

**ALA Intellectual Freedom Committee  
Report to Council  
2020 ALA Midwinter Meeting  
Philadelphia, Pennsylvania  
Tuesday, January 28, 2020**

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities.

**INFORMATION**

*Intellectual Freedom Manual*

The 10th edition of the *Intellectual Freedom Manual*, edited by Martin Garnar and Trina Magi, is planned to be published before the end of 2020 by ALA Editions. IFC started its work of reviewing and updating intellectual freedom resources in February 2018. The committee has revised guidelines, Q&As, and policy documents, including more than 15 *Library Bill of Rights* interpretations and the *Library Bill of Rights* itself.

The *Intellectual Freedom Manual* will be compiled of foundational documents, as well as in-depth essays that address censorship of materials other than books, copyright law, requests from law enforcement, and much more.

In reviewing the manuscript for the *Intellectual Freedom Manual*, the editors discovered that “Access to Library Resources and Services Regardless of Sex, Gender Identity, Gender Expression, or Sexual Orientation: An Interpretation of the *Library Bill of Rights*” contained one factual error and outdated language. It also used outdated references to the Policy Manual. The proposed changes do not alter the substance of the interpretation, and they will assure that all of the documents in the new edition of the *Intellectual Freedom Manual* are up to date. The proposed revised interpretation is included in this report as an action item.

Resolutions from ALA groups

The committee voted to endorse in principle “Resolution Ensuring Intellectual Freedom and the Right to Peacefully Assemble at ALA Conferences and Meetings,” with a suggestion to the mover of the resolution to make the “resolved” clause more inclusive of all ALA-sponsored events, not limited to ALA Annual and Midwinter conferences.

The committee voted to endorse in principle “Resolution in Opposition to Charging Prisoners to Read.” It supports wholeheartedly the resolution’s goal of ending the practice of charging

inmates a per-page or per-word fee to read e-books on vendor-supplied tablets, which are now used as a substitute for physical libraries and library services in prisons. Such practices violate the *Library Bill of Rights* by imposing unconscionable economic barriers to the inmate's access to reading materials and impairing the prisoner's right to read.

### Forward Together

Members of the Intellectual Freedom Committee, the Committee on Professional Ethics, and the Intellectual Freedom Round Table have expressed concern about the lack of a standing committee to address issues and topics of importance addressing intellectual freedom, privacy, and professional ethics in the Forward Together recommendations. Many expressed a belief that the decision suggests that intellectual freedom and professional ethics are no longer viewed as a core value or core function of the association or the library profession. IFC Chair Julia Warga will be working with COPE Chair Andy Harant on creating specific recommendations on how professional values can be incorporated in the Forward Together proposal for the future of ALA.

### Merritt Fund

The Merritt Humanitarian Fund is celebrating its 50<sup>th</sup> anniversary this year.

The LeRoy C. Merritt Humanitarian Fund was established in 1970 as a special trust in memory of Dr. LeRoy C. Merritt. It is devoted to the support, maintenance, medical care, and welfare of librarians who, in the trustees' opinion, are denied employment rights or discriminated against on the basis of gender, sexual orientation, race, color, creed, religion, age, disability, or place of national origin, or denied employment rights because of defense of intellectual freedom.

During this Midwinter Meeting, the Merritt Fund Board of Trustees met to plan fundraising opportunities to benefit the fund. Two events are planned: a Reception for a Cause at the Annual Conference in Chicago, and a celebratory 50th anniversary event at ALA Midwinter in Indianapolis.

### IFC Privacy Subcommittee

Some of the library users most vulnerable to privacy violations and intrusive monitoring are those library users who use assistive technologies. A working group of the Privacy Subcommittee, led by member Ray James and comprised of several librarians who work daily with assistive technologies, drafted a new privacy guideline, "Library Privacy Guidelines for Assistive Technology." At this meeting, the Privacy Subcommittee recommended adoption of the guidelines to the Intellectual Freedom Committee, which approved the guidelines. A matching privacy checklist will be drafted by the working group in the spring. The new guidelines are attached to this report as an information item.

The controversy engendered by LinkedIn Learning's decision to change its privacy policy and procedures so as to impair library users' privacy rights spurred the IFC Privacy Subcommittee to undertake a review of ALA policies and guidelines addressing vendors' practices regarding the collection, storage, and use of library users' personal data and circulation records. As a result, the Privacy Subcommittee, with the support of members of the Intellectual Freedom Committee, has updated the existing guidelines addressing vendors' privacy practices and user privacy. The IFC has approved the revisions, and the revised guidelines are attached as an information item.

The LinkedIn Learning controversy also highlighted how library vendors' privacy policies and practices are actually inconsistent with ALA's stated values in regards to library users' privacy. The subcommittee drafted and proposed a "Resolution on Forming a Working Group to Align Vendor Privacy Policies with ALA Policies and Ethics," which was also approved by the Intellectual Freedom Committee. The resolution is included in this report as an action item. The resolution was endorsed in principle by the Intellectual Freedom Round Table. The resolution was endorsed by LITA with the following statement:

"The LITA Board views the establishment of vendor privacy guidelines as an urgent task and pledges to support the efforts of the working group if Council approves the resolution. The LITA Board also notes that many institutions have participated in patron privacy policy work over recent years and recommends that the working group work as part of a multi-institution coalition."

#### Intellectual Freedom at the ALA Midwinter Meeting

At "Intellectual Freedom and the Law: Social Media, First Amendment Audits, and the Library as a Public Forum" this Saturday, Freedom to Read Foundation General Counsel Theresa Chmara explored the legal aspects of two intellectual freedom trends: "First Amendment audits" and library social media pages. OIF Director Deborah Caldwell-Stone moderated the event and the subsequent question and answer session.

The speakers reviewed how libraries can manage and regulate photography and recording activities inside the library. Attendees also received links to resources they can refer back to when making decisions about what comments and posts to regulate when moderating their library's social media page. There was a lively Q&A toward the end of the program, with some attendees sharing their own experiences with First Amendment audits. Other questions focused on social media, such as potential legalities with "unfollowing" accounts and deleting commercial/promotional comments.

The Office for Intellectual Freedom and the Intellectual Freedom Committee thanks Miguel Figueroa and the Center for the Future of Libraries for partnering with OIF to present this program as part of the Center's ongoing "News You Can Use" initiative.

At the PopTop session “Not-Quite-Banned: Combating The Invisible Censorship of LGBTQIA+ Stories,” OIF Assistant Director Kristin Pekoll moderated a frank discussion with authors Eric Bell, Kacen Callender, I.W. Gregorio, Alex London, and Alexandra Villasante, as they shared their personal experiences with soft censorship and discussed how to protect intellectual freedom and access to authentic LGBTQIA+ characters and stories. The popular session attracted more than 100 audience members.

Throughout the Midwinter Meeting, Bonnie Tijerina of Data and Society and Erin Berman of Alameda County Public Library staffed a booth on the floor of the Exhibit Hall to introduce prototype Privacy Field Guides to Midwinter attendees. Written by a team of library privacy experts, the Field Guides are intended to be focused, actionable, and usable guides to privacy for the entire library community. During their time on the exhibit floor, Tijerina and Berman sought feedback on the prototype guides and recruited a diverse selection of libraries to act as test institutions for the guides. The Office for Intellectual Freedom is a sponsor of the IMLS-funded grant project, and the Privacy Field Guides will be housed with the Office for Intellectual Freedom and maintained by the Intellectual Freedom Committee and the Privacy Subcommittee.

## **CENSORSHIP TRENDS AND RECENT CHALLENGES**

Since 1990, OIF has been collecting data about banned and challenged library materials and services. The office presents quarterly reports to the IFC to keep them informed of trends and activities. OIF has noted the following censorship trends:

- First Amendment audits
- Author disinvitations
- Battle of the Books list challenges
- Prison material censorship
- Diverse classroom collection challenges
- Meeting room and programming challenges

From June 1, 2019 to Dec. 21, 2019, OIF has tracked 305 unique cases. Below are just a few instances where ALA provided support:

### **Upshur County Public Library (West Virginia)**

After a complaint from a local pastor claiming *Prince & Knight* by Daniel Haack “is a deliberate attempt to indoctrinate young children, especially boys, into the LGBTQIA lifestyle,” the book is undergoing review by the Upshur County Public Library Board. OIF joined with the West Virginia Library Association and the National Coalition Against Censorship to express their concerns with the proposal to remove or restrict the book in a [letter](#) sent to the library board.

## **Citrus County Library System (Florida)**

Citrus County commissioners unanimously denied a request from their local library to spend \$2,700 annually on digital subscriptions to the New York Times, citing that the paper is "fake news" and they "agree with Donald Trump." On Nov. 5, ALA issued a [statement](#) in response to the decision by the Citrus County Board of Commissioners.

It should be noted that there are significant, vocal minorities in the United States that have rejected the idea that libraries are pluralistic spaces that offer diverse materials to serve diverse communities. They view libraries as places that need to be made safe against any materials or programming that challenges their morality or religious beliefs. They refuse to recognize the humanity or the existence of people whose race, gender, sexual identity, and belief is not cis, het, white, and conservative Christian. They are represented by well-organized groups that employ consistent, disciplined framing that casts any LGBTQIA+ book or resource as inherently obscene and inappropriate for any minor to read or view.

The Intellectual Freedom Committee plans to prepare guidelines and resources that will allow libraries and library workers to effectively respond to the groups' inaccurate messaging when it is employed in their communities.

OIF will publish a full report on 2019 censorship trends, as well as the list of the Top 10 Most Challenged Books, in the State of America's Libraries Report in April during National Library Week.

### State Legislation

The Office for Intellectual Freedom continues to work cooperatively with State Advocacy and Chapter Relations in assisting state chapters that need to address state legislation that may impair library users' rights or impair the ability of libraries and library workers to provide diverse materials and quality services to all persons in their communities. Legislation introduced during the 2020 legislative season includes library censorship bills proposed in Missouri and Indiana and a Michigan bill that would alter the state's library confidentiality statute.

## **INITIATIVES**

### Banned Books Week

This Banned Books Week, libraries made sure no one was "left in the dark." From Sept. 22-28, the book community rallied in support for the right to read under the banner theme of "Censorship Leaves Us in the Dark. Keep the Light On."

Many readers and libraries visited the [ala.org/bbooks](http://ala.org/bbooks) website for free downloads to celebrate the week, including infographic shareables, coloring sheets, cover photos, word clouds, crosswords, and a downloadable list of titles banned or challenged in 2018. During the month of

September, [ala.org/bbooks](http://ala.org/bbooks) webpages made up more than 24% of all pageviews viewed on the ALA website. The ALA Store offered materials to initiate conversations, such as posters, bookmarks, Field Reports (compiled by James LaRue), and glow-in-the-dark buttons.

Prior to Banned Books Week, OIF launched a “Celebrating Banned Books Week” Facebook group, a community where anyone can post ideas, questions, and highlights. During Banned Books Week, OIF hosted two Zoom webinars, live-streamed to Facebook: “Ask Me Anything About Censorship, With Kristin Pekoll” and “Banned Books 101.” OIF co-sponsored the webinar “Three Ways Librarians Can Combat Censorship” with SAGE Publishing and Index on Censorship magazine. The Intellectual Freedom Round Table, Graphic Novels and Comics Round Table, and Image Comics produced a week of Library Livestream webinars, featuring creators and librarians in conversation on a number of pressing topics, such as post-colonial narratives, civil rights, and privatization.

The Dear Banned Author letter-writing campaign encouraged readers to reach out to banned and challenged authors, sharing what their words mean to them. Printable postcards, mailing addresses, Twitter handles, and tips on tweeting were made available on the [ala.org/bbooks](http://ala.org/bbooks) website. Some educators and librarians posted pictures of piles of letters being sent to publishers from students and patrons.

Below are some powerful notes to authors, posted on social media:

- To Raina Telgemeier: “Your book helped me get through tough times...LGBTQ community is a home for me and others. I feel like your graphic novel helped me see that.”
- To Angie Thomas: “Even though it was difficult at times because I, like Starr, was grieving when I read it, I related to Starr’s fear of acting ‘black’ or ‘white’ around certain people. It’s always good to know that I’m not alone.”
- To J.K. Rowling: “It has come to my attention that your book was banned for ‘summoning demons.’ I would just like to inform you of how flabbergasted our class was and how sorry I am that you have to deal with that.”
- To Jay Asher: “Your riveting story encourages teens and young adults to empathize with another and notice the signs that can save a life and for that, we thank you.”

Authors of frequently challenged books also shared their perspectives during the week. Alex Gino – author of the #1 most challenged book of 2018, *George* – shared their thoughts on the Intellectual Freedom Blog (coordinated with SAGE Publishing), stating, “Kids lose out when books are challenged, especially transgender kids, deeply in need of seeing reflections of themselves.” Mariko Tamaki, author of *This One Summer*, tweeted, “I tend to get applause when I mention being a #bannedbook which feels supportive but I think #BannedBooksWeek is more about readers than writers. Being a banned book helps our sales so I don’t feel the loss. Readers do.”

OIF partnered with the Every Child a Reader to publish a list of 100 Frequently Challenged Children's Books, in celebration of the 100th anniversary of Children's Book Week. Titles include the *Junie B Jones* series, *The Watsons Go to Birmingham - 1963*, *Matilda*, and *Daddy's Roommate*.

At this Midwinter Meeting, IFC gave feedback on Banned Books Week 2020 (Sept. 27-Oct. 3) concepts. This year's theme will touch on the adventures of reading, the rewards that books offer, and overcoming censorship to unlock the unknown.

### Share Your Censorship Story

In November, OIF initiated a "Share Your Censorship Story" outreach project, encouraging library workers to report 2019 censorship incidents and challenges to library materials or services to OIF. This information assists the office in supporting library workers who face censorship attempts, tracking censorship trends, crafting policies and best practices, and publishing the Top 10 Most Challenged Books data. The office created graphics, sample social media posts, and email templates for librarians to use to raise awareness.

During the campaign, OIF received a total of 93 online reports, a 79% increase compared to previous months.

### Choose Privacy Week

At this meeting, the IFC Privacy Subcommittee reviewed the effectiveness of Choose Privacy Week and determined that it could not continue to create original material and programming for the week, given the lack of funding and institutional resources. As a result, Choose Privacy Week will become a calendar-only event. The Privacy Subcommittee will continue to send out a press release in early April that identifies resources for observing Choose Privacy Week and encourages libraries to plan privacy programming for themselves and library users during the week.

## **IFC PROJECTS AND WORKING GROUPS**

### "Resolution in Defense of the Free Speech of Supporters of the Movement for Palestinian Rights"

The "Resolution in Defense of the Free Speech of Supporters of the Movement for Palestinian Rights" was approved by a vote of 63-62 at the 2019 ALA Annual Conference Membership Meeting. It was presented to ALA Council, which voted to refer the resolution to the Committee on Legislation (COL), the Intellectual Freedom Committee, and the International Relations Committee (IRC). In referring the resolution to the three committees, Council asked them to review the resolution and report back to ALA Council at ALA's 2020 Midwinter Meeting. The

chairs of each committee formed a task force that also included representatives from the Social Responsibilities Round Table (SRRT) and a member of Council.

The task force, ably co-led by former IFC member and current Privacy Subcommittee member Eldon Ray James and IRC Chair Emily Drabinski, worked throughout the fall to produce a revised resolution and report for review by the three committees. While the task force was not able to produce a consensus document, it did produce a careful and detailed report that explained their process and decision-making as they produced a revised resolution. However, the documents did not have the support of every member of the task force.

The Intellectual Freedom Committee reviewed the task force's report and revised resolution. After the deliberation and consulting with other ALA groups, the IFC voted not to support the resolution.

In voting not to support the resolution, the IFC cites the following concerns:

- The resolution does not align with ALA's mission to provide leadership for the development, promotion, and improvement of library and information services.
- The resolution does not support or align with ALA's focus on safeguarding the rights of library users, libraries, and librarians in accordance with the *Library Bill of Rights* and the Constitution. To quote a member of the IFC, "There are a lot of fires happening with intellectual freedom that directly impact libraries, the core of our charge ... but there are a limited number of fire extinguishers."
- The resolution does not align with ALA's legislative priorities.
- In discussions with other bodies, including the Intellectual Freedom Round Table's Executive Board, it is clear that this issue is divisive, and there is no consensus and there are strong opinions.
- The resolution does not appear to be an effective vehicle for addressing the free expression harm it identifies

The committee appreciates the work of the task force, and thanks them for the thoughtful conversations that occurred between ALA Annual Conference and this Midwinter Meeting. IFC also expresses gratitude for the dedication and hard work of the IFC representatives on the task force, Eldon Ray James and Jim DelRosso.

## Religion in American Libraries Q&A

“Religion in American Libraries: Questions and Answers” was approved by the IFC in 2010. A working group was established to update its content, especially since the “Religion in American Libraries: An Interpretation of the *Library Bill of Rights*” was adopted by Council in 2016. The working group made a number of changes, including omitting a list of considerations for exhibit space policies and adding a section on religious programming. The IFC approved the revised Q&A at this Midwinter Meeting. The updated Q&A is included in this report as an information item.

## Access to Digital Resources and Services Q&A

After a revised version of “Access to Digital Resources and Services: An Interpretation of the *Library Bill of Rights*” was adopted by Council in 2019, the IFC working group turned its focus to the accompanying Q&A, to modernize its references and language, and ensure it aligned with the revised interpretation. The working group is in the process of receiving IFC feedback on the Q&A and hopes to bring a final version to ALA Annual Conference.

## IFC Conference Programming Working Group

Three program proposals submitted by IFC were accepted for ALA Annual Conference 2020: a Library Bill of Rights interpretation workshop, “Intellectual Freedom and Academic Libraries,” and “Vendor Negotiation That Supports Patron Privacy.” The committee is looking forward to hosting these programs in Chicago this summer.

## Continuing Working Groups

IFC continues to respond to threats to intellectual freedom, and update and revise resources to offer guidance to library workers.

Julia Warga, chair of the Intellectual Freedom Committee, has appointed a working group to study the use of facial recognition in libraries. The working group will identify areas of concern related to the use of facial recognition, including threats to user privacy and bias in the use and administration of the technology. It plans to develop statements, guidelines, or policies to address those concerns for consideration by the Intellectual Freedom Committee. The working group will reach out to other offices, divisions, and round tables for additional guidance and expertise as needed.

Warga has also appointed a working group to investigate surveillance in libraries. The working group will address concerns about general surveillance in libraries, including the use of video to record users and their activities in the library.

ALA members and state and local library organizations have asked for guidance and support following a number of incidents involving members of the public who claim a First Amendment

right to film and record activities taking place in public libraries and in other government-owned spaces open to the public. The activities of these self-identified “First Amendment Auditors” raise privacy, intellectual freedom, and harassment concerns for users and staff alike, and the OIF Blog has [published an initial set of guidelines](#) authored by OIF Director Deborah Caldwell-Stone for libraries dealing with such activities. The working group will study this issue as well as the more general issue of video surveillance and its use as a security tool in libraries.

Notably, ALA does not have specific guidelines, interpretations, or policies addressing best practices in the use of video surveillance or facial recognition technologies in libraries. Both working groups are charged with developing proposals for consideration by the Intellectual Freedom Committee at ALA’s Annual Meeting.

Lastly, a working group comprised of IFC members and ALA staff are revising “Libraries and the Internet Toolkit,” last updated in 2013. The toolkit currently offers guidance on topics such as filtering, internet use policies, cybersecurity, privacy, and copyright.

### Liaisons to IFC

The IFC is seeking liaisons to assist in crafting resources, providing feedback on documents and intellectual freedom concerns, and sharing updates from their particular group. Please see the IFC webpage to view the list of representatives ([ala.org/aboutala/committees/ala/ala-if](http://ala.org/aboutala/committees/ala/ala-if)). Those interested can contact IFC Chair Julia Warga at [glynnj@kenyon.edu](mailto:glynnj@kenyon.edu).

### **ACTION ITEMS**

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

- CD # 19.4 “Access to Library Resources and Services Regardless of Sex, Gender Identity, Gender Expression, or Sexual Orientation: An Interpretation of the *Library Bill of Rights*”
- CD # 19.5 “Resolution on Forming a Working Group to Align Vendor Privacy Policies with ALA Policies and Ethics”

In closing, the Intellectual Freedom Committee thanks the division and chapter intellectual freedom committees, the Intellectual Freedom Round Table, the unit liaisons, and the OIF staff for their commitment, assistance, and hard work.

Respectfully Submitted,  
ALA Intellectual Freedom Committee

Julia Warga, IFC chair  
Helen Ruth Adams  
Jim DelRosso  
M. Teresa Doherty  
Holly Melissa Eberle  
Steven Greechie  
Dana Hettich  
Shenise L. McGhee  
Cecelia L. Parks  
Kimberly Anne Patton  
John Spears  
Geoff Dickinson, Committee Associate  
Lisa Mandina, Committee Associate

# Vendor Guidelines

## Introduction

Protecting user privacy and confidentiality has long been an integral part of the intellectual freedom mission of libraries. The right to free inquiry as assured by the First Amendment depends upon the ability to read and access information free from scrutiny by the government or other third parties. In their provision of services to library users, librarians have an ethical obligation, expressed in the *Code of Ethics of the American Library Association* and the *Library Bill of Rights*, to preserve users' right to privacy and to prevent any unauthorized use of user data. Librarians and libraries may also have a legal obligation to protect library users' data from unauthorized disclosure.

Libraries enter into licenses or agreements with third-party vendors in order to provide library service to users and to meet library operational needs. Third-party vendors include digital content providers, program facilitators, and even other libraries, such as a consortium. In the course of providing software, hardware, or services, most third-party vendors collect and use library user data for a variety of reasons, including consumer analytics and segmentation, personalization, digital rights management, and digital collection development. Libraries and vendors must work together to ensure that the contracts and licenses governing the collection, processing, disclosure, and retention of library user data reflect library ethics, policies, and legal obligations concerning user privacy and confidentiality.

## Choosing a Third-Party Vendor

When libraries start the search for a product or service, there are several ways in which libraries approach vendors about their privacy practices. Libraries should include privacy requirements and questions for the vendor in their Request For Proposal (RFP) or similar bidding process. Requirements and questions can include what data is collected, how the data is collected and stored, how long data is stored with the vendor, and if and how the data is shared with other third parties.

Libraries inviting bids from vendors should also ask questions throughout the search process related to both the service/product and the vendor's policies and practices around data privacy and security. If the service or product does not meet a privacy requirement listed in the RFP, libraries should ask vendors their plans in addressing that requirement. Libraries should inquire about how the vendor handles data breaches, as well as reports from libraries or users about potential service or product vulnerability.

## **Agreements, Ownership of User Data, and Legal Requirements**

Agreements between libraries and vendors should address appropriate restrictions on the use, aggregation, retention, and disclosure of user data, particularly information about minors. Agreements between libraries and vendors should also specify that libraries retain ownership of all user data and that the vendor agrees to observe the library's privacy policies and data retention and security policies.

Vendors are strongly encouraged to implement the principles of privacy by design, i.e. products and services should have privacy concerns “built-in, not bolted on.” If currently marketed products do not take into account these privacy guidelines, vendors should incorporate them into future updates. In addition, agreements between libraries and vendors should reflect and incorporate restrictions on the potential dissemination and use of library users' records and data imposed by local, state, and federal law.

### **Minors**

The rights of minors vary from state to state, and the legal responsibilities and standing of library staff in regard to minor users differ substantially in school, academic, and public libraries. Generally, a minor's right to keep his or her library records private will be governed by a state's library confidentiality statute; however, in public educational institutions, the Family Educational Rights and Privacy Act (FERPA) also determines the confidentiality and release of minors' library records.

Vendors who allow minors under the age of 13 access to their platforms must follow the federal Children's Online Privacy Protection Act (COPPA) and any other state or federal legislation regarding the collection and sharing of minors' data. Libraries should establish clear privacy policies in conjunction with local, state, and federal agencies that detail how and what data about minors is collected and shared with vendors and schools.

### **Clear Privacy Policies**

Privacy policies should be made readily accessible and understandable to users. Safeguarding user privacy requires that individuals know what information is gathered about them, how long it is stored, who has access to it and under what conditions, and how it is used. There should be a way to actively notify ongoing users of any changes to the vendor's privacy policies.

### **User Consent**

The vendor should give users options as to how much personal information is collected from them and how it may be used. Users should have the choice to opt-in to any data collection that is not essential to library operations and the opportunity to opt-out again at any future time. All nonessential data collection should be turned off by default. In all areas of librarianship, best practice leaves users in control of as many choices as possible regarding their privacy.

## Access to Personal Data

Users should have the right to access their own personal information and correct incorrect information. Verifying accuracy helps ensure that vendor services that rely on personal user information can function properly. Guidance on how the user can access their personal data should be clear and easy to find. Users should also have the ability to download their personal data into an open file format such as CSV for their own use.

Access to personal information should be restricted to the user, vendor, and library workers as required for the provision of services and administration of the library and must conform to the applicable state laws addressing the confidentiality of library records as well as other applicable local, state, and federal law.

Vendors should have a practice in place to delete user data upon request. Data should be purged from hard drives and servers, not just hidden from view.

## Data Integrity and Security

Whenever user data is collected, libraries, vendors, and any subcontractors must take reasonable steps to ensure integrity and security, including compliance with applicable statutory requirements.

**Security:** Security involves both managerial and technical measures to protect against loss and unauthorized access, destruction, use, or disclosure of data. Security measures should be integrated into the design, implementation, and day-to-day practices of the vendor's entire operating environment as part of its continuing commitment to risk management. The vendor should seek compliance with published cybersecurity standards from organizations such as the National Institute of Standards and Technology (NIST).

**Encryption:** The use of data encryption helps enhance security. All online transactions between client applications (web browsers, mobile apps, etc.) and server applications should be encrypted. In addition, any user data housed by the vendor off-site (cloud-based infrastructure, tape backups, etc.) should use encrypted storage.

**Data Minimization:** Vendors and libraries should only collect, process, retain, or disclose user data sufficient for a specific process or task. Excessive data collection and/or retention puts users at an increased risk in the case of a data breach.

**Anonymization:** Data used for customer analytics and other types of analysis should be anonymized by removing or encrypting personally identifiable information. While data anonymization is a good practice, it is not foolproof.

**Retention:** User data should not be retained in perpetuity. Vendors and libraries should establish policies for how long to retain different types of data and methods for securely destroying data that is no longer needed. For example, accounts that are expired or

inactive for a certain amount of time should be purged. Retention policies should also cover archival copies and backups. Libraries should refer to record retention laws and policies of governing bodies.

**Data Sharing:** User data should not be shared with additional third-party vendors or other business associates without user consent. Most state statutes on the confidentiality of library records do not permit the release of library users' personally identifiable information or data about their use of library resources and services without user consent or a court order.

**Government Requests:** Vendors and libraries should develop and implement procedures for dealing with government and law enforcement requests for library users' personally identifiable information and use data. Vendors and libraries should consider a government or law enforcement request only if it is issued by a court of competent jurisdiction that shows good cause and is in proper form. Vendors should inform and consult with the library when it believes it is obligated to release library users' information unless prevented from doing so by the operation of law. The vendor should also inform users through its privacy policies about the legal conditions under which it might be required to release personally identifiable information.

**Company Sale, Merger, or Bankruptcy:** In the event that a vendor is sold to another company, merges with another company, or is dissolved through bankruptcy, all personally identifiable information should be held under the same privacy policy or securely destroyed. Libraries and their users should be notified and provided a method to request that their data be securely destroyed or exported.

## **User Devices**

Privacy protections for library users' personally identifiable information and usage data should extend to the user's device, including the web browser or any applications provided by the vendor. All communications between the user's device and the vendor's services should be encrypted. If the vendor wishes to employ personalization technology such as persistent cookies on its website or allows third-party web tracking, it should notify the user and give them the chance to opt-in before initiating these features for the user. Users should be aware that enhanced experiences from vendors may require the disclosure of additional personal data.

If a vendor-provided application stores personally identifiable information or use data on the user's device, it should be encrypted. The user should be able to remove a vendor-provided application and delete any data stored on the device.

## **Library's Ongoing Relationship with a Third-Party**

**Audit and Notification** Vendors should establish and maintain effective mechanisms to enforce their privacy policies. They should conduct regular privacy audits to ensure that all operations and services comply with these policies. The results of these audits should be made available upon request to libraries that are customers or potential customers.

**Incident Response** A vendor that experiences a data breach in its security policies must notify the affected libraries and users about this matter as soon as the vendor is aware of the data breach. The notification timeline, along with what to include in the notification to libraries and library users, differs from state to state, and it is the responsibility of vendors to comply with state data breach notification regulations. Libraries and vendors should plan the incident response procedure and this plan should be included in the vendor contract.

## **Ending the Library-Vendor Relationship**

Libraries that choose not to renew a vendor service or product should work with the vendor to ensure personally identifiable library user data is deleted from the vendor's systems, including data in backups, archived copies, and system logs.

Vendors that have services or products that allow for user-generated content should allow for library users to export their data in a portable format.

# Library Privacy Guidelines for Assistive Technology

## Introduction

These guidelines provide libraries with information about appropriate data management and security practices with respect to library users' personally identifiable information and data about their use of assistive technology in the library or at home.

The terms assistive, adaptive, and access technologies may be used interchangeably and refer to mechanical or electronic solutions that enable individuals with disabilities to learn, work, and live independently.

## Why Privacy Is Important

Protecting user privacy and confidentiality has long been an integral part of the intellectual freedom mission of libraries. The right to free inquiry as assured by the First Amendment depends upon the ability to read and access information free from scrutiny by the government or other third parties. In their provision of services to library users, librarians have an ethical responsibility, expressed in the *ALA Code of Ethics*, to preserve users' right to privacy. Librarians and libraries may also have a legal obligation to protect library users' personally identifiable information and data from unauthorized disclosure and use.

## Types of Assistive Technology

Libraries are more inclusive and inviting spaces when assistive technologies are available to grant users equitable access to library resources. These technologies are often categorized into low-tech and high-tech solutions. Low tech solutions, such as cardboard communication boards or hand-held magnifiers, generally have less user privacy implications. High-tech solutions include:

- **Screen reading technology** allows people who have visual impairments or who are blind to navigate electronic resources using text-to-speech and refreshable Braille.

- **Screen magnification software and technology** enables users with visual impairments to enlarge text and graphics for easier viewing.
- **Literacy software and hardware** assists users with reading and writing tasks. Text-to-speech, adaptive switch, and other hardware and software tools assist users with reading, writing, and input tasks.
- **Speech recognition software** helps users to navigate and document text through verbal input.
- **Peripheral devices**, such as headsets, speakers, microphones, switches, touchpads, large and small keyboards, and multiple mouse options allow users easier physical access to computers as well as the tools necessary to interact with specific assistive technologies.

Individuals with dexterity challenges or who are unable to use a mouse are able to access library computing resources using alternative input devices including keyboards and switches. People who are unable to manipulate a mouse can enter data, and those who cannot physically hear a computer prompt can view prompts. There is also computer software that helps users with learning differences such as print disabilities to see and hear information displayed on a screen using computer generated speech and specialized fonts.

### **Current Assistive Technology Issues**

As access to assistive technology becomes increasingly available in libraries, new issues arise in protecting the privacy of such users. Passive and active techniques should be employed by libraries to assure the privacy of all users. If the funding and resources are available, a separate room for assistive technology users not only provides privacy, but it allows lighting and other environmental factors to be adjusted based on user preferences. A wall with both a black dry-erase board and a white dry-erase board enables users the option of using either contrast option, depending on their visual needs. A private room would also benefit people using speech-to-text software and users creating braille documents, both of which create sound that might be distracting to other users.

If a separate room for assistive technology is not practical, libraries should take adequate steps to assure user privacy by design such as limiting line-of-sight to screens, providing headphones, and other designs to isolate users from being overheard in their assistive technology usage.

The several types of assistive technology equipment require different privacy considerations. Various software packages will affect recommendations for the design and layout of adaptive services. Some types of adaptive technology tools and the associated privacy issues include:

- **Screen reading technology** and **magnifying technology** require line-of-sight considerations in design and layout of library facilities. Assistive technology screens, like any computer display, are often easily visible to nearby people. Libraries should make

privacy screens or recessed displays available to users who desire to use them, while recognizing that no screen may render a user's display completely invisible to other people.

- **Literacy software and hardware**, which assists users with reading and writing tasks, and **speech recognition software**, which enables users to navigate and document text through verbal input, may require sound isolation or sound deadening design or equipment considerations.

Currently, libraries may create records of assistive technology users' activities that can jeopardize their privacy. In addition libraries may collect personal information from users for a variety of reasons such as reserving equipment or checking out a device. Libraries must work to ensure that their procedures and practices for managing assistive devices reflect library ethics, legal obligations, and library policies, involving user privacy and confidentiality.

### **Clear Privacy Policies**

Users should be notified about library privacy policies when accessing assistive technology in the library. The privacy policies should be made easily available and understandable to users. Safeguarding user privacy requires that individuals know what personally identifiable information is gathered about them, how long it is stored, who has access to it and under what conditions, and how it is used. A proactive process should be created to notify ongoing users of any changes to the library's privacy policies.

When libraries provide assistive technologies to their users, they must first make purchasing decisions that involves third-party vendors. The libraries' assistive technology privacy policy should include a clause on accessibility and privacy as criteria for purchasing and procurement.

### **Access Control and Device Checkout**

Libraries can use a variety of methods to manage access to assistive technology. These methods range from a clipboard with a sign-up sheet to sophisticated access control software that can include user authentication, reservations, time limits, and management of Internet content filters. The integrated library system may be used to grant access to assistive technology and other devices. In addition, libraries may require users to authenticate in order to access network resources when using their personal assistive devices.

Whatever methods are employed, libraries should develop appropriate policies and procedures to protect the privacy of users and their computer, network, and assistive technology activity in the library. Transactional logs generated by access control software and network authentication should be anonymized or destroyed when no longer needed. Sign-up sheets should be redacted or shredded. Checkout records should be purged or anonymized when the device is returned and any overdue fines paid.

## **Routine Maintenance**

Assistive technology equipment like any library computer should be routinely maintained to ensure it is operating properly and that the software designed to protect the user's privacy is activated and functioning. A security audit of the assistive technology could be routinely performed to attempt to locate deficiencies in the security of the systems. Security should include software-based and physical inspections to maintain the integrity of library systems and resources. A physical inspection should also include the identification of unknown devices, such as keyloggers, attached to the computer or device designed to steal personal information.

## **Personal Data on Computer or Device**

Use of any computer or assistive device may create records of the user's activities that can jeopardize their privacy. Documents, emails, and other files that may contain private information could be left on the device. The library should use restoration software or other technological means to remove traces of individual use on public access equipment, including computers, and other devices provided by the library.

## **Computer Monitoring and Usage Tracking**

Monitoring software may be installed to record activities or remotely view what a user is doing on a device. This type of security measure is often used for technical support or for compliance with an organization's computer use policy. To protect users' privacy, libraries should avoid using monitoring software on public access computers or other assistive technology devices provided by the library. If monitoring is employed, users should be informed of its purpose and scope in the library's privacy policies.

Many applications and operating systems are configured by default to automatically share activity data with the software publisher to identify errors, enhance usability, or provide personalization. When possible, the library should disable such usage tracking on public access computers or other assistive technology devices provided by the library.

## Religion in American Libraries Q&A

The First Amendment establishes the right to five freedoms: freedom of the press, freedom of speech, the right to petition the government, the right to peaceably assemble, and freedom of (and freedom from) religion. This Q&A provides guidance to publicly funded libraries and library workers about protecting the freedom of religion in libraries. This document is most clearly applicable to public libraries, and in most cases is appropriate for school and academic libraries. Private libraries, especially those associated with religious institutions, may apply these guidelines as appropriate in conformity with their institutional missions.

Freedom of religion in the First Amendment has two parts. First, the government is forbidden to establish a state religion, or endorse or favor particular religious beliefs (the establishment clause). Second, individuals are guaranteed the right to believe in religion, or not, as they choose and to put those beliefs into practice (the free exercise clause). Because publicly funded libraries are government agencies, confusion about religion in libraries is usually about the meaning and limits of the establishment clause. Library workers in public libraries, in public schools, and in publicly funded college or university libraries should not give the appearance of favoring any one religion or even religion in general. However, when library workers or their governing bodies avoid providing resources and services simply because of a religious connection, they have gone too far in the opposite direction. Courts have consistently held that government is not to avoid establishment so stringently that it becomes hostile to religion – a principle known as viewpoint discrimination.

This Q&A uses the definition of “religion” stated in “[Religion in American Libraries: An Interpretation of the \*Library Bill of Rights\*](#)”:

[Religion] refers to all that touches on the infinite, a supreme deity or deities or one's understanding of the ultimate meaning or purposes of life. It includes formal organized systems of belief and practice and informal individual [spiritualities]. It also refers to adherents of older religions, newer religions, and no religion.

# Collections

## 1. What types of religious resources may libraries acquire for their collections?

Librarians have a professional responsibility to be inclusive in collection development. Libraries serve all members of their communities and within their budgetary constraints should address all information concerns of all members of its community, including religious information needs. Collections should reflect those needs by providing access to diverse religious thought and opinion without becoming a proponent of any of them. Articles I and II of the Library Bill of Rights address audience (“all people of the community the library serves”) and resources (“all points of view on current and historical issues”) using inclusive language.

For additional information, see “Diverse Collections: An Interpretation of the *Library Bill of Rights*” and “Selection & Reconsideration Policy Toolkit for Public, School, and Academic Libraries.”

## 2. May libraries collect religious fiction?

Yes. Library workers may feel that collecting religious fiction is an endorsement or promotion of religion. However, it is not a violation of the establishment clause if the library follows the standards set forth in the library’s policies that are tailored to the community the library serves. The criteria for selection may include:

- contemporary significance or permanent value
- community interest and/or demand
- artistic and literary excellence
- cost
- format

Religious fiction is not easily categorized despite attempts to define genres such as Christian Fiction and Inspirational Fiction. Libraries should ensure that their selections reflect a wide variety of religious perspectives. Nevertheless, excluding religious fiction would be a violation of the *Library Bill of Rights*: “Materials should not be excluded because of origin, background, or views of those contributing to their creation.” Library workers should distinguish between providing access to religious fiction and the appearance of supporting or endorsing a particular religious belief.

## 3. May libraries label religious resources in their collections and, if so, what kinds of labels are appropriate?

Yes, libraries may label religious resources, but some considerations are necessary. People of all persuasions and traditions have sincere and deeply felt concerns when their government—in the form of a public library—addresses religious issues. As long as the selection of resources to be labeled is inclusive of all such persuasions and traditions and the labels used are viewpoint-neutral directional aids and not pejorative, this practice would not violate the *Library Bill of Rights*.

The practice of applying specific religious symbols to resources—such as using a cross to label Christian fiction—violates the establishment clause of the First Amendment and the *Library Bill of Rights*. Some libraries avoid entanglement with religion by using a non faith-specific label to identify “inspirational fiction,” including material that does not have religious-based content or encompasses fiction from a range of religious traditions. For additional information, see “Labeling Systems: An Interpretation of the *Library Bill of Rights*” and “Labeling and Rating Systems Q&A.”

#### **4. What practical advice can be given for writing collection development policies for resources about religion?**

Collection development policies should reflect the goals and objectives of the library as set forth in its mission statement and incorporate professional standards established in the *Library Bill of Rights* and *Code of Ethics of the American Library Association*. The policy may include a reference to the role of the library as a limited public forum providing access to the marketplace of ideas. (A designated or limited public forum is a place purposefully opened by the government for designated expressive activity by part of the public or all of the public.) The policy may state, for example, “the library provides free access to different points of views and ideas.” Collection development should be content-neutral so that the library reflects a diversity of ideas, including controversial points of view. Acceptance of library donations should be considered within the library’s collection development policies. For guidance on writing these policies, see “Selection & Reconsideration Policy Toolkit for Public, School, & Academic Libraries.”

#### **5. Should libraries treat religious online content differently than other online content?**

No. Library users have the right to access any and all constitutionally protected speech, including religious speech. Religious content is no more or less protected than any other type of speech. If guides to websites and online content are developed by the library, they should follow principles similar to those used in preparing guides for print collections.

## Meeting Rooms

### **6. Should library policy allow religious groups to use library meeting rooms?**

Yes. Courts have consistently held that libraries may not exclude religious groups from their meeting rooms solely because the group is religious in character or because the meeting may include religious activities. Many precedents exist for the use of public facilities (e.g., school auditoriums or park pavilions) by all types of community groups, including religious groups using public facilities for religious purposes. Courts that have considered the question have consistently held that libraries are limited public forums for the receipt of information. In turn libraries may designate areas within their facilities as limited public forums for community use in the exchange of information and may create rules for their use. As with collections, these rules should be content and viewpoint neutral and address only objective use and behavior restrictions (that is, restrictions on the time, place, and manner of meeting.). Consistency is crucial: all groups should be treated the same and subject to the same rules, such as rental fees, cleaning services, frequency restrictions, noise policies, or food bans.

### **7. What if a religious group wants to collect money as part of their meeting?**

The same policies regarding money should apply to all groups. If nonprofit groups are allowed to collect membership dues during meetings, then religious groups may collect an offering. If no group may collect money for any purpose while using a library meeting room, then collecting an offering should not be permitted.

### **8. Should food and beverages, including sacramental items, be permitted?**

Again, the same policies about food and beverages should apply to all groups. If alcohol is not permitted for any group, then the use of sacramental wine would not be allowed; however, it would be wise to avoid rules that, even though unintentional, privilege one religion over another. For instance, the Catholic Mass and the Jewish Seder include the use of wine while many, but not all, Protestant groups use grape juice in their observance of the Eucharist.

### **9. May libraries prohibit worship services?**

The safest course of action is to provide the same access and apply the same rules of use (time, place and manner) to all community groups. No court has ever ruled that a library must exclude religious groups or religious worship. Only one case has addressed the “worship” question. In *Faith Center Church Evangelistic Ministries v. Glover*, the Ninth Circuit Court of Appeals held that the Contra Costa County Public Library (CA) could exclude worship services from its

meeting rooms when a group self-identified its meeting as a worship service. In doing so, the Ninth Circuit cautioned that the Contra Costa library could not prohibit groups from engaging in other religious activities, including scripture reading, Bible discussions, Bible instruction, praying, singing, sharing testimony, and discussing political or social issues. The Ninth Circuit then asked the trial court to determine if Contra Costa could apply its policy without violating the Establishment Clause. On remand the trial court ruled that Contra Costa's policy required library staff to determine whether the proposed use of the meeting room constituted a worship service, a violation of the Establishment Clause. The trial court permanently enjoined the Contra Costa library from enforcing its ban on worship services.

For additional information, see Deborah Caldwell-Stone's blog posts "[Supreme Court Refuses To Review Library Meeting Room Policy Denying Access to Groups Conducting Religious Worship](#)" and "[Court Prohibits Library's Practice of Prohibiting Religious Activities In Meeting Rooms.](#)"

### **10. Is it permissible to allow the singing of hymns and the performance of worship music?**

All groups should be subject to the same policies regarding noise. For instance, if a meeting room is soundproofed, there is no reason to prohibit a hymn sing or, for that matter, a workshop for local rock music percussionists.

### **11. What should be considered when drafting a meeting room policy?**

In general, the following areas should be addressed by the library's written meeting room policy:

- Any restrictions on length or time of meetings
- Frequency of using a room (e.g., no more than once a week/month)
- Any restrictions on the number of persons permitted in a room, admission fees, the collection of donations, or whether meetings may be closed to the public rental fees for room or use of equipment
- Any rules for catering or serving of food and beverages, as well as costs for cleaning if food or beverages are allowed
- Noise policies, including amplified sound
- Consequences for not following policies
- An appeals procedure for decisions to deny use of a room, or for particular uses of a room

Above all, policies should be applied equally to all groups. For more details, see "[Meeting Rooms: An Interpretation of the Library Bill of Rights](#)" and "[Meeting Rooms Q&A.](#)"

## Programming

### **12. May libraries provide programs with religious themes, or about religious subjects?**

Yes, religion is a legitimate focus of programming insofar as it reflects the interests of the library's community and furthers the library's mission. The purpose of such an event should be to inform, educate, and entertain rather than to proselytize or promote one set of religious beliefs over other religious beliefs. Libraries should strive to offer programming that reflects the diversity of religious belief or non-belief in their communities and to ensure that there is no perception that the library favors one religious group over another.

### **13. May libraries collaborate with religious organizations in programs?**

Yes. A religious organization should be held to the same standards as any other group that is allowed to participate in a program. As with its own programming, libraries should assure that the programs are informational and do not proselytize, promote, or advance particular religious beliefs or organizations.

## Exhibits and Displays

### **14. Should religious groups be allowed to use library exhibit or display space?**

Libraries are not required to open display or exhibit space to community groups. If libraries choose to open their exhibit and display space to community groups, space should be provided on an equitable basis to all groups that request it, regardless of the beliefs or affiliations of individuals or groups requesting their use. A library may wish to consider the amount of such space and its location when deciding whether to open it to community groups. The *Library Bill of Rights* states, "Materials should not be excluded because of the origin, background, or views of those contributing to their creation" and "Materials should not be proscribed or removed because of partisan or doctrinal disapproval." For additional details, see "[User-Initiated Exhibits, Displays, and Bulletin Boards: An Interpretation of the \*Library Bill of Rights\*.](#)"

## **15. May library-initiated displays and exhibits include religious resources?**

Just as libraries curate their collections to ensure representation, libraries may also highlight resources in their collections, including those with religious themes, as appropriate. The religious resources included in displays should represent the library's community accurately while being broadly inclusive.

## **16. What practical advice can be given for writing exhibit or display space policies?**

[“User-Initiated Exhibits, Displays, and Bulletin Boards: An Interpretation of the \*Library Bill of Rights\*”](#) states:

Libraries should have written policies that are content-neutral (do not pertain to the content of the display or to the identity, beliefs, or affiliations of the sponsors), clearly defined, and applied equally, and that address any time, place, and manner restrictions. Policies should be inclusive rather than exclusive. For example, a policy that the library's space is “open to organizations engaged in educational, cultural, intellectual, or charitable activities” is an inclusive statement about the limited uses of the space.

For details, see [“User-Initiated Exhibits, Displays, and Bulletin Boards: An Interpretation of the \*Library Bill of Rights\*”](#)

## **Literature Distribution**

### **17. May the library allow religious groups to distribute religious literature in community distribution space?**

If the library provides space for community groups to leave literature, religious groups should be allowed to do so on an equitable basis to all groups that use this space, regardless of the beliefs or affiliations of individuals or groups leaving such literature.

Libraries are urged to consider adoption of content and viewpoint neutral policies covering the number of individual items of literature, the size and format of such items, and the length of time that items will be left out for distribution.

## **Accommodating Religious Beliefs**

The issues addressed so far (collections, meeting room, exhibits and literature distribution) are all related to the primary purpose of libraries, to serve as a limited public forum for the receipt of information. The key word here is “receipt.” Libraries provide opportunities where people may read, view, listen to or otherwise access information or expression of interest to them. Libraries are not traditional public forums for expressive behavior by users or employees except when libraries explicitly designate space for the exchange of information such as meeting rooms or exhibit cases. The following questions are related to the religious views that users and employees bring with them into the library. Because of this context these questions primarily address community relations and employment issues, but may also have implications for intellectual and academic freedom.

### **A. Users’ Religious Beliefs**

#### **18. What accommodations should librarians make for religious beliefs of library users?**

While libraries and librarians should respect the diverse religious traditions of their communities, libraries exist to serve the information needs of all users in their communities. Library policies should be applied equally to shelving of religious books, service to users, or access to religious websites as they would be to any other shelving, service or web access. In addition, privileging one religious tradition over others could violate the establishment clause of the First Amendment.

#### **19. What about religious dress and symbols?**

Dress codes for users, if a library has one at all, should be limited to maintaining public health and safety.

#### **20. What about special shelving requests for scriptures and other religious resources?**

Placing specific resources on shelves according to religious point of view or status within a given faith community rather than according to the cataloging system used in the library can make it difficult for users to locate such resources. It would be a violation of the *Library Bill of Rights* to give special treatment to a specific sacred text or to limit access to such a text. It is appropriate to add additional titles or versions of a text to the collection to meet community needs or interest but not to remove or sequester them. The scriptures or sacred texts of all religions should be treated equitably. When deaccessioning religious texts, libraries should make an effort to respect

the practices of that religion regarding re-distribution or disposal of the texts, in consultation with members of that tradition.

Attempting to accommodate competing and quite possibly conflicting demands for special shelving for specific items may be impossible given physical constraints. On the other hand, if a library sets aside tables or shelves for specialized resources or purposes such as atlases, directories, college guides, dictionaries or local history, it would be appropriate to set aside shelving for scripture, as long as all scriptures are treated equally, including texts that occupy a similar status among other groups (e.g., *The Humanist Manifesto II*).

### **21. How about gender considerations?**

Some religious traditions have beliefs and practices that proscribe cross-gender communication and interactions. Generally, library staff members should serve all users equally regardless of gender or gender expression. If a user comes to the reference desk and expresses a desire to talk with a person of the same gender or gender expression, libraries may accommodate special requests but are not required to do so. Library users are free to seek or not seek service from any staff person they wish.

## **B. Employee Religious Beliefs**

### **22. What accommodations should libraries make for the religious beliefs of employees?**

Employee rights to self expression including religious expression are more restricted than those of the general public for the simple reason that they are employed for a purpose. The workplace is not a public forum for the unfettered expression of one's views. For additional guidance, see ALA Policy 53.1.12 and "Questions & Answers on Speech in the Workplace." When doing work for the library, volunteers and board members are acting as agents of the library and as such can be required to follow the same policies as employees.

### **23. What are the library's responsibilities in accommodating employee religious observances?**

As a general rule, employers should provide reasonable accommodation for employee religious observance when it does not substantially interfere with the library's mission of providing access to information to the public. Such accommodations should be equitable for all religions. Informal arrangements among staff (e.g., trading coverage of service points on holidays) is one approach to providing this accommodation. Libraries may also offer accommodation by adopting generally

applicable leave policies that allow employees to designate one or two days as personal or floating holidays.

#### **24. What limits may libraries place on the wearing of religious symbols by employees?**

According to the [Equal Employment Opportunity Commission](#), Title VII requires an employer, once it is aware that a religious accommodation is needed, to accommodate an employee whose sincerely held religious belief, practice, or observance conflicts with a work requirement, unless doing so would pose an undue hardship. Therefore, when an employer's dress and grooming policy or preference conflicts with an employee's known religious beliefs or practices, the employer must make an exception to allow the religious practice unless that would be an undue hardship on the operation of the employer's business. For example, the wearing of jewelry with religious emblems or ashes on Ash Wednesday must be allowed as a religious accommodation unless it would pose an undue hardship for the library. See *Draper v. Logan County Pub. Library*, 403 F. Supp. 2d 608 (W.D. Ky. 2005).

Libraries are limited public forums for the receipt of information *by the public*, not for speech *by employees*. Employers may regulate employee speech, including symbolic speech, that substantially interferes with the mission of the library. If the display of such expressions interferes with the library's mission, all such expressions should be banned regardless of expressive content (e.g., no religious message buttons, or message t-shirts).

#### **25. Can employees proselytize or witness to personal beliefs?**

One employee's personal expression can easily become another person's harassment. Employees should respect each other's freedom to practice their religions and to be free from the religion of others. Failure to respect the wishes of coworkers can result in charges of harassment for the individual. Failure to respect and deal with claims of harassment by an employee can result in charges of fostering a hostile work environment for the library. Once again, libraries should be careful to avoid favoring one religion over another. In the workplace, people are free to believe as they want but their behavior, including speech (even religious speech), may be regulated.

For additional information, see Karen Sutherland's "Freedom of Speech in the Workplace: The First Amendment Revisited" and Eugene Volokh's "Freedom of Speech vs. Workplace Harassment Law—A Growing Conflict" (<http://www2.law.ucla.edu/volokh/harass/>).

## **26. Can libraries establish dress codes for employees?**

It is hard to imagine a mission-related rationale for banning such religiously sanctioned apparel as yarmulkes, veils, head-coverings, shawls, or burqas that is not rooted in cultural or religious prejudice. Dress codes for employees, if a library has one at all, should be limited to maintaining public health and safety and the ability of the library to execute its mission. Therefore, the library should have a substantial mission-related reason for any dress restrictions, keeping in mind the library's [obligations under Title VII](#) regarding religious garb and grooming.

## **27. Can an employee refuse to perform job duties based on their individual conscience?**

Article VII of the *Code of Ethics of the American Library Association* states, “We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.”

For additional information, see “[Speech in the Workplace Q&A: An Explanatory Statement of the ALA Code of Ethics.](#)”

Federal courts have held that public institutions cannot deny service based on an employee's religious beliefs. All public employees must respect all constitutional rights. If a public employee has a religious objection to performing a job duty, the employee must ensure that the service is provided by another employee. Private employers and religious institutions may have different rules.

There is no valid parallel between claims of individual conscience to workplace requirements and conscientious objection to military service. Enlistment or commissioning is voluntary; once in, military service is compulsory. The conscientious objector's claim is that they cannot perform their duties in good conscience and should be released from them. If library employees claim conscientious objector status, they are free to seek other employment if unable in good conscience to continue to perform their primary responsibility of meeting the information needs of the public. For additional information on workplace accommodation and religious belief, see “[What You Should Know About Workplace Religious Accommodation.](#)” published by Equal Employment Opportunity Commission.

## **Access to Library Resources and Services Regardless of Sex, Gender Identity, Gender Expression, or Sexual Orientation: An Interpretation of the *Library Bill of Rights***

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

In the preamble to its *Library Bill of Rights*, the American Library Association affirms that all libraries are forums for information and ideas. This concept of forum and its accompanying principle of inclusiveness pervades the *Library Bill of Rights*.

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

- Article I of the *Library Bill of Rights* states that "Materials should not be excluded because of the origin, background, or views of those contributing to their creation." The Association affirms that books and other materials coming from presses that specialize in gay, lesbian, bisexual, and/or transgender subject matter; gay, lesbian, bisexual, and/or transgender authors or other creators; and materials regardless of format or services dealing with gay, lesbian, bisexual, and/or transgender life are protected by the *Library Bill of Rights*. Librarians are obligated by the *Library Bill of Rights* to endeavor to select materials without regard to the sex, gender identity, or sexual orientation of their creators by using the criteria identified in their written, approved selection policies.<sup>1</sup>
- Article II maintains that "Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval." Library services, materials, and programs representing diverse points of view on sex, gender identity, gender expression, or sexual orientation should be considered for purchase and inclusion in library collections and programs.<sup>2</sup> The Association affirms that attempts to proscribe or remove materials dealing with gay, lesbian, bisexual, and/or transgender life without regard to the written, approved selection policy violate this tenet and constitute censorship.
- Articles III and IV mandate that libraries "challenge censorship" and cooperate with those "resisting abridgement of free expression and free access to ideas."
- Article V holds that "A person's right to use a library should not be denied or abridged because of origin, age, background or views." In the *Library Bill of Rights* and all its

Interpretations, it is intended that: "origin" encompasses all the characteristics of individuals that are inherent in the circumstances of their birth; "age" encompasses all the characteristics of individuals that are inherent in their levels of development and maturity; "background" encompasses all the characteristics of individuals that are a result of their life experiences; and "views" encompasses all the opinions and beliefs held and expressed by individuals. Therefore, Article V of the *Library Bill of Rights* mandates that library services, materials, and programs be available to all members of the community the library serves, without regard to sex, gender identity, gender expression, or sexual orientation. This includes providing youth with comprehensive sex education literature.<sup>3</sup>

- Article VI maintains that "Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use." This protection extends to all groups and members of the community the library serves, without regard to sex, gender identity, gender expression, or sexual orientation.

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

1. "Evaluating Library Collections: An Interpretation of the *Library Bill of Rights*," adopted February 2, 1973, by the ALA Council; amended July 1, 1981; June 2, 2008; and June 25, 2019.
2. "Challenged Resources: An Interpretation of the *Library Bill of Rights*," Adopted June 25, 1971, by the ALA Council; amended July 1, 1981; January 10, 1990; January 28, 2009; July 1, 2014; and January 29, 2019; "User-Initiated Exhibits, Displays, and Bulletin Boards: An Interpretation of the *Library Bill of Rights*," adopted July 2, 1991, by the ALA Council; amended June 30, 2004, July 1, 2014, and June 25, 2019; "Library-Initiated Programs and Displays as a Resource: An Interpretation of the *Library Bill of Rights*," adopted January 27, 1982, by the ALA Council; amended June 26, 1990; July 12, 2000; June 26, 2018 under previous name "Library-Initiated Programs as a Resource"; and June 24, 2019.
3. *ALA Policy Manual*, "Sex Education Materials in Libraries," B.8.6.2 (Old Number 52.5.2)

Adopted June 30, 1993, by the ALA Council; amended July 12, 2000; June 30, 2004; and July 2, 2008. Revisions proposed for ALA Midwinter Meeting 2020.

## **Resolution on Forming a Working Group to Align Vendor Privacy Policies with ALA Policies and Ethics**

Whereas the American Library Association (ALA) Policy B.2.1.17 (Privacy) states that, “Protecting user privacy and confidentiality is necessary for intellectual freedom and fundamental to the ethics and practice of librarianship.”;

Whereas the *Library Bill of Rights* states, “All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people’s privacy, safeguarding all library use data, including personally identifiable information.”;

Whereas the *Code of Ethics of the American Library Association* states, “We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.”;

Whereas, ALA has long affirmed that the protection of library users’ privacy and confidentiality rights are necessary for intellectual freedom and are fundamental to the ethical practice of librarianship;

Whereas, ALA’s [Library Bill of Rights](#) and its [interpretations](#) maintain that all library users have the right to be free from unreasonable intrusion into, or surveillance of, their lawful library use;

Whereas many library vendor privacy policies allow for the continued and pervasive tracking of an individual’s library use;

Whereas this data is not always collected with the informed consent of the library user;

Whereas library use data might be shared with third parties;

Whereas library use data is not always deleted but kept in perpetuity;

Whereas some vendors do not maintain adequate security practices, leading to the exposure of user data; now, therefore, be it

Resolved, that the American Library Association (ALA), on behalf of its members:

1. ALA Council instructs the Intellectual Freedom Committee to create a working group that will be composed of representatives from libraries, vendors, and service providers.
2. The working group will be tasked with:
  1. completing a study of current vendor privacy policies and identifying key issues within 12 months;
  2. developing a shared set of privacy guidelines;
  3. exploring the requirements for turning guidelines into standards supported by ALA;
  4. exploring the creation of a transparent online resource where libraries can view vendors' alignment with the standards, and
  5. drafting any additional guidelines and/or resources deemed necessary by the joint working group.