

CHAPTER

2

Arenas of Conflict

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.

American Library Association, *Library Bill of Rights*¹

Some people think that if we study something in a book, that condones it. There is no reason to think because something is portrayed in a book that the school is sanctioning that attitude.

June Berkley, Department of English, Ohio University²

I'm not even sure any more where children's rights begin and parental rights leave off. I'm not sure that children don't have the right to read what they want to read even if their parents object to it.

author Judy Blume³

School censorship controversies may differ according to what kind of material is challenged and how that material is used in the school. School libraries have been the principal targets of efforts to remove or restrict materials, even though, in general, students are not compelled to make use of library resources. Although school libraries differ from public libraries in their mission and in the community they serve, as libraries they remain repositories of information, opinion, and representations, where all sides of every issue should be available.

Materials used in the classroom, including textbooks, supplementary readings, and audiovisual aids, differ from library materials insofar as students are generally required to use them. The library's role is to allow the student to explore vast realms of knowledge and ideas, while classroom instruction strives principally to develop specified skills and to convey essential information. Although would-be censors frequently fail to distinguish between the school library and the classroom, these are two very different arenas of conflict. Principles of intellectual and academic freedom apply to both, but in somewhat different ways.

As already noted, academic freedom includes the right of students to question, to learn, and to express themselves. The student's right to learn has increasingly been understood to embrace a right to express controversial ideas, in written assignments, informally in class discussion and, in many schools, in publications and performances of their own. Hence, the student press, the student theater, and other media of student expression have emerged as additional arenas where censorship conflict may occur.

The School Library and the *Library Bill of Rights*

Librarians have long been in the forefront of opposition to censorship. This should not be surprising, since libraries—as repositories of information, images, and ideas—must be free to acquire and provide materials without prejudice or restriction. It is in the library that students are free to learn to the limits of their abilities and to the limits of what is known. Courts have acknowledged the central importance of libraries in a system that cherishes freedom of expression.

The American Library Association (ALA) and the library profession have developed principles, institutions, and programs that promote intellectual freedom and oppose censorship. The *Library Bill of Rights*, which derives from a statement originally developed by the Des Moines Public Library nearly 50 years ago, is the ALA's basic policy on intellectual freedom and librarianship. Along with its several "interpretations," this document provides an unambiguous statement in support of the library's role as a guardian of diverse opinion and a resource for all. It is intended to apply to school libraries as well as public and research libraries, and should be directly incorporated in every school library selection policy. (The complete text of the *Library Bill of Rights* appears on the next page. Three of its interpretations are included in the appendix.)

Library Bill of Rights

Adopted June 18, 1948.
Amended February 2, 1961, and January 23, 1980,
inclusion of “age” reaffirmed January 23, 1996,
by the ALA Council.

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.

According to the ALA document “Access to Resources and Services in the School Library Media Program,” first adopted in 1986 and amended in 1990 and 2000 (see appendix A):

The school library media program plays a unique role in promoting intellectual freedom. It serves as a point of voluntary access to information and ideas and as a learning laboratory for students as they acquire critical thinking and problem solving skills needed in a pluralistic society. Although the educational level and program of the school necessarily shapes the resources and services of a school library media program, the principles of the *Library Bill of Rights* apply equally to all libraries, including school library media programs.⁴

The *Library Bill of Rights* commits each and every library to providing information and enlightenment to all people in the com-

munity served by the library, regardless of origin, background, views, or age. “Free Access to Libraries for Minors: An Interpretation of the *Library Bill of Rights*” (see appendix B) notes further: “Librarians have a professional commitment to ensure that all members of the community they serve have free and equal 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.” This document also emphasizes “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 or legal guardians who do not want their children to have access to certain library services, materials or facilities, should so advise their children.”⁵

Of course, the school library serves a community composed entirely (or nearly entirely) of minors, and this necessarily influences selection policies. Nevertheless, the American Library Association holds that building library collections to fit the needs of school library users need not limit young readers’ access to controversial materials. The appropriateness of a book for a school library should be determined principally on the basis of its relevance to the overall school curriculum and by the reading level to which it is directed, and not according to potential controversy surrounding its content. To take an admittedly extreme example: An elementary school library will avoid purchasing works of advanced political and social theory or adult literature—not because these should be denied to some precocious pupil willing to give them a try, but only because such precocity is quite rare, and purchase of such materials would be an obvious waste of limited resources.

The relatively narrow age spectrum of the school library’s clientele can become an excuse for censorship. Materials might be removed from elementary or junior high school libraries and reshelved at a higher level because they are allegedly inappropriate for the younger grades. In fact, they simply may not meet some censor’s standard. In Peoria, Illinois, in 1984, three books by Judy Blume, *Then Again, Maybe I Won’t*, *Deenie*, and *Blubber*, were restricted to older students. The action amounted to a kind of censorship, since the lead character in *Deenie* is a seventh grader and *Blubber* was written for fifth-grade readers. By placing these books in a high school library, school officials guaranteed they would not be read.⁶

Other means of imposing effective censorship on school library patrons include requiring permissions from parents or teachers;

establishing restricted shelves or closed collections; and labeling or expurgating works. These activities violate the *Library Bill of Rights*.

The School Library: Selection Policies

Selection policies need to accommodate quite varied levels of intellectual development among students, as well as diverse family backgrounds and child-rearing philosophies of parents. As “Free Access to Libraries for Minors” notes: “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.”⁷ The period of time during which children are interested in reading materials specifically designed for them grows steadily shorter, and librarians must recognize and adjust to this change if they wish to serve young people effectively.

The *Library Bill of Rights* mandates the inclusion of “materials and information presenting all points of view.” As elaborated in the ALA document “Diversity in Collection Development” (see appendix C), this means:

Librarians have a professional responsibility to be inclusive, not exclusive. . . . Access to all materials legally obtainable should be assured to the user and policies should not unjustly exclude materials even if offensive to the librarian or the user. . . . A balanced collection reflects a diversity of materials, not an equality of numbers. . . . Collection development and the selection of materials should be done according to professional standards and established selection and review procedures. . . . Librarians have an obligation to protect library collections from removal of materials based on personal bias or prejudice, and to select and support the access to materials on all subjects that meet, as closely as possible, the needs and interests of all persons in the community which the library serves. This includes materials that reflect political, economic, religious, social, minority, and sexual issues.⁸

Few educators and not many others would challenge the central importance of these principles for university and research libraries and for the overwhelming majority of public libraries, although public library censorship is also a significant problem. But strict application of the *Library Bill of Rights* to school libraries troubles many. The public library, some argue, is a community resource open to all to use as they see fit. By contrast, the school library is part of a larger educational structure whose goal is to mold young minds. The situation of the school library is also complicated because the librarian shares responsibility with the teachers, and both are

responsible to higher authorities—the school principal, district administrators, and, ultimately, the board of education.

As one federal judge put it in a discussion of the censorship issue:

Suppose they went out and bought a book teaching genocide. Suppose—I mean, just this principle that every idea is fine and can be in a library. Suppose they glorified Hitler or preached mass murder of Jews. Or take an example in a high school, suppose they had in a library a book which white children were taking out that was preaching inherent inferiority of blacks and it was disrupting things in the school. You have to have some limit on what you want kids to read. Don't you really? I mean, do you really want them to read a book preaching genocide?⁹

Let us look for a moment at one book that does, in essence, preach genocide—Adolf Hitler's *Mein Kampf*. Few, if any, educators would recommend this book to a student seeking to formulate an individual political perspective. But can a high school library adequately fulfill its mission in a school where a history course covering the Nazi experience is taught, if the fundamental document of the Nazi movement cannot be found for student reference? In such a situation, *Mein Kampf*—along with other more objective treatments of Hitler's thought—should probably be in the high school library, funding and space permitting.

But, it may be objected, a book that is purchased and shelved for reference purposes, to help students write term papers and learn to analyze controversial materials, will not necessarily be used solely in this manner. What if a little "Hitler cult" emerges in the school and students begin to read *Mein Kampf*—or some more contemporary racist work—not as an historical or political document, but as a meaningful tract for our times?

The situation is troubling, but censorship offers no solution. If there is a problem with racism in a school, removing racist materials from the library will not solve it. Indeed, like other efforts to drive the problem underground, such removals may only exacerbate matters. A good school librarian will work with teachers and school officials continually to take the pulse of student interests. If a segment of the student body seems inordinately attracted to materials that run counter to the purposes of democratic education, then the faculty and staff must work to expose the weaknesses of these materials by discussing them with the students—in class if need be—and by directing students to positive alternatives.

One special role played by the school library is to educate students about what libraries are. Students should be taught at an early age that the presence of a book in a library, including in the

school library, does not mean that the book is somehow “endorsed” by the librarian or the school. The library is a resource that caters to varied interests; it is *a place to go to find out for oneself*. This lesson cannot be taught, however, if the school library is not such a place, if the student is in effect told: Come here to find out the things you want to know, but only if established authorities approve them in advance. The school library has an important role to play in educating young people to respect diversity by itself illustrating the breadth of diverse opinion and taste.

The Classroom

Although school libraries seem most vulnerable to censorship pressures, challenges are perhaps more often focused on classroom instructional materials, chiefly textbooks, but also videos. Instructional materials used in class differ from library materials insofar as students are generally compelled to use specified works in class, whereas in the library they are given a choice. In theory, a library can be expanded to include all approaches to a given subject area, to accommodate almost every taste. But in a course of study a single textbook is often used, sometimes along with a limited number of supplementary materials. Certainly, charges that efforts to remove instructional materials amount to unwarranted censorship are more difficult to sustain than in the corresponding case of the library since, in the classroom, the key element of choice, if not entirely lacking, is surely restricted.

Textbooks must be selected carefully both for accuracy and for sensitivity to community and minority feelings. This is one reason why, in many states, textbooks may be selected only from a list approved by state education authorities. In California in the early 1990s, a series of social studies texts published by Houghton Mifflin came under fire in a series of heated meetings before the state Board of Education where many different religious, ethnic, and racial groups unsuccessfully criticized the books for a lack of cultural diversity and alleged Eurocentrism. The books were commissioned by state education officials as part of a new multicultural curriculum and supporters contend the books, while flawed, are a vast improvement over previous social studies materials. Although school districts were not compelled to purchase the texts, without a special waiver the state would not approve the full cost of alternate materials. Nevertheless, the financially strapped Oakland

Board of Education voted against the books, compelling teachers to rely on xeroxed materials and other makeshift teaching aids.¹⁰

In the late 1980s and early 1990s, dozens of school districts in all parts of the country encountered controversy over a series of elementary school reading texts published by Harcourt Brace Jovanovich under the overall title *Impressions*. Although sometimes used as required textbooks, the readers were frequently challenged even when districts used them only on a supplementary basis.

Initially, those who objected to the books charged that they were too morbid and displayed disrespect for parents and authority in general. As the controversy entered the legal arena, however, opponents of *Impressions* began to assert that use of the books was unconstitutional, since they violate the separation of church and state by promoting “the religions of witchcraft and neo-paganism,” to use the language of one lawsuit. On April 2, 1992, however, the U.S. District Court in Sacramento, California, ruled that “there is no constitutional basis for the court to order that the activities in question be excluded from the classroom simply because isolated instances of those activities may happen to coincide or harmonize with the tenets of two relatively obscure religions.”¹¹ Two similar decisions were handed down by courts in Illinois.

Increasingly controversy at the local level also has arisen around supplementary classroom materials. Novels and plays read for discussion in English class or chosen by an individual student from a “recommended” list for a book report have become targets of criticism despite the fact that in most instances students were offered several alternatives. In countless such incidents, irate parents or others have sought the removal of such books from all classroom activities, required or optional.

While many would-be censors do not care to draw very fine distinctions, others have been careful to note that, while they would not mind the presence of a given book in the school library, they do object to its assignment in class or to its presence on a recommended reading list which would seem to imply school endorsement of its content. In Virginia, a parent who challenged John Steinbeck’s *Of Mice and Men* stressed “that a book like this should not be required reading. If they want to have it in the library that’s fine, but it shouldn’t be required.” In that case, the school declined to remove the book from the curriculum, but agreed to provide substitute assignments for any offended families.¹²

In a Florida case that wound up in court, however, a school board ordered the removal to locked storage of a literature text-

book containing excerpts from the classic Greek comedy *Lysistrata*, by Aristophanes, and *The Miller's Tale*, by the medieval English poet Geoffrey Chaucer, because of parental complaints of "explicit sexuality and excessively vulgar language." Although a federal appeals court felt compelled to "seriously question how young persons just below the age of majority can be harmed by these masterpieces of Western literature," the board's action was upheld. The court focused on the fact that these were materials used within the curriculum and thus could be understood to bear the imprimatur of school approval. It then found that the reason for the removal—sexuality and vulgar language—was a legitimate pedagogical concern. The court also found the board action reasonable because the textbook, as well as other versions of the disputed selections, remained available in the school library.¹³

Also targeted have been movies, videotapes, and filmstrips; guest speakers; newspaper and magazine articles; and various classroom exercises suggested in teacher manuals or other sources. In recent years, the convenience of movies on videocassettes has greatly increased their use in classroom instruction. One result has been a rise in protest against the showing of controversial or simply "R-rated" films, resulting in several instances in court decisions.

In Jefferson County, Colorado, a teacher who showed his class of high school seniors a video of the Bernardo Bertolucci R-rated film *1900*, which depicts the rise of fascism in Italy, was terminated after a parent's complaint for not conforming to the district's policy on controversial materials. The teacher sued, but the court upheld the district, rejecting the teacher's First Amendment argument and concluding that the district's policy reasonably addressed "legitimate pedagogical concerns." That the students in question were all 17 or older was not important to the class context.¹⁴

Some districts have adopted blanket policies forbidding the showing of R-rated films in class. This is legally questionable, since the G, PG, PG-13, R, and NC-17 ratings are devised and administered by the Motion Picture Association of America (MPAA), a private organization, and carry no legal standing. A school district cannot effectively transfer authority over a section of the curriculum to a private agency.

While school systems are well advised to adopt selection policies that regulate the selection of videos for classroom viewing, no simple blanket policy based on a single criterion, including the film's MPAA rating, will be workable. As one appellate court stated, "Policies . . . cannot be all-encompassing, or else the manual for

teaching at a certain school would fill the school library. No, school administrators and parents rely on teachers possessing . . . common sense.”¹⁵

Sometimes whole curriculum modules have proved controversial. Not surprisingly, these often involve sex education, like the Michigan Model for Comprehensive School Health Education. But counseling and “self-esteem” units like the “DUSO,” “Pumsy,” and Quest programs also have been targeted for removal from schools because, it is alleged, they undercut “family values” or parental authority. In several South Carolina counties the “Pumsy in Pursuit of Excellence” program, in which a dragon puppet is used to encourage self-esteem and critical thinking skills among elementary school pupils, was challenged as an unwarranted religious intrusion in public education. Opponents of the program charged that it incorporates Eastern mysticism and “New Age” philosophy.¹⁶

Again, what must be stressed is that simply reading and studying a book or other work of expression does not necessarily imply full endorsement of its contents—especially with respect to literature, but also with reference to political and some scientific works. Teachers must be free to present students with alternatives and choices if students are to be trained to make intelligent and informed decisions on their own. This is a fundamental principle of education. Unfortunately, many parents and citizens do not fully comprehend this principle, and so schools must endeavor to explain it.

In some instances, nonetheless, parents may still firmly believe that any exposure to certain materials will somehow prove “damaging” to their child. The Supreme Court has given some support to parents who take this position on the basis of religious convictions. In a 1972 case, Amish parents won the right to remove their children from school and instead teach them at home because of a conflict between their religious values and the lessons emphasized in the public school attended by the children. However, parental objections that are based on personal or philosophical grounds, rather than religious reasons, do not enjoy constitutional protection.¹⁷ Moreover, the courts generally have not supported efforts by objecting parents to *change* the curriculum or otherwise impose their beliefs on the schools.

Where possible, schools should respect parental beliefs, insofar as the parents do not attempt to impose them on others. Where it is not disruptive, there is nothing wrong with assigning an alternate reading for a student whose family finds a given work offensive, especially in the case of required book reports or other “outside read-

ing” assignments. Such a policy can only go so far, though. In the final analysis, it is the responsibility of the educator and not the parent to determine the curriculum. No public school system could survive if it were compelled to tailor whole courses of study to individual family demands. Once a textbook is selected for a course, it should be used by all. Assignment of an occasional alternate reading indicates flexibility, not the abdication of authority.

In one widely publicized 1987 case, several fundamentalist families in Church Hill, Tennessee, challenged an elementary school reading program for using books and materials that they described as “anti-Christian.” The parents asked that their children be dismissed from class when the offending reading texts were used and that they be provided with alternate materials. Although initially the Hawkins County school system tried to accommodate them, officials found that this placed too much strain on the system. The parents won the initial round in their challenge, but the U.S. Court of Appeals reversed a prior court order that would have institutionalized the system of dismissing the children from reading assignments that parents found objectionable. The appellate court reasoned that the First Amendment did not require the school system to cater to the parents’ religious beliefs, and that the parents had failed to prove that the act of reading amounted to a governmental compulsion to adopt the views expressed in the required texts.¹⁸

The Student Press

In 1969, the U.S. Supreme Court first explicitly recognized that public school students enjoy First Amendment rights. In *Tinker v. Des Moines Independent Community School District*, the Court issued its now-famous ruling that neither “students [n]or teachers shed their rights to freedom of speech or expression at the schoolhouse gate.”¹⁹

The *Tinker* case concerned the right of students to wear arm-bands of protest against the Vietnam War in school. But the ramifications of the high court’s decision have been widespread. Other federal and state courts have applied the principles enumerated in *Tinker* to diverse forms of student expression, including speech and student journalism. Considerable controversy has arisen, especially over the rights of the student press—both officially sponsored curricular and extracurricular newspapers, journals, and yearbooks; and so-called “underground” publications.

Court decisions treating the rights and responsibilities of student journalists have varied (see chapter 6). In January 1988, the Supreme Court decided its first student press case, *Hazelwood School District v. Kuhlmeier*. In that case, a principal removed two pages of a newspaper produced by a high school journalism class containing articles on teenage pregnancy and the impact of divorce on students. The principal defended his action on the grounds that he was protecting the privacy of the pregnant students described, protecting younger students from inappropriate references to sexual activity and birth control, and protecting the school from a potential libel action.

The decision contrasted dramatically with previous rulings by federal and state courts across the country handed down over the previous 15 years that had given student journalists extensive First Amendment protections. Reversing an appellate court decision that had favored student journalists, the Court ruled that the First Amendment is not violated when an educator exercises “editorial control over the style and content of student speech” that is part of a “curricular” activity if that speech is inconsistent with the school’s basic educational mission. “It is only when the decision to censor a school-sponsored publication, theatrical production, or other vehicle of student expression has no valid educational purpose that the First Amendment is so ‘directly and sharply implicate[d],’ as to require judicial intervention to protect students’ constitutional rights,” the Court declared.²⁰

The *Hazelwood* decision lent support to the concern of some school administrators that the unfettering of inexperienced and immature student journalists can affect the climate of a school and pose virtually insoluble disciplinary problems. But if the decision granted school administrators greater censorship muscle, like all court decisions upholding government authority to restrict expression, it by no means mandated or even recommended greater exercise of that authority. Whatever restrictions may now legally be placed on some school journalists, the question of student press regulation remains inextricably entwined with broader issues of censorship and academic freedom. Efforts by teachers and school officials to censor the content of student publications may open another door to censorship of educational materials more generally. Pressures exerted on student journalists, if successful, may encourage additional pressures on teachers and librarians to remove or restrict access to instructional and library materials.

Although administrators' fears about discipline and disruption may not lightly be dismissed, the more central matter of concern is the role of student publications in the educational process. The student press offers one important means of keeping students informed about the world in which they live. Students who find it difficult to understand or trust adult publications may place a higher value on information conveyed in their own idiom by journalists who are their peers. Young people may be woefully uninformed about the most important issues that directly affect their lives, including such potentially controversial matters as birth control, abortion, drug abuse, and even school funding and administration. Most professional journalists and educators believe that the student press should be free to address responsibly these types of issues, regardless of pressures exerted by varied elements within the schools or the community.

Perhaps even more important, like the school library, student journalism offers young people initial experience with an institution they will encounter and use for their entire lives. Their crucial initial understanding of the role and functioning of these institutions will be established in the school.

Unfortunately, what is a student to believe when taught about a free press and the First Amendment in class if the free expression of the school's own journalists is suppressed? As *New York Times* columnist Tom Wicker put it: "All too many of these high school editors and reporters may well conclude, from hard experience, that freedom of the press is as bad a joke as the ones school boards would like for them to print in place of news and opinion; and holding that cynical view they are far more likely to become doctors, engineers, or politicians than reporters. If they do become reporters, having felt the knife so early, they are not likely to stick their necks out in the name of the First Amendment."²¹

"The suppression of student free press rights should be an anomaly, but it is not," Paul McMasters of the Freedom Forum wrote recently. "In fact, it is all too common." Indeed, calls to the Student Press Law Center, a student press advocacy group, from student journalists and their advisers in all 50 states numbered 1,558 in 1997, up 10 percent from the previous year. For the first time, the center received more inquiries from public high school students than any other group.²²

Certainly, the student press plays a role in the closed society of a school not unlike the role its commercial counterpart plays in society at large. Its mission should be to provide a forum for mem-

bers of the school community to voice opinions about issues of concern, and to do so free of outside censorship.

Extracurricular Activities

Although the decision in *Hazelwood* concerned a student newspaper that was produced as part of the curriculum in a journalism class, its arguments have been used to limit student expression in a broad range of extracurricular activities. Perhaps most notable has been the censorship of student theatrical productions. In some cases these performances are produced by students in formal drama and theater classes, and are thus arguably subject to the restrictions on “school-sponsored” activities imposed by *Hazelwood*. In many other cases, however, students who voluntarily participate in school productions outside of class have found administrators censoring their work.

In a widely publicized 1999 incident, Amherst Regional High School in Amherst, Massachusetts, canceled a production of the musical *West Side Story* after some students charged that its portrayal of Puerto Ricans was unflattering. “This isn’t about censorship,” the principal insisted, “it’s about sensitivity.” But censorship it surely was, since school administrators canceled the production for no other reason than to suppress the viewpoint—or more accurately the *perceived* viewpoint—of the drama.²³

More frequently, student performances are canceled because the performance is deemed too “mature,” owing to sexual themes or profane language. In addition, student actors find themselves under pressure to delete or alter lines or whole scenes from productions that some find offensive or controversial, most often because of sexual references. In the *West Side Story* incident the pressure to censor came from students, but usually school principals, teachers, and administrators are the problem. Whether themselves offended or not, they often believe they must take action to protect audiences for the school production. Educators tread on thin ice in doing this, however, since copyright law generally forbids those who purchase the rights to a play from altering its script without permission of the copyright holder. This is not a problem, however, when the scripts to be censored are written by the students themselves, which is frequently the case.

Individual student creativity may also be subject to censorship. The past decade has seen considerable controversy throughout

society about the appropriateness of artistic works displayed in both museums and public places, including celebrated controversies over the photography of Robert Mapplethorpe and the dung-splattered Madonna displayed in New York's Brooklyn Museum, to which Mayor Rudolph Giuliani vigorously objected. These controversies have spread to the schools, where student artists sometimes find their work removed from public display owing to nudity or other "objectionable" content. To take just one example, a Pennsylvania high school student received an A+ for a sculpture of a nude female torso, but the principal ruled that the piece could be "displayed" with other student works only if draped under a cloth. The student collected more than 350 signatures on a petition of protest, but to no avail.²⁴

In the wake of several widely publicized school shootings, some schools moved to censor literary creations that they found potentially threatening, whether these were produced in or out of class. In one widely publicized case, nine students at Miami's Killian High School—all members of the school's art club—were arrested, jailed, and charged with hate crimes in January 1998 for their part in producing an obscenity-laced pamphlet that pondered the possibility of shooting the school's principal. In Blaine, Washington, a U.S. District Court found that a student's First Amendment rights were violated when he was expelled for writing a poem about school violence. In another incident a boy's effort at horror fiction written for a personal journal resulted in his serving three days in jail after he brought the story to school.²⁵

The First Amendment to the U.S. Constitution links freedom of expression with freedom of assembly. Student expression is often linked with students' ability to organize in clubs and social groups expressive of minority views. In recent years gay and lesbian student organizations have emerged to meet the needs of students whose sexual orientation differs from that of the majority. In some cases these groups have come under attack by school administrators and others. In an especially celebrated case, the Salt Lake City school board agreed to abolish all student organizations rather than recognize a gay and lesbian student group.

The Internet

The recent explosive growth of online communication has had a dramatic impact on education. In schools across the country, stu-

dent access to the Internet through school libraries and media centers and in classrooms from kindergarten through high school has raised a host of new censorship controversies. These controversies are only now developing in communities across the United States and in the legal system as part of a broader debate about access to pornography, hate speech, and other controversial subjects to which the Internet has added a new dimension. It is therefore not yet clear how schools and school libraries ultimately will be affected.

On June 26, 1997, the U.S. Supreme Court declared unconstitutional a federal law making it a crime to send or display indecent material online in a way available to minors. The decision in *ACLU v. Reno* overturned the Communications Decency Act and established the legal principle that speech on the Internet is entitled to the highest level of First Amendment protection, similar to the protection given to books and newspapers. Although Congress has since made new attempts to get around its strictures, this decision made it unlikely that any government-imposed restriction on Internet content would be upheld as long as the material has some constitutional value.²⁶

In another landmark decision, on November 23, 1998, U.S. District Court Judge Leonie M. Brinkema struck down the Loudoun County, Virginia, public library's policy of using filtering software on all its computer terminals. Filtering software limits user access to a predetermined list of sites, usually through a system of keywords. "Such a policy offends the guarantee of free speech in the First Amendment and is, therefore, unconstitutional," wrote Judge Brinkema in *Mainstream Loudoun v. Board of Trustees of Loudoun County Library*.²⁷

These two court decisions provide the important legal context for any discussion of Internet censorship in schools. Clearly, the U.S. Supreme Court has decreed that agencies of government must meet strict standards if they are to limit online expression. Judge Brinkema (and other courts) applied this standard to public libraries, determining that efforts to mandate limitations on patron access to the Internet via the use of filtering software do not pass constitutional muster. But what of school libraries and classrooms? Do the same principles apply?

The answer, it must be acknowledged, is unclear, at least legally. Judge Brinkema's decision on filtering software is not applicable nationwide, and many public libraries across the country continue to be plagued by controversy over the issue, although there are signs that public opinion is not as hostile to free access as some have thought.

On February 23, 2000, voters in Holland, Michigan, soundly defeated a ballot measure that would have required the public library to install Internet filters to keep minors from looking at pornography.²⁸

Still, school libraries and classrooms are not the same as public libraries, and it is not yet clear whether either the public or the courts will be as suspicious of the application of filtering software in the school context. Indeed, one Pennsylvania school district in 1998 adopted a strict filtering policy designed to “filter out the material we consider to be of an undesirable nature,” according to District Superintendent Dave Petrosky. One board member supported the policy by declaring the Internet to be “the worst thing that ever happened to America.”²⁹

In January 1996, the American Library Association adopted an interpretation of the *Library Bill of Rights* entitled “Access to Electronic Information, Services and Networks,” which declares: “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 policy further postulates: “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.”³⁰

A second interpretation, “Questions and Answers: Access to Electronic Information, Services and Networks,” adopted in June 1997, sought to clarify the implications and applications of the earlier document. With respect to filters it states: “The use of filters implies a promise to protect the user from objectionable material. This task is impossible given current technology and the inability to define absolutely the information to be blocked. The filters available would place the library in a position of restricting access to information. The library’s role is to provide access to information from which individuals choose the material for themselves.”³¹

Although neither of these documents directly addresses the application of these principles to the school library or classroom, the American Library Association assumes that school libraries are, indeed, libraries and hence subject to the same basic principles as all libraries.

To date there has been relatively little public controversy and debate over the application of filtering software or other censorship schemes in school libraries. Whether this is because students in school libraries use the Internet under closer supervision by teachers or librarians than do patrons in public libraries, or because the

introduction of filtering software in schools has met with less criticism than in public libraries is difficult to say. Nevertheless, insofar as schools offer students access to the Internet they should do so in a manner that does not fetter their ability to seek out all information, ideas, and images appropriate to the school's educational mission. The evidence indicates that filtering software makes this task more rather than less difficult.

One study of school Internet use in Utah, where the Utah Education Network (UEN) provides Internet access for essentially all Utah public schools and many public libraries, suggests that filters create as many problems as they solve. When the UEN began providing Internet access to Utah schools, the original plan was to allow each school district to create its own list of sites that they did not wish to be accessible. Instead, a software filtering product called Smartfilter was employed to censor access. The UEN kept log files of the Internet accesses made through its service, and a survey of these files by the independent organization Censorware revealed that only 0.39 percent of the sites to which access was sought were banned by the filter, about one of every 260 requests. For school days the figure was lower, about one of every 280 requests, suggesting that attempts to access "objectionable" material were fewer on school than on public library computers.

Although a small proportion of access requests were denied, many of those censored were "wrongful bans," that is, sites banned by mistaken identification. For example, a music group called "Bud Good and the Goodbuds" was banned under the "drugs" category, as was an appellate court decision and the Iowa State Division of Narcotics. A government brochure entitled "Marijuana Facts for Teens" was banned too. Also banned, believe it or not, were the U.S. Declaration of Independence and the Constitution!³²

Smartfilter is also used in the Broward County, Florida, schools, where it has blocked student access to information on breast cancer and body piercing or tattooing. Under the "lifestyle" category Smartfilter also bans all sites having to do with vegetarianism.

When a Palmetto High School freshman in Miami, Florida, turned to the Internet for an honors biology report on cancer and smoking, he found a report he needed was blocked by SurfWatch, the filtering system installed in July 1998 by the Miami-Dade public schools. "When I went home to see it on my own computer, I couldn't find any reason why it would be blocked," the student said. "There were transcripts from Congress, presentations from nonsmoking groups. It seems they should be more careful about what they block." Surf-

Watch also blocked student inquiries about sea sponges, teen pregnancy, the Trojan War, venereal diseases, anything to do with Special Prosecutor Kenneth Starr's impeachment report, and even a human rights web site recommended to Dade County teachers in a workshop on the Holocaust.³³

One aspect of Internet use that became controversial in schools, especially after the 1999 Littleton, Colorado, school shootings, has been the establishment of students' personal web sites. Throughout the country high school and some middle school students have created web sites with school-related themes, sometimes on school computers but more frequently in private at home. In some cases these sites satirize teachers, school administrators, and other students, sometimes crudely, and schools have reacted by attempting to discipline the students.

For example, a school near Akron, Ohio, tried to expel a student for calling the school "a living hell" on his personal web site, created on a home computer. The American Civil Liberties Union (ACLU) in Kansas and western Missouri represented a student who was suspended for his web site showing his school engulfed in a mushroom cloud. In Pennsylvania, an eighth grader was suspended for creating on his home computer a 30-second cartoon of his school gym locker blowing up and a female student being shot and sending it to a friend via the Internet.

School administrators have justified such actions by declaring that they were not trying to discipline students for what they do off campus, but simply for bringing threatening words into the school. "But when someone calls up a web site on school grounds, that's not the publisher's fault," said an ACLU attorney.

Schools may have a case if students abuse their access to school computers, for example, by downloading and publishing copyrighted material or, perhaps, pornography. Beyond that, however, school administrators cannot regulate out-of-school Internet behavior unless they can demonstrate some immediate danger to the school or its students, faculty, or staff. "The web is new territory and schools that reacted harshly to students' sites probably acted illegally," said Paul Houston, executive director of the American Association of School Administrators. "Schools that overrun students' rights will end up losing those court cases."³⁴