

**ALA Intellectual Freedom Committee
Report to Council
2019 ALA Annual Conference
Washington, DC
Monday, June 24, 2019**

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities. Part II of this report, presented at Council III, will include more information about the committee's work, censorship trends, and future projects of the committee.

IFC PROJECTS AND WORKING GROUPS

“Labeling and Rating Systems Q&A”

An IFC working group was charged with revising this Q&A, approved by the committee in 2006 and amended in 2010. The revisions include adding an example of a “prejudicial label,” updating references to outside resources, including a sentence about policies that deny minors equal and equitable access, and incorporating patron privacy into the document. The committee voted to approve the revised Q&A. It is attached to this report as an information item.

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adopted in 1991 and amended in 2004 and 2014 — and the “Library-Initiated Programs as a Resource” interpretation (adopted in 1982 and amended in 1990, 2000, and 2018), retitling it “Library-Initiated Programs and Displays as a Resource”

An IFC working group revised the “User-Generated Content in Library Discovery Systems” interpretation, adopted in 2016 by, among other changes, elaborating on the opportunities presented with user-generated content; expanding on libraries’ responsibility to safeguard the privacy of users who contribute content to the library discovery systems and review user data collection policies of third-party providers (and encouraging users to review them as well); and adding a phrase on reviewing policies with legal counsel and sharing them with staff. The interpretation draft was circulated widely for feedback, and each comment was taken into consideration. The interpretation is included in this report as an action item.

ACTION ITEMS The Intellectual Freedom Committee moves the adoption of the following action items:

CD # 19.7 “Library-Initiated Programs and Displays as a Resource: An Interpretation of the

Sarah Thornbery

Labeling and Rating Systems Q&A

Enhanced Content in Catalogs

3. Does the practice of bundling bibliographic records with databases and other electronic

contents and suitability or appropriate age for use of certain books, films, recordings, television programs, websites, or other materials.

None of these organizations are government agencies and as such their rating systems cannot be mandated or enforced by any government or agency, including a publicly funded library. This applies with equal force to library policies and procedures that effectively deny minors equal and equitable access to library resources and services available to other users. A library can, however, make information concerning these rating systems available to library patrons.

For more information on this topic, see Deborah Caldwell-Stone's "[Movie Ratings are Private, Not Public Policy](#)" from the Illinois Library Association Reporter (2004).

7. Is it prejudicial to describe violent and sexual content? For example, would including "contains mild violence" on bibliographic record of a graphic novel violate the *Library Bill of Rights*?

Yes, in any community, there will be a range of attitudes as to what is deemed offensive and contrary to moral values. Potential issues could be sexually explicit content, violence, and/or language. Including notes in the bibliographic record regarding what may be objectionable content assumes all members of the community hold the same values. No one person should take responsibility for judging what is offensive. Such voluntary labeling in bibliographic records and

10. All students in my school are required to participate in an electronic reading program that monitors progress. Parents and teachers want library books organized by reading level so that students can easily access and be limited to books that meet their individual needs. Is this acceptable?

No, the chronological age or grade level of students are not representative of their information needs or total reading abilities. If collections are organized by age or grade, some patrons will feel inhibited from selecting resources from sections that do not correspond to their exact characteristics. If the library limits users from checking out resources from sections other than those that match the users' characteristics, the library will most likely not serve the needs of all users.

Some parents and teachers may find reading levels helpful in guiding developing young readers. Most computerized reading programs list books by grade or reading levels on their websites and parents and teachers may consult these if they wish to seek such information.

Labeling Based on Ethnic or Language Group

13. We have a large population of a specific ethnic or language group in our service area. We would like to create a section of the library and a collection to recognize that. Is that acceptable and how may we go about it?

When there is a large population of a specific ethnic or language group in an area, it often creates a large demand for items relevant to their experience in the library. To meet that demand and make it simpler for the patrons to locate those resources, libraries sometimes choose to create a special collection and/or area devoted to those resources. As long as these collections represent diverse po

Definitions

Behavior policy: Behavior policies cover actual behavior and not arbitrary distinctions between individuals or classes of individuals, appearance, or behavior that is merely annoying or generating negative subjective reactions from others.

Establishment Clause: The First Amendment's Establishment Clause prohibits the government from making any law “respecting an establishment of religion.” This clause not only forbids the government from establishing an official religion, but also prohibits government actions that unduly favor one religion over another. It also prohibits the government from unduly preferring religion over non-religion, or non-religion over religion.

Library-sponsored event: This event is planned and executed by the library; co-sponsored events are normally considered to be library-sponsored.

Meeting room policy: Meeting room policies provide rules and regulations that govern all possible spaces used for meetings by outside groups in the library including library-related parks, lobbies, and labs.

Non-library sponsored (group) event: This is an event that is planned and executed by an entity other than the library.

Public forum: A public forum is a place or space, either physical or virtual, in which any person can exercise their First Amendment right to speak or engage in other expressive activities. The courts have identified three different types of public forums:

A **traditional public forum** is a government-owned place that has been traditionally available for public assembly, speech, and discussion (e.g., parks, sidewalks, and streets).

A **designated or limited public forum** is a public place purposefully designated by the government, or established through tradition, as a place dedicated to a particular type of expression.

A **nonpublic forum** is a place that is neither traditionally used for expressive activities nor set aside or opened up in a substantial way for expressive activities.

Rules about what kinds of restrictions on speech may be legally imposed in a given place are based on the type of forum that has been established.

Public Forum (Meeting Rooms and the Law)

their speech. Meeting room policies should include a means of appealing a decision to the library director or the governing body of the library.

Libraries may not deny access because of disagreement with an individual or group or because they are considered offensive or controversial. Article VII of the ALA *Code of Ethics* states, “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.”

Libraries have been successfully sued by groups that have been denied access to library meeting rooms based on the group’s beliefs, the content of their speech, or the fear that the group’s meeting will cause controversy. Most notably, libraries have been successfully sued by religious groups that have been denied access to library meeting rooms. See *Concerned Women for America, Inc. v. Lafayette County*

Libraries should not discriminate against individuals with disabilities and shall ensure they have equitable access to library resources. Library-initiated programs and displays should comply with

speakers, any more than the purchase of resources for the library collection or curation of a display constitutes an endorsement of the resources content or its creator's views. Libraries should vigorously defend the First Amendment right of speakers and participants to express themselves.

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 create programs for an intended age group or audience based on educational suitability and audience interest; however, restrictions on participation based solely on the gender, chronological age, or educational level of users violate this right and should be enforced only when not doing so would adversely impact the safety of the participants or interfere with the intended purpose of the program. Parents and guardians may restrict their own children's access to library programs, but no person or organization can interfere in others' access and participation. A parent or guardia

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2. [“Services to People with Disabilities: An Interpretation of the *Library Bill of Rights*,”](#) adopted January 28, 2009, by the ALA Council; amended June 26, 2018.
3. [“Equity, Diversity, Inclusion: An Interpretation of the *Library Bill of Rights*,”](#) adopted June 27, 2017, by the ALA Council.

Adopted January 27, 1982, by the ALA Council; amended June 26, 1990; July 12, 2000; June 26, 2018. Revisions proposed for ALA Annual Conference 2019.

Diverse Collections: An Interpretation of the *Library Bill of Rights*

Collection development should reflect the philosophy inherent in Article I of the *Library Bill of Rights*: “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

seeking content created by and representative of marginalized and underrepresented groups;
evaluating how diverse collection resources are cataloged, labeled, and displayed;
including content in all of the languages used in the community that the library serves, when possible; and
providing resources in formats that meet the needs of users with disabilities.¹

Best practices in collection development assert that resources should not be excluded from a collection solely because the content or its creator may be considered offensive or controversial. Refusing to select resources due to potential controversy is considered censorship, as is withdrawing resources for that reason. Libraries have a responsibility to defend against challenges that limit a collection's diversity of content. Challenges commonly cite content viewed as inappropriate, offensive, or controversial, which may include, but is not limited to, prejudicial language and ideas, political content, economic theory, social philosophies, religious beliefs, scientific research, sexual content, and representation of diverse sexual orientations, expressions, and gender identities.

Intellectual freedom, the essence of equitable library services, provides for free access to varying expressions of ideas through which a question, cause, or movement may be explored. Library workers have a professional and ethical responsibility to be fair and just in defending the library user's right to read, view, or listen to content protected by the First Amendment, regardless of the creator's viewpoint or personal history. Library workers should not permit their personal biases, opinions, or preferences to unduly influence collection-development decisions.²

1. [“Services to People with Disabilities: An Interpretation of the *Library Bill of Rights*,”](#) adopted January 28, 2009, by the ALA Council under the title "Services to Persons with Disabilities"; am0.0000ces to Persons witu9W(e)4(rsons w)3(itu9W(e)4o4 1EETa)4literpretation of the

The use of social media and online resources poses two compelling intellectual freedom issues for minors: the right to free expression and the right to privacy.

Filters are often used in libraries and educational institutions to restrict access to online content, limiting access to information and social-media platforms beyond what is required by the Children's Internet Protection Act and similar state laws. These restrictions deny minors' rights to free expression online.

Protection of minors' privacy rights online is also paramount. In addition to concerns about the vulnerability of young people who post personally identifiable information online, other threats to minors' privacy cause libraries and educational institutions to restrict and monitor minors' online activities. Perceived safety threats, such as cyberbullying, also lead to restrictive policies. These actions not only deny minors' right to free expression, but may also deny their right to privacy.

Prohibiting minors from using social media or participating in online communities prevents youth from engaging in opportunities to learn and develop skills needed for responsible speech online, civil engagement, and personal-privacy protection. Instead, libraries and library workers should educate youth about online activities that are appropriate for their maturity level without blocking access for others. Furthermore, library workers should advocate for implementing privacy-protecting policies and technology in libraries and educational institutions that both empower youth to take personal responsibility for their online privacy and prevent the collection and use of information about minors and their online activities for marketing and for-profit activities.

The First Amendment applies to all forms of speech created by minors and posted online. Restricting access to social media in schools and libraries limits young people's right to free expression and violates the tenets of the *Library Bill of Rights*. Instances of inappropriate use of social media and online applications should be addressed as individual-behavior issues, not as justification for restricting or banning access to such tools. While other safety threats exist beyond schools' and libraries' physical space, these threats should not be a reason for limiting access for minors. Library workers, educators, and administrators have a responsibility to educate themselves about safety threats while continuing to advocate for the intellectual freedom of minors.

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Privacy: An Interpretation of the *Library Bill of Rights*

All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use.¹ When users recognize or fear that their privacy or confidentiality is compromised, true freedom of inquiry no longer exists.

Privacy is essential to the exercise of free speech, free thought, and free association. Federal and state courts have established a First Amendment right to receive information in a publicly funded library.² Further, the courts have upheld the right to privacy based on the U.S. Constitution. Many states provide guarantees of privacy in their constitutions and statute law.

appropriate, international law. It is essential that libraries maintain an updated, publicly available privacy policy that states what data is being collected, with whom it is shared, and how long it is kept. Everyone who provides governance, administration, or service in libraries, including volunteers, has a responsibility to maintain an environment respectful and protective of the privacy of all users. It is the library's responsibility to provide ongoing privacy education and training to library workers, governing bodies, and users in order to fulfill this responsibility.

The National Information Standards Organization (NISO) Consensus Principles on Users' Digital Privacy in Library, Publisher, and Software-Provider Systems recognizes that

[t]he effective management and delivery of library services may require the library user to opt into the provision of personal data in order to access a library resource or receive

Libraries should follow purpose-limitation, storage-limitation, and data-minimization principles⁹ when making decisions about collecting and retaining library-use data. In particular, libraries

The American Library Association affirms that rights of privacy are necessary for intellectual freedom and are fundamental to the ethical practice of librarianship. The rapid pace of information collection and changes in technology means that users' personally identifiable information and library-

Association (2008) 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.”

7. National Information Standards Organization, "[NISO Consensus Principles on User’s Digital Privacy in Library, Publisher, and Software-Provider Systems \(NISO Privacy Principles\), Principle 4, Data Collection and Use](#)" (Baltimore: National Information Standards Organization, December 10, 2015).
8. [NISO Consensus Principles on Users’ Digital Privacy in Library, Publisher, and Software-Provider Systems \(NISO Privacy Principles\) \(2015\)](#)
9. These principles, drawn from the [European Union "General Data Protection Regulation \(GDPR\)" \(2016\)](#) and reflected in other fair privacy practice principles such as the "[NISO Privacy Principles](#)" (Baltimore: National Information Standards Organization, 2015) and "[Guidelines on the Protection of Privacy and Transborder Flows of Personal Data](#)" ([Paris: Organisation for Economic Co-operation and Development, 2013](#)), provide sound guidelines for libraries to follow in their data-privacy practices. Libraries in the United States are generally not subject to the GDPR but should consult with legal counsel to determine whether GDPR applies.

Adopted June 19, 2002, by the ALA Council; amended July 1, 2014. Revisions proposed for ALA Annual Conference 2019.

the library's discovery system possess a valid library card or an online account with the library.

If a publicly funded library does choose to allow users to contribute content to the library's discovery system, the commenting system may be considered a limited public forum. Libraries that allow users to contribute content should adopt policies that define the time, place, and manner in which the user contributes the content to the library's discovery system. Any restrictions must be reasonable and cannot be based upon the beliefs or affiliations of the user or the views expressed in the user-generated content.³ Policies should be regularly reviewed with legal counsel, shared with staff, and made available to the public in all of the commonly used languages within the community served.

Libraries should safeguard the privacy of users who contribute content to library discovery systems and should review—and encourage users to review—the user-data-collection policies of any third-party providers involved in managing or storing the user-generated content. User consent should be obtained before any personal data is collected and shared with third-party providers, and libraries should protect all library-use data collected from library users.⁴

1. [Library Privacy Guidelines for Library Websites, OPACs, and Discovery Systems,](#)” Intellectual Freedom Committee, June 24, 2016. “A discovery service provides a single web-based user interface to search across multiple resources such as library catalogs, periodical databases, institutional repositories, and digital collections.”
2. *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 302 F. Supp. 3d 541 (S.D.N.Y. May 23, 2018).
3. *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 302 F. Supp. 3d 541 (S.D.N.Y. May 23, 2018). See also “[Social Media Guidelines for Public and Academic Libraries,](#)” approved by the Intellectual Freedom Committee June 2018.
4. *Library Bill of Rights*, Article VII, adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019; “Privacy: An Interpretation of the *Library Bill of Rights*,” adopted June

Adopted January 12, 2016, by the ALA Council. Revisions proposed for ALA Annual Conference 2019.