' privacy.

For administrative purposes, librarians may establish appropriate time, place, and manner restrictions on the use of library resources.<sup>10</sup> In keeping with this principle, the collection of personally identifiable information should only be a matter of routine or policy when necessary for the fulfillment of the mission of the library. Regardless of the technology used, everyone who collects or accesses personally identifiable information in any format has a legal and ethical obligation to protect confidentiality.

## Conclusion

The American Library Association affirms that rights of privacy are necessary for intellectual freedom and are fundamental to the ethics and practice of librarianship.

<sup>1</sup>Court opinions establishing a right to receive information in a public library include *Board of Education. v. Pico*, 457 U.S. 853 (1982); *Kreimer v. Bureau Of Police For The Town Of Morristown*, 958 F.2d 1242 (3d Cir. 1992); and *Reno v. American Civil Liberties Union*, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997).

<sup>2</sup>See in particular the Fourth Amendment's guarantee of "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," the Fifth Amendment's guarantee against self-incrimination, and the Ninth Amendment's guarantee that "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." This right is explicit in Article Twelve of the Universal Declaration of Human Rights: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." See: <http://www.un.org/Overview/rights.html>. This right has further been explicitly codified as Article Seventeen of the "International Covenant on Civil and Political Rights," a legally binding international human rights agreement ratified by the United States on June 8, 1992. See: [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm).

<sup>3</sup>Ten state constitutions guarantee a right of privacy or bar unreasonable intrusions into citizens' privacy. Forty-eight states protect the confidentiality of library users' records by law, and the attorneys general in the remaining two states have issued opinions recognizing the privacy of users' library records.

<sup>4</sup>Cases recognizing a right to privacy include: *NAACP v. Alabama*, 357 U.S. 449 (1958); *Griswold v. Connecticut* 381 U.S. 479 (1965); *Katz v. United States*, 389 U.S. 347

(1967); and *Stanley v. Georgia*, 394 U.S. 557 (1969). Congress recognized the right to privacy in the Privacy Act of 1974 and Amendments (5 USC Sec. 552a), which addresses the potential for government's violation of privacy through its collection of personal information. The Privacy Act's "Congressional Findings and Statement of Purpose" state in part: "the right to privacy is a personal and fundamental right protected by the Constitution of the United States." See: [http://caselaw.lp.findlaw.com/scripts/ts\\_search.pl?title=5&sec=552a](http://caselaw.lp.findlaw.com/scripts/ts_search.pl?title=5&sec=552a).

<sup>5</sup>The phrase "Personally identifiable information" was established in ALA policy in 1991. See: Policy Concerning Confidentiality of Personally Identifiable Information about Library Users. Personally identifiable information can include many types of library records, for instance: information that the library requires an individual to provide in order to be eligible to use library services or borrow materials, information that identifies an individual as having requested or obtained specific materials or materials on a particular subject, and information that is provided by an individual to assist a library staff member to answer a specific question or provide information on a particular subject. Personally identifiable information does not include information that does not identify any individual and that is retained only for the purpose of studying or evaluating the use of a library and its materials and services. Personally identifiable information does include any data that can link choices of taste, interest, or research with a specific individual.

<sup>6</sup>Article Eleven of the *Code of Ethics for Librarians* (1939) asserted that "It is the librarian's obligation to treat as confidential any private information obtained through contact with library patrons." See: *Code of Ethics for Librarians* (1939). Article Three of the current Code (1995) states: "We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired, or transmitted." See: <http://www.ala.org/alaorg/oif/ethics.html>.

<sup>7</sup>See these ALA Policies: *Access for Children and Young People to Videotapes and Other Nonprint Formats*; *Free Access to Libraries for Minors*; *Freedom to Read* (<http://www.ala.org/alaorg/oif/freeread.html>); *Libraries: An American Value*; the newly revised *Library Principles for a Networked World*; *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users*; *Policy on Confidentiality of Library Records*; *Suggested Procedures for Implementing Policy on the Confidentiality of Library Records*.

<sup>8</sup>Adopted June 18, 1948; amended February 2, 1961, and January 23, 1980; inclusion of "age" reaffirmed January 23, 1996, by the ALA Council. See: <http://www.ala.org/work/freedom/lbr.html>.

<sup>9</sup>Existing ALA Policy asserts, in part, that: "The government's interest in library use reflects a dangerous and fallacious equation of what a person reads with what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information." *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users*.

<sup>10</sup>See: *Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities.*

Adopted June 19, 2002, by the ALA Council.

[ISBN 0-8389-8208-5]

## **Restricted Access to Library Materials**

### **An Interpretation of the Library Bill of Rights**

Libraries are a traditional forum for the open exchange of information. Restricting access to library materials violates the basic tenets of the *Library Bill of Rights*. Some libraries block access to certain materials by placing physical or virtual barriers between the user and those materials. For example, materials are sometimes placed in a “locked case,” “adults only,” “restricted shelf,” or “high-demand” collection. Access to certain materials is sometimes restricted to protect them from theft or mutilation, or because of statutory authority or institutional mandate.

In some libraries, access is restricted based on computerized reading management programs that assign reading levels to books and/or users and limit choice to those materials on the program’s reading list. Materials that are not on the reading management list have been removed from the collection in some school libraries. Organizing collections by reading management program level, ability, grade, or age level is another example of restricted access. Even though the chronological age or grade level of users is not representative of their information needs or total reading abilities, users may feel inhibited from selecting resources located in areas that do not correspond to their assigned characteristics.

Physical and virtual restrictions on access to library materials may generate psychological, service, or language skills barriers to access as well. Because restricted materials often deal with controversial, unusual, or sensitive subjects, having to ask a librarian or circulation clerk for access to them may be embarrassing or inhibiting for patrons desiring the materials. Even when a title is listed in the catalog with a reference to its restricted status, a barrier is placed between the patron and the publication. (See also “Labels and Rating Systems.”) Because restricted materials often feature information that some people consider objectionable, potential library users may be predisposed to think of the materials as objectionable and, therefore, be reluctant to ask for access to them.

Although federal and state statutes require libraries that accept specific types of state and/or federal funding to install filters that limit access to Internet resources for minors and adults, filtering software applied to Internet stations in some libraries may prevent users from finding targeted categories of information, much of which is constitutionally protected. The use of Internet filters must be addressed through library policies and procedures to ensure that users receive information and that filters do not prevent users from exercising their First Amendment rights. Users have the right to unfiltered access to constitutionally protected information. (See also “Access to Electronic Information, Services, and Resources.”)

Library policies that restrict access to materials for any reason must be carefully formulated and administered to ensure they do not violate established principles of intellectual freedom. This caution is reflected in ALA policies, such as "Evaluating Library Collections," "Free Access to Libraries for Minors," "Preservation Policy," and the ACRL "Code of Ethics for Special Collections Librarians."

Donated materials require special consideration. In keeping with the "Joint Statement on Access" of the American Library Association and Society of American Archivists, libraries should avoid accepting donor agreements or entering into contracts that impose permanent restrictions on special collections. As stated in the "Joint Statement on Access," it is the responsibility of a library with such collections "to make available original research materials in its possession on equal terms of access."

A primary goal of the library profession is to facilitate access to all points of view on current and historical issues. All proposals for restricted access should be carefully scrutinized to ensure that the purpose is not to suppress a viewpoint or to place a barrier between users and content. Libraries must maintain policies and procedures that serve the diverse needs of their users and protect the First Amendment right to receive information.

Adopted February 2, 1973, by the ALA Council; amended July 1, 1981; July 3, 1991; July 12, 2000; June 30, 2004; January 28, 2009.

[ISBN 8389-7552-6]

## **Services to People with Disabilities**

### **An Interpretation of the Library Bill of Rights**

The American Library Association recognizes that persons with disabilities are a large and often neglected part of society. In addition to many personal challenges, some persons with disabilities face economic inequity, illiteracy, cultural isolation, and discrimination in education, employment, and the broad range of societal activities. The library plays a catalytic role in their lives by facilitating their full participation in society.

The First Amendment to the U.S. Constitution mandates the right of all persons to free expression and the corollary right to receive the constitutionally protected expression of others. A person's right to use the library should not be denied or abridged because of disabilities. The library has the responsibility to provide materials "for the interest, information, and enlightenment of all people of the community the library serves." (See also the Library Bill of Rights.) When information in libraries is not presented in formats that are accessible to all users, discriminatory barriers are created.

Library staff should be proactive in reaching out to persons with disabilities and facilitating provision of resources and services. Library staff also should be aware of the available technologies and how to assist all users with library technology. All library resources should be available in formats accessible by persons of all ages with different abilities. These materials must not be restricted by any presuppositions about information needs, interests, or capacity for understanding. The library should offer different, necessary modes of access to the same content using equipment, electronics, or software. All information resources provided directly or indirectly by the library, regardless of technology, format, or method of delivery, should be readily, equally and equitably accessible to all library users. Libraries should make every effort to support the needs of their users with disabilities and when necessary, should seek financial or other assistance to do so.

ALA recognizes that providing specialized services often requires retention of extensive patron records, such as a user's transaction histories. Libraries assume responsibility for protecting the confidentiality of all personally identifiable information entrusted to them to perform services.

Libraries should provide training opportunities for all staff and volunteers in order to sensitize them to issues affecting persons with disabilities and to teach effective techniques for providing services for users with disabilities and for working with colleagues with disabilities.

Libraries should use strategies based upon the principles of universal design to ensure that library facilities, policies, services, and resources meet the needs of all users. Libraries should provide a clear path for persons with disabilities to request accommodations that will enable them to participate fully in library programs and

services. Further, libraries and schools should work with persons with disabilities, agencies, organizations, and vendors to integrate assistive technology into their facilities and services to meet the needs of persons with a broad range of disabilities, including learning, mobility, sensory, and developmental disabilities.

The preamble to the Library Bill of Rights states, “all libraries are forums for information and ideas.” By removing the physical, technological, and procedural barriers to accessing those forums, libraries promote the full inclusion of persons with disabilities into our society.

ALA related policy: 54.3.2 Library Services for People with Disabilities

Adopted January 28, 2009, by the ALA Council.

## The Universal Right to Free Expression

### An Interpretation of the Library Bill of Rights

Freedom of expression is an inalienable human right and the foundation for self-government. Freedom of expression encompasses the freedoms of speech, press, religion, assembly, and association, and the corollary right to receive information.

The American Library Association endorses this principle, which is also set forth in the Universal Declaration of Human Rights, adopted by the United Nations General Assembly. The Preamble of this document states that “. . . recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world. . .” and “. . . the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people. . . .”

Article 18 of this document states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19 states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Article 20 states:

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

We affirm our belief that these are inalienable rights of every person, regardless of origin, age, background, or views. We embody our professional commitment to these principles in the *Library Bill of Rights* and *Code of Ethics*, as adopted by the American Library Association.

We maintain that these are universal principles and should be applied by libraries and librarians throughout the world. The American Library Association's policy on International Relations reflects these objectives:

“. . . to encourage the exchange, dissemination, and access to information and the unrestricted flow of library materials in all formats throughout the world.”

We know that censorship, ignorance, and limitations on the free flow of information are the tools of tyranny and oppression. We believe that ideas and information topple the walls of hate and fear and build bridges of cooperation and understanding far more effectively than weapons and armies.

The American Library Association is unswerving in its commitment to human rights and intellectual freedom; the two are inseparably linked and inextricably entwined. Freedom of opinion and expression is not derived from or dependent on any form of government or political power. This right is inherent in every individual. It cannot be surrendered, nor can it be denied. True justice comes from the exercise of this right.

We recognize the power of information and ideas to inspire justice, to restore freedom and dignity to the oppressed, and to change the hearts and minds of the oppressors.

Courageous men and women, in difficult and dangerous circumstances throughout human history, have demonstrated that freedom lives in the human heart and cries out for justice even in the face of threats, enslavement, imprisonment, torture, exile, and death. We draw inspiration from their example. They challenge us to remain steadfast in our most basic professional responsibility to promote and defend the right of free expression.

There is no good censorship. Any effort to restrict free expression and the free flow of information aids the oppressor. Fighting oppression with censorship is self-defeating.

Threats to the freedom of expression of any person anywhere are threats to the freedom of all people everywhere. Violations of human rights and the right of free expression have been recorded in virtually every country and society across the globe.

In response to these violations, we affirm these principles:

The American Library Association opposes any use of governmental prerogative that leads to the intimidation of individuals that prevents them from exercising their rights to hold opinions without interference, and to seek, receive, and impart information and ideas. We urge libraries and librarians everywhere to resist such abuse of governmental power, and to support those against whom such governmental power has been employed.

The American Library Association condemns any governmental effort to involve libraries and librarians in restrictions on the right of any individual to hold opinions without interference, and to seek, receive, and impart information and ideas. Such restrictions pervert the function of the library and violate the professional responsibilities of librarians.

The American Library Association rejects censorship in any form. Any action that denies the inalienable human rights of individuals only damages the will to resist oppression, strengthens the hand of the oppressor, and undermines the cause of justice.

The American Library Association will not abrogate these principles. We believe that censorship corrupts the cause of justice, and contributes to the demise of freedom.

Adopted January 16, 1991, by the ALA Council.

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## **Code of Ethics of the American Library Association**

As members of the American Library Association, we recognize the importance of codifying and making known to the profession and to the general public the ethical principles that guide the work of librarians, other professionals providing information services, library trustees and library staffs.

Ethical dilemmas occur when values are in conflict. The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment.

We significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, we are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

The principles of this Code are expressed in broad statements to guide ethical decision making. These statements provide a framework; they cannot and do not dictate conduct to cover particular situations.

- I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
- II. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
- III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
- IV. We respect intellectual property rights and advocate balance between the interests of information users and rights holders.
- V. We treat co-workers and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.
- VI. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
- VII. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
- VIII. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of co-workers, and by fostering the aspirations of potential members of the profession.

Adopted June 28, 1997, by the ALA Council; Amended January 22, 2008.

## The Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our

democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.*

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

## Freedom to View Statement

The **FREEDOM TO VIEW**, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

## **Libraries: An American Value**

Libraries in America are cornerstones of the communities they serve. Free access to the books, ideas, resources, and information in America's libraries is imperative for education, employment, enjoyment, and self-government.

Libraries are a legacy to each generation, offering the heritage of the past and the promise of the future. To ensure that libraries flourish and have the freedom to promote and protect the public good in the 21st century, we believe certain principles must be guaranteed.

To that end, we affirm this contract with the people we serve:

- We defend the constitutional rights of all individuals, including children and teenagers, to use the library's resources and services;
- We value our nation's diversity and strive to reflect that diversity by providing a full spectrum of resources and services to the communities we serve;
- We affirm the responsibility and the right of all parents and guardians to guide their own children's use of the library and its resources and services;
- We connect people and ideas by helping each person select from and effectively use the library's resources;
- We protect each individual's privacy and confidentiality in the use of library resources and services;
- We protect the rights of individuals to express their opinions about library resources and services;
- We celebrate and preserve our democratic society by making available the widest possible range of viewpoints, opinions and ideas, so that all individuals have the opportunity to become lifelong learners - informed, literate, educated, and culturally enriched.

Change is constant, but these principles transcend change and endure in a dynamic technological, social, and political environment.

By embracing these principles, libraries in the United States can contribute to a future that values and protects freedom of speech in a world that celebrates both our similarities and our differences, respects individuals and their beliefs, and holds all persons truly equal and free.

Adopted February 3, 1999, by the  
Council of the American Library Association

## **Statement on Professional Ethics, 1981**

### **Introduction**

Since 1939, the American Library Association has recognized the importance of codifying and making known to the public and the profession the principles which guide librarians in action. This latest revision of the Code of Ethics reflects changes in the nature of the profession and in its social and institutional environment. It should be revised and augmented as necessary.

Librarians significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, librarians are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

Librarians are dependent upon one another for the bibliographical resources that enable us to provide information services, and have obligations for maintaining the highest level of personal integrity and competence.

### **Code of Ethics**

- I. Librarians must provide the highest level of service through appropriate and usefully organized collections, fair and equitable circulation and service policies, and skillful, accurate, unbiased, and courteous responses to all requests for assistance.
- II. Librarians must resist all efforts by groups or individuals to censor library materials.
- III. Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired.
- IV. Librarians must adhere to the principles of due process and equality of opportunity in peer relationships and personnel actions.
- V. Librarians must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of an institution or professional body.
- VI. Librarians must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues, or the employing institution.

Adopted June 30, 1981, by ALA Membership and ALA Council

## The Students' Right to Read

1981

*The current edition of The Students' Right to Read is an adaptation and updating of the original Council statement, including "Citizen's Request for Reconsideration of a Work," prepared by the Committee on the Right to Read of the National Council of Teachers of English and revised by Ken Donelson.*

### The Right to Read and the Teacher of English

For many years, American schools have been pressured to restrict or deny students access to books or periodicals deemed objectionable by some individual or group on moral, political, religious, ethnic, racial, or philosophical grounds. These pressures have mounted in recent years, and English teachers have no reason to believe they will diminish. The fight against censorship is a continuing series of skirmishes, not a pitched battle leading to a final victory over censorship.

We can safely make two statements about censorship: first, any work is potentially open to attack by someone, somewhere, sometime, for some reason; second, censorship is often arbitrary and irrational. For example, classics traditionally used in English classrooms have been accused of containing obscene, heretical, or subversive elements. What English teacher could anticipate judgments such as the following--judgments characteristic of those made by many would-be censors:

- Plato's *Republic*: "This book is un-Christian."
- George Eliot's *Silas Marner*, "You can't prove what that dirty old man is doing with that child between chapters."
- Jules Verne's *Around the World in Eighty Days*: "Very unfavorable to Mormons."
- Nathaniel Hawthorne's *The Scarlet Letter*: "A filthy book."
- Shakespeare's *Macbeth*: "Too violent for children today."
- Fyodor Dostoevsky's *Crime and Punishment*: "Serves as a poor model for young people."
- Herman Melville's *Moby Dick*: "Contains homosexuality."

Modern works, even more than the classics, are criticized as "filthy," "un-American," "overly realistic," and "anti-war." Some books have been attacked merely for being "controversial," suggesting that for some people the purpose of education is not the investigation of ideas but rather the indoctrination of certain set beliefs and standards. The following statements represent complaints typical of those made against modern works of literature:

- J. D. Salinger's *The Catcher in the Rye*: "A dreadful, dreary recital of sickness, sordidness, and sadism." (Without much question, Salinger's book has been for some time the most widely censored book in the United States.)

- Kurt Vonnegut's *Slaughterhouse-Five*: "Its repetitious obscenity and immorality merely degrade and defile, teaching nothing."
- Harper Lee's *To Kill a Mockingbird*: "The word rape is used several times. Children should not see this in any literature book."

Some groups and individuals have also raised objections to literature written specifically for young people. As long as novels intended for young people stayed at the intellectual and emotional level of *A Date for Marcy* or *A Touchdown for Thunderbird High*, censors could forego criticism. But many contemporary novels for adolescents focus on the real world of young people--drugs, premarital sex, alcoholism, divorce, high school gangs, school dropouts, racism, violence, and sensuality. English teachers willing to defend the classics and modern literature must be prepared to give equally spirited defense to serious and worthwhile adolescent novels.

Literature about ethnic or racial minorities remains "controversial" or "objectionable" to many adults. As long as groups such as Blacks, Indians, Orientals, Chicanos, and Puerto Ricans "kept their proper place"--awarded them by an Anglo society--censors rarely raised their voices. But attacks have increased in frequency as minority groups have refused to observe their assigned "place." Though nominally, the criticisms of racial or ethnic literature have usually been directed at "bad language," "suggestive situations," "questionable literary merit," or "ungrammatical English" (usually oblique complaints about the different dialect or culture of a group), the underlying motive for some attacks has unquestionably been racial. Typical of censors' criticisms of ethnic works are the following comments:

- Ralph Ellison's *Invisible Man*: "The book is biased on the black question."
- Anne Frank's *Diary of a Young Girl*: "Obscene and blasphemous."
- Eldridge Cleaver's *Soul on Ice*: "Totally objectionable and without any literary value."

Books are not alone in being subject to censorship. Magazines or newspapers used, recommended, or referred to in English classes have increasingly drawn the censor's fire. Few libraries would regard their periodical collection as worthwhile or representative without some or all of the following publications, but all of them have been the target of censors on occasion:

- *National Geographic*: "Nudity and sensationalism, especially in stories on barbaric foreign people."
- *Scholastic Magazine*: "Doctrines opposing the beliefs of the majority, socialistic programs; promotes racial unrest and contains very detailed geography of foreign countries, especially those inhabited by dark people."
- *National Observer*: "Right-wing trash with badly reported news."
- *New York Times*: "That thing should be outlawed after printing the Pentagon papers and helping our country's enemies."

The immediate results of demands to censor books or periodicals vary. At times, school boards and administrators have supported and defended their teachers, their use of materials under fire, and the student's right of access to the materials. At other times, however, special committees have been formed to cull out "objectionable works" or "modern trash" or "controversial literature." Some teachers have been summarily reprimanded for assigning certain works, even to mature students. Others have been able to retain their positions only after initiating court action.

Not as sensational, but perhaps more important, are the long range results. Schools have removed from libraries and classrooms and English teachers have avoided using or recommending works which might make members of the community angry. Many students are consequently "educated" in a school atmosphere hostile to free inquiry. And many teachers learn to emphasize their own safety rather than their students' needs.

The problem of censorship does not derive solely from the small anti-intellectual, ultra-moral, or ultra-patriotic groups which will always function in a society that guarantees freedom of speech and freedom of the press. The present concern is rather with the frequency and force of attacks by others, often people of good will and the best intentions, some from within the teaching profession. The National Council of Teachers of English, the National Education Association, the American Federation of Teachers, and the American Library Association, as well as the publishing industry and writers themselves agree: pressures for censorship are great throughout our society.

The material that follows is divided into two sections. The first on "The Right to Read" is addressed to parents and the community at large. The other section, "A Program of Action," lists Council recommendations for establishing professional committees in every school to set up procedures for book selection, to work for community support, and to review complaints against any book or periodical.

## The Right to Read

An open letter to the citizens of our country from the National Council of Teachers of English:

*Where suspicion fills the air and holds scholars in line for fear of their jobs, there can be no exercise of the free intellect. . . . A problem can no longer be pursued with impunity to its edges. Fear stalks the classroom. The teacher is no longer a stimulant to adventurous thinking; she becomes instead a pipe line for safe and sound information. A deadening dogma takes the place of free inquiry. Instruction tends to become sterile; pursuit of knowledge is discouraged; discussion often leaves off where it should begin.*

Justice William O. Douglas,  
United States Supreme Court:  
Adler v. Board of Education, 1951.

The right to read, like all rights guaranteed or implied within our constitutional tradition, can be used wisely or foolishly. In many ways, education is an effort to improve the quality of choices open to all students. But to deny the freedom of choice in fear that it may be unwisely used is to destroy the freedom itself. For this reason, we respect the right of individuals to be selective in their own reading. But for the same reason, we oppose efforts of individuals or groups to limit the freedom of choice of others or to impose their own standards or tastes upon the community at large.

The right of any individual not just to read but to read whatever he or she wants to read is basic to a democratic society. This right is based on an assumption that the educated possess judgment and understanding and can be trusted with the determination of their own actions. In effect, the reader is freed from the bonds of chance. The reader is not limited by birth, geographic location, or time, since reading allows meeting people, debating philosophies, and experiencing events far beyond the narrow confines of an individual's own existence.

In selecting books for reading by young people, English teachers consider the contribution which each work may make to the education of the reader, its aesthetic value, its honesty, its readability for a particular group of students, and its appeal to adolescents. English teachers, however, may use different works for different purposes. The criteria for choosing a work to be read by an entire class are somewhat different from the criteria for choosing works to be read by small groups.

- For example, a teacher might select John Knowles' *A Separate Peace* for reading by an entire class, partly because the book has received wide critical recognition, partly because it is relatively short and will keep the attention of many slow readers, and partly because it has proved popular with many students of widely differing abilities. The same teacher, faced with the responsibility of choosing or recommending books for several small groups of students, might select or recommend books as different as Nathaniel Hawthorne's *The Scarlet*

*Letter*, Jack Schaefer's *Shane*, Alexander Solzhenitsyn's *One Day in the Life of Ivan Denisovitch*, Pierre Boulle's *The Bridge over the River Kwai*, Charles Dickens' *Great Expectations*, or Paul Zindel's *The Pigman*, depending upon the abilities and interests of the students in each group.

And the criteria for suggesting books to individuals or for recommending something worth reading for a student who casually stops by after class are different from selecting material for a class or group. But the teacher selects, not censors, books. Selection implies that a teacher is free to choose this or that work, depending upon the purpose to be achieved and the student or class in question, but a book selected this year may be ignored next year, and the reverse. Censorship implies that certain works are not open to selection, this year or any year.

Wallace Stevens once wrote, "Literature is the better part of life. To this it seems inevitably necessary to add, provided life is the better part of literature." Students and parents have the right to demand that education today keep students in touch with the reality of the world outside the classroom. Much of classic literature asks questions as valid and significant today as when the literature first appeared, questions like "What is the nature of humanity?" "Why do people praise individuality and practice conformity?" "What do people need for a good life?" and "What is the nature of the good person?" But youth is the age of revolt. To pretend otherwise is to ignore a reality made clear to young people and adults alike on television and radio, in newspapers and magazines. English teachers must be free to employ books, classic or contemporary, which do not lie to the young about the perilous but wondrous times we live in, books which talk of the fears, hopes, joys, and frustrations people experience, books about people not only as they are but as they can be. English teachers forced through the pressures of censorship to use only safe or antiseptic works are placed in the morally and intellectually untenable position of lying to their students about the nature and condition of mankind.

The teacher must exercise care to select or recommend works for class reading and group discussion. One of the most important responsibilities of the English teacher is developing rapport and respect among students. Respect for the uniqueness and potential of the individual, an important facet of the study of literature, should be emphasized in the English class. Literature classes should reflect the cultural contributions of many minority groups in the United States, just as they should acquaint students with contributions from the peoples of Asia, Africa, and Latin America.

### **The Threat to Education**

Censorship leaves students with an inadequate and distorted picture of the ideals, values, and problems of their culture. Writers may often represent their culture, or they may stand to the side and describe and evaluate that culture. Yet partly because of censorship or the fear of censorship, many writers are ignored or inadequately represented in the public schools, and many are represented in anthologies not by their best work but by their "safest" or "least offensive" work.

The censorship pressures receiving the greatest publicity are those of small groups who protest the use of a limited number of books with some "objectionable" realistic elements, such as *Brave New World*, *Lord of the Flies*, *Catcher in the Rye*, *Johnny Got His Gun*, *Catch-22*, *Soul on Ice*, or *A Day No Pigs Would Die*. The most obvious and immediate victims are often found among our best and most creative English teachers, those who have ventured outside the narrow boundaries of conventional texts. Ultimately, however, the real victims are the students, denied the freedom to explore ideas and pursue truth wherever and however they wish.

Great damage may be done by book committees appointed by national or local organizations to pore over anthologies, texts, library books, and paperbacks to find passages which advocate, or seem to advocate, causes or concepts or practices these organizations condemn. As a result, some publishers, sensitive to possible objections, carefully exclude sentences or selections that might conceivably offend some group, somehow, sometime, somewhere.

### **The Community's Responsibility**

American citizens who care about the improvement of education are urged to join students, teachers, librarians, administrators, boards of education, and professional and scholarly organizations in support of the students' right to read. Only widespread and informed support in every community can assure that:

- enough citizens are interested in the development and maintenance of a superior school system to guarantee its achievement;
- malicious gossip, ignorant rumors, and deceptive letters to the editor will not be circulated without challenge and correction;
- newspapers will be convinced that the public sincerely desires objective school news reporting, free from slanting or editorial comment which destroys confidence in and support for schools;
- the community will not permit its resources and energies to be dissipated in conflicts created by special interest groups striving to advance their ideologies or biases; and
- faith in democratic traditions and processes will be maintained.

### **A Program of Action**

Censorship in schools is a widespread problem. Teachers of English, librarians, and school administrators can best serve students, literature, and the profession today if they prepare now to face pressures sensibly, demonstrating on the one hand a willingness to consider the merits of any complaint and on the other the courage to defend their literature program with intelligence and vigor. The Council therefore recommends that every school undertake the following two-step program to protect the students' right to read:

The establishment of a representative committee to consider book selection procedures and to screen complaints; and

A vigorous campaign to establish a community atmosphere in which local citizens may be enlisted to support the freedom to read.

### **Procedures for Book Selection**

Although one may defend the freedom to read without reservation as one of the hallmarks of a free society, there is no substitute for informed, professional, and qualified book selection. English teachers are better qualified to choose and recommend books for their classes than persons not prepared in the field. Nevertheless, administrators have certain legal and professional responsibilities. For these reasons and as a matter of professional courtesy, they should be kept informed about the criteria and the procedures used by English teachers in selecting books and the titles of the books used.

In each school the English department should develop its own statement explaining why literature is taught and how books are chosen for each class. This statement should be on file with the administration before any complaints are received. The statement should also support the teacher's right to choose supplementary materials and to discuss controversial issues insofar as they are relevant.

Operating within such a policy, the English department should take the following steps:

Establish a committee to help other English teachers find exciting and challenging books of potential value to students in a specific school. Schools without departments or small schools with a few English teachers should organize a permanent committee charged with the responsibility of alerting other teachers to new books just published or old books now forgotten which might prove valuable in the literature program.

Devote time at each department meeting to reviews and comments by the above committee or plan special meetings for this purpose. Free and open meetings to discuss books of potential value to students would seem both reasonable and normal for any English department. Teachers should be encouraged to challenge any books recommended or to suggest titles hitherto ignored. Require that each English teacher give a rationale for any book to be read by an entire class. Written rationales for all books read by an entire class would serve the department well if censorship should strike. A file of rationales should serve as impressive evidence to the administration and the community that English teachers have not chosen their books lightly or haphazardly.

Report to the administration the books that will be used for class reading by each English teacher.

Such a procedure gives each teacher the right to expect support from fellow teachers and administrators whenever someone objects to a book.

### **The Legal Problem**

Apart from the professional and moral issues involved in censorship, there are legal matters about which NCTE cannot give advice. The Council is not a legal authority. Across the nation, moreover, conditions vary so much that no one general principle applies. In some states, for example, textbooks are purchased from public funds and supplied free to students; in others, students must rent or buy their own texts.

The legal status of textbook adoption lists also varies. Some lists include only those books which must be taught and allow teachers freedom to select additional titles; other lists are restrictive, containing the only books which may be required for all students.

As a part of sensible preparations for handling attacks on books, each school should ascertain what laws apply to it.

### **Preparing the Community**

To respond to complaints about books, every school should have a committee of teachers (and possibly students, parents, and other representatives from the community) organized to inform the community about book selection procedures; enlist the support of citizens, possibly by explaining the place of literature in the educational process or by discussing at meetings of parents and other community groups the books used at that school; and consider any complaints against any work.

No community is so small that it lacks concerned people who care about their children and the educational program of the schools. No community is so small that it lacks readers who will support the English teachers in defending books when complaints are received. Unhappily, English teachers too often fail to seek out these people and to cultivate their good will and support before censorship strikes.

### **Defending the Books**

Despite the care taken to select worthwhile books for student reading and the qualifications of teachers selecting and recommending books, occasional objections to a work will undoubtedly be made. All books are potentially open to criticism in one or more general areas: the treatment of ideologies, of minorities, of love and sex; the use of language not acceptable to some people; the type of illustrations; the private life or political affiliations of the author or, in a few cases, the illustrator.

If some attacks are made by groups or individuals frankly hostile to free inquiry and open discussion, others are made by misinformed or misguided people who, acting on emotion or rumor, simply do not understand how the books are to be used. Others are made by well-intentioned and conscientious people who fear that harm will come to some segment of the community if a particular book is read or recommended.

What should be done upon receipt of a complaint?

If the complainant telephones, listen courteously and refer him or her to the teacher involved. That teacher should be the first person to discuss the book with the person objecting to its use.

If the complainant is not satisfied, invite him or her to file the complaint in writing, but make no commitments, admissions of guilt, or threats.

If the complainant writes, contact the teacher involved and let that teacher call the complainant.

Sometimes the problem seems less serious and more easily resolved through personal contact over the phone. If the complainant is not satisfied, invite him or her to file the complaint in writing on a form prepared for this purpose. (see Request for Reconsideration of Material Form)

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## **Amendments to the Constitution of the United States**

### *First Amendment*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

### *Fourth Amendment*

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### *Fifth Amendment*

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, or be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### *Ninth Amendment*

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

### *Tenth Amendment*

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

### *Fourteenth Amendment, Section 1*

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

NORTH DAKOTA CENTURY CODE  
TITLE 40. MUNICIPAL GOVERNMENT  
CHAPTER 40-38. PUBLIC LIBRARIES

N.D. Cent. Code, § 40-38-12

§ 40-38-12. Library records -- Open records exception

Any record maintained or received by a library receiving public funds, which provides a library patron's name or information sufficient to identify a patron together with the subject about which the patron requested information, is considered private and is excepted from the public records disclosure requirements of section 44-04-18. These records may be released when required pursuant to a court order or a subpoena.

*02/03*

The USA PATRIOT Act:  
Preserving Life and Liberty

(Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism)

✓ **Congress enacted the Patriot Act by overwhelming, bipartisan margins, arming law enforcement with new tools to detect and prevent terrorism:** The USA Patriot Act was passed nearly unanimously by the Senate 98-1, and 357-66 in the House, with the support of members from across the political spectrum.

**The Act Improves Our Counter-Terrorism Efforts in Several Significant Ways:**

**1. The Patriot Act allows investigators to use the tools that were already available to investigate organized crime and drug trafficking.** Many of the tools the Act provides to law enforcement to fight terrorism have been used for decades to fight organized crime and drug dealers, and have been reviewed and approved by the courts. As Sen. Joe Biden (D-DE) explained during the floor debate about the Act, "the FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What's good for the mob should be good for terrorists." (Cong. Rec., 10/25/01)

- **Allows law enforcement to use surveillance against more crimes of terror.** Before the Patriot Act, courts could permit law enforcement to conduct electronic surveillance to investigate many ordinary, non-terrorism crimes, such as drug crimes, mail fraud, and passport fraud. Agents also could obtain wiretaps to investigate some, but not all, of the crimes that terrorists often commit. The Act enabled investigators to gather information when looking into the full range of terrorism-related crimes, including: chemical-weapons offenses, the use of weapons of mass destruction, killing Americans abroad, and terrorism financing.
- **Allows federal agents to follow sophisticated terrorists trained to evade detection.** For years, law enforcement has been able to use "roving wiretaps" to investigate ordinary crimes, including drug offenses and racketeering. A roving wiretap can be authorized by a federal judge to apply to a particular suspect, rather than a particular phone or communications device. Because international terrorists are sophisticated and trained to thwart surveillance by rapidly changing locations and communication devices such as cell phones, the Act authorized agents to seek court permission to use the same techniques in national security investigations to track terrorists.

- **Allows law enforcement to conduct investigations without tipping off terrorists.** In some cases if criminals are tipped off too early to an investigation, they might flee, destroy evidence, intimidate or kill witnesses, cut off contact with associates, or take other action to evade arrest. Therefore, federal courts in narrow circumstances long have allowed law enforcement to delay for a limited time when the subject is told that a judicially-approved search warrant has been executed. Notice is always provided, but the reasonable delay gives law enforcement time to identify the criminal's associates, eliminate immediate threats to our communities, and coordinate the arrests of multiple individuals without tipping them off beforehand. These delayed notification search warrants have been used for decades, have proven crucial in drug and organized crime cases, and have been upheld by courts as fully constitutional.
- **Allows federal agents to ask a court for an order to obtain business records in national security terrorism cases.** Examining business records often provides the key that investigators are looking for to solve a wide range of crimes. Investigators might seek select records from hardware stores or chemical plants, for example, to find out who bought materials to make a bomb, or bank records to see who's sending money to terrorists. Law enforcement authorities have always been able to obtain business records in criminal cases through grand jury subpoenas, and continue to do so in national security cases where appropriate. These records were sought in criminal cases such as the investigation of the Zodiac gunman, where police suspected the gunman was inspired by a Scottish occult poet, and wanted to learn who had checked the poet's books out of the library. In national security cases where use of the grand jury process was not appropriate, investigators previously had limited tools at their disposal to obtain certain business records. Under the Patriot Act, the government can now ask a federal court (the Foreign Intelligence Surveillance Court), if needed to aid an investigation, to order production of the same type of records available through grand jury subpoenas. This federal court, however, can issue these orders only after the government demonstrates the records concerned are sought for an authorized investigation to obtain foreign intelligence information not concerning a U.S. person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a U.S. person is not conducted solely on the basis of activities protected by the First Amendment.

**2. The Patriot Act facilitated information sharing and cooperation among government agencies so that they can better "connect the dots."** The Act removed the major legal barriers that prevented the law enforcement, intelligence, and national defense communities from talking and coordinating their work to protect the American people and our national security. The government's prevention efforts should not be restricted by boxes on an organizational chart. Now police officers, FBI agents, federal prosecutors and intelligence officials can protect our communities by "connecting the dots" to uncover terrorist plots before they are completed. As Sen. John Edwards (D-N.C.) said about the Patriot Act, "we simply cannot prevail in the battle against terrorism

if the right hand of our government has no idea what the left hand is doing" (Press release, 10/26/01)

- Prosecutors and investigators used information shared pursuant to section 218 in investigating the defendants in the so-called "Virginia Jihad" case. This prosecution involved members of the Dar al-Arqam Islamic Center, who trained for jihad in Northern Virginia by participating in paintball and paramilitary training, including eight individuals who traveled to terrorist training camps in Pakistan or Afghanistan between 1999 and 2001. These individuals are associates of a violent Islamic extremist group known as Lashkar-e-Taiba (LET), which operates in Pakistan and Kashmir, and that has ties to the al Qaeda terrorist network. As the result of an investigation that included the use of information obtained through FISA, prosecutors were able to bring charges against these individuals. Six of the defendants have pleaded guilty, and three were convicted in March 2004 of charges including conspiracy to levy war against the United States and conspiracy to provide material support to the Taliban. These nine defendants received sentences ranging from a prison term of four years to life imprisonment.

### **3. The Patriot Act updated the law to reflect new technologies and new threats.**

The Act brought the law up to date with current technology, so we no longer have to fight a digital-age battle with antique weapons-legal authorities leftover from the era of rotary telephones. When investigating the murder of *Wall Street Journal* reporter Daniel Pearl, for example, law enforcement used one of the Act's new authorities to use high-tech means to identify and locate some of the killers.

- **Allows law enforcement officials to obtain a search warrant anywhere a terrorist-related activity occurred.** Before the Patriot Act, law enforcement personnel were required to obtain a search warrant in the district where they intended to conduct a search. However, modern terrorism investigations often span a number of districts, and officers therefore had to obtain multiple warrants in multiple jurisdictions, creating unnecessary delays. The Act provides that warrants can be obtained in any district in which terrorism-related activities occurred, regardless of where they will be executed. This provision does not change the standards governing the availability of a search warrant, but streamlines the search-warrant process.
- **Allows victims of computer hacking to request law enforcement assistance in monitoring the "trespassers" on their computers.** This change made the law technology-neutral; it placed electronic trespassers on the same footing as physical trespassers. Now, hacking victims can seek law enforcement assistance to combat hackers, just as burglary victims have been able to invite officers into their homes to catch burglars.

### **4. The Patriot Act increased the penalties for those who commit terrorist crimes.**

Americans are threatened as much by the terrorist who pays for a bomb as by the one who pushes the button. That's why the Patriot Act imposed tough new penalties on

those who commit and support terrorist operations, both at home and abroad. In particular, the Act:

- **Prohibits the harboring of terrorists.** The Act created a new offense that prohibits knowingly harboring persons who have committed or are about to commit a variety of terrorist offenses, such as: destruction of aircraft; use of nuclear, chemical, or biological weapons; use of weapons of mass destruction; bombing of government property; sabotage of nuclear facilities; and aircraft piracy.
- **Enhanced the inadequate maximum penalties for various crimes likely to be committed by terrorists:** including arson, destruction of energy facilities, material support to terrorists and terrorist organizations, and destruction of national-defense materials.
- **Enhanced a number of conspiracy penalties,** including for arson, killings in federal facilities, attacking communications systems, material support to terrorists, sabotage of nuclear facilities, and interference with flight crew members. Under previous law, many terrorism statutes did not specifically prohibit engaging in conspiracies to commit the underlying offenses. In such cases, the government could only bring prosecutions under the general federal conspiracy provision, which carries a maximum penalty of only five years in prison.
- **Punishes terrorist attacks on mass transit systems.**
- **Punishes bioterrorists.**
- **Eliminates the statutes of limitations for certain terrorism crimes and lengthens them for other terrorist crimes.**

The government's success in preventing another catastrophic attack on the American homeland since September 11, 2001, would have been much more difficult, if not impossible, without the USA Patriot Act. The authorities Congress provided have substantially enhanced our ability to prevent, investigate, and prosecute acts of terror.

## **From the American Civil Liberties Union**

Retrieved 2/22/08 online from

<http://www.aclu.org/safefree/resources/17343res20031114.html>

Just 45 days after the September 11 attacks, with virtually no debate, Congress passed the USA PATRIOT Act. There are significant flaws in the Patriot Act, flaws that threaten your fundamental freedoms by giving the government the power to access to your medical records, tax records, information about the books you buy or borrow without probable cause, and the power to break into your home and conduct secret searches without telling you for weeks, months, or indefinitely.

Some of these flawed provisions are set to expire at the end of the year. But President Bush wants to make them permanent, and the House and Senate have been holding hearings in preparation for votes that are expected in June and July.

Learn more about the flawed provisions in this legislation using the resources below. Find out how you can get involved, and help urge Congress to bring the Patriot Act in line with the Constitution.

### **New Legislation and Government Actions Take Away our Freedom**

With great haste and secrecy and in the name of the “war on terrorism,” Congress passed legislation that gives the Executive Branch sweeping new powers that undermine the Bill of Rights and are unnecessary to keep us safe. This 342-page USA PATRIOT Act was passed on October 26, 2001, with little debate by Members of Congress, most of whom did not even read the bill. The Administration then initiated a flurry of executive orders, regulations, and policies and practices that also threatened our rights.

#### **The USA PATRIOT Act:**

- Expands terrorism laws to include “domestic terrorism” which could subject political organizations to surveillance, wiretapping, harassment, and criminal action for political advocacy.
- Expands the ability of law enforcement to conduct secret searches, gives them wide powers of phone and Internet surveillance, and access to highly personal medical, financial, mental health, and student records with minimal judicial oversight.
- Allows FBI Agents to investigate American citizens for criminal matters without probable cause of crime if they say it is for “intelligence purposes.”
- Permits non-citizens to be jailed based on mere suspicion and to be denied re-admission to the US for engaging in free speech. Suspects convicted of no crime may be detained indefinitely in six month increments without meaningful judicial review.

## **What rights are being threatened?**

**First Amendment** - Freedom of religion, speech, assembly, and the press.

**Fourth Amendment** - Freedom from unreasonable searches and seizures.

**Fifth Amendment** - No person to be deprived of life, liberty or property without due process of law.

**Sixth Amendment** - Right to a speedy public trial by an impartial jury, right to be informed of the facts of the accusation, right to confront witnesses and have the assistance of counsel.

**Eighth Amendment** - No excessive bail or cruel and unusual punishment shall be imposed.

**Fourteenth Amendment** - All persons (citizens and noncitizens) within the US are entitled to due process and the equal protection of the laws.

## **New Federal Executive Branch Actions**

- 8,000 Arab and South Asian immigrants have been interrogated because of their religion or ethnic background, not because of actual wrongdoing.
- Thousands of men, mostly of Arab and South Asian origin, have been held in secretive federal custody for weeks and months, sometimes without any charges filed against them. The government has refused to publish their names and whereabouts, even when ordered to do so by the courts.
- The press and the public have been barred from immigration court hearings of those detained after September 11th and the courts are ordered to keep secret even that the hearings are taking place.
- The government is allowed to monitor communications between federal detainees and their lawyers, destroying the attorney-client privilege and threatening the right to counsel.
- New Attorney General Guidelines allow FBI spying on religious and political organizations and individuals without having evidence of wrongdoing.
- President Bush has ordered military commissions to be set up to try suspected terrorists who are not citizens. They can convict based on hearsay and secret evidence by only two-thirds vote.
- American citizens suspected of terrorism are being held indefinitely in military custody without being charged and without access to lawyers.

## **Libraries and the USA PATRIOT Act**

### ***The Act***

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) of 2001 (Public Law 107-56, 115 STAT.272, H.R 3162), was enacted on October 25, 2001, six weeks after the September 11th attacks and became official the next day with the signature of President George W. Bush.

### ***Its Passage***

The chronology of the Act provided by the American Library Association's (ALA's) Washington office shows that, while a coalition of civil rights and civil liberties groups were signing the "In Defense of Freedom in a Time of Crises" statement, the Bush administration was presenting anti-terrorism legislation (soon to be known as the USA Patriot Act) before Congress. The Bill Summary & Status provided by Library of Congress tracks the Act's 45 day passage, despite its ten Titles, 150 Sections and over 300 hundred pages. The Act's lack of legislative history may make future analysis and interpretation of the law rather difficult.

### ***Its Purpose***

The Act's stated purpose is to "deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes." The USA Patriot Act broadly expands the surveillance and investigative powers of law enforcement through its amendments to existing laws including the Federal Wiretap Act, the Electronic Communications Privacy Act (ECPA), the Foreign Intelligence Surveillance Act (FISA), and the Family Education Rights and Privacy Act (FERPA). It also enhances the ability of law enforcement to implement electronic surveillance during domestic criminal investigations as well as intelligence investigations.

### ***Sections Affecting Libraries***

#### *Title II: Advanced Surveillance Procedures*

##### *Section 215: Access to records and other items under the Foreign Intelligence Surveillance Act.*

Amends the Foreign Intelligence Surveillance Act to allow the FBI to obtain court order without probable cause from a secret court for the production of "any tangible things (including books, record, papers, documents, and other items) for an authorized investigation to protect against terrorism or clandestine intelligence activities." "Any tangible thing" can include the books you check out in the library and such information can be obtained without your knowledge. Section 215 also forbids persons producing such "tangible things" from disclosing to anyone that the FBI ever came. See Section 215 FAQ by the American Civil Liberties Union.

*Section 216: Modification of authorities relating to use of pen registers and trap and trace devices.*

Extends telephone monitoring laws to cover information relating to Internet usage, including e-mail addresses and IP addresses and URLs for web pages. Authorizes pen registers, trap and trace devices, and roving wiretaps for electronic communications, which, unlike telephone numbers carry with them content, to include a persons thoughts and interests.

**AMERICAN LIBRARY ASSOCIATION**  
**Washington Office**  
*January 19, 2002*

**GUIDELINES FOR LIBRARIANS ON THE U.S.A. PATRIOT ACT\***  
**What to do before, during and after a “knock at the door?”**

\*Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 Public Law 107-56 (October 26, 2001)

Many libraries have already seen an increase in law enforcement inquiries following the September 11th terrorists' attacks. In libraries and other institutions, law enforcement authorities have sought access to patron records, including electronic mail and other electronic communications. With passage of the U.S.A. PATRIOT Act on October 26, 2001, many new questions have been raised about how to comply with the new law and how the PATRIOT Act provisions relate to current laws governing criminal and foreign intelligence investigations as well as to state and local privacy laws.

As always, the best course is to prepare before the “knock at the door.” ALA provides the following guidelines for librarians to share with their staffs and local legal counsels. This is *not legal advice* but suggested guidance and direction so that local libraries – whether academic, public or school libraries – can prepare themselves to do what is legal and appropriate.

**BEFORE**

**CONSULT YOUR LOCAL LEGAL COUNSEL**

These issues are complex and absolutes that apply to every situation are rare. You will need legal experts familiar with your unique situations and local and state laws to help make sure that your policies and procedures are appropriate and legal. You will want to make sure that your local counsel is aware that legal inquiries under the U.S.A. PATRIOT Act may be an issue for your institution.

**REVIEW YOUR POLICIES**

The USA PATRIOT Act does not require institutions to make changes in policies or computer systems. However, with a possible increase in requests from law enforcement and the pervasiveness of technology in the daily transactions of libraries, you will want to review and address your policies on retention of and access to all types of information.

Make decisions regarding data, logs and records of all types – digital and paper - to be discarded or saved. Establish a system for referring requests for operational records as well as other types of information within your institution. Plan for service continuity in the event that workstations, servers or backups are removed or made inoperable.

## **TRAIN YOUR STAFF**

Every member of your staff should understand your policies for three important reasons:

- 1) Anyone on your staff could be approached by law enforcement. Every staff member should know what to do if he or she is presented with a request. A system for referring requests from law enforcement should be clearly communicated to all staff so that everyone from the circulation assistant to the library director know what to do. Often a library or institution will designate one staff person to receive all such requests.
- 2) Technology has made data ubiquitous and access to it effortless. Many people within your organization may have unexpected roles to play in implementing your policies. Your policy is only as good as the trained people who carry it out.
- 3) Knowledgeable staff will assure that your library is complying with all appropriate laws and protect against any institutional or personal liability.

## **DURING**

### **FOLLOW YOUR POLICIES**

Sound policies can provide order and justification during what can be a chaotic time. They can help prevent surprises and help ensure that the best possible thinking and judgment go into your responses. Policies and plans will not help you if they are not understood and followed by all of the institution's employees.

### **CONSULT YOUR LOCAL LEGAL COUNSEL**

Most inquiries made by law enforcement are lawful and in good order, however, it is imperative to call on your own legal counsel when presented with a request. Legal counsel will help you respond appropriately and legally while protecting you and your staff from possible liability due to an unlawful request. Legal counsel can help you sort through your responsibilities under the myriad federal state and local laws that both protect privacy and require access.

### **DOCUMENT YOUR COSTS**

The PATRIOT Act provides for some reimbursement of costs if an entity is asked by law enforcement to perform certain types of assistance in data collection. It is unclear what the guidelines will be for reimbursement. Document all costs incurred.

## **AFTER**

### **CONSULT YOUR LOCAL LEGAL COUNSEL**

Once law enforcement leaves your premises, your responsibilities may not be over. There are different rules for sharing information with others about who is being investigated or what types of information you have provided law enforcement. With whom you are allowed to speak and what you are allowed to talk about varies depending upon whether the inquiry is made under criminal or foreign intelligence investigation laws. You will want to consult with your local counsel to be sure that you and your staff meet any legal requirements to conceal the inquiries of law enforcement

or conversely to fulfill any affirmative legal requirements to disclose what records may have been released.

**FOLLOW UP**

Consult with counsel; implement your policies; pursue any appropriate reimbursements. Determine whether you will have to maintain any subsequent information or records. The Washington Office will be tracking the impact of this legislation, so when allowed by law and the advice of counsel, inform the Washington Office of your experiences.

## CHILDREN'S INTERNET PROTECTION ACT (CIPA)

Retrieved 2/22/08 online from  
<http://www.fcc.gov/cgb/consumerfacts/cipa.html>

### Background

The Children's Internet Protection Act (CIPA) is a federal law enacted by Congress in December 2000 to address concerns about access to offensive content over the Internet on school and library computers. CIPA imposes certain types of requirements on any school or library that receives funding for Internet access or internal connections from the E-rate program – a program that makes certain communications technology more affordable for eligible schools and libraries. In early 2001, the FCC issued rules implementing CIPA.

### What CIPA Requires

- Schools and libraries subject to CIPA may not receive the discounts offered by the E-rate program unless they certify that they have an Internet safety policy and technology protection measures in place. An Internet safety policy must include technology protection measures to block or filter Internet access to pictures that: (a) are obscene, (b) are child pornography, or (c) are harmful to minors (for computers that are accessed by minors).
- Schools subject to CIPA are required to adopt and enforce a policy to monitor online activities of minors.
- Schools and libraries subject to CIPA are required to adopt and implement a policy addressing: (a) access by minors to inappropriate matter on the Internet; (b) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications; (c) unauthorized access, including so-called "hacking," and other unlawful activities by minors online; (d) unauthorized disclosure, use, and dissemination of personal information regarding minors; and (e) restricting minors' access to materials harmful to them.

Schools and libraries are required to certify that they have their safety policies and technology in place before receiving E-rate funding.

- CIPA does not affect E-rate funding for schools and libraries receiving discounts only for telecommunications, such as telephone service.
- An authorized person may disable the blocking or filtering measure during any use by an adult to enable access for bona fide research or other lawful purposes.
- CIPA does not require the tracking of Internet use by minors or adults.

Additional Links: <http://www.cdt.org/legislation/106th/speech/001218cipa.pdf> ,  
[www.e-ratecentral.com](http://www.e-ratecentral.com), [www.ala.org/cipa/](http://www.ala.org/cipa/), <http://www.webjunction.org/cipa/>

## Intellectual Freedom Contacts

### **American Association of School Librarians**

50 East Huron Street  
Chicago, IL 60611-2795  
Telephone: 312-280-4382  
Toll-free: 1-800-545-2433 ext. 4382  
Fax: 312-280-5276  
Internet: <http://www.ala.org/ala/aas>

### **American Booksellers Foundation for Free Expression**

828 White Plains Road  
Tarrytown, NY 10591  
914 591-2665  
FAX: 914 591-2720  
Internet: <http://www.abffe.org>

### **American Civil Liberties Union**

132 W. 43rd Street  
New York, NY 10036  
212 944-9800  
FAX: 212 354-5290

### **American Library Association**

Office for Intellectual Freedom  
50 E. Huron Street  
Chicago, IL 60611  
312 280-4223  
FAX 312 280-4227  
Internet: <http://www.ala.org>

### **Association of American Publishers**

71 5th Avenue  
New York, NY 10003-3004  
212 255-0200  
FAX: 212 255-7007  
Internet: <http://www.publishers.org>

**Association for Educational Communications and Technology**

1800 N. Stonelake Dr. Suite 2  
Bloomington, IN 47404  
Phone: 877-677-AECT or 812-335-7675  
Internet: <http://www.aect.org>

**Association for Supervision and Curriculum Development**

1703 N. Beauregard St.  
Alexandria, VA 22311-1714 USA  
Phone: 1-800-933-2723, press 2  
Fax: 1-703-575-5400  
Internet: <http://www.ascd.org>

**Authors Guild**

330 W. 42nd Street - 29th Floor  
New York, NY 10036  
212 563-5904  
FAX: 212 564-5363  
Internet: <http://www.authorsguild.org>

**Freedom to Read Foundation**

50 E. Huron Street  
Chicago, IL 60611  
312 280-4226  
FAX: 312 280-4227

**Index on Censorship**

Lancaster House  
33 Islington High Street  
London, England N19LH  
Contact: Ursula Owen, Editor  
071 278-2313  
FAX: 071 278-1878  
Internet: <http://www.indexoncensorship.org>

**Mountain Plains Library Association**

Internet: <http://www.mpla.us>

**National Coalition Against Censorship**

275 Seventh Avenue - 20th Floor

New York, NY 10001

212 807-6222

FAX: 212 807-6245

E-Mail: <http://www.ncac.org>

**National Council of Teachers of English**

1111 W Kenyon Road

Urbana, IL 61801

Phone: 877-369-6283

Internet: <http://www.ncte.org>

**National Education Association**

1201 16th Street, NW

Washington, DC 20036-3290

Phone: 202-833-4000

Fax: 202-822-7974

Internet: <http://www.nea.org>

**National Freedom of Information Coalition**

133 Neff Annex

University of Missouri

Columbia, MO 65211

Phone: 573-882-5736

Fax: 573-884-6204

Internet: <http://www.nfoic.org>

**National Humanities Alliance**

21 Dupont Circle

Suite 800

Washington, DC 20036

202 296-4994

FAX: 202 872-0884

Internet: <http://www.nhalliance.org>

**National School Boards Association**

1680 Duke Street  
Alexandria, VA 22314  
Phone: 703-838-6722  
Fax: 703-683-7590  
Internet: <http://www.nsba.org>

**North Dakota Library Association**

Internet: <http://www.ndla.info>

**PEN American Center**

568 Broadway #401  
New York, NY 10012  
212 334-1660  
FAX: 212 334-2181  
Internet: <http://www.pen.org>

**People for the American Way**

2000 M Street NW #400  
Washington, DC 20036  
202 467-4999  
FAX: 202 293-2672  
Internet: <http://www.pfaw.org/pfaw/general>

## **Intellectual Freedom Awards**

### **Eli M. Oboler Memorial Award**

The Eli M. Oboler Memorial Award, which consists of \$500 and a certificate, is presented for the best published work in the area of intellectual freedom.

### **John Phillip Immroth Memorial Award**

The John Phillip Immroth Memorial Award honors intellectual freedom fighters in and outside the library profession who have demonstrated remarkable personal courage in resisting censorship.

### **ProQuest/SIRS State and Regional Intellectual Freedom Achievement Award**

The ProQuest/SIRS State and Regional Intellectual Freedom Achievement Award is given to the most innovative and effective intellectual freedom project covering a state or region.

### **Gordon M. Conable Award**

The Public Library Association's (PLA) new Gordon M. Conable Award will honor a public library staff member, a library trustee, or a public library that has demonstrated a commitment to intellectual freedom and the Library Bill of Rights.

### **AASL Intellectual Freedom Award**

Sponsored by ProQuest

Established in 1982, the award, \$2,000 to the recipient and \$1,000 to the media center of the recipient's choice, is given for upholding the principles of intellectual freedom as set forth by the American Association of School Librarians and the American Library Association. Applicants must be AASL personal members.

For more information on the above awards, go online to:

<http://www.ala.org/ala/oif/oifprograms/ifawards/intellectual.htm>

**Jefferson Muzzles Awards**

Since 1992, the Thomas Jefferson Center for the Protection of Free Expression has celebrated the birth and ideals of its namesake by calling attention to those who in the past year forgot or disregarded Mr. Jefferson's admonition that freedom of speech 'cannot be limited without being lost.'

For more information go online to: <http://www.tjcenter.org/muzzles/>

**National Council of Teachers of English Intellectual Freedom Awards**

<http://www.ncte.org/about/issues/censorship/awards/>

**Robert B. Downs Intellectual Freedom Award**

Sponsored by the Graduate School of Library and Information Science at the University of Illinois Urbana-Champaign

Given annually, the Robert B. Downs Intellectual Freedom Award acknowledges individuals or groups who have furthered the cause of intellectual freedom, particularly as it impacts libraries and information centers and the dissemination of ideas. Granted to those who have resisted censorship or efforts to abridge the freedom of individuals to read or view materials of their choice, the award may be in recognition of a particular action or long-term interest in, and dedication to, the cause of intellectual freedom. For more information go online to: <http://www.lis.uiuc.edu/about/awards/downs-award.html>

## QUOTES ON INTELLECTUAL FREEDOM

"We have preserved the Book, and the Book has preserved us." - David Ben-Gurion

"To the press alone, checkered as it is with abuse, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression." - Thomas Jefferson

"Books and ideas are the most effective weapons against intolerance and ignorance."  
- Lyndon Baines Johnson

"I fear more harm from everybody thinking alike than from some people thinking otherwise."  
- Charles G. Bolte

"In the long run of history, the censor and the inquisitor have always lost. The only sure weapon against bad ideas is better ideas. The source of better ideas is wisdom." - Alfred Whitney Griswold

"Censorship reflects a society's lack of confidence in itself. It is hallmark of an authoritarian regime..."  
- U. S. Justice Potter Stewart

"The film is apparently meaningless, but if it has any meaning it is doubtless objectionable."  
-British Board of Film Censors on THE SEASHELL AND THE CLERGYMAN

"Freedom does not guarantee masterpieces." - E. M. Forster

"Everybody favours free speech in the slack moments when no axes are being ground."  
- Heywood Brown

"One of the greatest pains to human nature is the pain of a new idea." - Walter Bagehot

"Wherever books are burned, men also, in the end, are burned." - Heinrich Heine

"Don't join the book burners. Don't think you are going to conceal thoughts by concealing evidence that they ever existed." - Dwight D. Eisenhower

"It is impossible for ideas to compete in the marketplace if no forum for their presentation is provided or available." - Thomas Mann

"He that would make his own liberty secure, must guard even his enemy from opposition; for if he violates this duty he establishes a precedent that will reach to himself." - Thomas Paine

"Once a government is committed to the principle of silencing the voice of opposition, it has only one way to go, and that is down the path of increasingly repressive measures, until it becomes a source of terror to all its citizens and creates a country where everyone lives in fear." - Harry S. Truman

"A censor is an expert in cutting remarks. A censor is a man who knows more than he thinks you ought to." - Dr. Laurence Peter

"Restrictions of free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us." - U.S. Justice William O. Douglas

