

## SELECTED VIRGINIA LIBRARY LAWS

### SELECTED LAWS GOVERNING THE LIBRARY OF VIRGINIA

**§42.1-1. The Library of Virginia.** The Library of Virginia is hereby declared an educational institution and an institution of learning. The Library of Virginia shall be the library agency of the Commonwealth, the archival agency of the Commonwealth, and the reference library at the seat of government. It shall have the following powers and duties:

(1) [Repealed.]

(2) To accept gifts, bequests and endowments for the purposes which fall within the general legal powers and duties of The Library of Virginia. Unless otherwise specified by the donor or legator, the Library may either expend both the principal and interest of any gift or bequest or may invest such sums as the Board deems advisable, with the consent of the State Treasurer, in securities in which sinking funds may be invested. The Library shall be deemed to be an institution of higher education within the meaning of §23-9.2;

(3) To purchase and maintain a general collection of books, periodicals, newspapers, maps, films, audiovisual materials and other materials for the use of the people of the Commonwealth as a means for the promotion of knowledge within the Commonwealth. The scope of the Library's collections shall be determined by the Library Board on recommendation of the Librarian of Virginia, and, in making these decisions, the Board and Librarian of Virginia shall take into account the book collections of public libraries and college and university libraries throughout the Commonwealth and the availability of such collections to the general public. The Board shall make available for circulation to libraries or to the public such of its materials as it deems advisable;

(4) To give assistance, advice and counsel to other agencies of the Commonwealth maintaining libraries and special reference collections as to the best means of establishing and administering such libraries and collections. It may establish in The Library of Virginia a union catalogue of all books, pamphlets and other materials owned and used for reference purposes by all other agencies of the Commonwealth and of all books, pamphlets and other materials maintained by libraries in the Commonwealth which are of interest to the people of the whole Commonwealth;

(5) To fix reasonable penalties for damage to or failure to return any book, periodical or other material owned by the Library, or for violation of any rule or regulation concerning the use of books, periodicals, and other materials in custody of the Library;

(6) To give direction, assistance and counsel to all libraries in the Commonwealth, to all communities which may propose to establish libraries, and to all persons interested in public libraries, as to means of establishment and administration of such libraries, selection of books, retrieval systems, cataloguing, maintenance, and other details of library management, and to conduct such inspections as are necessary;

(7) To engage in such activities in aid of city, county, town, regional and other public libraries as will serve to develop the library system of the Commonwealth;

(8) To administer and distribute state and federal library funds in accordance with law and its own regulations to the city, county, town and regional libraries of the Commonwealth; and

(9) To enter into contracts with other states or regions or districts for the purpose of providing cooperative library services.

Wherever in this title and the Code of Virginia the terms “State Library” or “Library” appear, they shall mean The Library of Virginia. (Code 1950, §42-33; 1970, c. 606; 1984, cc. 389, 734; 1986, c. 565; 1987, c. 458; 1994, c. 64; 1998, c. 427.)

**§42.1-2. The Library of Virginia under direction of Library Board; membership; chairman and vice-chairman; committees and advisory bodies.** The Library of Virginia shall be directed by a board, consisting of fifteen members, to be appointed by the Governor, which shall be and remain a corporation under the style of “The Library Board,” sometimes in this chapter called the Board. Prior to such appointments the Board may submit to the Governor lists of candidates based upon interest and knowledge, geographic representation, participation in community affairs, and concern for the welfare of the Commonwealth. In no case shall the Governor be bound to make any appointment from among the nominees of the Board. The Board shall meet and organize by electing from its number a chairman and vice-chairman. It shall have the power to appoint such committees and advisory bodies as it deems advisable. (Code 1950, §42-34; 1968, c. 122; 1970, c. 606; 1986, c. 565; 1987, c. 458; 1994, c. 64.)

**§42.1-13. Appointment; terms of office; employment; duties.** The Board shall appoint a librarian, to be known as the Librarian of Virginia, who shall serve at the pleasure of the Board. The Librarian of Virginia shall appoint principal assistants and approve the appointment of other employees. The terms of office and employment of such assistants and employees shall be subject to the personnel regulations of the Commonwealth.

The Librarian of Virginia shall supervise the administration of The Library of Virginia. The Librarian of Virginia shall make requests for appropriations of necessary funds and approve all expenditures of Library funds. Such expenditures shall be made as provided by law. (Code 1950, §42-48; 1970, c. 606; 1984, c. 444; 1985, c. 397; 1986, c. 565; 1994, c. 64; 1996, c. 812; 1998, c. 427.)

## CERTIFICATION LAW

**§42.1-15.1. Qualifications required to hold professional librarian position.** Public libraries serving a political subdivision or subdivisions having a population greater than 13,000 and libraries operated by the Commonwealth or under its authority shall not use funds derived from any state aid to employ, in the position of librarian or in any other full-time professional librarian position, a person who does not meet the qualifications established by the State Library Board.

A professional librarian position as used in this section is one that requires a knowledge of books and of library technique equivalent to that required for graduation from any accredited library school or one that requires graduation from a school of library science accredited by the American Library Association.

No funds derived from any state aid shall be paid to any person whose employment does not comply with this section.

This section shall not apply to law libraries organized pursuant to Chapter 4 (§42.1-60 et seq.) of this title, libraries in colleges and universities or to public school libraries. (1988, c. 716; 2004, c. 559.)

## **LAWS GOVERNING THE ESTABLISHMENT OF PUBLIC LIBRARIES IN VIRGINIA**

**§42.1-33. Power of local government to establish and support libraries.** The governing body of any city, county or town shall have the power to establish a free public library for the use and benefit of its residents. The governing body shall provide sufficient support for the operation of the library by levying a tax therefore, either by special levy or as a fund of the general levy of the city, county or town. The word “support” as used in this chapter shall include but is not limited to, purchase of land for library buildings, purchase or erection of buildings for library purposes, purchase of library books, materials and equipment, compensation of library personnel, and all maintenance expenses for library property and equipment. Funds appropriated or contributed for public library purposes shall constitute a separate fund and shall not be used for any but public library purposes.

**§42.1-34. Power of local governments to contract for library service.** Any city, town or county shall have the power to enter into contracts with adjacent cities, counties, towns, or state-supported institutions of higher learning to receive or to provide library service on such terms and conditions as shall be mutually acceptable, or they may contract for a library service with a library not owned by a public corporation but maintained for free public use. The board of trustees of a free public library may enter into contracts with county, city or town school boards and boards of school trustees to provide library service for schools. Any city or county governing body contracting for library service shall, as a part of such contract, have the power to appoint at least one member to the board of trustees or other governing body of the library contracting to provide such service. Any city or county thus contracting for library service shall be entitled to the rights and benefits of regional free library systems established in accordance with the provisions of 42.1-37. The board of trustees or other governing body of any library established under the provisions of 42.1-33 may also, with the approval of and on terms satisfactory to the State Library Board, extend its services to persons in adjacent areas of other states.

**§42.1-35. Library boards generally.** The management and control of a free public library system shall be vested in a board of not less than five members or trustees. They shall be appointed by the governing body, chosen from the citizens at large with reference to their fitness for such office. However, one board member or trustee may be a member or an employee of the local governing body. Initially members may be appointed as follows: one member for a term of one year, one member for a term of two years, one member for a term of three years, and the remaining members for terms of four years; thereafter all members shall be appointed for terms of four years. The governing body of any county or city entitled

to representation on a library board of a library system of another jurisdiction pursuant to 42.1-34 shall appoint a member to serve for a term of four years, or until the contract is terminated, whichever is shorter. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A member shall not receive a salary or other compensation for services as a member but necessary expenses actually incurred shall be paid from the library fund. However, the governing body of Fairfax County may pay members of its library board such compensation as it may deem proper. A member of a library board may be removed for misconduct or neglect of duty by the governing body making the appointment. The members shall adopt such bylaws, rules and regulations for their own guidance and for the government of the free public library system as may be expedient. They shall have control of the expenditures of all moneys credited to the library fund. The board shall have the right to accept donations and bequests of money, personal property, or real estate for the establishment and maintenance of such free public library systems or endowments for same.

**§42.1-36. Boards not mandatory.** The formation, creation or continued existence of boards shall in no wise be considered or construed in any manner as mandatory upon any city or town with a manager, or upon any county with a county manager, county executive, urban county manager or urban county executive form of government, or the Counties of Chesterfield and Shenandoah, by virtue of this chapter.

**§42.1-36.1. Power and duty of library boards and certain governing bodies regarding acceptable Internet use policies.**

A. On or before December 1, 1999, and biennially thereafter, (i) every library board established pursuant to 42.1-35 or (ii) the governing body of any county, city, or town which, pursuant to 42.1-36, has not established a library board pursuant to 42.1-35, shall file with the Librarian of Virginia an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the policy shall contain provisions which (i) are designed to prohibit use by library employees and patrons of the library's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet, (ii) seek to prevent access by library patrons under the age of eighteen to material which is harmful to juveniles, and (iii) establish appropriate measures to be taken against persons who violate the policy. The library board or the governing body may include such other terms, conditions, and requirements in the library's policy as it deems appropriate, such as requiring written parental authorization for Internet use by juveniles or differentiating acceptable uses between elementary, middle, and high school students.

B. The library board or the governing body shall take such steps as it deems appropriate to implement and enforce the library's policy which may include, but are not limited to, (i) the use of software programs designed to block access by (a) library employees and patrons to illegal material or (b) library patrons under the age of eighteen to material which is harmful to juveniles or (c) both; (ii) charging library employees to casually monitor patrons' Internet use; or (iii) installing privacy screens on computers which access the Internet.

C. On or before December 1, 2000, and biennially thereafter, the Librarian of Virginia shall submit a report to the Chairmen of the House Committee on Education, the House Committee on Science and Technology, and the Senate Committee on Education and Health which summarizes the acceptable use policies filed with the Librarian pursuant to this section and the status thereof.

**§42.1-37. Establishment of regional library system.** Two or more political subdivisions (counties or cities), by action of their governing bodies, may join in establishing and maintaining a regional free library system under the terms of a contract between such political subdivisions; provided, that in the case of established county or city free library systems, the library boards shall agree to such action.

**§42.1-38. Agreements to create regional boards.** Two or more political subdivisions (counties or cities) which have qualified for participation in the state's regional library program, have been recognized as a region by the State Library Board, and have made the minimum local appropriation of funds as may now or hereafter be recommended by the Board, are hereby empowered and authorized to execute contracts with each other to create a regional library board to administer and control the regional library services within the region. Each jurisdiction shall, as a part of such contract, have the power to appoint at least one member to the regional library board.

**§42.1-39. Regional library boards generally.** The members of the Board of a regional library system shall be appointed by the respective governing bodies represented. If the board of the regional library system is composed of two or more members from each county, city and town that is a part thereof, then each governing body represented on the board may appoint a member or an employee of the governing body to the board. Such members shall in the beginning draw lots for expiration of terms, to provide for staggered terms of office, and thereafter the appointment shall be for a term of four years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members are regularly chosen. No appointive member shall be eligible to serve more than two successive terms. A member shall not receive a salary or other compensation for services as member, but necessary expenses actually incurred shall be paid from the library fund. A regional board member may be removed for misconduct or neglect of duty by the governing body making the appointment. The board members shall elect officers and adopt such bylaws, rules and regulations for their own guidance and for the government of the regional free library system as may be expedient. They shall have control of the expenditure of all moneys credited to the regional free library fund. The regional board shall have the right to accept donations and bequests of money, personal property, or real estate for the establishment and maintenance of such regional free library system or endowments for same.

**§42.1-40. Powers of regional library board.** The regional library board shall have authority to execute contracts with the State Library Board, with the library boards of the respective jurisdictions, and any and all other agencies for the purpose of administering a public library service within the region, including contracts concerning allocation and

expenditure of funds, to the same extent as the library board of any one of the jurisdictions which are parties to the agreement would be so authorized. In addition, to effectuate the purposes of this chapter, a regional library board is empowered to sell the surplus assets, including real estate, of the said regional library board if the net proceeds therefrom are used for public library services within the region.

**§42.1-41. Funds and expenses of regional library system.** The expenses of the regional library system shall be apportioned among the participating political subdivisions on such basis as shall be agreed upon in the contract. The treasurer of the regional library board shall have the custody of the funds of the regional free library system; and the treasurers or other financial officers of the participating jurisdictions shall transfer quarterly to him all moneys collected or appropriated for this purpose in their respective jurisdictions. Such funds shall be expended only for the library service for which the county or city contracted and for no other purpose. The regional library board shall furnish a detailed report of receipts and disbursements of all funds at the regular meeting of the governing body of every participating jurisdiction after the close of the state's fiscal year. It shall make a similar report to the Library of Virginia. The treasurer of the board shall be bonded for an amount to be determined by the board. The board may authorize the treasurer to pay bond premiums from state aid library funds.

**§42.1-42. Withdrawal from regional library system.** No county or city participating in a regional library system shall withdraw therefrom without two years' notice to the other participating counties and cities without the consent of such other participating political subdivisions.

**§42.1-43. Appropriation for free library or library service conducted by company, society or organization.** The governing body of any county, city or town in which no free public library system as provided in this chapter shall have been established, may, in its discretion, appropriate such sums of money as to it seems proper for the support and maintenance of any free library or library service operated and conducted in such county, city or town by a company, society or association organized under the provisions of 13.1-801 through 13.1-980.

**§42.1-44. Cooperative library system for Henrico and Chesterfield Counties and City of Richmond.** Notwithstanding the repeal of Title 42 of the Code of Virginia, 42-12.1 to 42-12.5 of Chapter 2.1 of former Title 42 are continued in effect and are incorporated into this title by reference.

**§42.1-45. Transfer of properties, etc. of public free library to governing body of city in which it is situated.** The board of directors or trustees of any public free library established pursuant to Chapter 13, Acts of Assembly, 1924, approved February 13, 1924, may lease, convey, or transfer any interest to its properties, real or personal, to the governing body of the political subdivision in which such library be situated in order that such library may become a part of the public library system of such city, subject to such restrictions and

conditions as may be agreed to by such board of directors or trustees and such governing body.

## **LAWS GOVERNING GRANTS-IN-AID TO PUBLIC LIBRARIES**

**§42.1-46. Library policy of the Commonwealth.** It is hereby declared to be the policy of the Commonwealth, as a part of its provision for public education, to promote the establishment and development of public library service throughout its various political subdivisions.

**§42.1-47. Grants for development of library service.** In order to provide State aid in the development of public library service throughout the State, the Library Board, in this chapter sometimes called the Board, shall grant from such appropriations as are made for this purpose funds to provide library service.

**§42.1-48. Grants to improve standards.** In order to encourage the maintenance and development of proper standards, including personnel standards, and the combination of libraries or library systems into larger and more economical units of service, grants of state aid from funds available shall be made by the Board to any free public library or library system which qualifies under the standards set by the Board. The grants to each qualifying library or system in each fiscal year shall be as follows:

(a) Forty cents of state aid for every dollar expended, or to be expended, exclusive of state and federal aid, by the political subdivision or subdivisions operating or participating in the library or system. The grant to any county or city shall not exceed \$250,000;

(b) A per capita grant based on the population of the area served and the number of participating counties or cities: Thirty cents per capita for the first 600,000 persons to a library or system serving one city or county, and an additional ten cents per capita for the first 600,000 persons for each additional city or county served. Libraries or systems serving a population in excess of 600,000 shall receive ten cents per capita for the excess; and

(c) A grant of ten dollars per square mile of area served to every library or library system, and an additional grant of twenty dollars per square mile of area served to every library system serving more than one city or county.

The Board may establish procedures for the review and timely adjustment of such grants when the political subdivision or subdivisions operating such library or library system are affected by annexation.

**§42.1-49. Grants to municipal libraries.** Every qualifying municipal library serving an area containing less than 5,000 population shall receive its proper share, but not less than \$400.

**§42.1-50. Limitation of grants; proration of funds.** The total amount of grants under 42.1-48 and 42.1-49 shall not exceed the amount expended, exclusive of state and federal aid, by the political subdivision or subdivisions operating the library. If the state appropriations provided for grants under 42.1-48 and 42.1-49 are not sufficient to meet

approved applications, the Library Board shall prorate the available funds in such manner that each application shall receive its proportionate share of each type of grant. Applications must be received prior to June one of each calendar year.

**§42.1-51. Obligations of libraries and systems receiving aid.** The obligations of the various library systems and libraries receiving state aid, shall consist of establishing and maintaining an organization as approved by the Board, provided that personnel standards of such library systems and libraries shall conform to the provisions of 42.-15.1. All books and bookmobiles purchased with state aid funds shall, if the Board so determines, become the property of the Library of Virginia in the case of any library system or library which does not meet its obligations as determined by the Board.

**§42.1-52. Standards of eligibility for aid; reports on operation of libraries; supervision of services.** The Board shall establish standards under which library systems and libraries shall be eligible for state aid and may require reports on the operation of all libraries receiving state aid.

As long as funds are available, grants shall be made to the various libraries, library systems or contracting libraries applying for state aid in the order in which they meet the standards established by the Board.

In the event that any library meets the standards of the State Library Board but is unable to conform to 42.1-15 relating to the employment of qualified librarians, the Library Board may, under a contractual agreement with such library, provide professional supervision of its services and may grant state aid funds to it in reduced amounts under a uniform plan to be adopted by the State Library Board.

**§42.1-54. Procedure for purchase of books, materials and equipment and payment on salaries.** All proposals for books, materials and equipment to be purchased with state aid funds and all proposals for aid in the payment of salaries of certified librarians shall be submitted for approval to the Library of Virginia by the libraries, library systems or contracting libraries applying for state aid, in form prescribed by the Board, and those approved may be ordered by the libraries, library systems or contracting libraries. Payments and disbursements from the funds appropriated for this purpose shall be made by the State Treasurer upon the approval of the duly authorized representative of the Board, to the libraries, library systems or contracting libraries within thirty days of the beginning of each quarter.

**§42.1-55. Free service available to all.** The service of books in library systems and libraries receiving state aid shall be free and shall be made available to all persons living in the county, region, or municipality.

**§42.1-56 Meaning of term “books.”** The term “books” as used in this chapter may be interpreted in the discretion of the Board to mean books, magazines, newspapers, appropriate audiovisual materials and other printed matter.

**§42.1-57. Authority of Library Board to accept and distribute federal funds.** The Library Board is empowered, subject to approval of the Governor, to accept grants of federal funds for libraries and to allocate such funds to libraries under any plan approved by the Board and the appropriate federal authorities. Such allocations shall not be subject to the restrictions of this chapter.

**§42.1-58. Agreements providing for expenditure of federal and matching funds.** The Library Board and the cities and counties of the Commonwealth are authorized to enter into agreements providing for the supervision of the expenditure of federal funds allocated to such cities and counties and matching funds provided by such political subdivisions. Such agreement shall set forth the standards and conditions with respect to the expenditure of such funds.

## **REQUIREMENTS WHICH MUST BE MET IN ORDER TO RECEIVE GRANTS-IN-AID (VAC 15-110-10)**

In order to qualify for grants-in-aid, all libraries serving more than 5,000 persons must meet the following requirements by July 1, 1992:

1. Be organized under the appropriate section of the Code of Virginia. Not more than one library in a county or regional library system or a municipal government unit may receive a grant.

2. Submit to the State Library Board:

Charter, resolution, or other legal papers under which they are organized.

A copy of the by-laws of the board of trustees, a list of trustees, revised as changes occur.

A five-year plan, adopted by the governing body of the library service in the area (or areas) served. In order to receive continuing grants, this plan must be updated annually.

A written statement of policy covering such items as: service, personnel, and maintenance of book collections and other materials.

Statistical and financial reports including audits and statements of progress of the plan as requested.

A copy of the budget for the expenditure of local funds, not including anticipated state and federal funds. This must be submitted annually.

3. Have local operating expenditures of at least 50 percent of the median statewide local operating expenditures per capita, two-thirds of which must be from taxation or endowment. The median shall be recalculated each biennium. Libraries obtaining aid for the first time or those falling below the 50 percent median must meet the requirement within five years. Libraries which fall below 50 percent of the median in local expenditures per capita must submit a plan to the State Library Board for reaching the minimum requirement. The plan must include a schedule of annual increases in local expenditures of not less than 20 percent of the amount needed to attain local per capita expenditures of 50 percent of the median within five years.

Local operating expenditures from taxation or endowment for any library, or library system, shall not fall below that of the previous year. In cases where the budgets of all the departments of the local government are reduced below those of the previous year, the library's state grant-in-aid would be reduced. The State Library may require that the amount of such reduction in the library's total expenditure be subtracted from the library's eligibility and that the state grant be reduced accordingly. If the library's budget is reduced and other agencies' budgets are not, then the library would receive no state grant-in-aid and would be ineligible for one until local expenditures shall have again reached or exceeded the local effort at the time of the last previous grant.

The library would be ineligible for any federal funds if local funds are reduced below that of the previous year.

Grants-in-aid shall be used as supplements to local funds.

The amount of any undesignated balance in the local operating budget at the end of the fiscal year which exceeds 10 percent will be subtracted from the grant which is based on that years expenditures.

4. Have certified librarians in positions as required by state law. Libraries failing to employ a certified librarian in the position of director will have their state aid grant reduced by 25 percent.
5. Keep open a headquarters library or centrally located branch at least 40 hours a week for a full range of library services. This schedule must include at least three consecutive evening hours and appropriate weekend hours. Evening hours are defined as the hours after 5 p.m.
6. Maintain an up-to-date reference collection and set up procedures for securing materials from other libraries through interlibrary loan.
7. Organize materials for convenient use through shelf arrangement, classification and cataloging, and provide a catalog of its resources.
8. Stimulate use of materials through publicity, displays, reading lists, story hours, book talks, book and film discussions and other appropriate means.
9. Lend guidance in all outlets to individuals in the use of informational, educational, and recreational materials.

10. Maintain a collection of currently useful materials by annual additions and systematic removal of items no longer useful to maintain the purposes of quality of its resources. Have a telephone and the number of the telephone listed in the local telephone directory.
11. Provide the basic services listed in this section free of charge to the public as required by law.
12. Every regional, county, and city library serving an area of more than 400 square miles, or more than 25,000 persons, must provide some form of extension service acceptable to the board.
13. If the library system has two or more service units, either branches or stations, it must maintain a scheduled, frequent delivery system.
14. The Library Board may, at its discretion, make exceptions for a specified period of time to any single requirement listed above. The exception will be made only if the library can show that a real effort has been made to meet the requirement and that significant progress has been made toward meeting this requirement.

Approved by the State Library Board, March 13, 1991.

**REQUIREMENTS WHICH MUST BE MET BY  
LIBRARIES SERVING A POPULATION OF FEWER THAN 5,000  
IN ORDER TO RECEIVE STATE GRANTS-IN-AID (17 VAC 15-90-10)**

These requirements must be met by July 1, 1972 when full funding is anticipated.

In order to qualify for state grants-in-aid, all libraries shall meet the following requirements:

1. Be organized under the appropriate section of the Code of Virginia.
2. Submit to the State Library Board:

Charter, resolutions, or other legal papers under which they are organized.

A copy of the by-laws of the board of trustees, a list of trustees, revised as changes occur.

A five-year plan, adopted by the governing body of the library (trustees, or equivalent) for the development of library service in the area (areas) served. In order to receive continuing grants, any revisions in this plan must be submitted annually.

A written statement of policy covering such items as: service, personnel, and maintenance of book collections and other materials.

Statistical and financial reports including statements of progress of the plan as requested.

3. All libraries shall meet the following minimum requirements:

Give at least 20 hours of public service per week.

Provide adequate staff, with at least one paid employee working 20 hours a week while library is open.

Have a collection of currently useful books of at least 5,000 volumes.

Provide a minimum of 1,750 square feet of space.

Be located on a site which is conveniently situated for service to the greatest number of people in the area.

Add at least 200 currently useful books per year.

Expend annually at least \$3,000.00 per year in local funds, 2/3 of which must be from taxation or endowment. Local operating expenditures for any library, or library system, shall not fall below that of the previous year. The amount of any undesignated balance at the end of the fiscal year which exceeds 10 percent of the library's total budget will be subtracted from the grant which is based on that year's expenditures.

Provide an author, subject, and title catalog.

Provide a telephone.

It is strongly recommended that libraries in this category look toward joining larger units of service in order to meet recommended State standards.

Approved by the State Library Board, April 27, 1970.

## PUBLIC LIBRARY BOARDS IN VIRGINIA

Name of Library	No. of Members	Governing/ Advisory	Appointing Authority
Alexandria Library	7	Governing	City Council
Amherst County Public Library	6	Governing	Board of Supervisors
Appomattox Regional Library	11	Governing	Boards of Supervisors City Council
Arlington County Public Library	0	N/A	N/A
Augusta County Library	7	Governing	Board of Supervisors
Bedford Public Library	6	Governing	Board of Supervisors
Blackwater Regional Library	14	Governing	Boards of Supervisors City Council
Blue Ridge Regional Library	11	Governing	Boards of Supervisors City Council
Botetourt County Library	5	Governing	Board of Supervisors
Bristol Public Library	11	Governing	City Council (Virginia) City Council (Tennessee)
Buchanan County Public Library	10	Governing	Board of Supervisors
Campbell County Public Library	8	Governing	Board of Supervisors
Caroline Library, Inc.*	14	Governing	Board of Directors
Central Rappahannock Regional Library	7	Governing	Boards of Supervisors City Council
Central Virginia Regional Library*	9	Governing	Board of Directors Board of Supervisors
Charles P. Jones Memorial Library*	12	Governing	Board of Directors Board of Supervisors City Council
Charlotte County Library	7	Governing	Board of Supervisors

<b>Name of Library</b>	<b>No. of Members</b>	<b>Governing/ Advisory</b>	<b>Appointing Authority</b>
Chesapeake Public Library	7	Advisory	City Council
Chesterfield County Public Library	0	N/A	N/A
Clifton Forge Public Library	9	Advisory	City Council
Colonial Heights Public Library	7	Advisory	City Council
Craig County Public Library*	5	Governing	Board of Directors
Culpeper County Library	8	Governing	Board of Supervisors
Cumberland County Public Library*	8	Governing	Board of Directors
Danville Public Library	0	N/A	N/A
Eastern Shore Public Library	5	Governing	Boards of Supervisors
Essex Public Library*	12	Governing	Board of Directors
Fairfax County Public Library	12	Governing	Board of Supervisors City Council
Fauquier County Public Library	5	Governing	Board of Supervisors
Fluvanna County Public Library	7	Governing	Board of Supervisors
Franklin County Public Library	7	Governing	Board of Supervisors
Galax-Carroll Regional Library	6	Governing	City Council Board of Supervisors
Gloucester Library	11	Governing	Board of Supervisors
Halifax County-South Boston Regional Library	11	Governing	Board of Supervisors City Council
Hampton Public Library	0	N/A	N/A
Handley Regional Library	10	Governing	Board of Supervisors City Council
Henrico County Public Library	5	Advisory	Board of Supervisors

<b>Name of Library</b>	<b>No. of Members</b>	<b>Governing/ Advisory</b>	<b>Appointing Authority</b>
Heritage Public Library*	11	Governing	Board of Directors Boards of Supervisors
Highland County Public Library*	7	Governing	Board of Directors
Iris Brammer Public Library	9	Advisory	Town Council
J. Robert Jamerson Memorial Library	5	Governing	Board of Supervisors
James L. Hamner Public Library	21	Governing	Board of Supervisors
Jefferson-Madison Regional Library	9	Governing	Boards of Supervisors City Council
Lancaster Community Library*	12	Governing	Board of Directors Board of Supervisors
L. E. Smoot Memorial Library	10	Governing	Board of Supervisors
Lonesome Pine Regional Library	11	Governing	Boards of Supervisors City Council
Loudoun County Public Library	9	Governing	Board of Supervisors
Lynchburg Public Library	0	N/A	N/A
Madison County Library, Inc.*	12	Governing	Board of Directors
Mary Riley Styles Public Library	7	Advisory	City Council
Massanutten Regional Library*	19	Governing	Board of Directors
Mathews Memorial Library	8	Governing	Board of Supervisors
Meherrin Regional Library	10	Governing	Board of Supervisors City Council
Middlesex County Public Library*	16	Governing	Board of Directors
Montgomery-Floyd Regional Library	9	Governing	Boards of Supervisors
Newport News Public Library	13	Advisory	City Council
Norfolk Public Library	9	Advisory	City Council

<b>Name of Library</b>	<b>No. of Members</b>	<b>Governing/ Advisory</b>	<b>Appointing Authority</b>
Northumberland Public Library*	12	Governing	Board of Directors Board of Supervisors
Nottoway County Library	5	Governing	Board of Supervisors
Orange County Public Library	10	Governing	Board of Supervisors
Pamunkey Regional Library	10	Governing	Boards of Supervisors
Pearisburg Public Library	8	Advisory	Town Council
Petersburg Public Library	0	N/A	N/A
Pittsylvania County Public Library	10	Governing	Boards of Supervisors
Poquoson Public Library	7	Advisory	City Council
Portsmouth Public Library	9	Advisory	City Council
Powhatan County Public Library	6	Governing	Board of Supervisors
Prince William Public Library	10	Governing	Board of Supervisors City Council
Pulaski County Library	9	Governing	Board of Supervisors
Radford Public Library	5	Advisory	City Council
Rappahannock County Library	9	Governing	Board of Supervisors
Richmond County Public Library	8	Governing	Board of Supervisors
Richmond Public Library	9	Governing	City Council
Roanoke County Public Library	5	Advisory	Board of Supervisors
Roanoke Public Library	11	Advisory	City Council
Rockbridge Regional Library	12	Governing	Boards of Supervisors City Council
Russell County Public Library	9	Governing	Board of Supervisors
Salem Public Library	0	N/A	N/A

<b>Name of Library</b>	<b>No. of Members</b>	<b>Governing/ Advisory</b>	<b>Appointing Authority</b>
Samuels Public Library*	11	Governing	Board of Directors
Shenandoah County Library	13	Governing	Board of Supervisors
Smyth-Bland Regional Library	9	Governing	Boards of Supervisors
Southside Regional Library	5	Governing	Boards of Supervisors
Staunton Public Library	5	Advisory	City Council
Suffolk Public Library	7	Advisory	City Council
Tazewell County Public Library	5	Governing	Board of Supervisors
Virginia Beach Public Library	13	Advisory	City Council
Washington County Public Library	7	Governing	Board of Supervisors
Waynesboro Public Library	5	Advisory	City Council
Williamsburg Regional Library	7	Governing	Board of Supervisors City Council
Wythe-Grayson Regional Library	8	Governing	Boards of Supervisors
York County Public Library	5	Governing	Board of Supervisors

\*Denotes libraries established as companies, societies, or organizations.

THE MATERIAL THAT FOLLOWS, THROUGH PAGE 132,  
IS REPRINTED WITH PERMISSION FROM THE  
AMERICAN LIBRARY ASSOCIATION.

## 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.

Amended February 2, 1961, and January 23, 1980.

Inclusion of "age" reaffirmed January 23, 1996,  
by the ALA Council.

## 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.

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

A Joint Statement by:

American Library Association  
Association of American Publishers

Subsequently endorsed by:

American Booksellers Foundation for Free Expression  
The Association of American University Presses, Inc.  
The Children's Book Council  
Freedom to Read Foundation  
National Association of College Stores  
National Coalition Against Censorship  
National Council of Teachers of English  
The Thomas Jefferson Center for the Protection of Free Expression

## 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.

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Adopted June 28, 1989, by the ALA Council; the quotation from *Free Access to Libraries for Minors* was changed after Council adopted the July 3, 1991, and the June 30, 2004, revision of that *Interpretation*; amended June 30, 2004, by the ALA Council.

# ACCESS TO ELECTRONIC 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 by selecting, producing, providing access to, identifying, retrieving, organizing, providing instruction in the use of, and preserving recorded expression regardless of the format or technology.

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

Libraries empower users by providing access to the broadest range of information. Electronic resources, including information available via the Internet, allow libraries to fulfill this responsibility better than ever before.

Issues arising from digital generation, distribution, and retrieval of information need to be approached and regularly reviewed from a context of constitutional principles and ALA policies so that fundamental and traditional tenets of librarianship are not swept away.

Electronic information flows across boundaries and barriers despite attempts by individuals, governments, and private entities to channel or control it. Even so, many people lack access or capability to use electronic information effectively.

In making decisions about how to offer access to electronic information, each library should consider 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 electronic 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 or receiving 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 or utilized electronically is constitutionally protected unless determined otherwise by a court of law with appropriate 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 People to Videotapes and Other Nonprint Formats*).<sup>2</sup>

Libraries should use technology to enhance, not deny, access to information. 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*.

### **Equity of Access**

The Internet provides expanding opportunities for everyone to participate in the information society, but too many individuals face serious barriers to access. Libraries play a critical role in bridging information access gaps for these individuals. Libraries also ensure that the public can find content of interest and learn the necessary skills to use information successfully.

Electronic 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 their major 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 electronic information that are consistent with ALA's policy statements, 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 *Resolution on Access to the Use of Libraries and Information by Individuals with Physical or Mental Impairment*.

## Information Resources and Access

Providing connections to global information, services, and networks is not the same as selecting and purchasing materials for a library collection. Determining the accuracy or authenticity of electronic information may present special problems. Some information accessed electronically may not meet a library's selection or collection development policy. It is, therefore, left to each user to determine what is appropriate. Parents and legal guardians who are concerned about their children's use of electronic resources should provide guidance to their own children.

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 electronically. Libraries have an obligation to provide access to government information available in electronic format.

Libraries and librarians should not deny or limit access to electronic information because of its allegedly controversial content or because of the librarians personal beliefs or fear of confrontation. Furthermore, libraries and librarians should not deny access to electronic information solely on the grounds that it is perceived to lack value.

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>

Electronic 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 electronic resources no less than 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 Electronic Information, Services and Networks: An Interpretation of the Library Bill of Rights*.

Adopted January 24, 1996; amended January 19, 2005, by the ALA Council.

## CONFIDENTIALITY AND COPING WITH LAW ENFORCEMENT INQUIRIES

### GUIDELINES FOR THE LIBRARY AND ITS STAFF

Increased visits to libraries by law enforcement agents, including FBI agents and officers of state, county, and municipal police departments, are raising considerable concern among the public and the library community. These visits are not only a result of the increased surveillance and investigation prompted by the events of September 11, 2001, and the subsequent passage of the *USA Patriot Act*, but also as a result of law enforcement officers investigating computer crimes, including e-mail threats and possible violations of the laws addressing online obscenity and child pornography.

These guidelines, developed to assist libraries and library staff in dealing with law enforcement inquiries, rely upon the ALA's

- *Privacy: An Interpretation of the Library Bill of Rights*
- *Questions and Answers on Privacy and Confidentiality*
- *Policy on Confidentiality of Library Records*
- *Suggested Procedures for Implementing Policy on Confidentiality of Library Records*
- *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users*
- *Code of Ethics*

See also *Privacy and Confidentiality*, *Intellectual Freedom Issues*, and the *Privacy Tool Kit* on OIF's Web site.

### Fundamental Principles

Librarians' professional ethics require that personally identifiable information about library users be kept confidential. This principle is reflected in Article III of the *Code of Ethics*, which states that "[librarians] protect each library user's right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired, or transmitted." *Privacy: An Interpretation of the Library Bill of Rights*, notes that "[p]rotecting user privacy and confidentiality has long been an integral part of the mission of libraries."

Currently, 48 states and the District of Columbia have laws protecting the confidentiality of library records, and the Attorneys General of the remaining two states, Hawaii and Kentucky, have ruled that library records are confidential and may not be disclosed under the laws governing open records. 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 a showing of good cause by the law enforcement agency or person seeking the records.

## General Guidelines

Confidentiality of library records is a basic principle of librarianship. As a matter of policy or procedure, the library administrator should ensure that:

- The library staff and governing board are familiar with the *ALA Policy on Confidentiality of Library Records*, the *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users*, and other ALA documents on users' privacy and confidentiality.
- The library staff and governing board are familiar with their state's library confidentiality statute or attorney generals opinion.
- The library adopts a policy on users' privacy and confidentiality. Such policies should inform users about their expectation of privacy and how the library handles their confidential information.
- The library adopts staff policies that inform the staff and board about the procedures to follow if the library is served with judicial process (search warrants or subpoenas) seeking library records or if law enforcement agents conduct inquiries in the library.
- The library staff is familiar with the library's policy on confidentiality and its procedures for handling court orders and law enforcement inquiries.

## Library Procedures Affect Confidentiality

Law enforcement visits aside, be aware that library operating procedures have an impact on confidentiality. The following recommendations are suggestions to bring library procedures into compliance with most state confidentiality statutes, ALA policies on confidentiality and its *Code of Ethics*:

- Avoid creating unnecessary records. Only record a user's personally identifiable information when necessary for the efficient operation of the library.
- Avoid retaining records that are not needed for efficient operation of the library. Check with your local governing body to learn if there are laws or policies addressing record retention and in conformity with these laws or policies, develop policies on the length of time necessary to retain a record. Ensure that all kinds and types of records are covered by the policy, including data-related logs, digital records, and system backups.

- Once record retention policies are in place, ensure that records are destroyed or archived on schedule. A library cannot destroy records after it receives notice from law enforcement agents that the records may be subject to judicial process.
- Be aware of library practices and procedures that place information on public view. Some examples are the use of postcards for overdue notices or requested materials; staff terminals placed so that the screens can be read by the public; sign-in sheets to use computers or other devices; and the provision of titles of reserve requests or interlibrary loans provided over the telephone to users' family members or answering machines.
- Remember that there is no affirmative duty to collect or retain information about library patrons on behalf of law enforcement.

## **Recommended Procedures 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, and, if available, the library's legal counsel.
- 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.
- Review the library's confidentiality policy and state confidentiality law with library counsel. Communicate those policies and the requirements of the law to both staff and volunteer workers in the library.
- A court order may require the removal of a computer workstation or other computer storage device from the library. Have plans in place to address service interruptions and any necessary backups for equipment and software.

### **During the visit:**

- Staff should immediately ask for identification if they are approached by an agent or law enforcement officer, and then record the information. If possible, verify the information with the local FBI office or the police department. The agent or officer should then be immediately referred to the library director or the designated supervisor.

- The director or supervisor should meet with the agent with another colleague in attendance. If possible, one person should take notes if a record of the encounter is needed in the future.
- If the agent or officer does not have a court order compelling the production of records, the library director 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 library director 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 search warrant or other judicial process, the library director should immediately call the library's counsel and ask for assistance.

**If the judicial process is in the form of a subpoena:**

- Remember that a subpoena does not require an immediate response from the library. Thank the officer serving the subpoena and inform him or her that the library will respond to the subpoena within the time allotted and in conformity with the law. Immediately refer the subpoena to the library's legal counsel.
- 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. If there does not appear to be good cause for the subpoena, or if it seems too broad or intrusive, ask your attorney to file a motion to quash the subpoena in its entirety.
- Require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects.

- If you decide to comply with the subpoena after consulting with legal counsel, 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:**

- Unlike a subpoena, a search warrant may be executed immediately. The agent or officer may begin a search of library records as soon as the library 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 ensure that the search conforms to the terms of the search warrant.
- If the officer refuses to delay the search, examine the warrant. Ensure that the warrant has been issued by a local or federal court in your state and is current and not expired. If you question the validity of the warrant, call the issuing court to confirm the validity of the warrant.
- The warrant will include information that identifies the premises to be searched and the items or records to be produced under the warrant. Ask that the officer observe the boundaries set by the search warrant.
- 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. Staff should be trained not to discuss the warrant with the officer, identify any documents, or to volunteer information without first consulting with the library's counsel.
- Record and keep an inventory of the records or items seized from the library. If possible, keep the originals and provide the agent with copies (or make copies for the library's reference).

- While most law enforcement officers will cooperate with a library's request to allow counsel to examine the warrant, it is possible that an officer will refuse to delay his or her search. Train staff to step aside and not to interfere with the officer in those cases. They should continue their attempt to notify the library director and library counsel, and make every effort to keep a record of the incident.

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

- The recommendations for a regular search warrant still apply. However, a search warrant issued by a FISA court also contains 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.
- 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 subject of the search warrant. Note that the FISA gag order permits the person receiving the FISA warrant to inform the library director and those members of the staff who are needed to produce the records.
- 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 warrant and request that the library's legal counsel be present during the actual search and execution of the warrant.
- If the library does not have legal counsel and wishes legal advice, the library can still obtain legal assistance through the Freedom to Read Foundations legal counsel. Simply call the Office for Intellectual Freedom ((800) 545-2433, ext. 4223) and inform the staff that you need legal advice. OIF staff will ensure that an attorney returns your call. You do not have to and should not inform OIF staff of the existence of the warrant.

**After the visit:**

- Review the subpoena or search warrant with library counsel to ensure that the library complies with any remaining requirements, including restrictions on sharing information with others.
- Review library policies and staff response and make any necessary revisions in light of experience.

- Be prepared to communicate with the news media. Designate one person who will be responsible for communicating with the media. Develop a public information statement detailing the principles upholding library confidentiality that includes an explanation of the chilling effect on First Amendment rights caused by public access to users' personally identifiable information, and share it with your staff, so they are able to communicate the library's message to their acquaintances and neighbors in the community.
- If possible, notify the ALA about your experience by calling the Office for Intellectual Freedom at (800) 545-2433, extension 4223.

## FREE ACCESS TO LIBRARIES FOR MINORS

### AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS

Library policies and procedures which effectively deny minors equal 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 of the services, materials, and facilities the library has to offer. Every restriction on access to, and use of, the library resources, based solely on the chronological age, educational level, 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 which 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, level of education, 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 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 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.

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

## 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 which reflects the *Library Bill of Rights*, and which is approved by the appropriate governing authority.

Challenged materials which 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 1 that “Materials should not be excluded because of the origin, background, or views of those contributing to their creation,” and in Article 2, 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; amended July 1, 1981; amended January 10, 1990, by the American Library Association Council.

# REQUEST FOR RECONSIDERATION OF LIBRARY MATERIALS

## SAMPLE COMPLAINT FORM

*(This space is used to identify who in your library has authorized use of the form – Director, Board of Trustees, etc., – and to whom to return the form.)*

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

1. Resource on which you are commenting:

- |                                    |   |   |
|------------------------------------|---|---|
| <input type="checkbox"/> Book      | <input type="checkbox"/> Magazine                   | <input type="checkbox"/> Audiovisual Resource |
| <input type="checkbox"/> Newspaper | <input type="checkbox"/> Content of Library Program | <input type="checkbox"/> Other                |

Title: \_\_\_\_\_

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

2. What brought this title to your attention?

3. Please comment on the resource as a whole, as well as being specific on those matters which concern you. (Use other side if needed.)

Comment:

4. What resource(s) do you suggest to provide additional information on this topic?

\_\_\_\_\_  
Signature

## CONTACTING YOUR LEGISLATOR

**Personal visits.** Face to face discussion is the most effective means of communication. A meeting is more easily arranged early in a session, before pressures build up. Be sure you have a firm appointment.

Take along others—library director, trustee, Friend, citizen activist, representative of a community organization. Keep the delegation small enough for any easy exchange of viewpoints with the legislator. Leave your card and any written information you have prepared. Follow up with a letter of appreciation and include any additional information suggested by the visit.

**Telephone calls.** Once you have become acquainted with your legislator, telephone calls are appropriate. Make them sparingly because the legislator's time is heavily occupied. Regular contact with the legislator's staff is desirable.

Telephone to ask support before a hearing or floor vote or to convey urgent local concern. Judge how far to push by the reaction.

**Letters.** These are the chief fuel which powers any legislative vehicle. They are read. They elicit response. They represent votes.

Letters may be formal or informal, typewritten or handwritten. They should be composed by you, giving your reasons for your position (and giving the legislator reasons to support it). If you are asking support for a particular bill, cite it by number and author, and give its title or subject matter.

**Telegrams, mail grams, and fax.** These are fast, easy ways to communicate with legislators when the need for action is critical.

### FIVE BASIC RULES FOR EFFECTIVE COMMUNICATION

1. **Be Brief.** A legislator's time is limited. So is yours.
2. **Be Appreciative.** Acknowledge past support and convey thanks for current action.
3. **Be Specific.** Refer to local library needs.
4. **Be Informative.** Give reasons why a measure should be supported.
5. **Be Courteous.** Ask; do not demand or threaten. Be positive but polite.

Adapted from *Ways to Communicate with Legislators*, ALA Washington Office.

## WRITING TO LEGISLATORS

### HELPFUL HINTS

1. Keep the letter short, rarely more than one page. Type if you can; otherwise, write clearly.
2. Write it in your own words and include your own thoughts.
3. Cover only one issue; save other issues for later letters.
4. Show your familiarity with the subject and with the current status of the legislation (mention the bill number if possible.) This will indicate that you are serious about the issue, unlike the casual, uninformed correspondents who produce the bulk of constituent mail.
5. Be specific as to what you want your representative to do.
6. Give reasons for your position. Cite your own experience and findings if possible. If the bill has a local impact, indicate that fact so that your representative realizes that the bill has a direct effect on his/her district.
7. Ask your representative a direct question about his/her own position on the bill. You want to receive a clear answer, not a form letter. If you are requesting an appointment, give alternate times if possible, and ask for a reply.
8. Don't mention your membership in any organization unless it is directly related to an experience you are describing. The individual citizen's letter is what counts, not the letter choreographed and inspired by an organization.
9. If you can, mention your legislator's vote on a recent issue to show your awareness of his/her record.
10. In general, be helpful rather than threatening. You can best show your genuine concern for the issue by offering to provide further information on the subject. (After all, information management is our business.)
11. When the legislature is in session, address all letters to your representatives in Washington or the state capitol. At other times, write them in care of their home addresses, if available.
12. Finally, remember: Any letter is better than no letter! Postcards are second best.

Source: Friends of Libraries U.S.A.

## **ELEVEN POINTS TO EFFECTIVE LOBBYING**

1. Make an appointment to visit your legislator.
2. Identify yourself and/or the organization you represent.
3. Make sure you inform the legislator that you are a registered voter in his/her district, if applicable.
4. Be prepared. Deal in facts. Leave supporting documents.
5. Get your point across in the fewest possible words.
6. Don't argue, name call, or threaten.
7. Give the legislator a chance to express his/her point of view and be a good listener.
8. Don't be afraid to admit ignorance on special points. Say you will find the answer and report back.
9. Even if turned down, leave on a friendly note since you may want to join forces on another issue or get back later on the original issue in question.
10. Give special recognition to the legislators who are known to be on your side, and ask them for advice and help in reaching other legislators.
11. If lobbying with a group, one person should speak on behalf of the group.

Source: Friends of Libraries U.S.A.

## ETHICS STATEMENT FOR PUBLIC LIBRARY TRUSTEES

- Trustees in the capacity of trust upon them, shall observe ethical standards with absolute truth, integrity, and honor.
- Trustees must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues, or the situation.
- It is incumbent upon any trustee to disqualify himself/herself immediately whenever the appearance or a conflict of interest exists.
- Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes and those of the institution, acknowledging the formal position of the board even if they personally disagree.
- A trustee must respect the confidential nature of library business while being aware of and in compliance with applicable laws governing freedom of information.
- Trustees must be prepared to support to the fullest the efforts of librarians in resisting censorship of library materials by groups or individuals.
- Trustees who accept library board responsibilities are expected to perform all of the functions of library trustees.

Adopted by the Board of Directors of the American Library Trustee Association, July 1985.

Adopted by the Board of Directors of the Public Library Association, July 1985.

Amended by the Board of Directors of the American Library Trustee Association, July 1988.

Approval of the amendment by the Board of Directors of the Public Library Association, January 1989.

**Association for Library Trustees and Advocates (ALTA)  
a division of the American Library Association**

50 East Huron Street, Chicago, IL 60611

Telephone: (312) 280-2161 • Toll Free: (800) 545-2433, ext. 2161

Fax: (312) 280-3256

## **GOLDEN RULES FOR BOARD MEMBERS**

1. Leave the actual management of the library to the library director. It is the library Director's responsibility to select books, employ the staff, and supervise day-to-day operations.
2. After a policy or rule is adopted by the majority vote of the library board, do not criticize or re-voice your opposition publicly.
3. Respect confidential information. Do not divulge information regarding future board actions or plans until such action is officially taken.
4. Observe publicity and information policies of the board and library. Do not give information individually but refer requests to the library director or appropriate representative to interpret policies.
5. Treat staff members and library director in an objective manner. Under no circumstances listen to grievances of staff members or treat individual problems on your own. The library director is in charge of the staff and has administrative control up to the point where a grievance is presented to the library board as a whole.
6. Do not suggest hiring a relative as library employee or two members of the same family.
7. All rules and policies directed to the library director must be approved by a quorum of the board at a regular meeting. Even the chair should abide by this rule.
8. Do not hold board meetings without the library director.
9. Complaints from the public are the library director's responsibility. Continued dissatisfaction and problems should be taken up at the board meeting only if policy revision is necessary or legal ramifications are involved.
10. Assume your full responsibility as a board member. If you are unable to attend meetings regularly and complete work delegated to you, resign so that an active member can be appointed.